ACTS AND RESOLUTIONS

Passed at the Several Sessions

OF THE

10,765

Territorial Legislature of Iowa

1840-1846

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Prepared for Publication Under the Direction of

W. C. HAYWARD

Secretary of State

Under the Provisions of Concurrent Resolution of the Thirty-Fourth General Assembly, Adopted April 12, 1911

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CERTIFICATE

STATE OF IOWA,
Office of Secretary of State.

I, W. C. Hayward, secretary of state of the state of Iowa, hereby certify that the acts and resolutions herein contained are copied from the authorized printed volumes of the acts of the several sessions of the Territorial legislatures, 1840-46, as authorized by concurrent resolution of the Thirty-fourth General Assembly, adopted April 12, 1911, and that the same is a full, true and complete copy thereof, except that the paging of the original volumes is shown herein by inserting in brackets the number of the page on which appeared the matter immediately following.

In testimony whereof, I have hereunto subscribed my name and caused to be affixed the official seal of my office.

Done at Des Moines, the capital of the state, this thirteenth day of March, A. D. 1912.

[Seal] W. C. Hayward

Secretary of State.

PREFACE

This volume has been prepared and published, in accordance with the following Concurrent Resolution of the Thirty-fourth General Assembly of the State of Iowa, adopted April 12, 1911; and contains the Acts of the Territorial legislature of Iowa, commencing with the regular session of 1840 and ending with the session of 1846, just prior to the admission of Iowa as a state. At the end of each session laws will be found the index as in the original volume, with an additional column showing the pages in this volume also.

W. C. Hayward

Secretary of State.

CONCURRENT RESOLUTION

Relating to printing the early Iowa laws.

WHEREAS, the supply has been exhausted and there is considerable demand for the laws hereinafter mentioned,

Be it resolved by the House of Representatives, the Senate concurring: That the secretary of state be and he is hereby authorized to have printed and bound in cloth one thousand each of the following:

The Iowa Code of 1851 in one volume.

The acts of the general assembly of Iowa enacted at each session, between the code of 1851 and the revision of 1860, in volumes of convenient size.

The revised statutes of the Territory of Iowa, 1843, in one volume.

The acts of the Territorial legislature of Iowa, commencing with the regular session of 1840 and ending with the last session prior to the adoption of the code of 1851, in volumes of convenient size.

That when published said volumes shall be sold at cost and shall be distributed for sale in the same manner that the code is now distributed, except that none of said volumes shall be distributed free to any county, town, township or city officer.

Adopted April 12, 1911.

LAWS

OF THE

TERRITORY OF IOWA

ENACTED AT THE SESSION OF THE LEGISLATURE WHICH COMMENCED ON THE FIRST MONDAY OF NOVEMBER, A. D. 1840

PUBLISHED BY AUTHORITY

BURLINGTON
PRINTED BY JOHN H. M'KENNY

1840-'41

Secretary's Office,
Burlington, March 1, 1841.

In compliance with the provisions of law, I have copied and superintended the publication of the volume of laws passed by the Iowa Legislature at its session of eighteen hundred forty and forty-one, and hereby certify, that upon comparing the several acts with the original rolls on file in my office, they are found to be true and exact copies.

JAMES CLARKE,
Secretary of the Territory.

LAWS OF IOWA

[3] CHAPTER 1.

AN ACT for the benefit of the minor heirs of Joseph Swasey, deceased.

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

SECTION 1. **Minor heirs authorized to convey real estate.** That Charles Swasey and Hezekiah Swasey, minor heirs of Joseph Swasey, deceased, be and they are hereby authorized to sell and convey all or any part of their right in and to certain real estate in the said Joseph Swasey, by virtue of a pre-emption right at the time of his decease, which pre-emption has since been perfected by the widow of said deceased.

SEC. 2. **Sale, etc., by minor heirs legalized.** Be it further enacted, that all sales, transfers and conveyances, made by the said Charles Swasey and Hezekiah Swasey, or by their lawfully constituted attorney, of their right and interest in said real estate, shall be deemed valid in law.

SEC. 3. This act shall take effect from and after its passage.

THOMAS COX,
Speaker of the House of Representatives.

M. BAINBRIDGE,
President of the Council.

Approved November 23, 1840. Robert Lucas.

[4] CHAPTER 2.

AN ACT to locate a territorial road from Davenport to Bellview.

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

SECTION 1. **Names of commissioners—route of road.** That Williard Barrows, of Scott county, Simeon Gardner, of Clinton county, and Charles Swan, of Jackson county, be and they are hereby appointed commissioners to lay out and establish a territorial road from the town of Davenport, in Scott

county, via Parkhurst, Camanche, Lyons and Charleston, to Bellview, in Jackson county.

SEC. 2. **Commissioners to meet at Davenport.** That said commissioners meet at Davenport on such day as they may agree, (not exceeding twelve months from the passage of this act,) to discharge their duties.

SEC. 3. **Pay of commissioners, etc.** Said commissioners shall be allowed one dollar and fifty cents per day for their services, and shall employ one surveyor, and as many laboring hands as they may think necessary. The surveyor's salary shall not exceed two dollars and fifty cents per day, and the laborers shall not exceed one dollar a day, to be paid according to the provisions of an act to provide for the laying out and opening Territorial roads, approved January 25, 1839.

Approved November 27, 1840.

CHAPTER 3.

AN ACT to attach Benton county to Linn, for judicial and other purposes.

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

SECTION 1. That for judicial, election, and revenue purposes, the county of Benton is hereby attached to and embraced within the jurisdiction of Linn county.

SEC. 2. This act shall take effect from and after its passage.

Approved November 30, 1840.

[5] CHAPTER 4.

AN ACT to amend the act organizing a board of county commissioners in each county in the territory.

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

SECTION 1. **Discretion vested in commissioners.** That so much of said act as makes it the duty of the sheriff of the county, or his deputy, to attend said board, and execute its orders, be so amended, that the said commissioners may at their discretion require his attendance.

Approved December 3, 1840.

CHAPTER 5.

AN ACT to authorize John H. Sullivan to vacate, for re-survey, a portion of the town of Rockingham.

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

SECTION 1. **Re-survey of certain lots authorized.** That John H. Sullivan be and is hereby authorized to vacate, for re-survey, so much of the town of Rockingham, in Scott county, Iowa, as lies below Des Moines street; also, all that portion lying back of Fifth street, and below Wapello avenue; and also lots number one, two and three, in block number one.

SEC. 2. **Survey not to effect private rights, etc.—proviso.** That nothing in this act contained, shall be so construed as to destroy, abridge, or in any way interfere with the private right or rights of any person or persons, to any portion of said re-surveyed tract of land, unless by their special and expressed will and consent; and said tract shall be surveyed having due regard to the interests and rights of all the owners thereof.

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

Approved December 3, 1840.

CHAPTER 6.

AN ACT to district the county of Washington into three county commissioners' districts.

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

SECTION 1. **Three districts.** That the county of Washington [6] shall be divided into three districts, for the purpose of electing county commissioners.

SEC. 2. **Boundary of first district.** That part of the county of Washington lying west of range line dividing ranges seven and eight, and south of the line dividing townships seventy-six and seventy-seven, north, shall compose the first district.

SEC. 3. **Boundary of second district.** All that part of said county lying east of range line dividing ranges seven and eight, and south of the line dividing townships seventy-six and seventy-seven, shall compose the second district.

SEC. 4. **Boundary of third district.** All that part of the county lying north of township line dividing townships seventy-seven and seventy-six, north, shall compose the third district.

SEC. 5. **One commissioner to be elected each year.** At the next annual election there shall be elected one county commissioner from the said first district, resident therein, by the qualified voters of said county; at the next annual election thereafter there shall be elected by the qualified voters of said county, one county commissioner resident in the second district; and at the next annual election thereafter there shall be elected by the qualified voters of said county, one county commissioner resident in the third district, and so on alternately, so long as this act shall remain in force.

Approved December 3, 1840.

CHAPTER 7.

AN ACT to amend an act to authorize John H. Sullivan and Adrian H. Davenport to establish and keep a ferry across the Mississippi river at the town of Rockingham, approved December 17, 1838.

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

SECTION 1. **Time for putting on boat extended twelve months.** That John H. Sullivan and Adrian H. Davenport, who are authorized to keep a ferry by an act entitled, "An act to authorize John H. Sullivan and Adrian H. Davenport to establish and keep a ferry across the Mississippi river, at the town of Rockingham," approved December 17, 1838, be and they are hereby allowed twelve months from the passage of this act to procure for said ferry a horse or steam ferry boat for the same.

Approved December 8, 1840.

[7] CHAPTER 8.

AN ACT authorizing Walter Terrill to build a mill dam across the Iowa river, near Iowa City.

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

SECTION 1. **Construction of dam authorized—dam to be completed in three years.** That Walter Terrill is hereby authorized to construct a dam across the Iowa river, in Johnson county, at a point on the southwest quarter of section number three, in township number seventy-nine north, and range number six west, which dam shall not exceed five feet above the ordinary low water mark; and provided said dam be completed within the term of three years from the passage of this act.

SEC. 2. **Penalty for injury done to dam.** Any person who may injure or destroy said dam, shall be deemed to have committed a trespass, and shall be liable accordingly; and any person who shall wilfully or maliciously destroy or injure said dam shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined and imprisoned at the discretion of the court.

SEC. 3. **Lands, etc., of others not to be injured.** Nothing herein contained, shall authorize the individual named in this act, his heirs or assigns, to enter upon and flow the lands or mill wheels of any person, without the consent of such person; and he shall remove all such nuisances as may be occasioned by the erection of said dam, which may endanger the health of the vicinity of said dam.

SEC. 4. **Right to repeal reserved.** The Legislature of this Territory reserve to themselves the right to alter or amend this act, so as to provide for the navigation of said river by lock or otherwise.

Approved December 15, 1840.

CHAPTER 9.

AN ACT to divorce Elizabeth Jones from her husband, Berry Jones.

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

SECTION 1. That the marriage contract heretofore existing between Elizabeth Jones and Berry Jones, be and the same is hereby dissolved; and that hereafter she be called and known by the name of Elizabeth Massengill.

Presented to the Executive, December 16, 1840.

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[8] CHAPTER 10.

AN ACT supplementary to an act defining the duties of county surveyors, approved December 25, 1838.

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

SECTION 1. **Duty of county surveyors.** That it shall be the duty of all county surveyors of this Territory to furnish themselves with a good compass of Rittenhouse construction, the needle of which shall be not less than five

and one-fourth inches in length, and the nonius of which shall bear not less than ten degrees variation; also, a two pole chain, of fifty links.

SEC. 2. **Mode of making sub-divisions.** Whenever a surveyor is required to make a sub-division of a section, as established by the United States survey, he shall proceed as follows, (except when the section is fractional:) commencing at the quarter section corner, on either the east or west side of the section, and shall run east or west across said section as the case may be, and establish a common centre therefor, on a direct line between said corners, and equally distant from either. Any less sub-division than a quarter section shall be made by proceeding in the same manner, except in fractional sections.

SEC. 3. **Survey by county surveyor only legal evidence—proviso.** That no survey made hereafter by any person except the County Surveyor, or his deputy, shall be considered as legal evidence in any court of law or equity within this Territory, except such surveys as are made by mutual consent of parties: provided, always, that where it shall appear that the county surveyor of the county wherein the lands lie may be a party, or in any manner interested, it shall be lawful for the District Court, on application of either party, to appoint some suitable person in said county, whose duty it shall be to proceed to divide the same, for which service the person so appointed shall be entitled to the same fees as County Surveyors are entitled to for similar services.

SEC. 4. **Of irregular pieces of land.** That all irregular pieces of land shall be calculated by latitude and departure.

SEC. 5. **Field notes of surveyed lands to be procured—proviso—allowance for field notes limited.** That it shall be the duty of the county commissioners of each and every organized county in this Territory, to procure for the use and benefit of their respective counties the field notes of all the surveyed lands within the same; which field notes, when so procured, shall be filed in the office of the clerk of said board, and there carefully preserved for the use and benefit of the citizens of each county respectively: provided, that in all cases where the county surveyor of any county who is now or may have been in office, and who has procured in part or in the whole the field notes of his county, shall have the privilege of presenting the same to the board of commissioners of his county, which board is hereby authorized to take the same if they are not injured or defaced, and draw an order on the treasurer of their county for the amount so allowed; but in no case shall the commissioners allow the surveyors [9] more for the said field notes than they could be had for at the surveyor general's, or some one of the land offices within this Territory.

SEC. 6. **Certain parts of previous acts repealed.** That so much of the act to which this is a supplement, as requires the county surveyors to procure the field notes to their respective counties, be and the same is hereby repealed.

SEC. 7. **When to take effect.** That this act shall take effect from and after the first Monday in August next.

Approved December 21, 1840.

CHAPTER 11.

AN ACT entitled, an act to designate and fix the place of holding the several courts for the county of Lee.

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

SECTION 1. **Courts to be held at Fort Madison, etc.** That the District,

Probate, and County Commissioners' courts, for the county of Lee, shall be held in the town of Fort Madison until the public buildings in and for said county are erected.

SEC. 2. **Duties of county commissioners—courts to be held at county seat.** It shall be the duty of the board of county commissioners of Lee county, to give notice of the next session of the District Court after the completion of said public buildings, to the Clerk of the District Court; and thereafter all the courts mentioned in the first section of this act shall be held at the county seat.

SEC. 3. **Sheriff to keep office at Madison.** It shall be the duty of the Sheriff of Lee county to keep his office in Fort Madison, as long as the district court is held in said town.

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

Approved December 22, 1840.

CHAPTER 12.

AN ACT relative to incorporated religious societies.

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

SECTION 1. **Religious societies empowered to hold certain property.** That any religious society hereafter incorporated by any act of the Legislature, shall have perpetual succession by such name as may be designated, and by such name shall be legally capable of contracting and of prosecuting and defending suits in any court; and shall have capacity to receive, [10] acquire, hold, enjoy, and dispose of, a house for public worship, with the land necessary therefor, not exceeding in quantity one acre; a burying ground for such society; a parsonage, not exceeding in value the sum of five thousand dollars; and any other property not exceeding the annual value of one thousand dollars, which shall be applied to the support of public worship; and such institutions of learning and charity as may be connected with such society, and to no other purpose.

SEC. 2. **May elect officers and make rules.** That such society, when incorporated, may elect such officers, and make such rules, as may be necessary and expedient for its own government, and the management of its own affairs.

SEC. 3. **Mesne process, how to be served.** That mesne process shall be served on the corporation, by leaving an attested copy thereof with any one of its officers at least ten days before the return day thereof.

SEC. 4. **Power to repeal, and proviso.** The Legislature may, at any time, repeal or alter an act incorporating any such society: provided, that such repeal or alteration shall not affect the title to any real or personal estate acquired or conveyed under its provisions.

Approved December 22, 1840.

CHAPTER 13.

AN ACT to locate and establish a territorial road from Keokuk, in Lee County, to Mount Pleasant, in Henry county.

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

SECTION 1. **Names of commissioners—route of road.** That William Skinner and Henry J. Campbell, of Lee county, and Miram Killbourn, of Henry county, be and they are hereby appointed commissioners to locate and establish a territorial road, commencing at Keokuk, in Lee county—thence up the Mississippi river, as near as practicable, to the town of Montrose—thence on the nearest and best route to the town of Franklin—thence to Tuscarora, in Lee county—thence on the nearest and best route, to Mount Pleasant, in Henry county.

SEC. 2. **When and where commissioners to meet—failure to meet, duty of sheriff of Lee county.** That said commissioners, or a majority of them, shall meet in the town of Franklin, in the first Monday in May next, and shall proceed to locate said road, according to the provisions of an act to locate and establish territorial roads; and if said commissioners, or a majority of them, shall fail to meet at such time and place as herein specified, it shall be the duty of the Sheriff of Lee county to notify said commissioners of a day, to be by him appointed, of the time and place of a second meeting of said commissioners, who shall then proceed to locate said road as above directed.

[11] SEC. 3. **Portion of certain act repealed.** That the sixth section of an act establishing certain territorial roads, approved January 25, 1839, be and the same is hereby repealed.

Approved December 23, 1840.

CHAPTER 14.

AN ACT to amend an act to incorporate the city of Dubuque.

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

SECTION 1. **Interest on loan limited to ten per cent.** That the fifth section of the act to which this is amendatory, is hereby so altered and amended that the mayor and aldermen shall not have power to borrow money at a higher rate of interest than ten per cent. per annum, any provisions in said act to the contrary notwithstanding.

Approved, December 23, 1840.

CHAPTER 15.

AN ACT to amend an act entitled, "An act to authorize James Leonard, Oliver A. Crary, William H. Brown and Charles Swan, to establish and keep a Ferry across the Mississippi river, at the town of Charleston," approved January 21, 1839.

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

SECTION 1. **Time for putting on boat extended for one year.** That the second section of an act entitled, "An act to authorize James Leonard, Oliver

A. Crary, William H. Brown and Charles Swan, to establish and keep a ferry across the Mississippi river, at the town of Charleston," shall be so amended as to give said Leonard, Crary, Brown and Swan, one year further time from the passage of this act, to procure for said ferry a horse or steam ferry boat.

SEC. 2. **Forfeiture of charter for non-compliance with law.** That if the horse or steam ferry boat be not completed and in operation within the time above specified, the charter referred to in the title of this act shall be rendered null and void.

Approved December 23, 1840.

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[12] CHAPTER 16.

AN ACT for the partial dissolution of the bonds of matrimony now existing between John Philips and Nancy Philips.

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

SECTION 1. **Partial dissolution of marriage contract.** That the marriage contract now existing between John Philips and Nancy Philips, of said Territory, be so far dissolved as to permit the said parties to live separate and apart from each other.

SEC. 2. **Nancy Philips authorized to sue, etc.—mother to retain children.** That the said Nancy Philips be so far restored to the privileges of an unmarried woman as to be able to contract and be contracted with, to sue and be sued on such contracts, and to be released from all control or coercion whatever of the said John Philips; and that she also have the entire control and guardianship of her two children now in her possession, to-wit.: Eliza and Nancy Philips.

Presented to the Executive December 23, 1840.

CHAPTER 17.

AN ACT authorizing Henry M. Koonts and William Doak, Jr., to execute a deed to Rebecca A. Palmer.

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

SECTION 1. **H. M. Koonts and William Doak, jr. authorized to execute deed to R. A. Palmer, for one acre of land—location of land.** That Henry M. Koonts, guardian of Workman Hughes, Martha Jane Hughes, and Andrew Jackson Hughes, minor children of Samuel Hughes, sen.; and William Doak, jr., guardian of Hugh, Nancy, Edmund and Samuel Doak, minor children of said William Doak, jr., be and they are hereby authorized to make and execute a good warranty deed to Rebecca A. Palmer, of one acre of land for the purpose of a burying ground, and which is now used in that way, of and from the northeast quarter of section number thirty-four, township number sixty-eight north, of range number four west, in the county of Lee, and Territory of Iowa.

Approved December 23, 1840.

[13] CHAPTER 18.

AN ACT to authorize Samuel Troxell to erect a dam across Big Sugar Creek, in the County of Lee.

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

SECTION 1. **Erection of dam authorized, and place.** That Samuel Troxell, his heirs or assigns, be and they are hereby authorized to erect and keep a dam across Big Sugar Creek, on the north half of the northwest quarter of section thirty, range five west, township sixty-eight, in the said county.

SEC. 2. **Penalty for injury to dam—may be fined or imprisoned.** Any person or persons who shall destroy, or in anywise injure said dam, shall be deemed to have committed a trespass, and shall be liable accordingly; and any person who shall wilfully or maliciously destroy or injure said dam, shall be guilty of a misdemeanor, and on conviction thereof shall be fined treble the amount of damages the owner may sustain, or be imprisoned, at the discretion of the court.

SEC. 3. **Not to enter upon lands of others, etc.—nuisances, etc., to be removed.** Nothing herein contained shall authorize the individual named in this act, his heirs or assigns, to enter upon and overflow the lands of any other person or persons, without the consent of such person or persons; and they shall remove all [such] nuisances as may be occasioned by the erection of said dam, which may endanger the health of the vicinity of said mill.

Approved December 23, 1840.

CHAPTER 19.

AN ACT to amend an act entitled, "An act to incorporate the town of Bloomington."

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

SECTION 1. **Ferry privilege vested in corporation.** That the president and trustees of the town of Bloomington, and their successors in office, be and they are hereby authorized to establish and keep a ferry across the Mississippi river, at Bloomington, in Muscatine county, and for one mile above and one mile below said town, to the east bank of said river.

SEC. 2. **Ferry subject to legislative enactment.** That said ferry, when so established, shall be subject to the same laws, and under the same restrictions, as other ferries are, or may hereafter be, by laws enacted, or to be enacted, in this Territory (or State,) fixing the rates of tolls and prescribing the manner in which licensed ferries are or shall be hereafter established and attended to.

[14] SEC. 3. **Corporation authorized to lease ferry, etc.** That the said president and trustees of the town of Bloomington, and their successors in office, shall have the full and entire control of said ferry, and the exclusive privilege of keeping the same; and may lease, for any term of years not exceeding ten years, said ferry, in such manner as they may deem most conducive to the interests of said town of Bloomington.

SEC. 4. **Repeal reserved.** Any subsequent Legislature may alter, amend or repeal this act.

Presented to the Executive December 29, 1840.

CHAPTER 20.

AN ACT to district the county of Dubuque into three county commissioners' districts.

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

SECTION 1. **County divided into three districts.** That the county of Dubuque shall be divided into three county commissioners' districts, as follows, to-wit: That the first district shall consist of the Regan, Drebilbis, and Whitewater precincts; that the second district shall consist of the Dubuque precinct; and the third district shall consist of Peru, Darango, Paul's and Hewett's precincts.

SEC. 2. **Election of commissioners, etc.** Be it further enacted, that at the next general election there shall be elected from the first district, one county commissioner, and that annually thereafter there shall be elected from each district alternately one county commissioner, according to the provisions of the law regulating general elections.

Approved December 30, 1840.

CHAPTER 21.

AN ACT to establish a seminary of learning at Iowa City, Johnson county.

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

SECTION 1. **Iowa seminary established—names of corporators—name and style.** That there shall be established at Iowa City, in Johnson county, a seminary of learning for the instruction of young persons of both sexes, in science and literature, to be called the "Iowa Seminary;" and that Henry Murray, W. R. Harrison, Chauncy Swan, Jesse Brown, Samuel H. M'Crory, John Horner, W. C. Reagan, L. W. Hastings, Samuel C. Trowbridge, W. B. Snyder, Pleasant Harris, David Switzer, and their associates and [15] successors, are hereby declared a body politic and corporate in law, by the name and style of the "Iowa Seminary."

SEC. 2. **General powers of corporation—to have seal.** The corporation before named shall have perpetual succession, and power to possess, retain and enjoy, property, real and personal, and shall have power to sell, grant and convey, rent, or otherwise dispose of at pleasure, all such property as above described; and they shall have power to contract and be contracted with, sue and be sued, plead and be impleaded, in all courts of justice; they shall have and use a common seal, with power to alter it at pleasure.

SEC. 3. **Stock transferable.** The stock of said seminary shall consist of shares of ten dollars each, which shall be deemed personal property, and shall be transferable on the books of said corporation, not including tuition, shall not exceed five thousand dollars; and its funds, privileges, and immunities, shall be used for no other purposes than that of education.

SEC. 4. **Trustees to be elected—trustees to be elected for one year—election by ballot—number of votes of stockholders—trustees to elect officers—failure to elect, how to proceed.** The corporate concerns of said seminary shall be managed by a board of trustees, consisting of eleven members, six of whom shall form a quorum for the transaction of business. They shall be elected by the stockholders on the first Monday of June, annually, and shall hold their office for the term of one year, and until their successors are

duly elected. The election of trustees shall be by ballot, and each stockholder shall be entitled to one vote for every share owned by him to the amount of five shares, and then one vote for every five shares over and above that amount; any stockholder may vote in person or by proxy. Said trustees shall elect one of their members to be president of their board, and they shall have power to fill vacancies in their own body. If any election shall not be made on the day designated by this act, such election may be held on any other day, provided notice of the time and place of holding such election, signed by three of the stockholders, be affixed to the door of three of the most public houses in Iowa City, at least twenty days before said election.

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

SEC. 6. **Instruments of conveyance, how to be executed.** That all deeds and other instruments of conveyance shall be made by order of the trustees, sealed with the seal of the corporation, signed by the president, and by him acknowledged in his official capacity, in order to insure their validity.

SEC. 7. **When to take effect.** This act to take effect and be in force from and after its passage.

Approved December 30, 1840.

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[16] CHAPTER 22.

AN ACT to establish a seminary of learning at or near Marion, in Linn county.

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

SECTION 1. **Style—Names of corporators—to have perpetual succession—general powers.** That there shall be and hereby is established, at or near Marion, in Linn county, a seminary of learning for the education of young persons, and for the general dissemination of useful knowledge, which shall be known by the style and title of the "Marion Lyceum;" and that Luman M. Strong, J. W. Willis, Hosea W. Gray, Harvy B. Burnap, George H. Gray, A. Danish, D. A. Woodbridge, John Long, J. W. Margrave, J. C. Berry, Samuel Ross, George Greene, and their associates and successors, together with all the initiated members of the Marion Library Society, are hereby declared a body politic and corporate in law, by the name and style of the "Marion Lyceum," and shall hereafter be, and they are hereby erected, established, and declared to be, of perpetual succession, with all the incidents of a corporation in deed and in law, to all intents and purposes whatsoever; and shall, by the name, style and title, aforesaid, have power to acquire, possess, retain, and enjoy, real, personal, and mixed property, and the same to sell, grant, convey, rent or otherwise dispose of at pleasure; and they shall have power to contract and be contracted with, sue and be sued, plead and be impleaded, in all courts of law or equity in this Territory (or future State) of Iowa.

SEC. 2. **Stockholders to elect trustees—quorum—trustees to elect officers—term of service.** That the stockholders shall, on the first Saturday in April

next, and on the same day annually thereafter, elect, by ballot, a board of trustees, consisting of five members, for the transaction of all corporation business and concerns, any three of whom shall constitute a quorum; and the board of trustees shall, on their first meeting after elected, select from their body a president, a vice-president, secretary and treasurer, and shall hold their office for one year, and till their successors are duly elected.

SEC. 3. **Shares of stock ten dollars each—payable in instalments—certificate of stock—stock transferable.** That the stock of said Lyceum shall consist of shares of ten dollars each, with the power to raise them to twenty dollars each, whenever deemed practicable by the board of trustees—payable by instalments of five dollars on each share, at such time as may be agreed upon by the trustees; and the president and treasurer shall make out a certificate of stock, signed by them and sealed with their corporate seal, and deliver one such certificate to each stockholder for every share by him held, on his paying to the treasurer on each share one-half of its amount; which certificate shall be transferable in person or by attorney, on the books of said company, only subject to the sum due or to become due on the share so transferred.

SEC. 4. **Seal authorized—proviso.** That the board of trustees may cause to be made one common seal for the use of said Lyceum, with such devices and inscriptions thereon as they shall see proper, by and with which [17] all deeds, certificates, and acts of corporation shall pass, and be authenticated: provided, they be signed and acknowledged by the president.

SEC. 5. **Stockholders to have votes in proportion to stock owned.** That each stockholder shall be entitled to one vote for every share owned by him to the amount of ten shares, and then to one vote for every five shares over and above that amount; any stockholder may vote in person or by proxy.

SEC. 6. **Power to make by-laws, etc.—proviso.** The board of trustees shall have power to make, ordain and establish such regulations, rules and by-laws, as they may deem necessary for the good government of said Lyceum, in the several departments, and for the direction of its officers, teachers, librarian and pupils, and for the management of the property and affairs of said corporation, to the best advantage: Provided, such rules, regulations and by-laws, shall not contravene the laws of the United States, or the Territory (or future State) of Iowa.

SEC. 7. **Meeting of trustees—general meeting of stockholders.** The board of trustees shall meet for the transaction of business once in three months, and as much oftener as the wants of the institution may, in their estimation, demand; and the stockholders shall hold a general meeting on the first Saturday of April and October of each year, to fill all vacancies that may happen in the board of trustees, and to give such instructions and directions to the board of trustees as a majority of them shall deem to the interests of the Lyceum.

SEC. 8. **Capital stock not to exceed $50,000.** That the capital stock, and estate, real, personal, and mixed, of said corporation, shall not exceed fifty thousand dollars, and be used for no other purpose than for the dissemination of knowledge.

SEC. 9. **Power to repeal, etc., reserved.** That this act may be amended or repealed by any future Legislature.

SEC. 10. **When to take effect.** This act to be in force and take effect from and after its passage.

Approved December 31, 1840.

CHAPTER 23.

AN ACT to incorporate the Fairfield Lyceum.

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

SECTION 1. **Style of lyceum—names of persons incorporated into a body politic—authority to acquire and hold property, etc.—to have seal.** That there shall be established a seminary of learning for the instruction of youth of both sexes in arts, science, and literature, to be known by the name and style of the "Fairfield Lyceum;" and that Samuel Shuffleton, Jeremiah S. Waugh, E. B. Fitch, Charles D. Jones, Henry Temple, James F. Rice, Richard Irwin, William M. Lyons, Charles E. Emery, L. W. Sanders, David Laughery, J. L. Scott, J. F. Chambers, J. P. Check, C. W. David, G. M. Fox, T. G. H. Gray, and their associates and [18] successors, are hereby declared a body politic and corporate, in law and in fact, by the name and style of the "Fairfield Lyceum," and by that name shall have perpetual succession, and power to acquire, possess, retain and enjoy, mixed, personal, and real property; and the same to sell, grant, convey, rent, or otherwise to dispose of at pleasure; and they shall have power to contract and be contracted with, sue and be sued, plead and be impleaded, in all courts of law or equity; and they shall have and use a common seal.

SEC. 2. **Shares of stock $10 each—stock transferable.** The stock of said Lyceum shall consist of shares of ten dollars each, which shall be deemed personal property, and shall be transferable on the books of said corporation in such manner as may be prescribed by the board of trustees.

SEC. 3. **Annual income limited—capital stock not to exceed $50,000—funds to be used only for education.** The annual income, exclusive of tuition, shall not exceed two thousand dollars, and that the total capital stock of said institution shall not exceed fifty thousand dollars; and that its funds, privileges, and immunities, shall be used for no other purpose than that of education.

SEC. 4. **Board of trustees to be elected—duties of trustees—stockholders authorized to elect other officers—stockholders to vote in proportion to amount of stock by them owned.** The stockholders of said Lyceum shall, on the first Monday in June next, and on the same day annually thereafter, elect by ballot, a board of trustees, consisting of five members, (three of whom shall constitute a quorum,) whose duties shall be to transact and perform, or cause to be performed, all the functions, concerns, and business of said Lyceum; and said stockholders shall elect or appoint such other officers as may in their opinion be requisite, and shall give such directions to the board of trustees as may in their estimation be of importance to the corporation; and each stockholder shall be entitled to one vote for every share owned by him to the amount of five shares, and then to one vote for every three shares over and above that amount; any stockholder may vote in person or by proxy.

SEC. 5. **Trustees to appoint officers—power to fill vacancies—of by-laws, rules, etc.—proviso.** The board of trustees shall, on their first meeting after elected, appoint from their number a president, vice president, secretary and treasurer; and they shall have power to fill vacancies in their own body until the annual election; they shall have power to appoint subordinate officers, and to make, ordain, and establish, such ordinances, regulations, rules and by-laws, as they may deem necessary for the interests and good government of said Lyceum in its several departments and functions: Provided, however, That such rules and regulations shall not contravene the laws of the United States, or of the Territory (or future State) of Iowa.

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

SEC. 7. **Power to repeal reserved.** That the Legislature shall have power, at any time, to alter, amend, or repeal this act.

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

Approved December 31, 1840.

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[19] CHAPTER 24.

AN ACT supplementary to an act for the benefit of settlers, etc., on the Half Breed lands, approved December 6, 1839.

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

SECTION 1. **Each settler authorized to select one section of land—proviso—ib.** That it shall be lawful for any settler on the Half Breed lands, to select not to exceed one section of land in said tract, a part of which may be prairie and a part timber: Provided, he has an interest in or a title to said land, by paying a tax on the same: And provided further, That he shall not, in his selection, interfere with the claim of any other settler on said land.

SEC. 2. **Settler to consult his convenience as to amount inclosed—receipts for taxes evidence of title.** And in order that the settler may hold his claim peaceably, quietly and undisturbed, until the perfect title is ascertained and settled by the due course of law, it shall not be deemed necessary for him to enclose more of said land than may suit his convenience; and his receipt for taxes, from the proper officers, shall be regarded as sufficient evidence of title and ownership as to authorize him to commence and sustain his action for any wrongs or trespasses committed upon his claim, as set forth in the first section of this act.

SEC. 3. **Proviso.** Provided, however, That if any settler shall neglect or refuse to pay the tax on his claim for one year, then and in that case his title shall not be regarded further than his improvements and possession extend.

SEC. 4. **Of actions to be commenced under this act.** All actions commenced under the provisions of this act, shall be by action of forcible entry and detainer, or by action of trespass, as the case may require.

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

Approved December 31, 1840.

CHAPTER 25.

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

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

SECTION 1. **Duty of county commissioners—county to be districted in proportion to population—classification of districts.** That the board of county

commissioners in and for the county of Linn, be and they are hereby authorized and required to lay off the county aforesaid into three county commissioners' districts, prior to the first day of August, A. D. eighteen hundred and forty-one, making the division as nearly as possible in proportion to the population of said county; and the [20] districts shall be classified by said commissioners as districts number one, number two, and number three.

SEC. 2. **Election of commissioners—commissioners to be elected from each district alternately.** That at the next general election there shall be elected from district number one one county commissioner; and alternately thereafter there shall be elected from each district one county commissioner annually, in accordance with the provisions of an act organizing a board of county commissioners in each county in this Territory, approved December 14, A. D. eighteen hundred and thirty-eight, in like manner as though the county had been divided under the provisions of said act.

Approved December 31, 1840.

CHAPTER 26.

AN ACT providing for the service of writs by copy in certain cases.

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

SECTION 1. **Writs may be served by reading and delivering copy.** That all writs of summons, issuing from any court of record in this Territory, shall be served by reading and delivering a copy thereof, attested by the officer serving the same, to the defendant, if found; and if not found, by leaving an attested copy at his dwelling house or usual place of abode, with some person of the family of fifteen years of age, and stating the contents to said person.

SEC. 2. **Suits against corporations, how summons to be served.** That in all suits against any corporation, the summons shall be served by leaving an attested copy thereof with the clerk, cashier, secretary, agent, or any other officer having charge of their business; and if there be no such officer found within the county the summons may be served on any member of the corporation.

SEC. 3. **Suits against county commissioners.** That in all suits against the board of commissioners of any county, or against the inhabitants of any county in this Territory, the summons shall be served by leaving an attested copy thereof with one of the commissioners, or with the clerk of the board of county commissioners.

Approved December 31, 1840.

[21] CHAPTER 27.

AN ACT supplemental to an act regulating practice in the district courts.

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

SECTION 1. **Of actions of tort—plaintiff not to recover more costs than damages.** That in all actions of tort brought originally in any of the District Courts of this Territory, if the plaintiff or plaintiffs recover less than fifty dollars, such plaintiff or plaintiffs shall recover no more costs than damages.

SEC. 2. **When to take effect.** This act shall take effect and be in force from and after the third day of March, A. D. one thousand eight hundred and forty-one.

Approved December 31, 1840.

CHAPTER 28.

AN ACT to amend an act establishing certain territorial roads therein named.

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

SECTION 1. **Commissioners appointed to lay out road—route of road—time and place of meeting.** That Luman M. Strong and Israel Mitchell, of Linn county, and John West, of Johnson county, be and they are hereby appointed commissioners to lay out and establish a territorial road from Iowa City by the way of Marion, (the seat of justice of Linn county,) the seat of justice of Delaware county, and the mouth of Elk creek, in Clayton county, to the Mississippi river, opposite to Prairie du Chien. Said commissioners shall meet at Iowa City on the first Monday in May, eighteen hundred and forty-one, or at such other time within three months thereafter as said commissioners shall agree upon.

SEC. 2. **Commissioners to take oath—form of oath.** That each of the commissioners appointed under the provisions of this act, shall, before he enters on the duties required of him, take and subscribe, before some justice of the peace or other officer authorized to administer oaths, the following affidavit: "I do solemnly swear (or affirm, as the case may be) that I will faithfully and impartially, without prejudice or favor, perform the duties of commissioner to lay out and establish a road from Iowa City to the Mississippi river, opposite to Prairie du Chien, according to the provisions of the first section of this act."

SEC. 3. **Compensation to commissioners, surveyors, etc.** That each of the commissioners above appointed, together with each of the surveyors, chain carriers, and markers, employed by them, shall receive for their services each day they may be necessarily employed in the discharge of the duties enjoined in this [22] act, the following sums, to-wit: Commissioners, each three dollars; the surveyor two dollars and fifty cents; chain carriers and markers, each one dollar and fifty cents; which several sums shall be paid according to the provisions of an act for laying out and opening territorial roads.

SEC. 4. **Vacancies—how to be filled—proviso.** That should any of the commissioners appointed by this act die, or refuse to serve, the commissioners of the county wherein such vacancies shall happen are hereby empowered and authorized to fill the same: Provided, however, that two of them shall have the power to perform the duties herein named.

SEC. 5. **Repealing section.** That all that part of section one after the enacting clause of an act establishing certain territorial roads therein named, approved January 14, 1840, is hereby repealed.

Approved December 31, 1840.

CHAPTER 29.

AN ACT to amend an act establishing certain territorial roads.

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

SECTION 1. **Commissioners—part of road from Oquawka to Napoleon to be re-located.** That David E. Blair, William Waddle, and William Walter, be and they are hereby appointed to re-locate that part of the road leading from Oquawka to Napoleon, in Johnson county, via Florence and Wappello, in Louisa county, that lies between Florence and Oquawka.

SEC. 2. **Meeting of commissioners.** And that the commissioners shall meet at the town of Florence on the first Monday in March next, to discharge the duties of their office.

SEC. 3. **Compensation of surveyor, etc.** And that the commissioners aforesaid may take to their assistance a surveyor, and such other hands as they may think necessary; for which they may receive such compensation as is usually allowed for such like services.

SEC. 4. **Repealing section.** That all acts and parts of acts that conflict with this act are hereby repealed.

SEC. 5. **When to take effect.** This act to take effect from and after its passage.

Approved January 7, 1841.

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[23] CHAPTER 30.

AN ACT supplemental to an act fixing the terms of the district courts.

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

SECTION 1. **Two additional terms of district court to be held in Dubuque county.** That there shall be holden in the county of Dubuque two terms of the district court, in addition to those terms now authorized by the act to which this is supplementary; one commencing on the first Monday in February —the other on the first Monday in August.

SEC. 2. This act to be in force from and after the first of March, eighteen hundred and forty-one.

Approved January 7, 1841.

CHAPTER 31.

AN ACT to amend an act entitled, "An act establishing certain territorial roads therein named," approved January 14, 1840.

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

SECTION 1. **Location of road from Parkhurst to Tipton to be changed.** That the third section of an act entitled, "An act establishing certain territorial roads therein named," approved January 14th, eighteen hundred and forty, be so amended as to authorize the commissioners who laid out the road from

Parkhurst, in Scott county, to the seat of justice of Cedar county, to change the location of said road so as to run through Allen's Grove.

SEC. 2. **Commissioners—how to be governed.** Said commissioners shall be governed in all respects by the act to which this is amendatory, and receive the same per diem allowance.

Approved January 7, 1841.

CHAPTER 32.

AN ACT to make valid in law the survey of the town of Dartmouth, in Jones county.

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

SECTION 1. **Survey of Dartmouth confirmed, etc.** That the survey of the town of Dartmouth, laid out and surveyed by John G. M'Donald, on the [24] southeast quarter of section three, township eighty-four north, range four west, in Jones county, is hereby declared and made legal and valid, in law, as it would have been had it been laid out in accordance with and according to the provisions of an act entitled, "An act to provide for the recording of town plats," approved December twenty-fifth, eighteen hundred and thirty-eight.

Approved January 7, 1841.

CHAPTER 33.

AN ACT to establish certain territorial roads.

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

SECTION 1. **Commissioners—road from Camanche to Iowa City—meeting of commissioners.** That Thomas Hatfield and Robert Smith, jr., of Clinton county, and Samuel P. Higginson, of Cedar county, be and they are hereby appointed commissioners to lay out and establish a territorial road, to commence at Camanche, in Clinton county; thence running in a westerly direction upon the most eligible and best ground to the crossing of the Wabesipinicon river, at or near Oliver Alger's; thence through the Goddard settlement, in said Clinton county, to Tipton, in Cedar county; thence on the nearest and best route to Iowa City, in Johnson county. Said commissioners, or a majority of them, shall meet at Camanche, on the first Monday in May next, or at such time thereafter during the year as they shall agree, and proceed to discharge the duties assigned them by this act.

SEC. 2. **Commissioners—road from Lyons to Tipton—meeting of commissioners.** And be it further enacted, that Arthur Smith, and James Hall, of Clinton county, and Washington Rigby of Cedar county, be and they are hereby appointed commissioners to view and locate a territorial road, commencing at Lyons, in Clinton county; thence running west as near as the nature of the ground will admit, through the centre of said county, crossing the Wabesipinicon at or near Sanbornton; thence to Tipton, in Cedar county. Said commissioners, or a majority of them, shall meet at Lyons, on the second Monday in May, eighteen hundred and forty-one, or at such time thereafter during the year as they shall agree.

SEC. 3. **Commissioners to take oath.** That each and every commissioner

appointed under the provisions of this law, shall, before he enters upon the duties required of him, take and subscribe before some justice of the peace or other officer authorized to administer oaths, an oath faithfully and impartially, without fear, favor or prejudice, to perform his duties as commissioner under this act.

SEC. 4. **Vacancies—how to be filled.** Be it further enacted, that should any of the commissioners named in the above sections of this act die, refuse to serve, or remove out of their respective counties, the county commissioners of the county where such vacancies shall happen shall fill the same.

[25] SEC. 5. **Compensation of commissioners, surveyor, etc.** That each of the commissioners named in the foregoing sections, together with each of the surveyors, chain carriers and markers, employed by them, shall receive for their services each day they may be necessarily employed in discharge of the duties enjoined by this act the following sums, viz.: commissioners two dollars; surveyors two dollars and fifty cents; and chain carriers and markers one dollar and twenty-five cents; which several sums shall be paid according to the provision of "An act for laying out and opening territorial roads," approved December twenty-ninth, eighteen hundred and thirty-eight.

Approved January 7, 1841.

CHAPTER 34.

AN ACT to amend an act entitled, "An act to authorize the keeping of certain ferries therein named," approved January 17, 1840.

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

SECTION 1. **J. R. Brown and administrators of A. M. Anderson allowed one year more time.** That the fourth section of the act above referred to be so amended as to allow Joseph R. Brown, and also the administrators of Angus M. Anderson, deceased, the further time of one year from the passage of this act, to provide and keep good and sufficient flat boats for the use of their respective ferries.

SEC. 2. **Charter forfeited for non-compliance with law.** If either of the persons aforesaid fail to comply with the requisitions of the act to which this is amendatory within the time above specified, his charter shall be forfeited.

Approved January 8, 1841.

CHAPTER 35.

AN ACT to authorize William St. John to establish and keep a ferry across the Mississippi river, opposite fractional section fourteen, township seventy-six.

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

SECTION 1. **Where ferry to be kept—twenty years' charter—proviso.** That William St. John, his heirs and assigns, be and they are hereby authorized to keep a ferry across the Mississippi river, opposite fractional section fourteen, township seventy-six north, range five west, in the county of Muscatine, for the term of twenty years from the passage of this act: [26] provided, that said ferry, when so established, shall be subject to the same regulations, and

under the same restrictions, as other ferries are, or may hereafter be, by the laws of this territory fixing the rates of toll, and prescribing the manner in which licensed ferries shall be kept and regulated.

SEC. 2. **Flat boat to be kept.** That the said William St. John, his heirs and assigns, shall keep at said ferry a good and sufficient flat boat, and number of hands to work the same, for the transportation of all persons and their property across said river, when passable, without delay.

SEC. 3. **Power to repeal, etc., reserved.** This act may be altered, amended or repealed, by any subsequent legislature.

SEC. 4. **Not to affect rights of others.** That none of the provisions contained in the foregoing shall interfere with the rights of any other person.

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

Approved January 8, 1841.

CHAPTER 36.

AN ACT for the relief of the citizens of Muscatine county.

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

SECTION 1. **Time for paying taxes extended—duty of collector.** That those citizens of the county of Muscatine who have not paid their taxes for the year eighteen hundred and forty, shall have until the first Monday in May, A. D. eighteen hundred and forty-one to pay their taxes for the year eighteen hundred and forty; and that the collector shall then proceed to collect the unpaid taxes as provided by section nineteen of an act entitled "An act for assessing and collecting county revenue," approved January twenty-fourth, eighteen hundred and thirty-nine.

SEC. 2. **When collector to make return—proviso.** That the collector of taxes of said county shall have until the first Monday of June next to make his returns, as required by the fourteenth section of the act aforesaid: Provided, nothing in this act contained shall be so construed as to authorize said collector to retain moneys already collected.

SEC. 3. **When to take effect.** This act to take effect from and after its passage.

Approved January 8, 1841.

[27] CHAPTER 37.

AN ACT to establish the territorial roads therein mentioned.

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

SECTION 1. **Commissioners—road from Washington to intersect road from Burlington to Mount Pleasant—meeting of commissioners.** That William E. Curts, of Washington county, Azariah Gregg, of Des Moines county, and Adam Richie, of Henry county, be and they are hereby appointed commissioners to lay out and establish a territorial road, commencing at Washington, the county seat of Washington county; thence on the nearest and best ground to Richie's

mill, in Henry county; thence on the nearest and best ground to intersect the territorial road leading from Burlington to Mount Pleasant, at or near John Sleeth's, in Des Moines county. Said commissioners shall meet at Washington on the second Monday in June, A. D. eighteen hundred and forty-one, or such time thereafter during the year as they shall agree.

SEC. 2. **Commissioners—road from Moscow to Wabesipinicon bridge—meeting of commissioners.** That William Chambers, jr., of Muscatine county, Joseph K. Snyder, of Cedar county, and Gideon H. Ford, of Jones county, be and they are hereby appointed commissioners to lay out and establish a territorial road, commencing at Moscow, Muscatine county; thence on the nearest and best route to Tipton; thence to Pioneer Grove, in Cedar county; thence to the Wabesipinicon bridge, in Jones county. Said commissioners shall meet at Moscow on the first Monday in June next, or at such time during the year thereafter as they shall agree.

SEC. 3. **Commissioners—road from Sanbornton to Ivanhoe.** That James Hall, of Clinton county, Washington A. Rigby, of Cedar county, and A. Cowles, of Linn county, be and they are hereby appointed commissioners to lay out and establish a territorial road, commencing at Sanbornton in Clinton county, and running thence west as near practicable, to intersect the territorial road from Davenport to Marion, at Pioneer Grove, and thence on the nearest and best route to Ivanhoe, in Linn county.

SEC. 4. **Compensation to commissioners, surveyor, etc.** Said commissioners shall each receive two dollars per day for their services in locating and establishing said road. Said commissioners shall employ a competent surveyor, who shall receive the sum of two dollars and fifty cents per day for his services; chain carriers and other hands necessarily employed by them shall each receive one dollar and fifty cents for their services. Said commissioners shall in all other respects be governed by an act entitled, "An act to provide for laying out and establishing territorial roads," approved December 29, 1839.

SEC. 5. **Commissioners to take oath—form of oath.** Said commissioners, before entering upon the duties of their office, shall each take and subscribe an oath before some justice of the peace or other officer authorized to administer oaths, the following affidavit: "I do solemnly swear (or affirm, as the case may be) that I will faithfully and impartially, without prejudice or favor, perform the duties of commissioner to lay out and establish [28] a territorial road from Washington to intersect the territorial road leading from Burlington to Mount Pleasant."

Approved January 9, 1841.

CHAPTER 38.

AN ACT to establish a territorial road from Charleston, in Jackson county, to Tipton in Cedar county.

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

SECTION 1. **Names of commissioners—route of road—time and place of meeting of commissioners—proviso—vacancies.** That Anson Newbery, of Jackson county, Eli Goddard, of Clinton county, and Solomon Knott, of Cedar county, be and they are hereby appointed commissioners to view and lay out a territorial road, commencing at the town of Charleston; thence running upon the nearest and best ground to Tipton, or until it intersects a territorial road running to Tipton, the county seat of Cedar county. Said commissioners, or a

majority of them, shall meet at Charleston on the first Monday in June, eighteen hundred and forty-one, or such day thereafter during the year as they shall agree; provided, that should any of the above named commissioners die, refuse to serve, or remove out of their respective counties, it shall be competent for the board of county commissioners where such vacancy shall happen to fill the same.

SEC. 2. **Commissioners to take oath—form of oath.** That each and every commissioner appointed under the provisions of this act, shall, before he enters upon the duties required of him, take and subscribe before some justice of the peace or other person authorized to administer oaths, the following affidavit: "I do solemnly swear (or affirm, as the case may be) that I will faithfully and impartially, without prejudice or favor, perform the duties of commissioner to lay out and establish a road from to ."

SEC. 3. **Compensation of commissioners, surveyor, etc.** That each of the commissioners, together with the chain carriers, surveyor and markers, employed by them, shall receive for their services each day they may be necessarily employed in discharge of the duties enjoined by this act, the following sums, to-wit: commissioners one dollar and fifty cents; surveyor two dollars and fifty cents; and chain carriers and markers one dollar and twenty-five cents; which several sums shall be paid according to the provisions of an act for laying out and opening territorial roads.

Approved January 9, 1841.

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[29] CHAPTER 39.

AN ACT to authorize John S. Faber to establish and keep a ferry across the Mississippi river, at Faber's Landing.

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

SECTION 1. **J. S. Faber authorized to keep ferry—location and limits of ferry—exclusive privilege guaranteed—proviso.** That John S. Faber, his heirs and assigns, be and they are hereby authorized to establish and keep a ferry across the Mississippi river, at Faber's Landing, in the county of Jackson, in township eighty-seven north, in range four east of the fifth principal meridian, within the following limits: Commencing at said Faber's Landing, and extending one-half mile above, (provided the same does not extend above the mouth of the Tete des Morts,) and one-half mile below said landing; and that said John S. Faber have the exclusive privilege of ferrying within said limits for the term of fifteen years: provided, that said ferry, when so established, shall be subject to the same regulations and under the same restrictions as other ferries are, or hereafter may be, by the laws of this territory fixing the rates of toll, and prescribing the manner in which licensed ferries shall be kept and regulated.

SEC. 2. **Steam or horse boat to be put on within two years, etc.—authority to use flat boat, etc.** That the said John S. Faber, his heirs and assigns, shall, within two years from the passage of this act, procure for said ferry a good and sufficient horse or steam ferry boat, which shall be kept at said ferry for the transportation of all persons and their property across said river at said ferry without delay; and until said ferry boat be provided as aforesaid, the said John S. Faber shall keep, at said ferry, a good and sufficient number of flat boats, and hands to work the same, for the transportation of all persons and their property across said river, when passable, without delay.

SEC. 3. **When to take effect.** This act to take effect from and after its passage.

Approved January 9, 1841.

CHAPTER 40.

AN ACT to locate and establish certain territorial roads in Louisa county.

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

SECTION 1. **Road from Mississippi to intersect road from Oquawka to Iowa City—names of commissioners.** That there shall be surveyed and established a territorial road in Louisa county, as follows: Commencing at the Mississippi river, at or near the mouth of the Iowa river; thence the nearest and best route through Harrison and Fre-[30]-donia, to the territorial road running from Oquawka to Iowa City; and that G. W. Austin, J. R. Rockafeller and William Thompson, of Louisa county, be and they are hereby authorized to locate said road, at any time during the year eighteen hundred and forty-one they may agree upon.

SEC. 2. **Ib.—road from Black Hawk to intersect road leading from Burlington to Iowa City—meeting of commissioners.** And be it further enacted, that Gabriel Walling, of Louisa county, Richard Lord, of Muscatine county, and George W. Hawkins, of Johnson county, be and they are hereby appointed commissioners to lay out and establish a territorial road from Black Hawk, in Louisa county, by Grandview, in the nearest and best route to intersect the territorial road leading from Burlington to Iowa City, in township number seventy-seven north, of range five west, in Johnson county. Said commissioners shall meet at Grandview, in Louisa county, on the first Monday of March next, eighteen hundred and forty-one, or at such subsequent day during the year as they may agree upon, and proceed to locate said road.

SEC. 3. **Names of commissioners—road from Florence to Washington county line—meeting of commissioners.** That Philip B. Harrison, John Minton and Joseph Biffington, of the county of Louisa, be and they are hereby appointed commissioners to lay out and establish a territorial road, commencing at the town of Florence; thence to the residence of George Kees; thence to the residence of William Buffington, sen.; thence to the line of Washington county, and intersect at said line the road running from Washington to Wappello. Said commissioners shall meet at Florence on the first Monday in July next, eighteen hundred and forty-one, or at such time thereafter during the year as they may agree upon, and proceed to locate said road.

SEC. 4. **Names of commissioners—road from Black Hawk to county line, etc. —road from Wapello to county line, etc.—meeting of commissioners.** And be it further enacted, that George Humphrey, Perry Morrison and Joseph Newell, of Louisa county, be and they are hereby appointed commissioners to lay out and establish a territorial road, beginning at Black Hawk; thence the nearest route to the courthouse of Louisa county, crossing the Iowa river directly opposite said courthouse; thence the best route to the county line, by Hope Farm, and intersect the territorial road running from said county line, via Mount Pleasant, to the Missouri line. And said commissioners are hereby authorized to lay out and establish a territorial road, commencing at Wapello; thence the nearest and best route via Hope Farm to the county line, and intersect the road already established from Washington to said county line. Said commissioners shall meet at Black Hawk on the first Monday of March next, eighteen hundred and forty-one, or at such other time during the year [as] they may agree upon, and proceed to locate said road.

SEC. 5. **County commissioners authorized to keep ferry, etc., across Iowa river—citizens of Louisa county to cross free of toll.** And be it further enacted, that the county commissioners of Louisa county are hereby authorized, if they think it expedient, to establish and keep a ferry across the Iowa river, where the road referred to in the preceding section crosses said river, which ferry shall always be kept in operation under the direction of the county commissioners; and all citizens of said county, with their horses, teams, etc., shall be ferried across said river at this ferry, free of all charge, at all times.

[31] SEC. 6. **Vacancies—how filled—proviso.** That should any of the commissioners named in the foregoing sections of this act die, or refuse to serve, or remove out of the county, the county commissioners shall fill such vacancies; provided, however, that any two of them shall have power to discharge the duties herein required.

SEC. 7. **County commissioners to fix compensation of commissioners, surveyor, etc.** That each of the several commissioners named in the foregoing sections, together with the surveyors, chain carriers and markers, employed by them, shall receive such compensation for their services as the county commissioners may direct.

SEC. 8. **Commissioners to take oath.** That each and every commissioner appointed under the provisions of this act, shall, before he enters on the duties required of him, take and subscribe an oath before some justice of the peace, that he will faithfully and impartially perform the duties, according to law.

SEC. 9. **Commissioners—how to be governed.** The commissioners shall in all respects not provided for in this act, be governed by the general law now in force in this territory, defining the mode of laying out and establishing territorial roads.

Approved January 9, 1841.

CHAPTER 41.

AN ACT to district the county of Johnson into county commissioners' districts.

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

SECTION 1. **County commissioners to district Johnson county.** That the county commissioners of the county of Johnson be, and they are hereby authorized, to district said county into three districts, for the purpose of electing county commissioners; which districts shall be numbered first, second, and third.

SEC. 2. **Election of commissioners—how to take place.** At the first annual election after said county shall have been districted as aforesaid, there shall be elected, by the qualified electors of said county, one county commissioner in the first district, resident therein; at the second election there shall be elected one county commissioner in the second district; and so on alternately as long as this act is in force.

Approved January 9, 1841.

[32] CHAPTER 42.

AN ACT to amend an act relative to practice in the district courts.

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

SECTION 1. **All persons competent to institute suits, etc.—how to proceed—duty of clerk.** That hereafter it shall be competent for any person or persons, when they wish to institute suit in any of the courts of record of this territory, (if their demand shall be founded on contract,) to file their account, single bill, promissory note, or due bill, with the clerk of said court, whose duty it shall be to issue process against the defendant or defendants, in the same manner as if a declaration and precipe had been filed in the usual form.

SEC. 2. **Parties may prosecute and defend in person.** That upon the return of the writ, served, the plaintiff and defendant may appear and prosecute and defend, in proper person, and proceed to final judgment in said suit, as in other actions conducted by attorneys in the district courts.

SEC. 3. **Non-residents to give security for costs, etc.—security may be demanded for costs paid—proviso.** In all suits hereafter commenced in any of the courts of record in this territory, when the plaintiff is a non-resident of the county, the clerk of the court may, if he think it expedient, demand of him security for costs, before the institution of the suit; and the court shall, at any time before the trial, and on the application of the defendant, and his affidavit filed, stating that he is not indebted to the plaintiff in the sum aforesaid, or any less amount, order the plaintiff to give security for costs paid; if he fail to do so, the suit shall be dismissed at his costs: provided, the security for costs shall in no case be extravagant, but moderate.

SEC. 4. **Repealing clause—when to take effect.** That the seventh section of an act amendatory to "An act regulating practice," passed at the session of eighteen hundred thirty-nine and forty, be and the same is hereby repealed. This act to take effect and be in force from and after its passage.

Approved January 9, 1841.

CHAPTER 43.

AN ACT to establish a territorial road from the north part of Washington county to the Missouri line.

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

SECTION 1. **Names of commissioners—road from Washington to southern boundary of territory—meeting of commissioners—pay of commissioners, surveyor, etc.** That E. C. Fairchilds, of Washington county, Alexander Winsel, of Jefferson county, and Jesse Belknap, of Van Buren county, be and they are hereby appointed commissioners to lay out and establish a territorial road, commencing in Washington county, where the north line of said county crosses [33] the military road leading from Iowa City to Mount Pleasant; thence to Washington, the county seat of said county; thence to Brighton, in said county; thence to Fairfield, the seat of justice of Jefferson county; thence to Iowaville, in Van Buren county; thence to a suitable point on the southern boundary of the territory. Said commissioners shall meet at the town of Washington on the third Monday in June, A. D. eighteen hundred and forty-one, or at such subsequent time during the year as they shall agree. The com-

missioners aforesaid shall each receive the sum of two dollars per day for their services in laying out said road; said commissioners shall employ a competent surveyor, who shall be allowed the sum of two dollars and fifty cents per day; chain carriers and other hands necessarily employed by said commissioners, shall each receive one dollar and fifty cents per day.

SEC. 2. **Commissioners to be governed by certain act—to take oath.** The commissioners aforesaid shall, in all other respects, be governed by an act to provide for the opening and laying out territorial roads, approved December 29, A. D. 1838, and shall also take and subscribe the usual oath before entering upon the duties of their office.

SEC. 3. **Names of commissioners—route of road, etc.** That Lewis W. Day, Richard B. Davis, Almond Fairchild, of Washington county, be and they are hereby appointed commissioners to lay out and establish a territorial road, commencing at the twenty mile stake from Iowa City, on the road leading from that place to Burlington; thence on the best ground on the south side of the Iowa river, to a point where the military road leading from Iowa City to Mount Pleasant crosses the same. The said commissioners shall be governed in all respects by the foregoing sections of this act.

Approved January 9, 1841.

CHAPTER 44.

AN ACT for the incorporation of the Town of Farmington, in Van Buren County, Iowa Territory.

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

SECTION 1. **Farmington incorporated—name and style.** That all that part or tract of land lying in township sixty-eight north, and fractional township sixty-seven north, and range eight west, in the county of Van Buren, as is comprised in the town plat of Farmington and North Farmington, together with all additions that may hereafter be made and recorded thereto, be and the same is hereby constituted a town corporate, and shall be known by the name and title of the "Town of Farmington."

SEC. 2. **Qualified voters—election, when and where to be held—officers to be elected, etc.,—proviso.** That the qualified voters for the members of the legislative assembly who have resided within the limits of said corporation for thirty days immediately preceding any such election, shall [34] meet at some convenient place within said corporation on the first Saturday in March next, and annually thereafter; there and then proceed to elect by ballot a president, four councilmen, and a recorder, who shall hold their offices for one year, and until their successors shall be elected and qualified; and the president and any two of the councilmen shall be a board for the transaction of business, but a less number may adjourn from time to time: provided, that in case of the death or absence of the president the councilmen shall choose a president pro tem. from their own body.

SEC. 3. **Additional officers—oath to be taken, etc.—how to open polls, etc.—duty of clerk—duty of recorder.** At the first election to be held under this act, there shall be chosen by the electors present, three judges and a clerk of said election, who shall each take an oath or affirmation faithfully to discharge the duties required of them by this act; and at all subsequent elections the councilmen, or any three of them, shall be judges, and the recorder clerk of the election; and at all elections to be held under this act the polls shall be

opened between the hours of nine and ten in the forenoon, and closed at five o'clock in the afternoon of the same day; and at the close of the polls the votes shall be counted, and a true statement thereof proclaimed to the electors present by one of the judges, and the clerk shall make a true record thereof; and within five days after such an election, the clerk shall give notice to the persons elected of their election; and it shall be the duty of the recorder, at each annual election, to give at least five days notice thereof, by posting up notices at three of the most public places in said town.

SEC. 4. **President may call meetings—proviso—further duties of recorder—may appoint deputy.** It shall be the duty of the president to call meetings of said councilmen by posting up written notices of such intention in three of the most public places in said town, at least three days previous to such meeting; and also to preside at all such meetings: provided, that in case of the absence of the president, it shall be the duty of the recorder to give notice of such meeting, in manner above prescribed, and it shall be the duty of the recorder to keep a fair and accurate record of all their proceedings; and the said recorder is authorized, under his hand and seal, to appoint some competent person as his deputy, who, in his absence, shall do and perform all the duties enjoined upon the said recorder, and for whose acts the said recorder shall be liable.

SEC. 5. **Name of body politic, etc.—general powers of corporation—process, how served.** The president, councilmen and recorder of said town, shall be a body corporate and politic, with perpetual succession, to be known and distinguished by the name of "the president and councilmen of the town of Farmington," and shall be capable in law, in their corporate name, to acquire property, real and personal, for the use of said town, [and] sell and convey the same; may have a common seal, which they may alter at pleasure; may sue and be sued, defend and be defended, in any court of competent jurisdiction; and when any suit shall be commenced against such corporation the first process shall be by summons, which shall be served by an attested copy to be left with the recorder, not less than seven nor more than twelve days before the return day thereof.

SEC. 6. **Officers to take oath, etc.** The officers elected by this act shall each take an oath or affirmation to support the constitution of the United States and the [35] organic law of this territory, (or the constitution of this state, as the case may be,) and also faithfully to discharge the duties of his office.

SEC. 7. **Further powers of corporation—power to levy fines, etc.—proviso—by-laws, etc., to be published—proviso.** The president and councilmen shall have power to ordain and establish by-laws, rules and regulations, for the government of said town, and the same to alter, repeal, or re-ordain at pleasure; and to provide in said by-laws for the election of a treasurer, two assessors, a town marshal, and other subordinate officers which may be necessary for the good government and well-being of the town; to prescribe their duties, declare their qualifications, and determine the period of their appointments, and the fees they shall be entitled to receive for their services, and require of them to take an oath or affirmation faithfully to discharge the duties of their respective offices, and may require of them such securities for the performance of the duties of their respective offices as shall be thought necessary. Said president and councilmen shall also have power to fix to the violation of the by-laws and ordinances of the corporation such reasonable fines and penalties as they may deem proper, and to provide for the disposition of such fines and penalties: provided, also, that no by-laws or ordinances of said corporation shall have any effect until the same shall have been published three weeks successively in a newspaper published in said county, or by written notices posted up in three of the most public places in said town:

provided, that nothing done under the provisions of this section shall be incompatible to the laws of this territory.

SEC. 8. **Statement of receipts and expenditures to be published.** The president and councilmen shall, at the expiration of each six months, cause to be made out and published a correct statement of the receipts and expenditures of the preceding six months.

SEC. 9. **Electors may levy taxes, etc.—ratio of tax—proviso—of nuisances, etc.** The electors of said town, in legal meetings assembled, shall have power, by vote, to direct the levy of taxes upon all real and personal estate within the limits of said corporation, not exceeding one-half per centum upon said real and personal estate in any one year; to regulate and improve the lanes and alleys, and determine the width of said walks: provided, that no property shall be taken from any individual until such individual shall be paid therefor the value thereof, to be ascertained by twelve disinterested freeholders, to be summoned by the marshal for that purpose. They shall have the power to remove all nuisances and obstructions from the streets and commons, and all other places within said town, and to provide for the removal of the same.

SEC. 10. **Corporation may grant licenses, etc.—proviso.** The president and councilmen shall be authorized to grant all licenses for the retailing of ardent spirits within the limits of their corporation, and to grant license and to regulate or prohibit all shows and public exhibitions, and to appropriate the proceeds of all such licenses for the benefit of said town: provided, however, that the powers hereby granted shall not be so construed as to conflict with the general laws of this territory (or of the future state) of Iowa.

SEC. 11. **Road district—overseer to be appointed.** The streets, lanes and alleys, of said town, shall constitute one road district, including the several roads on the east side of the Des Moines river, for the distance of one mile from the limits of said [36] corporation; and the president and councilmen of said town shall appoint one overseer of the same, who shall hold his office for one year from the time of his appointment.

SEC. 12. **Recorder's fees—president, etc., not to receive compensation.** The recorder shall receive such fees for his services as the by-laws and ordinances of said corporation shall prescribe; but the president and councilmen shall receive no compensation, unless the same shall be considered necessary and right by the electors of said town in legal meetings assembled.

SEC. 13. **Tax on real and personal property authorized—proviso—ib.—limit of tax—duty of president, etc.** For the purpose of enabling the president and councilmen to carry into effect the provisions of this act, they are hereby authorized annually to lay a tax on all real and personal estate within the bounds of said corporation, as the same has been or may be appraised: provided, such tax shall in no case exceed the sum for the same year voted for and directed according to the provisions of the ninth section of this act: and provided, that the said tax shall not exceed in any one year one-half per centum of aggregate amount of real and personal estate within the limits of said town; and the said president and councilmen shall, between the first Mondays of March and May in each year, determine the amount of tax to be assessed and collected within the current year.

SEC. 14. **Tax duplicate to be made out—collection of taxes.** It shall be the duty of the president and councilmen to make out a duplicate of taxes, charging each individual therein the amount of tax in proportion to the real and personal estate of such individual within such town; which duplicate shall be signed by the president and recorder, and delivered to the marshal or such person as shall be appointed collector, whose duty shall be to collect the same within such time and in such manner as the by-laws shall direct.

SEC. 15. **Power of collector to sell personal estate, etc.—notice of assessment to be published, etc.—real estate sold may be redeemed.** The said collector shall have power to sell personal estate, and for want thereof to sell real estate, for the non-payment of taxes within said town; but no real estate shall be sold by reason of the non-payment of such tax or taxes, unless the assessment of such tax shall have been duly notified in some public newspaper printed in this territory, once each week for at least six weeks before the day when said taxes are payable, nor unless the intended sale thereof be duly notified by posting up three written notices of such sale, in three of the most public places in said town, for at least ten days before the day of such sale; nor unless such assessment and proceedings thereon be regular and in all things conformable to the provisions of this act. And, moreover, all such real estate so sold may be redeemed in same manner, and within the same period of time, as is or may be provided by law in case of real estate sold for any county tax.

SEC. 16. **Power to repeal, etc., reserved.** This act may be altered, amended or repealed, by any future legislature of this territory, whenever a majority of the citizens of the said town of Farmington shall petition for the same.

Approved January 11, 1841.

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[37] CHAPTER 45.

AN ACT to amend an act entitled, "An act additional and supplementary to and for the benefit of settlers, etc., on the Half Breed Lands," etc., passed the present session.

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

SECTION 1. **Previous act amended—provisions of law extended to such as paid taxes last year.** That the provisions of an act approved at this session of the legislative assembly, supplementary to an act for the benefit of settlers on the Half Breed Lands, approved December 6, 1839, be and is hereby so far amended that the settlers on said Half Breed lands who paid taxes last year on his claim, have all the rights and advantages under such previous tax title that are secured to him on taxes to be hereafter paid, as provided for in said supplement.

Approved January 13, 1841.

CHAPTER 46.

AN ACT to create the office of Superintendent of Public Instruction.

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

SECTION 1. **Governor to appoint superintendent—term three years—bonds—oath to be taken.** That there shall be appointed by the governor of the territory, by and with the advice and consent of the council, a superintendent of public instruction, who shall hold his office for the term of three years; and shall, previous to entering upon the duties of his office, give bond to the territory in the sum of two thousand dollars, with three or more sufficient securities, to be approved of by the secretary of the territory, conditional for the faithful discharge of the duties of his office, and shall also take an oath in the following form before one of the judges of the supreme court: "I, A B, do

solemnly swear (or affirm) that I will faithfully and honestly execute the duties appertaining to the office of superintendent of public instruction of the territory of Iowa; I will not, on any occasion or pretense, apply, otherwise than according to law, any moneys, securities or effects, which shall come into my hands as superintendent of public instruction of the territory of Iowa."

SEC. 2. **Superintendent to submit annual report.** It shall be the duty of the superintendent of public instruction to submit to the legislature an annual report, exhibiting the condition of primary school funds; also, of the primary schools, [38] and all such matters relating to his office and the public schools as he may think proper to communicate.

SEC. 3. **Further duties of superintendent.** He shall prepare suitable forms for making all reports which may be required of the districts, townships, boards, and suitable regulations for conducting all proceedings under the laws relating to public instruction; and transmit the same with such instructions as he may deem proper for the organization and government of the public schools, with such directions as to the course of studies as he may judge advisable, to the several officers entrusted with their management and care.

SEC. 4. **School fund to be apportioned, etc.** He shall apportion the income of the school fund among the several townships and cities of the territory, in proportion to the number in each between the ages of five and twenty-one years.

SEC. 5. **Of superintendent, auditor, and treasurer of territory.** The superintendent shall prepare, annually, a table of the amounts in the aggregate, payable to the several counties of the territory, and present the same to the auditor of the territory, who shall thereupon issue his warrant upon the treasurer of the territory, for the amount payable to the several counties, and direct the same to the treasurer of their respective counties.

SEC. 6. **County clerks to be informed of amount to be disbursed, etc.—salary, $250.** He shall send written notices to the clerks of the several counties of the amount in the aggregate to be disbursed in their respective counties, and the amount payable to the different townships thereof; such notices to be disposed of by said clerks as directed in the forty-fourth section of "An act to establish a system of common schools," approved January 16, 1840. He shall use every exertion to effect an immediate organization of the primary school system, in accordance with the laws of this territory. The superintendent shall receive for his services the sum of two hundred and fifty dollars per annum, payable quarterly, out of any moneys in the treasury not otherwise appropriated.

Approved January 13, 1841.

CHAPTER 47.

AN ACT to amend an act regulating conveyances.

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

SECTION 1. **Of deeds, etc., executed in other territories, etc.—deeds, conveyances, etc., valid—to be recorded.** That all deeds and conveyances of lands, tenements, or hereditaments, situated, lying, and being within this territory, which shall hereafter be made and executed in any other territory, state or country, whereby such lands, tenements, or hereditaments, shall be conveyed, in whole or in part, or otherwise affected or incumbered, in law, may be acknowledged, proved and certified, according to, and in conformity with, the laws and usages of the territory, state, or country, in which such deeds or

conveyances were acknowledged or proved, or in which they [39] shall be acknowledged or proved; and all such deeds and conveyances are hereby declared effectual and valid, in law, to all intents and purposes, as though the same acknowledgment had been taken, or proof of execution made, within this territory, or in pursuance of the laws thereof; and such deeds and conveyances so acknowledged or proved as aforesaid, may be admitted to be, and shall be, recorded in the respective counties in which such lands, tenements or hereditaments, do or may lie.

SEC. 2. **Of deeds, etc., heretofore executed in other states, etc.** That all deeds and conveyances of lands, tenements and hereditaments, situate, lying, and being within this territory, which have been acknowledged or proved within any other territory, state or country, according to and in compliance with the laws and usages of such territory, state or country, and which deeds or conveyances have been recorded within this territory, be and the same are hereby confirmed and declared effectual and valid, in law, to all intents and purposes, as though the said deeds or conveyances so acknowledged or proved and recorded, had, prior to being recorded, been acknowledged or proved within this territory.

SEC. 3. **Prima facia evidence.** The execution and delivery of any deed of conveyance of any lands, tenements or hereditaments, in any court of law or equity in this territory, shall be considered prima facia evidence of its execution and delivery; and the party denying the same, his agent or attorney, shall deny the same by his oath or affidavit, when the party introducing such deed shall prove the execution and delivery as in other cases.

Approved January 13, 1841.

CHAPTER 48.

AN ACT to establish a territorial road from Burlington to the mouth of the Des Moines river.

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

SECTION 1. **Commissioners—route of road—proviso—discretion vested in commissioners.** That John Hillis, William Wilson, of the county of Lee, and John C. Fletcher, of the county of Des Moines, be and they are hereby appointed commissioners to locate and mark a territorial road from Burlington on the nearest and best route to Loyd's ford; thence to Fort Madison; thence to Montrose; thence to Keokuk; and thence to the mouth of the Des Moines river: provided, said commissioners shall, in all instances, choose the nearest and best routes between the several points specified; and if they shall find, upon a careful examination, that Loyd's ford is not a suitable place for the road to cross, they may select one more convenient and suitable; and if they shall find the mouth of the Des Moines river not to be a proper point, in consequence of low [40] and marshy lands, they shall terminate the road as near to its mouth as a proper place can be ascertained.

SEC. 2. **Meeting of commissioners, etc.** The commissioners aforesaid, or any two of them, shall meet at Fort Madison on the first Monday in February next, to proceed to the discharge of their duties, and may adjourn from day to day as circumstances shall require; and in case said commissioners, or any two of them, shall fail to meet on the day appointed, then the sheriff of Lee county is hereby authorized and required, on the application of any of said commissioners, either written or verbal, to notify, in writing, said commissioners, of

some other time to be by him appointed, and request their attendance on such day, at the place aforesaid.

SEC. 3. **Pay of commissioners.** Each of said commissioners shall receive two dollars and fifty cents per day, for his services, while engaged in laying out said road.

SEC. 4. **Repealing section.** That an act entitled "An act to establish a territorial road from Burlington to Keokuk," etc., approved July 27, 1840, be and the same is hereby repealed.

Approved January 13, 1841.

CHAPTER 49.

AN ACT to amend an act concerning executions, approved January 25th, 1839.

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

SECTION 1. **Execution returnable in seventy days—proviso.** That all executions hereafter issued from any of the courts of record of this territory, shall be made returnable within seventy days from the date of the same: provided, that when said execution is directed to an officer of any other county than that in which the same is issued, there shall be one additional day for every twenty miles, calculating the distance from the county seat of the county from which said execution is issued to the county seat of the county into which the same is direeted.

SEC. 2. **Of executions in hands of sheriffs.** That all executions in the hands of any sheriff or other officer, the same having been issued from any of the courts of record of this territory, the officer having said executions shall be required to return the same to the proper officer on or before the first Monday in April next, (except in cases in which the same is sooner returnable by the command of said execution.)

SEC. 3. **Sheriff to give notice of sale of real estate, etc.** That any sheriff or other officer levying an execution upon any real estate, shall, previous to the offering the same for sale, give at least four weeks notice of the time and place of such sale, by posting up written advertisements thereof, in four of the most public places in the county in which such real estate may be [41] situated; and previous to selling any personal estate on execution, the sheriff, or other officer levying thereon, shall give at least fifteen days' notice of the time and place of such sale, by posting up written notices of the same at three of the most public places in the county in which such sale may be made.

SEC. 4. **Repealing section.** That the fifth section of the act to which this is an amendment, be and the same is hereby repealed.

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

Approved January 13, 1841.

CHAPTER 50.

AN ACT to district the County of Jefferson into three county commissioners' districts.

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

SECTION 1. **Three districts organized—district number one—district number two—district number three.** That the said county shall be divided into three county commissioners' districts, as follows, to-wit: Lick Creek precinct, and Locust Grove precinct, shall be known as district number one; Fairfield precinct, and Blue Point precinct, shall be known as district number two; Pleasant Prairie precinct, Brush Creek precinct, and Round Prairie precinct, shall be known as district number three.

SEC. 2. **Election of commissioners.** Be it further enacted, that at the next general election there shall be elected from district number one one county commissioner; and that thereafter annually there shall be elected from each district one county commissioner, alternately, according to provision of the law regulating general elections.

Approved January 13, 1841.

CHAPTER 51.

AN ACT fixing the time for the annual meeting of the legislative assembly.

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

SECTION 1. **Session to commence on first Monday in December.** That hereafter the legislative assembly of this territory shall commence its annual session on the first Monday of December.

[42] SEC. 2. **To hold sessions at Iowa City, on certain conditions—governor to issue proclamation.** That the next meeting of the legislative assembly shall be held in Iowa City, on condition that the public buildings at Iowa City shall be so far completed that the legislative assembly can be accommodated in said buildings, or that other sufficient buildings shall be furnished for the accommodation of the legislative assembly, rent free; and in either case the governor shall issue his proclamation, informing the members of the legislature of the fact.

SEC. 3. **Repealing section.** All acts and parts of acts coming within the purview of this act are hereby repealed.

Approved January 13, 1841.

CHAPTER 52.

AN ACT to incorporate the First Regular Baptist Church of Davenport.

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

SECTION 1. **Names of corporators, etc—name and style—of rights, privileges, etc.** That C. G. Blood, Hiram Brown, John M. Eldridge, Nelson J. Swartout and A. S. Beatty, and their associates, together with such others as may be hereafter associated with them, be and they are hereby created a body politic and corporate, by the name of the "First Regular Baptist Church of Davenport;" and as such shall be entitled to all the rights, privileges and immunities, granted, and shall be subject to all the restrictions

of an act entitled, "An act relative to incorporated religious societies."

SEC. 2. **Notice of first meeting to be given.** That said society shall give ten days' notice of its first meeting under this act, by posting up advertisements thereof in three of the most public places in Davenport.

Approved January 13, 1841.

CHAPTER 53.

AN ACT to locate and establish a territorial road from the Town of Dubuque to Camp Atkinson.

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

SECTION 1. **Commissioners—road from Dubuque to Camp Atkinson.** That Calvert Roberts, Samuel L. Clifton and Joseph Hewett, are hereby appointed commissioners to locate and establish a territorial road commencing at the town of [43] Dubuque, running from thence on the nearest and best route to Camp Atkinson.

SEC. 2. **Meeting of commissioners, etc.—pay of commissioners, etc.—how to be paid—of failure to meet, etc.** That said commissioners, or a majority of them, shall meet at the town of Dubuque on the first Monday of May next; and after being first duly sworn, shall take to their assistance some suitable surveyor, together with suitable hands as chainmen and markers, and shall proceed to lay out and mark said road, and shall receive for their services the following sums per day, to-wit: the commissioners shall each receive the sum of three dollars; the surveyor three dollars, and the chainmen and markers shall each receive the sum of two dollars—to be paid out of the county treasury of the county through which the said road may be located, in proportion to the distance the said road may run through said county or counties; and should the said commissioners fail to meet at the time or place above specified, it shall be the duty of said commissioners to meet at any other time within this year, and proceed to make said location.

Approved January 13, 1841.

CHAPTER 54.

AN ACT to amend an act entitled, "An act to provide for the survey of a territorial road," approved July 29th, 1840.

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

SECTION 1. **Repealing section.** That so much of the act to which this is amendatory as provides for the survey of the territorial road aforesaid by a surveyor or engineer, appointed by the governor of this territory, be and the same is hereby repealed.

SEC. 2. **Three commissioners to be appointed.** *And be it further enacted,* That the duties incumbent upon said surveyor or engineer under the act to which this is amendatory shall be performed and executed by three disinterested commissioners, one of whom shall act in the capacity of a surveyor and commissioner, who shall proceed, as soon as practicable, to re-locate said road according to the provisions of an act to which this is amendatory.

SEC 3. **Names of commissioners—A. Hebard, surveyor.** *And be it further enacted,* That Alfred Hebard, John Lee, of Henry county, and William Rankin, be appointed said commissioners; and that Alfred Hebard be appointed surveyor under the provisions of this act.

SEC. 4. **Vacancies, how filled.** *And be it further enacted,* That if any of said commissioners shall refuse to serve, that the other two commissioners shall be authorized to fill such vacancy, and proceed as though such vacancy had not occurred.

[44] SEC. 5. **Compensation to commissioners—compensation to surveyor—proviso.** *And be it further enacted,* That the said commissioners shall be allowed the sum of three dollars per day as a compensation for their services as commissioners; and that an additional sum shall be allowed by the county commissioners to said surveyor—which said several sums shall be paid out of the county treasury: provided, said compensation shall not be less than two dollars and fifty cents per day.

SEC. 6. **Meeting of commissioners, etc.** Said commissioners shall meet at Burlington on the second Monday of February, or as soon thereafter as practicable, and proceed to discharge the duties enjoined under this act.

SEC. 7. **When to take effect.** *And be it further enacted,* That this act shall take effect and be in force from and after its passage.

Approved January 13, 1841.

CHAPTER 55.

AN ACT to authorize Elias Smith and Company to establish and keep a ferry across the Mississippi river, at the Town of Nashville.

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

SECTION 1. **Ferry at Nashville for eight years—proviso—Ib.** That Elias Smith and Company be and they are hereby authorized to establish and keep a ferry across the Mississippi river, at the town of Nashville, in the county of Lee, for the term of eight years from the passage of this act: provided, that said ferry, when so established, shall be subject to the regulations, and under the same restrictions, as other ferries are or may hereafter be by the laws of this territory fixing the rates of tolls, and prescribing the manner in which licensed ferries shall be kept and regulated: provided, also, that this act shall not be so construed as to interfere with the rights that any individual may have to the lands on either side of the river.

SEC. 2. **Exclusive privilege, etc.—proviso—horse or steamboat.** No court or board of county commissioners shall authorize any person or persons to keep a ferry within the limits of the town of Nashville, [or] one-half mile above and one-half mile below said town: provided, that the said Elias Smith and Company shall keep at said a good and sufficient number of flat boats, with a sufficient number of hands to work the same, for the transportation of all persons and their property across said river, when passable, without delay; and the said Elias Smith shall, within three years, procure a good and sufficient horse or steam ferry boat.

Approved January 13, 1841.

[45] CHAPTER 56.

AN ACT to authorize Richard Irwin and Alfred Colvin to erect a dam across Big Cedar Creek in Jefferson county.

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

SECTION 1. **Authority to erect dam over Big Cedar creek—where to be erected—proviso.** That Richard Irwin and Alfred Colvin, their heirs and assigns, be, and they are hereby authorized to erect a dam across Big Cedar creek, in Jefferson county, at or near the point where the territorial road leading from Fairfield, in said county, to Keosauqua, in Van Buren county, crosses said creek: provided, the same shall not affect the property or rights of the United States, or of any individual.

Approved January 13, 1841.

CHAPTER 57.

AN ACT to establish a certain territorial road.

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

SECTION 1. **Names of commissioners—road from Burlington to Blackhawk.** That Dr. Fullenwider, Wesley Swank and James Clark, be and they are hereby appointed commissioners, whose duty it shall be to lay out and establish a territorial road, on the nearest and best route from Burlington to the town of Blackhawk, on the Iowa river, commencing at the north end of Water street, in the upper end of Burlington; thence to the house of James Clark; thence to the town of Blackhawk, as aforesaid.

SEC. 2. **When and where commissioners to meet—compensation of commissioners.** *And be it further enacted,* That the commissioners, or a majority of them, shall meet at the town of Burlington on the second Monday of February next, and proceed to lay out and establish said road as hereinbefore mentioned; said commissioners shall receive as a compensation for their services the sum of three dollars each, per day, to be paid out of the county treasury.

SEC. 3. **Authority to employ surveyor, etc.—pay of same.** *And be it further enacted,* That the said commissioners shall take to their assistance a surveyor, and such number of chain and other hands, as the said commissioners may deem necessary; which said surveyor, chain carriers, and others so employed as aforesaid, shall be entitled to such compensation as may be allowed by the board of county commissioners.

SEC. 4. **When to take effect.** *And be it further enacted,* That this act shall be in force from and after its passage.

Approved January 13, 1841.

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[46] CHAPTER 58.

AN ACT to lay out and establish a road from Bellview to Iowa City.

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

SECTION 1. **Names of commissioners—road from Bellview to Iowa City.** That Nicholas Jefferson, of the county of Jackson, Anson Cowles, of the

county of Linn, and Stephen B. Gardner, of the county of Johnson, be and they are hereby authorized and appointed to lay out, survey, and establish a territorial road from Bellview, in Jackson county, to Iowa City, in Johnson county, on the nearest and best route, taking into consideration the convenience of building bridges across such streams as may require to be bridged.

SEC. 2. **Meeting of commissioners—oath to be taken—form of oath—oath to be filed—may employ assistance—compensation of commissioners, surveyor, etc.** That the said commissioners so authorized shall meet at Bellview, on the first Monday of May, A. D. one thousand eight hundred and forty-one, or as soon thereafter as they may agree, in said year; and before entering upon the discharge of their duty, shall respectively take and subscribe, before some justice of the peace, or other person authorized to administer oaths, the following oath: "I do solemnly swear (or affirm as the case may be,) that I will faithfully and impartially discharge the duties of commissioner to lay out and establish a road from Bellview to Iowa City, according to the law authorizing and establishing said road, to the best of my ability;" which oath shall be filed in the office of the clerk of the board of county commissioners; and the said commissioners shall then proceed to employ the necessary assistance, according to an act to provide for laying out and opening territorial roads, approved December twenty-ninth, eighteen hundred and thirty-eight; and for all time necessarily spent in laying out, surveying and establishing said road, the commissioners shall receive three dollars per day each; the chain carriers and other necessary hands one dollar and fifty cents per day.

SEC. 3. **Repealing section.** That the nineteenth section of the act to establish certain territorial roads therein named, approved January fourteenth, eighteen hundred and forty, be and the same is hereby repealed.

Approved January 13, 1841.

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[47] CHAPTER 59.

AN ACT to authorize the commissioners of Linn county to employ an agent to sell lots at Marion, the seat of justice of said county.

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

SECTION 1. **Authority to appoint agent, etc.** That the county commissioners in and for the county of Linn are hereby authorized and empowered to employ an agent, whenever by them deemed necessary, to dispose of and sell lots at Marion, the county seat of Linn county.

SEC. 2. **Agent to give bonds, etc.** When a person shall be appointed as aforesaid, he shall enter into bonds with good and sufficient securities, to be approved of by the board of county commissioners, in the sum of five thousand dollars, payable to the treasurer of said county, conditional to pay over all moneys by him received from the sale or disposal of lots at Marion, under his appointment, to the county treasurer, and to a faithful and honest discharge of his duties as such agent.

SEC. 3. **Compensation of agent—to take oath—form of oath.** The county agent shall receive such compensation as he and the county commissioners may agree upon, which shall not exceed ten per cent. of the amount of moneys and notes by him received for the sale of lots; and said agent shall, before entering upon the duties of his appointment, take and subscribe to the following oath, before the clerk of the district court: "I do solemnly

swear (or affirm) that I will, to the best of my abilities, discharge the duties of county agent without favor, fear or partiality; and will pay over all moneys to the treasurer of Linn county as soon as received by me for lots sold—so help me God."

SEC. 4. **Powers of agent, etc.** The county agent appointed and qualified as aforesaid is hereby authorized and empowered to sell, dispose of and convey, all the right, title, claim and interest, the county of Linn may have, or hereafter have, in lots in said town of Marion; and he is hereby empowered to give bonds for deeds, and deeds in fee simple, absolute for said lots, which shall be deemed good and valid in law, to all intents and purposes, when witnessed by the seal of the board of commissioners of said county, and acknowledged by at least two of the county commissioners.

SEC. 5. **Agent restricted to certain lots, etc.** The county agent shall in no case dispose of any lot but such as have been previously appraised and submitted to him for sale by said commissioners, and shall sell no lot for less than the appraised value.

Approved January 13, 1841.

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[48] CHAPTER 60.

AN ACT to establish the county seat of Delaware county.

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

SECTION 1. **Qualified voters to locate county seat.** That at the next general election in the county of Delaware, the qualified voters of said county shall be allowed to vote for the location of the seat of justice of said county.

SEC. 2. **All points may be voted for, etc.—duty of clerk of Dubuque county.** Every voter may vote for any point as the seat of justice, and the votes shall be returned to the office of the clerk of the board of commissioners of Dubuque county, and the result declared as in other cases; and the clerk, thereupon, shall cause to be entered upon the record of said board the whole number of votes given for each place named.

SEC. 3. **Majority of votes necessary to locate.** If, at said election, any one point shall receive a majority of votes over all the other points, it shall be declared the seat of justice of said county.

SEC. 4. **Second election—highest points to be voted for.** If no one point receives a majority of all the votes cast at said election, then there shall be a second election held on the third Monday of August, eighteen hundred and forty-one, at which second election the two points receiving the highest number of votes at the first election shall be voted for, and none others; and the point for which the highest number of votes is cast shall be declared the seat of justice of said county.

SEC. 5. **Notice to be given of election, etc.—duty of sheriff.** As soon as the votes cast at the first election are counted agreeably to law, if it shall appear that no one point has received a majority of all votes cast at said first election, it shall be the duty of the clerk of the board of county commissioners to write three notices for each election precinct in said county, which notices shall set forth the two places receiving the highest number of votes at the first election, and which places are to be voted for at the second election; and also, the day on which said election is to be held; which notices shall be delivered to the sheriff of said county, and shall be posted up by him in the following manner, to-wit: one notice at the place of voting in each

precinct, and two others in two of the most public places in each of the precincts, at least ten days before the term of holding said election.

SEC. 6. **Mode of conducting election.** Said election shall be conducted in all respects agreeably to the laws regulating general elections.

Approved January 13, 1841.

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[49] CHAPTER 61.

AN ACT for the benefit of insane persons.

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

SECTION 1. **Probate courts to appoint guardians, etc.** That the several probate courts in their respective counties in this territory, shall have power to appoint guardians to take the care, custody and management, of all insane persons who are incapable of conducting their own affairs, and their estates, real and personal, and to provide for the safe keeping of such persons, the maintenance of themselves and families, and the education of their children.

SEC. 2. **Court to examine into insanity.** That if any person shall give information in writing, under his hand, to the judge of said court, that any person in their county is or has become insane, and pray that an inquiry thereof be had, such court, if satisfied that there is good cause for the exercise of his jurisdiction, shall cause the said person to be brought before such court, and inquire into the facts by a jury, if the facts be doubtful.

SEC. 3. **Duty of court.** If it be found by the jury that the person so brought before the court is of unsound mind, and incapable of managing his own affairs, the court shall appoint a guardian for the person, and of the estate, of such insane person.

SEC. 4. **Costs, how to be paid.** When any person shall be found to be insane, or coming within the provisions of this act, the cost of the proceeding shall be paid out of his estate; or if that be insufficient, by the county.

SEC. 5. **Of costs in certain cases.** If the person alleged to be insane shall be discharged, and it shall be thought by the court or jury (if a jury be called) that there was no grounds for such impression of insanity, then the cost shall be paid by the person at whose instance the proceeding was had, and an execution may issue for the same.

SEC. 6. **Guardian to enter into bonds—bonds to be filed.** Every such guardian so appointed, shall, before entering upon the duties assigned him, enter into bond to the board of county commissioners, in such sum, and with such security, as the court shall approve, conditioned that he will take proper care of such insane person, and manage and administer his effects to the best advantage, according to law; and that he will faithfully discharge all duties as such guardian which may by law, or by the order, sentence, or decree of any court of competent jurisdiction, devolve upon him; which bond shall be filed in the office of the probate court, and a copy thereof, duly certified, shall be evidence in all respects as the original.

SEC. 7. **Duty of guardian.** It shall be the duty of every such guardian, within twenty days after his appointment, to cause a notice thereof to be published in some newspaper printed in this territory, or otherwise publish such notice at such time and place, and in said manner, as the court shall direct.

SEC. 8. **Guardian, how to act in certain cases.** Every such guardian shall take charge of the person of such lunatic; and if it be thought necessary for

the safety of his [50] person, or the person or property of others, it shall be the duty of such guardian to confine or guard such insane person.

SEC. 9. **Guardian to take care of goods, etc.** It shall be the duty of such guardian to collect and take into his possession the goods, chattels, moneys, effects, and other evidences of debt, and all writings touching the estate, real and personal, of the person under his guardianship.

SEC. 10. **Inventory of real estate, etc., to be made out.** Within forty days after his appointment, such guardian shall make out and file in the office of the probate court by which he was appointed, a just and true inventory of the real and personal estate of his ward, stating the income and profits thereof, and the debts, credits, and effects, as the same shall have come to his view.

SEC. 11. **Subsequent inventory.** And if, after having filed such inventory, it shall be found that there is other property belonging to said estate, it shall be the duty of such guardian to make out and file an additional inventory, containing a just and full amount of the same, from time to time, as the same may be discovered.

SEC. 12. **How to be made.** All such inventories shall be made in the presence of, and attested by, two credible witnesses of the neighborhood, and shall be verified by the oath of the guardian.

SEC. 13. **Guardian to proscute actions.** It shall be the duty of every such guardian to prosecute all actions commenced at the time of his appointment, or thereafter, to be commenced by, or on account of his ward, and to defend all actions pending or which may be brought against such ward.

SEC. 14. **Guardian to collect debts, etc.**—Every such guardian is authorized and required to collect all debts due or becoming due to his ward, and give acquittances and discharges thereof, and adjust, settle and pay all demands, due and becoming due from his ward, so far as his estate and effects will extend.

SEC. 15. **Further powers of probate court.** Every probate court shall have power to make order for the restraint, support, and safe keeping of such person, for the management of his estate, and the support and maintenance of his family and education of his children, out of the proceeds of his estate; to set apart and reserve, for the use of such family, any property, real or personal, not necessary to be sold for the payment of debts; and to let, sell or mortgage, any part of such estate, real or personal, when necessary for the payment of debts, the maintenance of such insane person or his family, or the education of his children.

SEC. 16. **Personal estate insufficient, etc., how to proceed.** Whenever the personal estate of such person shall be found to be insufficient to meet the foregoing requisitions, it shall be the duty of such guardian to lay the same before the probate court by whom he was appointed, setting forth the particulars relative to the estate, real and personal, of such person, and the debts by him owing, accompanied by a correct and true account of his own doings therewith; whereupon it shall be the duty of such court to make an order, directing the mortgage, lease, or sale, at his discretion, of the whole or such part of the real estate as may be necessary.

SEC. 17. **Of sale and proceeds of real estate—guardian not to be purchaser.** The court making such order shall direct the time and terms of such sale, mortgage, or lease of such estate, and the man-[51]-ner in which the proceeds shall be applied; and shall give due notice thereof, together with a full description of the property to be thus disposed of, at which time and place it shall be the duty of the guardian to execute the order of said court, and to make a full report of his doings therein, which report shall be accompanied

by the affidavit of the guardian verifying the report, and stating that such guardian did not directly or indirectly become the purchaser thereof; or if otherwise disposed of, that he is not directly or indirectly interested personally in the agreement.

SEC. 18. **Court to execute deed.** When any such sale, mortgage or lease, is approved of by the court ordering the same, as having been performed according to law, and not under such circumstances as to operate prejudicial to the interest of such ward, it shall be the duty of the court to execute a deed, mortgage, or other instrument of writing, which shall be as valid and effective in law as if executed by such ward when of sound mind and discretion.

SEC. 19. **Court may set aside proceedings.** If such report be disapproved of by said court, as not doing justice to said ward, the court may set aside the proceedings, and proceed in like manner as if no sale had been made.

SEC. 20. **Guardian to render account.** Every such guardian, as often as required by the court appointing him, shall render a true and perfect account of his guardianship.

SEC. 21. **Process against ward, how served.** No such ward shall be held to bail. or his body be taken in execution, in any civil action; and in all actions commenced against him the process shall be served upon his guardian; and in all judgments against such ward (or his guardian as such) the execution shall be against the property of the ward only, and in no case against his body, nor against that of his guardian, nor the property of said guardian, unless he shall have rendered himself liable thereunto by false pleading or otherwise.

SEC. 22. **Restoration of reason to ward, etc.** Whenever the court shall receive information that such ward has recovered his reason, he shall immediately inquire into the facts; and if he finds that such ward is of sound mind, he shall forthwith discharge such person from care and custody; and the guardian shall immediately settle his accounts, and restore to such person all things remaining in his hands belonging or appertaining to such ward.

SEC. 23. **Of death of ward.** In case of the death of any such ward, while under guardianship, the power of the guardian shall cease, and the estate descend and be disposed of in the same manner as if said ward had been of sound mind; and the guardian shall immediately settle his accounts, and deliver the estate and effects of his ward to his legal representatives.

SEC. 24. **Courts may remove guardian, etc.** The several probate courts shall have the power to remove any such guardian at any time, for neglect of duty, mismanagement, or for disobedience to any lawful order, and appoint another in his place; whereupon such guardian shall immediately settle his accounts, and render to his successor the estate and effects of his ward.

SEC. 25. **Expenses, how to be paid.** All the expenses of taking care of such insane person, [52] and the management of his estate, shall be paid out of his estate, if it be sufficient; if not, out of the county treasury.

SEC. 26. **Lunatic to have benefit of poor laws, etc.** If the estate of such lunatic be insufficient for his maintenance, and the maintenance of his family, he shall be entitled to all the benefits of the laws of this territory for the relief of paupers, in which case it shall be the duty of the court of probate to issue an order to the overseer of the poor, requiring him to take charge of such person according to the provision of the laws of this territory for the relief of paupers; which overseer shall have power to arrest and confine such person, if necessary, until the next ensuing session of the board of county commissioners, at which time it shall be the duty of said board to dispose of the same as may to them seem right and proper, consistent with the principles of humanity and justice.

SEC. 27. **Recovery by county of expenses.** In all cases of appropriation out of the county treasury for the support and maintenance or confinement of any insane person, the amount thereof may be recovered by the county from any person who by law is bound to provide for the support and maintenance of such insane person, if there be any such of ability to pay the same.

SEC. 28. **Maintenance of insane persons.** The father or mother of such insane person shall maintain them at their own charge, if of sufficient ability; and if not, then the children, grandchildren, or grandparents, shall, if of sufficient ability, maintain them at their own charge.

SEC. 29. **Repealing section.** That all acts and parts of acts contravening the provisions of this act, be and the same are hereby repealed.

Approved January 14, 1841.

CHAPTER 62.

AN ACT to establish certain territorial roads therein named.

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

SECTION 1. **Names of commissioners—road from Davenport to Marion—meeting of commissioners.** That Andrew F. Russel, of Scott county, and Norman Seely, of Jones county, and Ross M'Cloud, of Linn county, be and they are hereby appointed commissioners to lay out and establish a territorial road from Davenport, in Scott county, to Marion, in Linn county, via Seely's Mills, in Jones county; thence up the timber of the Wabesipinicon river, on the most direct and eligible route to Marion, having due reference to the accommodation of the people on the route. Said commissioners shall meet on the first Monday in May, eighteen hundred and forty-one, or at such other time during the year as they may agree upon, and proceed to the discharge of their duties.

[53] SEC. 2. **Names of commissioners—road from West Liberty to intersect military road in direction of Dubuque—meeting of commissioners.** That William Smith, sen., of Dubuque county, and A. Hostuttee, of Jones county, and Samuel P. Higginson, of Cedar county, be and they are hereby appointed commissioners to lay out and establish a territorial road from West Liberty, in Muscatine county, to Tipton, in Cedar county; thence to or near Seeley's Mills, in Jones county; thence to Edinburgh, the county seat of Jones county; thence on the most direct and eligible route to intersect the military road in a direction to Dubuque, having due reference to the accommodation of the inhabitants of the county through which the said road passes, as well as the public generally. Said commissioners shall meet at West Liberty on the first Monday in May, eighteen hundred and forty-one, or at such other time during the year as they may agree upon, and proceed to the discharge of their duties.

SEC. 3. **Oath to be taken by commissioners—form of oath.** That each of the several commissioners appointed under the provisions of this act, shall, before he enters upon the duties required of him, take and subscribe, before some justice of the peace, or other officer authorized to administer oaths, the following affidavit: "I do solemnly swear (or affirm, as the case may be,) that I will faithfully and impartially, without prejudice or favor, perform the duties of commissioner in accordance with the provisions of this act."

SEC. 4. **Compensation of commissioners, surveyor, etc.—proviso.** That each of the several commissioners named in the foregoing sections, together with each of the surveyors, chain carriers and markers, employed by them, shall receive for their services each day they may be necessarily employed in the discharge of the duties enjoined by this act, the following sums, to-wit: commissioners two dollars; surveyors two dollars and fifty cents; chain carriers one dollar and fifty cents; which several sums shall be paid according to the provisions of an act for laying out and opening territorial roads: provided, that Ross M'Cloud, one of the commissioners appointed by the first section of this act, shall receive three dollars per day, if he perform the duties of surveyor, in addition to those of commissioner.

Approved January 13, 1841.

CHAPTER 63.

AN ACT to charter the Ellenborough Immigration and Ferry Company.

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

SECTION 1. **Ellenborough incorporated.** That the town of Iowa, near the mouth of Pine river, in Muscatine county, shall hereafter be known and designated by the name of Ellenborough.

[54] SEC. 2. **Name and style of company—charter for thirty years—powers.** That Albert Miller Lea, and all other persons hereafter becoming members of the Ellenborough Immigration and Ferry company, in the manner hereinafter mentioned, their successors and assigns, shall be and are hereby made a corporation and body politic by the name and style of the "Ellenborough Immigration and Ferry company," and by that name shall and may have continuous succession for thirty years from and after the passage of this act, and be capable in law of purchasing, holding, improving and disposing of property, real, personal, and mixed, for the purposes herein authorized; and may sue and be sued in all courts of law and equity, and may receive and make all deeds, conveyances and bargains whatsoever, necessary for said purposes; and generally may do every other act or thing necessary to carry into effect the provisions of this act.

SEC. 3. **A. M. Lea to receive subscriptions to stock, not exceeding two thousand shares, etc.—powers conferred on A. M. Lea.** That the said Albert Miller Lea shall be authorized to receive subscriptions, from time to time, to the capital stock of said company, in shares of one hundred dollars each, to any amount not exceeding two thousand shares; and every person or corporation who shall become a holder or entitled to one or more shares of said stock, shall thereby become a member of the company hereby incorporated; and until the number of stockholders shall exceed five, and an election of trustees shall have been made as hereinafter provided, the said Albert Miller Lea, together with the other actual stockholders or a majority of them, shall exercise all the corporate powers of the said company, in the same manner as the aforesaid trustees, when elected, are authorized to do by this charter.

SEC. 4. **Election of trustees, and their powers—vacancies, etc.** That the members of said company, after their number shall exceed five, shall, annually, at such time and place, and in such manner as may be prescribed by the regulations of said company, elect from the stockholders of said company three trustees, who shall have the sole management of the property, stock and concerns of said company, during their term of service, and who shall

choose one of their number or one of the stockholders to be the president of the said company; if any vacancy shall happen in the board of trustees by death, resignation, or otherwise, such vacancy shall be filled during the remainder of the time by such person as the remainder of the board may appoint; and in case it shall happen that an election of trustees shall not be made on the day when by this charter it ought to have been made, the corporation shall not, for that reason, or for any non-user, be deemed dissolved; but it shall be lawful to hold an election of trustees on any other day that may be authorized by the by-laws or by the trustees last elected, who shall hold their places until others shall be chosen.

SEC. 5. **Objects of company.** That the objects for which the company aforesaid is incorporated, are the establishment of a ferry across the Mississippi river, and the improvement of any lands and appurtenances which may belong to the said company, and the encouragement of immigration and settlement on the same.

SEC. 6. **Ferry authorized—limits of same—proviso—ib.** That the said company, their successors and assigns, be and they are hereby authorized to establish a ferry across the Mis-[55]-sissippi river, at the town of Ellenborough aforesaid, within the following limits: embracing the front of section twenty-two, township seventy-seven north, and range one east of fifth principal meridian, (on which said town is situated,) and extending one mile up and down the river therefrom; and that the said company have the exclusive privilege of ferrying within the limits just stated: provided, that the said company shall, within two years from the passage of this act, construct a road or canal across the island opposite to said town of Ellenborough, and shall prepare and keep all boats and hands necessary for the convenient and speedy transportation of passengers and property across said river: and provided further, that the said ferry shall be subject to the general laws regulating ferries in this territory.

SEC. 7. **Further powers of company.** That the said company shall be and are hereby authorized to improve any lands and appurtenances which shall belong to said company, by laying out such lands into lots, streets, and other divisions, and erecting thereon such structures and improvements as may be deemed necessary or convenient; and letting, selling or granting on conditions, or using any lots or other portion of said lands for mining, agricultural or manufacturing purposes.

SEC. 8. **Authority to make by-laws, etc.—proviso.** That the stockholders, at any general meeting, or at any special meeting, called in such manner as the by-laws may prescribe, at which the holder of a majority of the whole number of shares of stock may be present or represented, shall have power to alter or repeal any by-laws, made by the president and trustees; and also, to make such new by-laws, rules and regulations, as the holders of a majority of the whole number of shares of stock may assent to, which shall be binding on the president and trustees: provided, that such by-laws shall not be contrary to any of the provisions of this charter, or to the laws of this territory, or of the United States.

SEC. 9. **Penalty for mal-conduct of officers, etc.—personal property liable, etc.** That the president and trustees of said company, for any fraudulent administration of its officers, calculated or designed to injure the just rights of any of its creditors or stockholders, shall be deemed guilty of a misdemeanor, and upon conviction thereof they or either of them shall be subject to fine and imprisonment as by law in like cases provided; and shall, in addition thereto, be made liable in person and property, for all liabilities of the company affected by such fraudulent administration.

SEC. 10. **Power to repeal, amend, etc., reserved.** That upon conviction by a jury of any court of law of a violation by said company of any of the provisions of this charter, it shall be competent for the legislative assembly of the territory of Iowa, at its next session thereafter, to alter, amend or repeal, all or any part of this charter.

Approved January 14, 1841.

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[56] CHAPTER 64.

AN ACT to locate the seat of justice of Clinton County.

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

SECTION 1. **Names of commissioners.** That William Miller, of Cedar county, Andrew F. Russell, of Scott county, and William A. Warren, of Jackson county, be and they are hereby appointed commissioners to re-locate the seat of justice of Clinton county.

SEC. 2. **When and where commissioners to meet—location at geographical centre.** It shall be the duty of said commissioners to meet at the house of Abraham Folcks, in Clear Creek precinct, in said county, on some day within six months from the date of this act, and proceed to locate said seat of justice as near the geographical centre of said county as a good and suitable situation, convenient to wood and water, can be found, having reference to the welfare and convenience of the present and future population of said county.

SEC. 3. **Oath to be taken—form of oath.** The commissioners aforesaid shall, before entering upon their duties as commissioners, take and subscribe, before some justice of the peace, the following oath or affirmation, to-wit: "We, the commissioners to locate the seat of justice of Clinton county, do solemnly swear (or affirm, as the case may be,) that we will perform the duties imposed upon us by our appointment, honestly and faithfully, according to the best of our abilities, and according to the law relative to locating said seat of justice; and we do further swear, that we are not directly or indirectly interested in said location, and that in locating said seat of justice we will act without the slightest partiality towards any person or persons, without bias from fear, favor or recompense, or the hope of any gain or advantage to ourselves in any respect whatever."

SEC. 4. **County seat to be named by commissioners, etc.** That so soon as said commissioners shall have determined upon the place where said seat of justice shall be located, it shall be the duty of said commissioners to name it by such name as they may think proper, and agreeable to the wishes of the citizens of said county; and they shall forthwith commit their proceedings to writing, and sign the same, and file them in the office of the clerk of the district court of said county, whose duty it shall be to record the same in the record book.

SEC. 5. **Compensation of commissioners.** That said commissioners shall each receive three dollars per day for the time they are actually employed in the location of said seat of justice, not exceeding ten days, and three dollars for every twenty-five miles travel going to and returning from the aforesaid place of meeting to their place of residence; said compensation to be paid out of the treasury of Clinton county, by order from the board of county commissioners.

SEC. 6. **Of vacancies.** That in case of vacancy by death, or otherwise, in said board of commissioners for locating the seat of justice, it shall be the

duty of the county commissioners in the county where such vacancy shall occur to appoint some suitable person to fill said vacancy.

SEC. 7. **Proviso.** That the site selected under this act shall be the seat of [57] justice for Clinton county from the time of such selection: provided, that until the judge of the district court of said county is notified, in writing, by the county commissioners, that suitable buildings are erected at said seat of justice for the accommodation of the court and suitors, the town of Camanche shall remain the temporary seat of justice.

SEC. 8. **Duty of sheriff.** That the said judge, when notified as above, shall direct the sheriff of said county to give notice to the citizens of said county that the next term of said court will be held at the seat of justice herein directed to be located.

SEC. 9. **Of writs, process, etc.** All writs and process, of whatever kind, shall, upon such notice being given, be returnable to said court at such place; and every thing pertaining to business in said court shall proceed and remain as good as though said court were not removed.

Approved January 14, 1841.

CHAPTER 65.

AN ACT to amend "An act regulating the publication and distribution of the laws and journals of the legislative assembly of the territory of Iowa."

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

SECTION 1. **Additional officers to whom copies of laws shall be furnished.** That the assessor, supervisors of roads, and constables of each county, and each district attorney in this territory, shall hereafter be furnished with a copy of the laws of this territory, subject to the same conditions as is provided for in the ninth section of the law to which this is amendatory.

Approved January 14, 1841.

CHAPTER 66.

AN ACT to authorize Judah Leaming to erect a dam across Big Cedar Creek, in Jefferson county.

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

SECTION 1. **Location of dam—may erect mills, etc.—proviso.** That Judah Leaming, his heirs and assigns, be and they are hereby authorized to erect a dam across Big Cedar creek, at or near a place known as "Leaming's ford," in Locust Grove precinct, in said county; and to erect mills and other machinery to be propelled by the water power thereby [58] created: provided, that nothing herein contained shall authorize the said Leaming, his heirs or assigns, to do any act which shall affect the property or rights of the United States, or of any individual.

Approved January 14, 1841.

CHAPTER 67.

AN ACT to establish and locate a territorial road from Marion, in Linn county, to Bellview, via Edinburgh.

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

SECTION 1. **Names of commissioners—route of road.** That Joel Leverich, of Linn county, James L. Kirkpatrick, of Jackson county, Mahlon Lupton, of Jones county, be and they are hereby appointed commissioners to lay out and establish a territorial road from Marion, in Linn county, to Bellview, in Jackson county, running from Marion on the nearest and best route to the Wabesipinicon river, where the military road from Dubuque to Iowa City crosses the same; thence to Edinburgh, the county seat of Jones; and thence on the most practicable route to Bellview.

SEC. 2. **When and where commissioners to meet—oath to be taken.** The commissioners above appointed shall meet and commence the work at Marion, on the first day of May next, or at such other time as they may unite upon within three months thereafter; and shall, before entering upon the duties of the above appointment, take and subscribe, before some justice of the peace, the usual form of oath, to perform their duties as above specified, truly, faithfully, and impartially.

SEC. 3. **Compensation of commissioners, etc.** The commissioners shall each receive two dollars and fifty cents per day; the surveyor three dollars per day; chain carrier and marker, each, one dollar and fifty cents per day, for each day they may be actually and necessarily employed in laying out and establishing said road, to be paid in the usual manner by the county commissioners of the several counties through which it passes, in proportion to the time of service in each county.

SEC. 4. **When to take effect.** This act to take effect from and after its passage.

Approved January 14, 1841.

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[59] CHAPTER 68.

AN ACT providing for the appointment of a superintendent of public buildings at Iowa City, and the appointment of a territorial agent, and for other purposes.

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

SECTION 1. **Former act repealed—proviso.** That so much of an act entitled "An act to locate the seat of government of the territory of Iowa and for other purposes," and so much of any and all other acts as relates to the creation and appointment of three commissioners to locate and establish the permanent seat of government of this territory, and to the appointment of one of the three to be acting commissioner to superintend the erection of the capitol, be and the same are hereby repealed; provided, that nothing in this act shall be so construed as to render invalid any acts which have been done by the commissioners aforesaid, in pursuance of law.

SEC. 2. **Governor to appoint superintendent, etc.** That in lieu of the commissioners above named, there shall be appointed by the governor, by and with the advice and consent of the council, some competent person as superintendent of public buildings at Iowa City, whose duty it shall be to super-

intend the erection of the capitol, and who shall hold his office for the term of one year, and until his successor be appointed.

SEC. 3. **Duty of superintendent—proviso.** That said superintendent shall proceed with the erection of the capitol, by making contracts for all such parts of the work as can be put under contract, consistently with the interests of the territory, and a vigorous prosecution of the work: provided, that all contracts shall be in writing.

SEC. 4. **Pay-roll to be kept.** And of all work that is not done by contract, the superintendent shall keep, or cause to be kept, a pay-roll, which shall show the time, rate, and amount, of all services rendered; and said superintendent shall keep a clear and specific account of all materials purchased by him for the capitol, and of all his proceedings in relation to his office.

SEC. 5. **Discretion vested in superintendent.** That in all contracts for materials, or for work on the capitol, there shall be reserved to the superintendent the discretionary power of annulling them, if not fulfilled to his satisfaction and acceptance.

SEC. 6. **Of payments—proviso—ib.** That payments shall be made on all contracts every thirty days, upon estimates made by the superintendent or some competent person under his direction: provided, that twenty-five per cent. of the amount of the estimates, according to contract prices, shall be withheld until the contract shall be completed, when the whole amount shall be paid: and provided further, that payments on pay-rolls, to the full amount, certified to by the superintendent, shall be made every thirty days.

SEC. 7. **Oath to be taken by superintendent, etc.—bond in $10,000—bond to be filed.** That the said superintendent, before he enters upon his [60] office, shall take and subscribe an oath before some person authorized to administer oaths, faithfully to discharge the duties of his office, which oath, certified by the person administering the same, shall be filed in the office of the secretary of the territory; and shall also give bond to the territory, with securities to be approved by the governor, in the sum of ten thousand dollars, conditioned for the faithful discharge of the duties pertaining to his office; which bond shall also be filed in the office of the secretary of the territory.

SEC. 8. **Agent to be appointed, etc.** And be it further enacted, that there shall be appointed as aforesaid a territorial agent, who shall reside and keep his office at Iowa City, who shall hold his office for the term of one year, and until his successor be appointed, and whose duties shall be as hereinafter enumerated.

SEC. 9. **Agent, etc., to re-value lots.** The said territorial agent shall, in conjunction with two other persons, now residents of Iowa City, to be appointed by the governor, make, between the first and fifteenth days of April, eighteen hundred and forty-one, a re-valuation of all unsold lots of Iowa City, at an average minimum price of two hundred dollars; and shall make out two certified lists of the same, one to be recorded and kept in the office of said agent, and the other to be filed in the office of the secretary of the territory.

SEC. 10. **Sale of lots—terms—proviso.** That as soon after the said re-valuation as his excellency the governor shall deem it expedient, he shall order, by proclamation, the sale of as many of such unsold lots as he may think proper, upon the following terms, viz.: one-third paid down in cash, and the balance in two semi-annual instalments: provided, that no lot shall be sold for a less sum than the minimum price fixed thereon by such re-valuation.

SEC. 11. **Bond to be given to purchaser, etc—of failure to pay installments.** That it shall be the duty of said agent to execute a bond to each of the purchasers, conditioned that upon the payment to the territory of the instal-

ments as they become due, the holder or obligee shall be entitled to a deed of conveyance in fee simple to the lot or lots therein named, as soon as a title is obtained from the government of the United States; and upon failure to pay any instalment within thirty days after it becomes due, the lot or lots shall revert to the territory, and all sums of money paid thereon shall be forfeited.

SEC. 12. **Agent to keep moneys, notes, etc.—pay on estimates—further duties of agent.** That said agent shall receive and keep on file all notes given for lots; shall receive, collect, and safely keep, all moneys due the territory, or hereafter becoming due; and shall pay out seventy-five per cent upon estimates certified by the superintendent for work done, or materials furnished under contract for the capitol, and the balance when the contract or contracts are completed to the satisfaction of the superintendent; and shall pay the full amount of incidental expenses on certified bills of the superintendent, and also the full amount of all pay-rolls, certified by the superintendent, paying to each man the amount called for by the pay-roll, and taking his receipt therefor, which receipt shall be his signature opposite the amount on the right hand margin; which pay-roll, thus re-[61]-ceipted, shall be a competent voucher for the agent in his settlement with the territory.

SEC. 13. **Agent to give bond in $40,000—bond to be filed—to take oath.** That the said territorial agent, before he enters upon his office, shall give bond to the territory, with good securities, to be approved by the governor, in the sum of forty thousand dollars, conditioned for the faithful discharge and performance of the duties of his office, which shall be filed in the office of the secretary of the territory; and shall also take and subscribe an oath, that he will faithfully, and to the best of his judgment and ability, discharge the duties of his office, which shall be filed as aforesaid.

SEC. 14. **Oath to be taken by others, etc.** That the persons required to be appointed by the governor in the ninth section of this act, to act in conjunction with the said territorial agent, in making a re-valuation of the unsold lots in Iowa City, shall be sworn to discharge their duties to the best of their judgment, and shall receive three dollars per day for their services, while actually employed.

SEC. 15. **Superintendent and agent to make annual report.** That the superintendent of public buildings at Iowa City, shall make a report annually to the legislative assembly, and oftener, when required; and the territorial agent shall report to the governor once in three months, and annually to the legislative assembly.

SEC. 16. **Duty of acting commissioner—records to be delivered over—statement, etc., to be made out.** That it shall be the duty of the acting commissioner forthwith to deliver up to the territorial agent all notes, books, records, maps, and papers, of every kind and description pertaining to his office, and to the board of commissioners appointed to locate and establish the permanent seat of government of this territory; and all property of every kind and description in his or their posesssion, or under his or their control, which belongs to the territory; and to deliver up to the superintendent all plans and drawings of every description pertaining to the capitol; and the acting commissioner is also required to make out a clear and accurate statement of all contracts made by him which have not been completed, and deliver the came to the superintendent of public buildings; and to furnish him with all necessary information in relation to the capitol, and to the situation of the materials on hand, and all other information which may be required.

SEC. 17. **Further duties of agent.** That the duties required to be performed by the acting commissioner in the third section of an act entitled, "An act to provide for the execution of title deeds to lots in Iowa City, and for other

purposes," shall hereafter be performed by the territorial agent, and the purchase money of all lots or out lots in Iowa City, and all sums becoming due upon any promissory notes or obligations for the purchase of any of said lots, shall be paid to the said territorial agent, or his successor in office.

SEC. 18. **Of vacancies.** Should a vacancy happen in either of the aforesaid offices of superintendent of public buildings at Iowa City, or territorial agent, during the recess of the legislative assembly, such vacancy shall be filled by the governor.

SEC. 19. **Salaries of superintendent and agent.** That the said superintendent shall receive, as a compensation for his services, an annual salary of one thousand dollars, and [62] the said territorial agent the sum of seven hundred dollars per annum.

SEC. 20. **Repealing section.** That all acts and parts of acts contravening the provisions of this act, be and the same are hereby repealed.

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

Approved January 14, 1841.

CHAPTER 69.

AN ACT to locate the county seat of Lee county.

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

SECTION 1. **Election to be held for county seat.** That on the second Monday of March next, the qualified voters of Lee county shall be allowed to vote for the location of the seat of justice of said county.

SEC. 2. **All points may be voted for.** Every voter may vote for any point as the seat of justice; and if, at said election, any one point shall receive a majority of votes over all the other points, it shall be declared the seat of justice of said county.

SEC. 3. **Second election provided for.** If no one point receives a majority of all the votes cast at said election, then there shall be a second election held on the third Monday in April next, at which second election the two points receiving the highest number of votes at the first election shall be voted for, and none other; and the point for which the highest number of votes is cast, shall be declared the seat of justice of said county.

SEC. 4. **Judges, etc.—judges and clerks to take oath.** That the same persons who served as judges or managers at the several precincts in said county, at the last general election, shall be judges or managers of the elections directed by this act; and in case of failure of any of them to attend at the hour for opening the polls, their places shall be supplied in the manner directed by the law regulating general elections: and the said judges of each precinct shall appoint two suitable persons, having the qualifications of electors, to act as clerks of said elections; and the said judges and clerks, before entering upon the discharge of their duties, shall take an oath before some person authorized to administer the same, honestly, faithfully and impartially to perform the duties required of them by this act; and the person administering said oaths or affirmations shall cause an entry thereof to be made and subscribed by him, and prefixed to the poll book, which shall be returned to the clerk of the district court as hereafter provided.

SEC. 5. **Of challenged votes.** That the said judges or any one of them, shall have power, and on any person offering to vote being challenged by any elector, who has voted at such election or elections, are hereby required to administer an oath to such persons offering to vote, true answers to [63] make to such questions touching his qualifications as a voter as shall be propounded to him; and shall thereupon examine such person, as to his right to vote; and such judges shall not permit any person to vote at said election or elections, who is not qualified according to the provisions of this act.

SEC. 6. **Mode of conducting election—opening of polls—counting of votes—of ballots, etc.—meeting of judges—duty of clerk of district court.** That the first election shall be conducted as follows, to-wit: that each of the clerks of said election shall keep a separate poll book or list of voters, and shall enter on his poll book the name of every person voting at his precinct, numbering them from one, progressively, in the order in which they shall vote, with the proper number set opposite each name; and the judges of said election are hereby required to number the vote or ballot (on the back thereof) of each and every voter, with the same number that stands opposite the name of such voter on the clerk's poll book, and the ballot so given and numbered shall be deposited in a box, and shall be safely kept by the judges of said election until disposed of as hereinafter directed. The polls shall be opened at each precinct, between the hours of nine and ten o'clock, a. m., and shall be closed at six o'clock, p. m., of the same day. When closing the polls the judges shall proceed openly and in the presence of such electors as may choose to attend, to count the ballots so given in, and the clerks shall severally keep a tally of the votes so counted out, designating the name of the town for which said votes or ballots may have been given; and when they shall all have been counted, they shall be added up and the aggregate for each town set down in figures and in words at full length; and the said judges and clerks shall certify that the same is a true statement of the votes polled at such precinct, and shall return the said ballots into the box from which they were taken and seal up said box; and the said judges shall return said box containing the ballots so sealed up, and shall also return one of the poll books of each precinct to the clerk of the district court of Lee county, by three o'clock, p. m. of the fourth day after said election, on which said fourth day after said election the judges of the several precincts shall meet at the office of the clerk of said court, and shall, in the presence of each other and of the clerk of said district court, proceed to examine the returns from each precinct, and if a majority of said judges are satisfied that any one point voted for shall have received a majority of the legal votes polled at said first election, then they shall declare said point the seat of justice of said county, and the clerk of the district court shall so enter the same on the minutes of said court.

SEC. 7. **How to proceed in case of no election.** But if, on such examination, it shall appear that no one point has received a majority of all the votes cast at said first election, it shall be the duty of the clerk of the district court to write three notices for every election precinct in said county, which notices shall set forth the two places receiving the highest number of votes at the first election, and which places are to be voted for at the second election, and also the day on which said second election is to be held, which notices shall be delivered to the sheriff of said county, and by him posted up in the following manner, to-wit: one no-[64]-tice at the place of voting in each precinct, and the two others in two of the most public places in each precinct, at least ten days before the time of holding said election.

SEC. 8. **Mode of conducting second election.** That the second election shall be conducted, and the result made known and declared, in the same manner

as provided for in the sixth section of this act providing for the holding of the first election.

SEC. 9. **Of poll books, etc.** That the ballots and poll books returned from the several precincts, shall be safely kept by the clerk of the district court in his office, for twenty days from the day of holding either of said elections, at which time he shall destroy said ballots, unless within that time said election shall be contested in the manner hereafter provided.

SEC. 10. **Mode of contesting elections.** That any five electors who shall have voted at either of said elections, may, within twenty days after said elections, notify said clerk of the district court in writing, that they contest said election; and if they shall within said twenty days enter into bond with sufficient security to be approved of by said clerk, payable to said clerk in the penal sum of three hundred dollars, conditioned to prosecute said contest with effect, or failing therein to pay all such costs as may accrue in the premises, the said clerk shall immediately notify the judge of said district court, that said election is contested; and the said judge on receiving such notice, shall appoint a time and place in Lee county, for enquiring into and deciding the said contested election; and notice of such time and place shall be given by said clerk, by nine written notices, one notice to be posted up at the place of holding elections in each precinct in said county, fifteen days prior to the time so appointed for the trial of said contested elections, and said clerk shall issue subpoenas for all such witnesses as said person contesting said elections or any three voters of said county may require, returnable to the time and place so as aforesaid appointed for said trial.

SEC. 11. **Further relative to contested election—purging of polls.** That the clerk of said district court, and the sheriff of Lee county, shall attend the judge of said court at the time and place so appointed, and the clerk of said court shall deliver to the judge thereof the ballots and poll books returned to him as above provided; and said judge shall proceed to enquire into the legality of said elections, and may examine said ballots and poll books, and receive the testimony of all such witnesses as may be produced before him, and shall purge the said polls of all illegal votes that may have been received; and shall decide the said contested elections in favor of the town that may have received the greatest number of legal votes at said election, and the clerk of said district court shall make an entry of the decision of said judge on the minutes of said court as a judgment thereof.

SEC. 12. **Seat of justice.** The town which shall have received the greatest number of legal votes shall thenceforth be the seat of justice for Lee county.

SEC. 13. **Penalty for illegal voting, etc.** That if any person shall vote at either of said elections without being qualified, as above required, or who shall vote more [65] than once at either of said elections, or who shall, for the purpose of voting at either of said elections, swear falsely touching his qualifications as a voter, shall be fined in a sum not less than twenty nor more than one hundred dollars, one-half thereof to the use of the county, and the other half to any one who shall prosecute for the same, and shall be further liable to an indictment, and if found guilty of swearing falsely, shall suffer all the pains and penalties of wilful and corrupt perjury.

SEC. 14. **Of violations of duty by judges, etc.** That if either the judge or clerk of either of said elections shall be guilty of any wilful violation of any duty required of them by this act and shall thereof be convicted on indictment, such persons so convicted shall be fined in any sum not less than five hundred dollars, nor more than one thousand dollars, or imprisoned not more than twelve months, at the discretion of the jury trying the same.

SEC. 15. **Not to affect previous act.** That nothing contained herein shall alter or repeal the provisions of an act passed at the present session, en-

titled "An act to designate and fix the place of holding the several courts for the county of Lee."

Approved January 15, 1841.

CHAPTER 70.

AN ACT to provide for assessing and collecting county revenue.

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

SECTION 1. **Authority to levy tax on bonds, etc.—property exempt from taxation—licenses, etc.** That for the purpose of raising a revenue for county purposes, the board of county commissioners of each county in this territory, shall, each year, levy a tax, not to exceed five mills on the dollar, on all lands, town lots, and out lots, not exempt from taxation by any law of the United States, now in force; and on all personal property, with the exception of one hundred dollars worth of household furniture to each householder, and excepting libraries, agricultural implements, tools of mechanics, sheep, school lands, or property of any kind, belonging or appertaining to schools, the property of all literary or scientific institutions, together with public buildings and other property belonging to the territory; on each ferry license, or ferry kept by authority of law, not less than two, nor more than fifty dollars per annum; on each license for hawking wooden, brass, or any other kind of clocks, not less than one hundred nor more than three hundred dollars; and on each license to keep a grocery, not less than twenty-five nor more than one hundred dollars; and no tavern or inn-keep-[66] er shall be permitted to retail spirituous liquors without a grocery license.

SEC. 2. **Duty of county commissioners—proviso—poll tax—payment of poll tax.** That the county commissioners shall annually, at their regular session in July, or so soon thereafter as the assessment roll is filed, levy a per centage on real and personal property as aforesaid, sufficient, when added to the amount that will probably be received by the county from other sources of revenue, to defray the current expenses of such county, and to liquidate its debts for the year; but such per centage shall not, in any case, exceed five mills on the dollar, as aforesaid: provided, that the county commissioners of Dubuque county may, if they deem it expedient, levy a per centage not to exceed one cent on the dollar; and the commissioners should they deem it necessary may annually levy a poll tax, not exceeding one dollar, nor less than fifty cents, on every white male inhabitant in their county, above twenty-one, and under fifty years of age. Any person indebted to his county for the assessment of a poll tax may have the privilege of paying the same by working on the public road in the precinct in which he resides, at the rate of one dollar per day; and if the person so indebted shall neglect or refuse to pay his poll tax either in money or work, then and in that case the person so refusing or failing to pay his poll tax shall not hold any property free from execution for the payment of such poll tax.

SEC. 3. **Election of assessor and his duties.** That at the time and place of holding the election for county commissioners, there shall be elected one assessor for each county, who shall be a qualified elector, and whose term of office shall be one year, and until his successor is duly elected and qualified. Such assessor shall, within sixteen days after receiving a certificate of his election, enter into bonds, with security to be approved by the board of county commissioners, in the penalty of three hundred dollars, conditioned

for the faithful performance of his duties as assessor; and, also, take an oath or affirmation, to be administered by the clerk of the board of county commissioners, well, truly, and faithfully, to discharge the duties required of him by law.

SEC. 4. **Vacancy, how filled—of failure to complete assessment.** If any assessor so elected under the provisions of this act, shall refuse to accept of such office, or fail to comply with the foregoing section, the clerk of the board of commissioners shall, upon such failure, issue a notice thereof to the board of commissioners, which shall be served by the sheriff upon said commissioners; and it shall be the duty of said commissioners, upon receiving notice thereof, to call a meeting forthwith, and appoint some suitable person to fill such vacancy; which assessor so appointed shall be qualified according to the foregoing section; and should any assessor die, or become unable, from bodily infirmity, or any other cause, to complete the assessment of his county, township, or district, according to the provisions of this act, upon information thereof to the clerk aforesaid, a like summons as above mentioned shall be by him issued, and the appointment and qualification thereupon made; and such last mentioned assessor shall demand and receive the assess-[67]-ment roll of his predecessor, or of the person in whose possession it may be, and proceed to complete the assessment of taxable property, according to the provisions of this act; and if the roll of his predecessor cannot be obtained, the clerk, on application, shall make out a new form.

SEC. 5. **Assessor may appoint deputy, etc.** That whenever any assessor, elected or appointed as aforesaid, shall deem it necessary, he may appoint a deputy assessor, to be approved of by the board of county commissioners, who shall take an oath, before the clerk of such board, for the faithful performance of his duties, and for whose acts the assessor shall be responsible.

SEC. 6. **Of assessment and assessment roll—designation of lands, etc.—of lands of non-residents, etc.—valuation of lots.** Immediately after the election and qualification, each assessor shall commence assessing all property subject to taxation, within his district or county, as the case may be, and shall deliver to the board of commissioners, on or before the first Monday in July thereafter, a full and complete assessment roll thereof, which roll shall exhibit the description, number of acres, and value per acre, and the description and value of the town lots, and all other property specifically chargeable with tax for county purposes. The lands shall be designated by the numbers and description, as laid down on the plan or map of the original surveys, and the town lots by their numbers and description as laid down on the plan of said town, or by the boundaries, if no other specific description can be obtained; and all lots in towns or villages, the plats or plans of which have not been recorded, shall be taxed in the same manner that lots are in towns and villages whose plats or plans have been recorded; and all tracts and lots of land owned by non-residents, or persons unknown, and where specific description is not furnished by the owner, shall be described by their sub-divisions, as known or designated on the map or plan deposited in the office of the clerk, or any other public offices, or which are generally recognized as containing a correct representation of the same by their numbers, or other specific description, and as the property of persons unknown and non-residents. The value of the land shall be determined as described in this act; and in estimating the value of town lots, the assessor shall take to his assistance two discreet persons; and should any person feel aggrieved by the value which may be affixed upon his land by the assessor, or by the value at which the appraisers estimated his town lots, he may produce evidence before the board of commissioners, and if they think the value too high, they shall order the clerk to alter it accordingly.

SEC. 7. **Assessor may administer oath—of refusal to testify.** That any assessor, in any county in this territory, now elected or appointed, or who may hereafter be elected or appointed, is hereby empowered, at his discretion, to swear any person to give a true account of the quality and quantity of his or her property, according to the best of his or her knowledge and belief. And should any person, when so required, refuse to testify as aforesaid, such assessor shall ascertain the taxable property of such person, from the best information to be derived from other sources, and the person so refusing to testify shall pay such assessor the sum [68] of five dollars for his extra trouble, which may be recovered as other debts.

SEC. 8. **Clerks to prepare assessment rolls.** The clerks of each board of commissioners shall prepare blank forms of assessment rolls under this act, and deliver one to each of the assessors of his county, at the time of his qualifying.

SEC. 9. **Correction of assessment roll, etc.** On the last Monday in June, the assessor shall attend at the office of the clerk of commissioners, and with the assistance of said clerk, shall publicly, in order that all persons interested may have the necessary corrections made, examine the assessment rolls, and correct all double or imperfect listing, or errors in descriptions or quantities of lands or lots; and if it shall appear that there are omissions, or lands taxable not entered by the assessor on his roll, the clerk and assessor shall correct all such omissions; and shall enter upon the rolls lands so omitted as non-resident lands; and if the entry of any tract of land or lot cannot be rendered certain in its descriptions by the before mentioned examinations, such entry shall be rejected from the roll, and the assessor shall, within five days thereafter, return to the clerk a correct description of such lands or lot, and the clerk shall thereby amend the defective entry in said roll; and if the assessor shall fail to attend at the time and place required, the roll, when returned, shall be compared, corrected and completed, as herein required; and for such failure, the assessor shall be liable, under this act, for a violation of his duty.

SEC. 10. **Disposition, etc., of assessment roll.** After the clerk and assessor shall have corrected the assessment roll, as aforesaid, the same shall be laid before the board of commissioners, and if it is found to contain all the taxable land in said county, and is otherwise correct, the board shall accept it in writing on the back thereof, signed and attested by their clerk, and the clerk shall file the same in his office, where it shall remain unalterable, as a matter of record, and shall be a guide to future assessors, as far as the same may remain correct; but the assessment roll shall, every year, be corrected in the manner named in the preceding section of this act, before such roll shall be accepted and filed as aforesaid.

SEC. 11. **Duty of recorder of deeds.** That it shall be the duty of the several recorders of deeds in this territory, when ordered by the board of county commissioners of their respective counties, to make out and deliver a certified alphabetical list of all the owners of lands, the deeds for which are recorded in his office, and deliver the same to the assessor, at or before the time of his proceeding upon the discharge of his duties; which said alphabetical list shall be in the names of the present owner or owners of such lands as have been conveyed by deed as aforesaid, and in this form:

[69] *Form of Alphabetical List*

On	i	Quarter	No. of Section	No. of township	No. of Range	No. of Acres	Value per acre	Whole amount	Amount of tax

And for a compensation for making out said list as is required by this section, the recorders shall receive out of the treasury of their respective counties such sums as the county commissioners of their respective counties shall deem just and proper.

SEC. 12. **Of lands, etc., omitted in former tax rolls.** Whenever any assessor shall discover, during the time he is making his assessment, that there are tracts of land, town lots, or chattels, subject to taxation in his county or district, which were liable to taxation, and were omitted by the assessor in one or more preceding years, he shall enter the same upon his roll, noting distinctly the years in which such omissions were made, in the same manner as assessments for the current year, (but no such assessment shall be made for a longer period than one year back;) and such [70] assessment shall have the like force and effect as assessments made at the proper time, and the tax due thereon charged and collected with the revenue of the year in which such assessment is made; and land and town lots shall be subject to the tax omitted to be assessed as aforesaid, in whose hands soever they may come.

SEC. 13. **First assessor to make duplicate of assessment roll, etc.** For the purpose of aiding future assessors in making assessments under this act, the first assessor shall make out and retain in his possession a duplicate of his assessment roll, and shall make the necessary corrections therein from time to time, so that it corresponds with the assessment roll returned by him into the office of the clerk; and when he is succeeded in his office, he shall deliver the same, with all other documents in his possession relating to said office, to his successor.

SEC. 14. **Compensation of assessors—deduction from pay of assessor.** The board of commissioners shall allow to the assessors in their respective counties, such compensation as to them shall seem just and reasonable, to be paid out of the treasury of the proper county on the order of said board, as other moneys are paid. At the time the collector of the county makes returns of the amount of taxes collected by him of unassessed property, as hereinafter provided, the said board shall make an order deducting such sums as to them may seem reasonable, for failing to assess such property from the allowance made to such assessor. If such assessor shall have received his pay for assessing, he and his securities shall be liable, on their bond, for the amount of such deduction.

SEC. 15. **County commissioners to determine rate of taxation.** The board of commissioners, for the purpose of enabling the clerk to calculate and carry out the amount of tax on all property returned by the assessor, shall, at their session in July in each year, determine the rates of taxation upon the several subjects allowed to be taxed for county revenue under the restrictions of this act, and enter such determination on record, which shall govern the clerk in making the said calculations.

SEC. 16. **Duty of clerk after return, etc., of assessment roll.** Immediately after the return, perfection, acceptance and filing of the assessment roll, as hereinbefore directed, the clerk shall calculate and carry out the amount of taxes opposite to the specified property, lots, or lands, charged with tax; and within twenty days after the filing shall make out and deliver a certified statement of the amount, as exhibited by said assessment roll, to the treasurer of the county; and within the same time shall also make out an abstract of the roll or rolls aforesaid, and deliver the same, together with a precept in the name of the territory, tested by the clerk under the seal of the board of commissioners, and directed to the collector of the county, commanding him to collect the taxes charged in said abstract, by demanding payment of the persons charged therein, and sale of their goods and chattels, severally, or by sale of the tracts of land or lots mentioned in said transcript, according to exigency; and that he pay over monthly all moneys collected by him by virtue of said precept, as directed thereby, and return such precept, together with the abstract of the roll aforesaid, and an account of his acts thereon, to the said clerk, on or before the first Monday in January next ensuing the date thereof.

[71] SEC. 17. **Possessor of taxable estate liable for tax, etc.** Whosoever may be in possession of any taxable estate, at the time any tax is to be assessed, shall be liable to pay the tax thereon; and if any other person, by agreement or otherwise, ought to pay such tax or part thereof, the person paying the same may, by action of debt, recover the amount from the person so bound or liable, with damages not exceeding twenty per cent. on the amount paid; and all taxes on real estate shall be a lien thereon until paid, and have preference of all other charges, and all taxes upon personal estate, shall have preference of all other demands.

SEC. 18. **Duties of sheriffs of several counties.** That the sheriffs of the several counties shall collect the county revenue, and pay over to the county treasurer, monthly, all such sums collected, and take his receipt therefor, which receipt shall be a sufficient voucher for the board of commissioners to cancel the amount of such assessment roll standing charged against said collector on the books of said commissioners.

SEC. 19. **Mode of collecting tax.** The collector, on receiving the duplicate and precept, which he shall demand at the office of the clerk at the expiration of the time limited for their completion, shall proceed to collect the taxes charged thereon by demanding payment thereof, at the most usual

and best known places of residence of each person charged in the duplicate, or from the person so charged at any other place, on or before the first Monday in November next ensuing; and on the payment of the full amount of the county revenue due from any person, shall give a receipt, in which the amount paid, and for what year, shall be particularly designated in words at full length: provided, that a demand of the person, at any other time, shall be a sufficient demand.

SEC. 20. **Duty of collector in certain case—proviso.** Any collector, in cases of gross assessment of taxes upon any tract or lot of land, upon the application of any claimant or owner of a part thereof, either divided or undivided, of such lot or tract, to pay a part of the taxes, interest and charges due thereon, proportionate to the quantity of such lot or tract owned or claimed, shall receive the same: provided, that the owner or claimant will specify, with sufficient certainty to such collector, by a map or plan of such lot or tract, or by a memorandum of the undivided part of a survey, which indicates the boundaries thereof, to be delivered to such collector by such owner or claimant, and the balance of such taxes, interest and charges, shall be a lien only on the balance of such lot or tract of land.

SEC. 21. **Property to be sold for unpaid taxes.** If the taxes are not paid to the collector on or before the first day of November, he may proceed to collect the same by distress and sale of the goods and chattels of the person charged, or of the person found in possession of the lands or town lots charged with such unpaid taxes, giving twenty days' notice of the time and place of such sale, by written notices, set up in three of the most public places in said county, and publishing the same in a newspaper printed in said county, if there be any.

SEC. 22. **How to proceed when no goods or chattels are found—proviso.** If no goods or chattels can be found, out of which to make the taxes charged on lands and town lots, the collector shall give notice in some weekly newspaper published in his county, or if no [72] such paper be there published, then in some paper published in the county nearest thereto; also, by putting up four written notices, one of which shall be on the court-house door, the others in three of the most public places in said county, for four weeks preceding the second Monday in December annually, notifying all whom it may concern that he will, on the second Monday in December next ensuing the date of such notice, commence selling, at the court-house door, or where courts are usually holden in such county, or at the most public place in the county seat, all and singular the lands and town lots in said county on which the taxes due thereon for the year or years (naming the year or years for which he is authorized to collect) are not paid on or before the second Monday of December, and that such sale will be continued from day to day, between the hours of nine o'clock in the forenoon, and four o'clock in the afternoon of each day, until all are offered for sale; but such notices are not to contain any description of lands or lots: provided, however, and it is hereby made the further duty of such collector, to put up a written notice at the court-house door of the proper county, describing each tract of land or town lot intended to be sold as aforesaid, at least four weeks previous to such day of sale.

SEC. 23. **Verification necessary in certain cases.** Before any collector shall proceed to make any sale of real estate, under the provisions of this act, he shall procure and file in the clerk's office of his county a verification, under oath, of the printer, or some person belonging to his office, that the advertisement hereinbefore required to be published, relating to the sale of lands and town lots, a copy of which is to be annexed to such verification, has been duly published the length of time required by this act.

SEC. 24. **Land to be sold for taxes, how to proceed.** After having filed evidence of the publication of the notice required in the preceding section, the collector shall proceed in pursuance thereof, on the said second Monday of December, between the hours of nine and four o'clock of said day, to expose to sale each and every tract of land and town lot on which the taxes are not paid, by the description and number by which they are designated on the duplicate, for the taxes and interest due thereon, and the costs of advertising and selling the same, or so much thereof as will sell for the amount due and chargeable thereon to the best bidder for ready cash; such collector declaring at such exposure to sale, in what manner the division of a lot or tract of land shall be made, if a part thereof shall pay tax and other charges thereon, and continue from day to day, between the said hours, to expose the said lands and lots to sale, until all shall be duly offered.

SEC. 25. **Of purchase of lands sold for taxes—how lands may be redeemed—purchaser to receive fee simple title in two years—conveyance to be recorded—proviso—fee to clerk—proviso.** When any lots or tract of land or part thereof, shall be sold for the non-payment of the taxes and costs, and charges thereon, the collector shall give to the purchaser a certificate, in writing, describing the same with specific certainty, the sum paid therefor, and the time when the purchaser will be entitled to a deed for such lot, or tracts, or parts thereof, which certificate shall be assignable and transferable by endorsement on the same, which assignment shall have the same force and effect as the assignment of other [73] bonds for the conveyance of lands; and if the owner or claimant of the lot or tract of land described in such certificate, shall not, within two years from the date thereof, pay to the purchaser, his heirs or assigns, or to the board of commissioners of the county in which such lot or tract of land be situate, for the use of such purchaser, his heirs or assigns, the sum mentioned in said certificate, with interest thereon at the rate of fifty per centum per annum, together with such other taxes, costs and charges upon the lot, or tract of land sold, as mentioned in said certificate, as may have accrued under the laws of this territory, and have been paid by such purchaser, his heirs or assigns, if vouchers of the payment thereof be deposited with the board of commissioners, or produced to such owner or claimant, the said collector, or his successor in office, at the time such deed is demanded, shall, at the expiration of said two years, execute to said purchaser, his heirs or assigns, in the name of the territory of Iowa, a conveyance of the lot or tract of land so sold as aforesaid, and described in said certificate, which conveyance shall vest in the person to whom it is given, an absolute estate, in fee simple, subject to the claim of the county for all taxes, costs and charges accruing and remaining unpaid upon such lot or tract of land after such sale as aforesaid, and such conveyance shall be prima facie evidence that the sale was regular, according to the provisions of this act; and every such conveyance, executed by the collector or his successor, and duly acknowledged before any officer authorized to take acknowledgments of conveyances, may be recorded and have like effect as other conveyances when acknowledged and recorded: provided, that idiots, femes covert, and insane persons, who are owners or claimants of lands or lots sold under the provisions of this act, may redeem such lands or lots at any time not exceeding five years after the sale thereof, in the same manner as is provided in other cases: and provided also, that every person wishing to redeem any lands or lots sold under the provisions of this act, by depositing with the clerk of the board of commissioners of the proper county the money, shall pay to the clerk of said board, at the time of depositing the redemption, the sum of seventy-five cents for his services: provided, no sale of lands for taxes, nor deed made in pursuance thereof, shall be of any validity if the taxes for which the

same is sold shall have been paid prior to such sale: provided, always, that when the lands of minors be sold, the same shall be redeemable when said minor becomes of age, and one year thereafter.

SEC. 26. **Of lands, etc., sold—duty of commissioners—duty of clerks.** All lands and town lots which shall not be sold as above provided, and the taxes charged thereon still remain unpaid, shall still remain charged therewith until finally paid; and such taxes and charges, from the second Monday of December in the year such taxes were assessed, shall bear interest at the rate of seven per centum per annum, until paid; and the board of commissioners before the duplicate for the succeeding year is made out, shall examine the delinquent list returned by the collector, and strike therefrom all lands which they know to be forfeited or relinquished to the [74] United States, all lands or lots which have been double listed, or on which the taxes have been paid, and correct all manner of errors that may exist, and see that the clerk makes due return of such corrected lists of former years to the collector every year; and the several clerks, when they make out the duplicate of taxes for each and every year, shall annex to the new duplicate of taxes the taxes and charges of any and all former years that remain as unpaid on lands, lots and personal property, on the delinquent list of the preceding year, after its correction by the board as hereinbefore directed, and the same, together with the interest thereon, shall be collected by the collector of the current year, as hereinbefore directed.

SEC. 27. **Taxes to be a lien on lands, etc.** Taxes are hereby made a lien on the lands or town lots on which they may be due, in whosesoever hands such lands or town lots may come; and when any land or town lot is offered for sale for any such taxes, it shall not be necessary that the collector should sell it as the property of any particular person; and if it should be sold as the property of any particular person, no misname of the owner, or supposed owner, or other mistake respecting the ownership of such land or town lot, shall ever, in any way, affect the sale or render it void or voidable.

SEC. 28. **How lands, etc., may be released from sale—refunding of illegal tax.** At any time before the sale of goods and chattels, or lands and town lots, under the provisions of this act, the owner or claimant may release the same by the payment of the taxes, interest and charges, for which the same are liable to seizure and sale; and whenever any balance of any sale of any goods and chattels under this act, over and above what is sufficient to pay the taxes, interest and charges for which the same were sold, remains, the collector shall pay the same over to the owner of such goods and chattels on his demand; and if at any time within two years after the payment of tax, the person who has paid the same can satisfy the board of county commissioners that such tax was improperly assessed, or paid by mistake when it was not legally chargeable, the said board shall order that the same be repaid, and such order shall be a legal debt against the county, and shall be paid by the treasurer of said county; and such treasurer shall be entitled to a credit for the amount thereof, as in cases of payment of other claims.

SEC. 29. **Second sale of land authorized.** In cases where sales of goods and chattels, lots or lands, are made under the provisions of this act, unless the purchaser shall, within such time as may be allowed by the collector who makes such sale, pay the purchase money, the collector may, at his discretion, again expose the property to sale, or sue such purchaser for the amount of the purchase money, and shall recover the same, with cost, and ten per centum damages.

SEC. 30. **Further respecting second sale.** If the collector of any county shall at any time unavoidably fail to offer for sale the delinquent land or town lots in his county, or may have offered them for sale and the purchaser thereof shall refuse to pay the collector the amount due thereon, it shall be

the duty of such collector to again advertise and sell such lands or lots on the second Monday of April next ensuing; and such advertising and sale shall in all things be governed by the provisions of [75] this act, and be as legal and valid, to all intents and purposes, as such sales would have been had they been made on the second Monday in December; and when such collector shall have settled at the treasury, at the proper time, the amount charged against him, he shall be entitled to draw on the treasury for the balance in his favor on account of lands that shall not sell when offered by him on the said second Monday of April, which account shall be made out and sworn to as is provided for in this act, for his delinquent return.

SEC. 31. **Additional duties of collector of taxes.** The collector of taxes, in his return to the precept before mentioned, shall state fully and distinctly the payment of taxes made by way of credit to the property charged on the transcript of the assessment rolls aforesaid, the payments enforced by distress and sales of goods and chattels, and in like manner the sales of lots and tracts of land, or parts thereof, and the person to whom, and the sums for which the same were sold; also the taxes remaining unpaid, designating particularly the tracts or lots remaining unsold, the name of the persons delinquent in the payment of other taxes, and the tax or property with which he is charged, and the legal cause of failure to enforce payment as commanded in said precept, and such other special matters as are provided by this act to be by him done; and the truth of such return shall be verified by affidavit of the collector, to be taken before the clerk of the board of commissioners; and if any individual shall be injured or sustain a damage by a false return of any collector made to any precept under the provisions of this act, or other illegal or fraudulent act of such collector, such individual, upon suit to be brought against such collector and his securities, upon their bond for his use, shall recover treble damages and full costs and charges.

SEC. 32. **Clerk to put up notices of delinquents—proviso.** It shall be the duty of the clerk of the board of commissioners of the several counties, to make four copies of the lists of delinquents as returned by the collectors of their several counties, one of which they shall put up in some conspicuous place in their office, and shall keep the same up at least twelve months, and shall cause three other copies to be posted up in three of the most public places in their counties within ten days after receiving said return; and the board of commissioners of the county may, if they should deem it necessary, cause fifty copies of such delinquent list to be printed and circulated in their county: provided, that it shall be lawful for any collector to proceed, by distress and sale of goods and chattels, to collect any taxes returned delinquent, within twenty days after making such return.

SEC. 33. **Certain powers vested in collectors for two years.** All collectors shall have power to proceed in the collection of taxes due them for two years, from the time at which they were bound to pay over to the county, in each year, in the same manner they would have done during their appointment or terms of office; but this provision shall not be so construed as to authorize any collector to collect taxes by him returned as delinquent after receiving credit therefor.

SEC. 34. **Further duties of collectors—of delinquent list, etc.** Each and every collector is authorized and required to assess a county tax on all real or personal estate that may not have [76] been assessed, and at the time he makes return of the preeept and list of delinquents as required by this act, shall make out, and verify by affidavit, a list of the property by him so assessed and the taxes collected thereon; and no allowance shall be made to any collector on his delinquent list by the board of commissioners, until he shall have complied with the foregoing requisition; and it shall be the duty of the clerk to publish a list of the unassessed property that has been

assessed and taxes collected thereon by the collector, in the same manner and at the same time that he publishes the delinquent list.

SEC. 35. **Concerning illegal assessment—proviso.** When any collector discovers that any tract of land or town lot has been assessed more than once for the same year, he shall credit only the tax really due, and make return of the balance as illegal assessments; and in all cases where too much personal property has been, through mistake, charged by the assessors, the collector may remit the excess of tax and report the same, with the list of illegal assessments: provided, however, that all such lists of illegal assessments, returned by any collector, shall contain a description of the property illegally assessed, in what the illegality consists, and the names of the persons concerned, and be verified by affidavit, and filed with the clerk before it shall have any effect.

SEC. 36. **Vacancies, etc.—collector liable for amount of assessed tax—redress for neglect of omission of collector—proviso.** If any collector shall die, or become unable from bodily infirmity to perform the duties of his office, the board of commissioners shall forthwith appoint a collector in the place of the one deceased or infirm as aforesaid, who shall take the oath of office before said clerk, with like penalty and condition as hereinafter prescribed; and the said collector shall forthwith demand and receive from the person in whose possession the same may be, the precept and duplicate of the assessment roll as aforesaid, and shall immediately proceed to complete the collections as commanded by said precept; and such collector shall be liable, under the provisions of this act, for the amount of the assessed taxes of his county, after deducting those which appear from the memorandums of the deceased, or the statements of the infirm collector to have been collected; and the executors, administrators, heirs, devisees and securities of the deceased collector, and the infirm collector and his securities, shall be liable, under the provisions of this act, for the amount of taxes collected by them severally, unless the same be paid over as herein provided; and any person injured by the neglect of any deceased or infirm collector to enter credits for taxes paid on the transcripts aforesaid, shall have redress by action on such collector's bond for the damages thereby sustained; and if any persons charged with the taxes on the transcript of the deceased or infirm collector, (no evidence being furnished to the successor of payment thereof, by or on the part of such collector, deceased or infirm,) be able to produce a receipt for such taxes paid such prior collector, the successors aforesaid shall not be charged therewith, but shall take up such receipt, giving his own in lieu thereof, and return the same with said receipt, and the amount thereof shall be recoverable as before provided: provided, however, that this section shall not be so construed as to [77] prohibit any collector who may be disabled by bodily infirmity from appointing deputies under the provisions of this act hereinafter provided.

SEC. 37. **County orders receivable for taxes—collector, etc., not to purchase county orders—penalty.** Every collector of taxes shall receive for any individual or individuals, orders regularly drawn upon the treasurer of his county, in payment of taxes due said county; and no collector or other person doing county business shall either directly or indirectly purchase or receive in payment, exchange, or in any way whatever, any demand against his county, or any county order for a claim allowed by the board of commissioners at any time during the period for which he may be elected, for a less amount than that expressed on the face of such order or demand against the county; and every person elected or appointed to do county business, before entering upon the duties of his office shall take an oath not to violate the provisions of this section. And any collector or other person doing county business offending against the provisions of this section, on conviction thereof, upon indictment

or presentment, shall be fined for every such offence in any sum not exceeding five hundred dollars.

SEC. 38. **When taxes to be paid to treasurer—further duty of clerk.** It shall be the duties of the collectors of the several counties to pay to the county treasurer the whole amount of taxes assessed in their respective counties, before the first Monday in January in each year; and if there be any deficiency in the amount thereof he shall account for the same by producing to the board of county commissioners a certified statement, to be made by the clerk attested by his signature and official seal, of the amount of delinquencies in the payment of taxes, specifying the name of the person, and the property or tax for which he is delinquent, as appears from such collector's return to the precept; and it is made the duty of the clerk to make out such statement and certificate, and calculate the amount thereof; and if the amount of such certified statement of delinquencies and the treasurer's receipt for the payment aforesaid will balance the charges on the books of the county commissioners, they shall give him a receipt for the amount of such taxes.

SEC. 39. **Fees of collector.** Each collector shall be entitled to the following fees for his services; seven dollars for every one hundred dollars of county tax by him collected, and in the same proportion for less sums, to be retained by him in making payment, and credited therefor in his settlement with the board of county commissioners; five per centum commission where goods are distrained, and taxes, commission and charges paid before sale; eight per centum commission on sales of distress and charges for keeping property distrained, together with the tax and charges, out of the moneys received therefrom; on sales of real estate, five per centum on the amount for which the same is exposed to sale, and twenty-five cents for each certificate of sale under this act, which are to be added to and estimated in the sum for which any tract of land, or lot, or part thereof, shall be sold.

SEC. 40. **Failure of collector to make settlement, etc.—collector to be sued—trial of suit—set-off.** If any collector shall fail to make settlement of the tax-[78]-es assessed in his county for county purposes, at the time required by this act, it shall be the duty of the board of county commissioners forthwith to charge, in the account against such collector, five per centum damages on the amount of balance due from such collector on account of such taxes for such delinquency; and unless the said debt and damages, and the interest thereon, to be paid to the treasurer of the county, the county commissioners shall, with due diligence, cause suit to be commenced upon such collector's bond against him and his securities, for the debt and damages due as aforesaid, and the said amount shall bear interest from the day at which payment thereof should have been made at the rate of ten per centum per annum until paid. And upon the trial of any such suit, the stated account of the collector against whom the suit is brought, certified by the clerk of the board of commissioners as truly transcribed from the accounts current against such collector on the books of said commissioners, authenticated by the county seal, shall be conclusive evidence of the amount against such collector and his securities; nor shall such collector or his securities be permitted to set-off, or allege in payment of such demand, any payment or claim of credit, unless the same has first been presented to the board of county commissioners and been allowed or rejected by them, or the same could not, by using due diligence, have been presented to said board of commissioners for their determination thereon, to be had before trial of such suit.

SEC. 41. **Judgment in certain cases—proviso—extension of time to collector—duty of district attorney.** If any collector shall fail to return the precept and duplicate, as hereinbefore directed, or shall make a false return thereto, the judgment, upon the determination of the suits which may be

brought by the board of county commissioners against such collector and his securities, shall be for the full amount of the taxes for the county revenue, as contained in the transcript of the assessment rolls aforesaid, together with the damages, commission, costs and charges, as hereinbefore provided, and of the amount of said taxes: provided, the county commissioners of any county are hereby empowered to extend the time of the county collector of such county, for making his returns, to such period as they may deem requisite; and the said collector is hereby authorized to procced to collect and make sales during the term of such extension in the same manner as is prescribed in the act aforesaid, the day of such sales to be appointed by the board of commissioners at such times as they may think proper, conforming in all other respects with the provisions of the act aforesaid. The stated account of the board of commissioners aforesaid in the several cases shall be sufficient evidence; and it shall be the duty of the district attorney to aid the board of commissioners in prosecutions under this act, when requested, and to give advice and counsel concerning the revenue, when requested by any officer concerned in the collection thereof; and it shall be the duty of all officers to give information to the grand jury of the proper county of all frauds and offenses against this act.

SEC. 42. **Penalty for neglect, etc., of duty.** If any officer shall neglect or refuse to perform any of the duties imposed upon him by this act, he and his securities shall [79] forfeit and pay to the county not less than fifty nor more than one hundred dollars for each offense, besides all damages which may be sustained by the county or any individual in consequence of such violation of his duty; the said penalties to be adjudged, within the limitations aforesaid, by the court before whom the adjudication shall be had, and to be recovered with costs of suit in an action to be brought upon the official bond of such officer; and this provision shall be construed to extend to all cases of violations of official duties not provided for by this act.

SEC. 43. **Bonds payable to board of commissioners.** All bonds directed to be taken by this act shall be made payable to the board of county commissioners of the proper county, and all suits brought thereon shall be prosecuted in the corporate name of the board of county commissioners; and if brought for the use and benefit or by the direction of any person or persons, such suit shall be brought in the corporate name of the board of county commissioners, on the relation of such person or persons, and several rights may be presented in the same suit on such bond, and one judgment entered thereon shall be no bar to other rights; but the board of county commissioners, or any other person having right thereto, may have the defendants to such judgment again summoned by scire facias, to show cause why execution should not be had on such judgment for the debt or damages supposed to be due, owing, or belonging to the party complaining, as often as such right may accrue.

SEC. 44. **Penalty for withholding payments, etc.** Any officer withholding the payment of any moneys belonging to the county after the same shall be demanded or become due, shall be liable to pay five per centum in damages, and twenty per centum interest per annum from the date of such defalcation, to be recovered of such officer and his securities, or either of them, by action as in other cases; and the accounts in favor of the county, in all cases of the trial against all and every person or persons charged on the books of the board of county commissioners, and certified to be true by the clerk of said board of commissioners as above provided in case of collectors, and authenticated by their seal, shall be evidence in all cases of debtors of the charges therein stated, to put the defendant upon his defense to the demand.

SEC. 45. **Sheriff to take oath and give bond—may appoint deputies, etc.** The sheriff, before he enters upon the duties of his office as collector, shall take an oath or affirmation before some person authorized to administer the

same, that he will well and truly perform the duties of his office as collector; and shall enter into bond, to be filed with the clerk, with security to be approved of by the board of county commissioners, in the penalty of fifteen thousand dollars, conditioned for the faithful performance of the duties of his office as prescribed by law; and such collector may appoint as many deputies as he may think necessary or proper, who shall be sworn, and possess the same power and authority as his principal; such collector being at all times responsible for the acts of deputies; and should any deputy fail to pay over any moneys collected by him as such for county revenue, such principal is hereby authorized to pro-[80]-ceed against him in the same summary manner as is provided for proceeding against collectors in like cases.

SEC. 46. **Peddlers, etc., required to obtain license—minimum and maximum of license—penalty for peddling without license.** That no peddler shall hereafter be permitted to vend, sell or retail, at private sale, any goods, wares or merchandise, without first having obtained a license for that purpose from the board of county commissioners of the proper county in which such peddler intends to offer said goods for sale, such sum as the board of county commissioners shall assess, not less than ten nor more than fifty dollars per annum, or at the same rate for a shorter period; and if any person or persons shall peddle any goods, wares or merchandize, within any county in this territory, without first having obtained such license, such person or persons so offending shall forfeit and pay any sum not exceeding one hundred dollars nor less than ten dollars, to be recovered by action of debt in the name of the board of county commissioners of the proper county, for the use of said county, before any justice of the peace of the proper county, or court of record having jurisdiction thereof.

SEC. 47. **Clerk may grant permit, etc.—proviso.** In all cases when the said board of commissioners shall not be in session when application is about to be made for a license as aforesaid, it shall be lawful for the clerk of such board to grant a written permission to such applicant or applicants, to vend, sell, and retail goods, wares and merchandise as provided in this act, until the next meeting of said board of county commissioners to be holden after the granting of such permit, and for one year from the date thereof, if the said board of commissioners, at their said next meeting, shall, upon examination and consideration, approve the same: provided, such applicant or applicants shall first pay into the county treasury, for the use aforesaid, such sum as the said clerk in his discretion shall direct, in conformity with the rate prescribed in the foregoing section, and as shall be usual in similar cases; for each of which permits or licenses, when granted, the clerk shall receive one dollar, to be paid by such applicant.

SEC. 48. **Subsequent action of commissioners—further action of commissioners.** When a permission is granted by the clerk in vacation, as aforesaid, it shall be the duty of the board of commissioners at their next session thereafter, to examine such permit, and to proceed forthwith to assess the amount of the tax to be paid in such case, as in the case of an original application; and if the tax thus assessed correspond with the amount fixed by the clerk, as aforesaid, they shall cause a license to be issued to the applicant or applicants, for the term of one year, or a less time, commencing with the date of the permit. If a greater sum shall be assessed than that fixed by the clerk, the applicant or applicants shall forthwith be required to pay over the residue to the county treasurer, under the penalty of forfeiting the amount already paid, and of his having his, her, or their permit revoked; but if a less sum shall be assessed, it shall be the duty of the board of commissioners, to order a warrant to be drawn on the treasurer, in favor of such applicant or applicants for the overplus, payable out of any money in the county treasury not otherwise appropriated.

[81] SEC. 49. **Penalty for hawking, etc., without license—duty of officers named.** That if any person shall peddle or hawk clocks without being duly authorized by a license, or a permit, such person, for every such offense, shall forfeit and pay any sum not exceeding one hundred dollars, nor less than ten dollars, to be recovered by action of debt in the name of the board of commissioners of the proper county, for the use of the county, before any justice of the peace or court of record having jurisdiction of the same; in all of which cases it shall be the duty of the county commissioners, sheriffs, coroners, justices of the peace, and clerks of the several courts in this territory, and lawful for any other person, in case of their neglect, to cause such offenders to be sued, and the suit prosecuted to effect.

SEC. 50. **What to be done to obtain license.** That no person or persons applying for a license or permit, shall be entitled to the same until he, she or they, file with the clerk of the board of commissioners a receipt from the county treasurer for the amount ordered to be paid by such applicant, agreeable to the provisions of this act; and such receipt shall be charged in account against said treasurer on the books of said board of commissioners.

SEC. 51. **Repealing section.** "An act providing for assessing and collecting county revenue," approved January 24, 1839, and an act to amend the same, approved January 14th, 1840, be and the same are hereby repealed.

Approved January 15, 1841.

CHAPTER 71.

AN ACT to amend an act entitled, "An act to provide for the erection of a penitentiary," etc.

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

SECTION 1. **Governor to appoint warden—term of service.** That there shall be appointed by the governor, by and with the advice and consent of the council, a warden for the penitentiary, who shall hold his office for the term of one year and until his successor be appointed, whose duties shall be the same as those required of the warden in the act to which this is amendatory.

SEC. 2. **Power and duties of warden.** That the warden is hereby authorized and empowered to hire out the convicts confined in the penitentiary, and that the amount of the labor so performed, which shall be paid over to the superintendent, and the money arising therefrom, be reported by said warden to the director and by him to the legislative assembly. But said convicts shall not be hired out of the town in which the penitentiary is located, nor shall they be hired out separately.

SEC. 3. **Pay of warden and assistants.** That the warden shall receive an annual compensation of [82] five hundred dollars; and each assistant shall receive not exceeding twenty dollars per month, to be fixed by the director.

SEC. 4. **Pay of director.** That the director shall receive two hundred and fifty dollars annually, payable as provided for in "An act to amend an act to provide for the erection of a penitentiary," approved January 17th, 1840.

SEC. 5. **Pay of superintendent.** That the superintendent shall be paid only for the time he shall be necessarily employed in the performance of his duties, as prescribed by the act to which this act is amendatory, at the rate of one thousand dollars per annum. The accounts of the superintendent shall be examined and allowed by the director, and paid out of any money appropriated by congress for the erection and completion of the penitentiary.

SEC. 6. **Governor to draw appropriations—proviso.** That the governor is hereby authorized to draw any appropriation which may be made by congress for the completion of said building, and pay the same over to the superintendent, to be used by him for the purchase of materials, and pay of workmen and laborers, necessary to erect said building: provided, that the governor shall not pay over to said superintendent more than ten thousand dollars at any one time.

SEC. 7. **Authority to issue certificates, etc.** That the superintendent is hereby authorized to issue certificates, payable out of any moneys hereafter appropriated by congress, to the amount of one thousand five hundred dollars, to be used in payment for the transportation of stone from the quarry in Illinois to the penitentiary, and the completion of the doors for the cells.

SEC. 8. **Payment of certificates, etc.** That the superintendent is hereby authorized to pay, out of any appropriation to be made for the purpose aforesaid, the several sums due on the certificate issued by the superintendent for work done and materials furnished for said building; and also the several sums due, or which may hereafter become due, for expenses for guarding, clothing and boarding the convicts; and provided that no such appropriation be made, then and in that case the superintendent is hereby required to certify the amount of the several sums so due to the auditor of the territory, who is hereby authorized to draw his warrant on the treasurer of the territory for the payment of the same.

SEC. 9. **Of rewards for recovery of convicts.** That the director is hereby authorized, on the escape of any convicts from said prison, to offer such reward not exceeding one hundred dollars for the apprehension and delivery of such fugitive, as to him may seem proper; and the superintendent is hereby authorized to pay, out of any appropriation to be made for the purposes aforesaid, all rewards now due and owing, or which may hereafter become due, to any individuals for the apprehension of convicts, and provided no such appropriation be made, then and in that case he shall certify the amount so due to the auditor of the territory, who is hereby authorized to draw his warrant on the treasurer of the territory for the payment of the same.

SEC. 10. **Appropriation to Wells and Wilson, seven thousand one hundred dollars.** That the superintendent is hereby authorized to pay to Wells and Wilson, of Fort Madison, the sum of seven thousand one [83] hundred dollars, with six per cent. interest until paid, for work done on the penitentiary, out of the first appropriation to be made by congress for the completion of said building; and provided no such appropriation be made, then he is hereby required to certify the sum so due to the auditor of the territory, who is hereby authorized to draw his warrant on the treasurer of the territory for said amount.

SEC. 11. **Repealing section.** That all acts and parts of acts contravening the provisions of this act, be and the same are hereby repealed.

SEC. 12. **To take effect.** This act to take effect from and after its passage.

Approved January 15, 1841.

CHAPTER 72.

AN ACT authorizing a loan of money to be expended upon the Capitol.

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

SECTION 1. **Agent authorized to borrow not over twenty thousand dollars—proviso.** That the territorial agent is hereby authorized to negotiate a loan of money not exceeding the sum of twenty thousand dollars, and not less than

five thousand dollars, to be expended upon the capitol at Iowa City: provided, that the money can be obtained on the faith of the unsold lots of Iowa City, and at a rate of interest not exceeding ten per cent.

Approved January 15, 1841.

CHAPTER 73.

AN ACT to amend an act entitled "An act to re-locate the county seat of Jackson county," approved July 24, 1840.

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

SECTION 1. **Names of commissioners—county seat to be re-located.** That Jesse Yount, of the county of Dubuque, Eli Goddard, of the county of Clinton, and Thomas Denson, of the county of Jones, be and they are hereby authorized and appointed commissioners to re-locate the county seat of Jackson county, according to the provisions of an act entitled "An act to re-locate the county seat of Jackson county," approved July twenty-fourth, eighteen hundred and forty.

SEC. 2. **Meeting of commissioners—proviso.** The commissioners aforesaid, or a majority of them, shall [84] meet at the town of Bellview, on the second Monday of April next, to discharge the duties required in the act to which this is amendatory: provided, that if the said commissioners do not meet at the time appointed, it shall be the duty of the sheriff of said county to notify said commissioners of the day when it shall be lawful for them to meet to discharge the duties aforesaid.

SEC. 3. **County seat to be named, etc.—duty of clerk of commissioners—election notice, etc.—places to be voted for.** So soon as said commissioners shall have determined upon the place where said seat of justice shall be located, they shall name said seat of justice by such name as they may think proper, and forthwith commit their proceedings to writing, giving a full description of the numbers of the quarter section upon which they have made said location, and sign the same, and file them in the office of the clerk of the board of county commissioners; whereupon said clerk shall immediately make out and deliver to the sheriff of said county three written notices for each precinct, giving at least twenty days previous notice that there will be an election held at the different precincts in said county, for the purpose of selecting by vote the place, to be the permanent seat of justice of said county, giving a full description of the numbers of the lot of ground upon which said commissioners have made said location, and also the name of said place, at which time and place there shall be polls opened in an ordinary manner, and the present seat of justice and the place located as aforesaid shall be voted for; and the place receiving the largest number of legal votes shall be the permanent seat of justice of said county.

SEC. 4. **Legal voters, etc.** At said election all persons who were residents of said county at the passage of this act, and are still residents, and who shall otherwise be legal voters according to the laws of this territory, shall be allowed to vote.

SEC. 5. **Manner of voting.** The manner of voting shall be by the electors approaching the bar, and mentioning by name the place for which he wishes to vote, which shall be recorded by the clerks of the election opposite the name of the person presenting the same; and in all other respects the election shall be conducted as the elections in this territory.

SEC. 6. **Further duty of clerk—duty of county commissioners—proviso—loan authorized—limit of interest.** It shall be the duty of the clerk of the board of county commissioners, on opening the poll books and determining which place has the greatest number of legal votes, to make a record of the same, and to notify the board of county commissioners thereof, whose duty it shall be to proceed forthwith to lay out (provided the place above located by said commissioners be selected) one quarter section of land, or so much thereof as they may think proper, into lots, out lots, streets, alleys and squares, and to determine upon the lots or squares upon which the public buildings shall be erected: provided, however, that said board of county commissioners shall, before surveying said seat of justice, borrow a sum of money sufficient to enter said quarter section of land according to an act of congress, approved May twenty-sixth, eighteen hundred and twenty-four, entitled "An act granting to counties or parishes of each state and territory of the United States in which public lands are situa-[85]-ted, the right of pre-emption to one quarter section of land for seats of justice within the same," and to pay interest for said money not exceeding forty per cent., and forthwith enter said quarter section.

SEC. 7. **Lots to be sold, etc.—proviso.** It shall be the duty of said county commissioners, within sixty days after surveying said seat of justice, to proceed to sell, at public auction, for cash, or on such terms as they may think proper, a sufficient number of lots in said seat of justice, to build public buildings for the county, and refund the money borrowed to enter the same, together with the interest thereon: provided, the county and district courts shall be held at Bellview until said public building be erected.

SEC. 8. **Notice of sale to be given.** That it shall be the duty of said county commissioners to give notice of said sale, by publishing the same in the two nearest newspapers, and also by posting up written notices in four of the most public places in the county, at least forty days before the sale.

SEC. 9. **Compensation to A. Beard.** That the said board of county commissioners are hereby authorized and directed to pay Abner Beard, one of the commissioners appointed under the act to which this is amendatory, a reasonable compensation for his services in repairing to Bellview to perform the duties assigned him in said act.

Approved January 15, 1841.

CHAPTER 74.

AN ACT to incorporate the Presbyterian Church of Dubuque.

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

SECTION 1. **Names of corporators—name and style—may be sued, etc.** That Henry L. Stout, John W. Finley, Isaac E. Norris, Lewis L. Wood, James H. Warren, and E. Lockwood, their associates and successors, be and they are hereby created a body politic and corporate, by the name and style of the "Presbyterian Church of Dubuque;" and by that name may have succession, and shall be able in law and equity to sue and be sued, and to hold personal and real estate, to the amount of ten thousand dollars.

SEC. 2. **Of president, and his powers.** It shall be lawful for said trustees to elect one of their number president, who shall be authorized in the name of the president and trustees of the Presbyterian church to convey and receive conveyances of any property which does or may belong to them.

SEC. 3. **By-laws, etc.** The said trustees may make and ordain such by-laws, rules and regulations, in relation to the election of their successors, and the management of the affairs of the church, as they may deem expedient.

Approved January 15, 1841.

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[86] CHAPTER 75.

AN ACT to amend an act incorporating the city of Burlington.

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

SECTION 1. **Authority to pay mayor and aldermen—proviso—ib.** That the act incorporating the city of Burlington be so amended as to authorize the mayor and aldermen of said city to receive pay not exceeding one dollar and fifty cents each, per day, for each regular session: provided, that there shall not be more than one regular session in each month: and provided further, that no regular session shall continue longer than two days.

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

Approved January 15, 1841.

CHAPTER 76.

AN ACT to provide for the election of additional justices of the peace.

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

SECTION 1. **Day of election—precincts—term of office.** That there shall be an election held on the first Monday of March next, for the election of additional justice of the peace and constable in the following precincts, to-wit: at the towns of Montrose and Keokuk, in the county of Lee; at the town of Jefferson, in the county of Henry; at the town of Salem, in the county of Henry; and the town of Philadelphia, in the county of Van Buren, who shall hold their offices until the annual election of eighteen hundred and forty-two.

SEC. 2. **Conducting of election.** Said elections shall be conducted in all respects according to the law regulating elections.

SEC. 3. **Duty of clerk of commissioners.** It shall be the duty of the clerks of the board of commissioners of each of the aforesaid counties, to give twenty days notice of such election, time, place, etc., by causing notices to be posted up at three of the most public places in each of said precincts.

Approved January 15, 1841.

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[87] CHAPTER 77.

AN ACT to amend an act relative to practice in the district courts of this territory.

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

SECTION 1. **Duty of clerk of district court in certain cases.** That hereafter, when any action is pending in any of the district courts of this territory, it

shall be legal for the clerk of said court, and it is hereby made his duty, on the application of any party to any such suit, to issue subpoenas for witnesses into any adjoining county in this territory, which shall be issued and returned as in other cases; and all subsequent process shall issue accordingly as in other cases.

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

Approved January 15, 1841.

CHAPTER 78.

AN ACT requiring clerks of the district court to give bonds.

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

SECTION 1. **When clerk to enter into bonds—amount of bond.** That each and every clerk of the several district courts now in office, who have not already given bonds, shall, on or before the first Monday of June, eighteen hundred and forty-one, enter into bonds to the territory, with good security, to be approved of by the judge in whose district such clerk resides, in the sum of five thousand dollars, conditioned for the faithful performance of the duties of his office.

SEC. 2. **Like bond required from clerks hereafter appointed.** That each and every clerk hereafter to be appointed, shall, before he enters upon his office, give a like bond to the territory; and any person aggrieved by the mal-practice of any such clerk may sustain an action thereon before any court of competent jurisdiction.

Approved January 15, 1841.

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[88] CHAPTER 79.

AN ACT to amend the act therein named, providing for the valuation and sale of lots in Iowa City.

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

SECTION 1. **Amendment to former act—lots to revert to territory, etc.** That the ninth section of an act entitled, "An act directing the valuation and sale of lots in Iowa City, and to provide for executing deeds for the same," approved July twenty-fourth, eighteen hundred and forty, shall be so amended as to read as follows: that in cases when full payment may not be made on lots heretofore sold on a credit, at public sale, in Iowa City, at the time the last instalment may become due, or within thirty days thereafter, all such delinquent lots shall revert to the territory, and the payments that may have been made thereon shall be forfeited according to the condition of sale.

Approved January 15, 1841.

CHAPTER 80.

AN ACT to incorporate the town of Nashville, in the county of Lee.

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

SECTION 1. **Limits of Nashville—name.** That all that part or tract of land in the county of Lee, known as fractional section nineteen of township sixty-six north, of range four west, of the fifth principal meridian, together with any additions that may hereafter be made thereunto, agreeable to the laws of this territory, from the adjoining township of sixty-six north, of range five west, not exceeding one and a half miles square, be and the same is hereby constituted a town corporate, and shall be known by the name or title of "The town of Nashville."

SEC. 2. **Meeting of citizens—officers to be elected—officers to reside in town, etc.—proviso.** That the citizens of said town may meet at any time after the first day of March next, at some convenient place therein, by having public notice of the time and place posted up in three of the most public places in said town, at least ten days prior to such meeting, signed by twelve of the electors of said town; and on the acceptance or adoption of this charter by a majority of three-fifths of the qualified electors present, may proceed to elect, by plurality of votes, a president, recorder, and three trustees, having the qualifications of electors, and who shall be actual residents of said town, who shall hold their offices one year or until their successors are elected and qualified: provided, that a failure to meet or adopt this [89] charter on such day, shall not forfeit it; but the citizens may meet at any subsequent time for that purpose within two years from the passage of this act, by having due notice given thereof.

SEC. 3. **Qualification of electors—mode of conducting elections, etc.—opening of polls—clerk to make record, etc.—persons elected to take oath, etc.** That all free white male inhabitants of said town, of the age of twenty-one years, who shall be at the time permanent or actual residents therein, may vote at all corporation elections of said town; and at the first election held under this act there shall be chosen by the electors present two judges and a clerk, who shall each take an oath or affirmation faithfully to discharge the duties required of them by this act; and at all subsequent elections the president and trustees, or any two of them, shall be the judges of the election; and the recorder (or in case of his absence some competent person appointed pro tempore,) shall sit as clerk; and at all such elections (after the first) the polls shall be opened at one, and closed by four o'clock, p. m.; and at the close of the polls the votes shall be immediately counted, and a statement thereof proclaimed to the electors present, and a record thereof made by the clerk, who shall without delay notify the persons elected of their election; and every person so elected, before entering on the duties of his office, shall take and subscribe an oath or affirmation to support the constitution of the United States and the organic law of this territory, (or constitution of this state,) and an oath of office, a certificate of which shall be filed with the recorder.

SEC. 4. **Duty of president—duty of recorder—may appoint deputy.** That it shall be the duty of the president, or in his absence one of the trustees, to preside at all meetings of the town council; and the recorder shall faithfully record the by-laws ordained by the council and all the proceedings thereof; and he may appoint, under his hand and seal, some competent person to act as his deputy in his absence, and for whose acts he shall be held responsible.

SEC. 5. **Town council—name—general powers of corporations—of suits against corporation.** That the president, recorder and trustees, shall constitute

the town council, and shall be a body politic and corporate, with perpetual succession, to be known by the name or title of the "town of Nashville;" and shall be capable in law to acquire property, real and personal, for the benefit of the corporation, and sell and convey the same; may have a common seal, may sue and be sued, may plead and be impleaded in any court having competent jurisdiction; and in all suits brought against the corporation the first process shall be by summons, an attested copy of which shall be left with the recorder at least ten days before the return day thereof.

SEC. 6. **Authority to appoint additional officers—oath required—compensation—by-laws, etc.—repeal—penalty for violation of by-laws—notice to be given of laws, etc.—proviso.** The president, recorder and trustees, or a majority of them, (of whom the president or recorder shall always be one,) shall have power to appoint or provide for the election of an assessor, treasurer, and a town marshal, and also to appoint such other subordinate officers as they may think necessary for the good order of said town, to define their duties, and may remove them at pleasure, and require them to give such security as they may deem sufficient, and to take an oath faithfully to discharge the duties of their appointment, and establish a reasonable compensation for their services; and shall also have power to ordain and publish such by-laws as they may think necessary for the good order and govern-[90]-ment of said town, and for the promotion of morality, and for the health, interest and convenience of the inhabitants thereof; may alter and repeal the same at pleasure, and affix such reasonable penalty for the violation of them, not exceeding twenty dollars for any one offense, as they may deem necessary, to be collected, with costs, by an action of debt in the name of the corporation, and may provide for the disposal of the same; but no such law shall be in force till the same has been published ten days in some newspaper in the county, or by posting up written notices in three of the most public places in said town: provided, that nothing in this section shall be construed to authorize the passing or enforcing any law incompatible with the constitution of the United States or laws of this territory.

SEC. 7. **Of streets, lanes, etc.—power to grant licenses, etc.—license proceeds—proviso.** The town council shall have power to regulate and improve all streets, alleys and public landings, in said town, and to remove or provide for the removal of all obstructions and nuisances from the same, or any other part of the town. They shall also have power to grant licenses to taverns and groceries, and for shows and public exhibitions, or may prohibit them; and to appropriate the proceeds of such licenses for the benefit of the corporation: provided, that the powers herein granted shall not be construed to conflict with the laws of the territory (or future state) of Iowa regulating licenses for retailing ardent spirits.

SEC. 8. **Books of recorder open for inspection—moneys to be accounted for.** The books of the recorder shall at all times be open for the inspection of the electors of the corporation; and the town council shall annually make a report of all moneys or property that may come into their hands for the benefit of the corporation, and the manner in which the same has been disposed of or expended.

SEC. 9. **Road district—vacancies, etc.** The streets and alleys of said town, and the several roads leading from the same, for the distance of one mile from the corporation, shall constitute one road district; and the town council shall have power to appoint or provide for the election of an overseer of the same; and in case of the death, removal or resignation, of any officer of the corporation, the town council shall have power to fill all such vacancies.

SEC. 10. **Meetings of corporation—of pay of president, etc.—time of election.** All special meetings of the electors of the corporation shall be called by the recorder, or in his absence by the trustees, by posting up a written notice in

three of the most public places in said town, and the purposes for which the meeting is called, at least five days prior to holding such meeting; and the electors, when so assembled, (or at any annual meeting of the corporation,) shall have power to direct what compensation, if any, the president and trustees shall receive for their services, to appoint the time for holding the annual meetings for the election of corporation officers, and to transact any business that may be lawful for them for the interest and benefit of the corporation not otherwise provided for in this act.

SEC. 11. **Pay of recorder—power to levy tax, etc.** The town council shall provide for the reasonable compensation of the recorder for his services, and shall have power to lay a tax on all property, real and personal, within the limits of the [91] corporation, subject to taxation for county revenue, to enable them to carry into effect the provisions of this act; but no such tax shall exceed in any one year one half of one per centum, unless authorized by vote of the electors of the corporation.

SEC. 12. **Tax duplicate to be made out—duty of marshal, etc.** The town council shall annually make out a duplicate of taxes in proportion to the valuation of the property of each individual within the limits of the corporation, on or before the first day of September, which shall be signed by the president and recorder, and delivered to the town marshal, (or to some other person who shall be appointed collector,) who shall proceed to collect and pay over the same as he shall be therein directed; and they shall have power to correct any illegal or erroneous assessment before making out such duplicate on the complaint of any person aggrieved.

SEC. 13. **Power to sell goods, etc., for taxes—may sell real estate, etc.—estate may be redeemed in two years—proviso.** The marshal shall proceed to collect the same, by demanding of each individual resident of the town the amount of tax charged to them respectively in the duplicate, and shall have power to collect the same by sale of the goods and chattels of any person who shall not pay said tax when called for, by giving at least ten days notice of the sale of any such property; and for want of goods or chattels of any resident or non-resident of said town, may proceed to sell the real and personal estate of such person taxed, (by publishing a notice of such sale in some newspaper printed in this territory four weeks in succession prior to such sale,) or so much of it as will pay the tax, with the costs of collection; and any real estate thus sold may be redeemed within two years, by paying the taxes and costs of sale, with twelve per centum interest: provided, that nothing herein contained shall prevent the rightful heirs to any such estate from the right of redemption, when they shall become of lawful age.

SEC. 14. **Repealing section.** This act may be altered, amended or repealed, by any future legislature of this territory.

Approved January 15, 1841.

CHAPTER 81.

AN ACT to authorize Samuel and John B. Crawford to erect a dam across Skunk river.

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

SECTION 1. **S. and J. B. Crawford to erect dam—point where dam is to be constructed—dam to contain lock, etc.—proviso—ib.** That Samuel and John B. Crawford, their heirs and assigns, be and they are hereby authorized to construct a dam across Skunk river, in Henry county, in said territory, at a point in the southeast quarter of section thirty-one, with the privilege of

running a race from a point in said quarter section so as to intersect said river at a point in the northwest quarter of [92] section number thirty-two, all in township number seventy-two north, range number seven west; which dam shall not exceed five feet above low water mark, and shall contain a convenient lock not less than one hundred and thirty feet in length, and thirty-five feet in width, for the passage of steam, keel, and flat boats, rafts and other water crafts: provided, said water crafts shall bear two tons burthen: and provided further, that said dam and lock shall be completed within four years from the passage of this act.

SEC. 2. **Duty of persons building dam—damages for delay.** It shall be the duty of the persons authorized in the preceding section of this act to build said dam, at all times to keep the lock in good repair; and they shall at all reasonable times pass any water craft above mentioned through free of toll, without any unnecessary delay; and any person who shall be unnecessarily detained shall be entitled to recover of the owners double the amount of damages they shall prove to have sustained by reason of said detention.

SEC. 3. **Penalty for injury to dam, etc.** Any person who shall destroy, or in any wise injure either said dam or lock, shall be deemed to have committed a trespass, and shall be liable accordingly; and any person who shall wilfully or maliciously destroy or injure said lock or dam, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined treble the amount of damages the owner may have sustained, or be imprisoned, at the discretion of the court.

SEC. 4. **Not to flow lands of others, etc.** Nothing herein contained shall authorize the individuals named in this act, their heirs and assigns, to enter upon and flow the lands of any person without the consent of such person; and they shall remove all such nuisances as may be occasioned by the erection of said dam which may endanger the health of the vicinity.

SEC. 5. **Power to amend.** The legislature of this territory (or state) may at any time alter or amend this act, so as to provide for the navigation of said river.

Approved January 15, 1841.

CHAPTER 82.

AN ACT to amend an act providing for the organization of townships.

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

SECTION 1. **Duty of board of county commissioners—counties to be divided into townships, etc.** That the board of county commissioners in each county not yet divided into townships, or in which there has been no election authorizing the organization of townships, shall, as soon as they are of opinion that the people of the county desire township organization, proceed to divide the county into townships, and discharge the duties required by "An act to pro-[93]-vide for the organization of townships," commencing with the fifth section of said act.

SEC. 2. **Notice to be given—what notice to contain.** That when a county is divided into townships, the county commissioners shall cause a notice to be put up at the place for holding elections in each township, containing the name and description of the boundary of such township; and in such counties as have one newspaper published therein, they shall cause the names and

description of the boundaries of the township in such county to be published in one such paper for two weeks.

SEC. 3. **Repealing section.** That so much of said act as contravenes the provisions of this act, are hereby superceded.

Approved January 15, 1841.

CHAPTER 83.

AN ACT to authorize Silas Deeds to erect a dam across Skunk river.

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

SECTION 1. **Point at which a dam is to be erected—height, etc.—to contain lock—proviso—Ib.** That Silas Deeds, his heirs or assigns, are hereby authorized to erect a dam across Skunk river, in Jefferson county, at a point in the north-east quarter of section thirty-six, in township number seventy-three north, of range number eight west, which dam shall not exceed five feet above low water mark, and shall contain a convenient lock not less than one hundred and thirty feet in length and thirty-five feet in width, for the passage of steam, keel and flat boats, rafts, and other water crafts; provided, said water crafts will bear two tons burthen: and provided further, that said dam and lock shall be completed within four years from the passage of this act.

SEC. 2. **Duty of builders of dam—damages for detention.** It shall be the duty of the persons authorized in the preceding section of this act to build said dam, at all times to keep the lock in good repair, and they shall, at all reasonable times, pass any water crafts above mentioned through free of toll, without any unnecessary delay; and any person who shall be unnecessarily detained, shall be entitled to recover of the owners double the amount of damages they shall prove to have sustained by reason of said detention.

SEC. 3. **Penalty for injury, etc., to dam.** Any person who shall destroy, or in anywise injure either said dam or lock, shall be deemed to have committed a trespass, and shall be liable accordingly; and any person who shall wilfully or maliciously destroy or injure said dam or lock, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined treble the amount of damages the owner may have sustained, or be imprisoned, at the discretion of the court.

[94] SEC. 4. **Not to overflow lands of others, etc.** Nothing herein contained shall authorize the individual named in this act, his heirs or assigns, to enter upon and overflow the lands of any person, without the consent of such person; and they shall remove all such nuisances as may be occasioned by the erection of said dam which may endanger the health of the vicinity.

SEC. 5. **Power to repeal.** The legislature of this territory (or state) may at any time alter or amend this act, so as to provide for the navigation of said river.

Approved January 15, 1841.

CHAPTER 84.

AN ACT to authorize Joseph Ehle and Isaac Ramsay to erect a dam across English river, in Washington county.

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

SECTION 1. **Point where dam is to be erected.** That Joseph Ehle and Isaac Ramsay, their heirs or assigns, are hereby authorized to erect and keep a dam across English river at a point where the said Ehle and Ramsay have commenced building a mill on said river, in the county of Washington.

SEC. 2. **Penalty for injury, etc., to dam.** Any person who shall destroy or in anywise injure said dam, shall be deemed to have committed a trespass, and shall be liable accordingly; and any person who shall wilfully or maliciously destroy or injure said dam shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined treble the amount of damages the owners may have sustained, or be imprisoned at the discretion of the court.

SEC. 3. **Not to overflow lands of others.** Nothing herein contained shall authorize the individuals named in this act, their heirs or assigns, to enter upon and flow the lands of any persons without the consent of such person; and they shall remove all such nuisances as may be occasioned by the erection of said dam which may endanger the health of the vicinity of said mill.

Approved January 15, 1841.

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[95]

CHAPTER 85.

AN ACT to district the county of Cedar into county commissioners' districts.

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

SECTION 1. **Cedar county districted—District No. 1—District No. 2—District No. 3.** That said county shall be divided into three county commissioners' districts, as follows, to wit: that portion of the county of Cedar included in township seventy-nine, shall be known as district number 1; and all that portion of said county that is included in townships eighty, and the south half of eighty-one, shall be known as district number two; and that portion of said county which is included in the north half of township eighty-one and township eighty-two, shall be known as district number three.

SEC. 2. **Of election of commissioners.** *And be it further enacted*, That at the next general election there shall be elected from district number one, one county commissioner; and ever thereafter, annually, there shall be elected from each district one county commissioner, alternately, according to provisions of the law regulating general elections.

Approved January 15, 1841.

CHAPTER 86.

AN ACT to amend an act relative to wills and testaments, etc., approved January 25, A. D., 1839.

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

SECTION 1. **Money of deceased may be used to enter lands—proviso.** That administrators may, with the consent of the judge of probate of the proper county, use money belonging to the estate on which he is administering to enter lands claimed by the deceased at time of his death: provided, that such entry shall be in the name of the "heirs" of the deceased person.

SEC. 2. **Administrators required to convey to heirs, etc.** That where administrators have used money as provided in section preceding, and entered the lands in their own name, they are hereby authorized and required to convey the same in fee to the heirs of the person on whose estate they are administering; and that the judge of probate make such allowance for expenses in such cases as he shall deem reasonable.

SEC. 3. **Of claims against estate, etc.** That any person having a claim against an estate, may, if he first makes affidavit that he knows of no person by whom he can prove such claim, be allowed to testify as a witness in relation [96] thereto, proper notice being given to the administrator or executor of such estate.

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

Approved January 15, 1841.

CHAPTER 87.

AN ACT to re-locate a part of the territorial road leading from Blackhawk, in Louisa county, via Mount Pleasant in Henry county, via Bentonsport, in Van Buren county, in a direction to the Missouri line.

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

SECTION 1. **Names of commissioners—route of road—meeting of commissioners.** That Silvester Henry, John B. Smith and James A. Brown, of Van Buren county, are hereby appointed commissioners to re-locate so much of the territorial road commencing at Blackhawk, in Louisa county, via Mount Pleasant in Henry county, via Bentonsport, in Van Buren county, in a direction to the Missouri line, as lays between Bentonsport and the residence of James Robbs, in Van Buren county. Said commissioners shall meet at Bentonsport, in Van Buren county, on the first Monday in June next, and proceed to re-locate so much of said road as above described according to law.

Approved January 15, 1841.

CHAPTER 88.

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

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

SECTION 1. **Time of sheriff extended for settlement with county commissioners.** That the sheriff of Jefferson county may have until the first Monday

of July next to make final settlement with the commissioners of said county, for the revenue due said county for the year eighteen hundred and forty.

SEC. 2. **How this act to be construed.** That nothing in this act shall be so construed as to authorize the said sheriff to withhold from said commissioners any money collected by him and belonging to said county.

Approved January 15, 1841.

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CHAPTER 89.

AN ACT to Incorporate Iowa City.

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

SECTION 1. **Boundaries of city—name.** That section ten, and the northwest quarter of section fifteen, in township seventy-nine, range six west, of fifth principal meridian, in which is embraced the town of Iowa City, be and the same is hereby constituted a town corporate, and shall hereafter be known by the name or title of "Iowa City."

SEC. 2. **Electors—time of meeting—officers to be elected, etc.—proviso.** It shall be lawful for the free male inhabitants of said town having the qualifications of electors, to meet at some convenient place in Iowa City on the first Monday of March next, and on the first Monday of May annually thereafter, and then and there proceed by plurality of votes to elect a president, recorder, and five trustees, who shall hold their offices one year and until their successors are elected and qualified; and any five of them shall be a board for the transaction of business, but a less number may adjourn from time to time: provided, that if an election of president, recorder and trustees, shall not be made on the day when, pursuant to this act, it ought to be made, the said corporation shall not for that cause be deemed to be dissolved, but it shall be lawful to hold such election at any time thereafter pursuant to public notice to be given in the manner hereinafter prescribed.

SEC. 3. **Officers of election, etc.—opening of polls—duty of clerk—notice of election.** At the first election to be held under this act, there shall be chosen viva voce by the electors present, two judges and a clerk of said election, and at all subsequent elections the trustees or any two of them shall be judges, and the recorder shall be clerk of the election; and at all elections to be held under this act the polls shall be opened between the hours of nine and ten o'clock, A. M., and close at five o'clock, P. M., of said day; and at the close of the polls the votes shall be counted and a true statement thereof proclaimed to the electors present by one of the judges, and the clerk shall make a true record thereof; and within five days after such election, the said clerk shall give notice to the persons elected of their election; and it shall be the duty of the said town council, at least five days before any annual election, to give notice of the same, by posting up notices in three of the most public places in said town.

SEC. 4. **Duty of president—duty of recorder—deputy to recorder.** It shall be the duty of the president to preside at all meetings of the town council, and it shall be the duty of the recorder to attend all such meetings, and to keep a fair and accurate record of all their proceedings; and the said recorder is authorized, under his hand and seal, to appoint some competent person as his deputy, who in his absence shall do and perform all and singular the duties

enjoined upon said recorder, and for whose acts said recorder shall be liable.

SEC. 5. **Body politic—name and style—general powers—how process to be served.** The president, recorder and trustees of said town, shall be a body corporate and politic, with perpetual succession, to be [98] known and distinguished by the name and style of "the president and trustees of Iowa City;" and shall be capable in law, in their corporate name, to acquire property, real and personal, for the use of said town, sell and convey the same, may have a common seal which they may alter at pleasure, may sue and be sued, defend and be defended, in any court of competent jurisdiction; and when any suit shall be commenced against said corporation the first process shall be by summons, which shall be served by an attested copy to be left with the recorder not less than five nor more than ten days before the return day thereof.

SEC. 6. **Officers to take oath.** The officers elected by virtue of this act shall each, before entering on the duties of his office, take an oath or affirmation to support the constitution of the United States and of the organic law of this territory, (and of this state,) and also faithfully to discharge the duties of his office.

SEC. 7. **Power of president and trustees—Officers authorized—duties, fees, etc—oath—security—penalty for violation of by-laws—proviso—Ib.** The president and trustees shall have power to ordain and establish by-laws, rules and regulations, for the government of said town, and the same to alter and repeal, or re-ordain, at pleasure, and to provide in said by-laws for the election of treasurer, two assessors, a town marshal, and other subordinate officers which may be thought necessary for the government and well-being of the town; to prescribe their duties, declare their qualifications, and determine the period of their appointments, and the fees they shall be entitled to receive for their services, and require them to take an affirmation, faithfully and impartially to discharge the duties of their respective offices; and may require of them such security for the performance of the duties of their respective offices as shall be thought necessary. Said president and trustees shall also have power to affix to the violation of the by-laws and ordinances of the corporation such reasonable fines and penalties as they may deem proper, and to provide for the disposition of such fines and penalties: provided, that no by-laws or ordinances of said corporation shall have any effect until the same shall have been posted up three weeks in three of the most public places in said town: provided, nothing contained in this section shall be incompatible with the laws of the United States or the laws of this territory.

SEC. 8. **Receipts and expenditures.** The president and trustees shall, at the expiration of each six months, cause to be made out and published a correct statement of the receipts and expenditures of the preceding six months.

SEC. 9. **Power of electors—tax on real and personal estate, etc.—proviso—nuisances.** The electors of said town, in legal meeting assembled, shall have power by vote to direct the levy of taxes on all real and personal estate within the limits of said corporation, not exceeding one-half of the per centum upon said real and personal estate in any one year; to regulate and improve the lanes and alleys, and to determine the width of side-walks: provided, that no property shall be taken from any individual until such individual shall be paid therefor the value thereof, to be ascertained by twelve disinterested freeholders to be summoned by the marshal, for that purpose. They shall have the power to remove all nuisances and obstructions from [99] the streets and commons, and all other places of said town, and to provide for the removal of the same.

SEC. 10. **May grant license to retail ardent spirits—proviso.** The president and trustees shall be authorized to grant licenses for the retailing of ardent spirits within the limits of the corporation, and the proceeds of such licenses shall be appropriated for the benefit of said corporation: provided,

however, that the power hereby granted shall not be so construed as to conflict with the general laws of the territory (or of the future state) of Iowa regulating taverns and licenses for retailing ardent spirits.

SEC. 11. **Road district—overseer of the road—vacancy.** The streets, lanes, and alleys, of said town, shall constitute one road district, embracing the several roads leading from said town for the distance of one mile from the corporation limits; and the electors of said town shall, at their annual meeting, elect an overseer of the same; and in case of death, removal or other inability of said overseer or other officers of the corporation, the president and trustees shall have power to fill such vacancies.

SEC. 12. **Of meetings of corporation.** All meetings for the purpose contemplated in the preceding sections of this act, shall be called by the president, or in his absence by the senior trustee, by posting up written notices in three of the most public places in said town, at least three days previous to the holding said meeting: said notices shall specify the time and place of holding said meeting, and the purpose for which said meeting is called.

SEC. 13. **Recorder's fees, etc.** The recorder shall receive such fees for his services as the by-laws and ordinances of said corporation shall prescribe; but the president and trustees shall receive no compensation unless the same shall be authorized by the inhabitants in legal meeting assembled.

SEC. 14. **Tax on real and personal property authorized—proviso—Ib.—tax limited—president, etc., to fix amount to be collected.** For the purpose of enabling the president and trustees to carry into effect the provisions of this act, they are hereby authorized to lay a tax on all real and personal estate within the bounds of the corporation, as the same has been or may be appraised: provided, such tax shall in no case exceed the sum for the same year voted for and directed according to the provisions of the ninth section of this act: and provided also, that the said tax shall not exceed in any year one-half of the per centum of the aggregate amount of the real and personal estate within the limits of said town; and the said president and trustees shall, between the first Mondays of April and May in each year, determine the amount of tax to be assessed and collected within the current year.

SEC. 15. **Duplicate to be made out—rate of tax, etc.** It shall be the duty of the president and trustees to make out a duplicate of taxes, charging each individual therein the amount of tax in proportion to the real and personal estate of such individual within said town, which duplicate shall be signed by the president and recorder, and delivered to the marshal or such person as may be appointed collector, whose duty it shall be to collect the same within such time and in such manner as the by-laws shall direct.

SEC. 16. **Non-payment of taxes—notice of assessment to be published—notice to be given of sale, etc.—real estate may be redeemed.** The said collector shall have power to sell personal estate, and for the want thereof to sell real estate, for the non-pay-]100]-ment of taxes within said town; but no real estate shall be sold by reason of non-payment of such tax or taxes, unless the assessment of such tax shall have been duly notified in some newspaper printed at the seat of government of this territory once each week for at least six weeks, the last publication whereof shall be at least six weeks before the day when said taxes are payable; nor unless the intended sale thereof be duly notified by publication in like manner in such newspaper or newspapers for and during the space of at least six consecutive weeks, the last of which publications to be at least six weeks prior to such sale; nor unless such assessment and proceedings thereon be regular, and in all things conformable to the provisions of this act; and, moreover, all such real estate so sold may be redeemed in the same manner and within the same period of time as is or may be provided by law in case of real estate sold for any state tax.

SEC. 17. **This act to be voted for by electors—manner of voting—election of officers.** That at the first meeting of the inhabitants of Iowa City, as provided for in section second of this act, they shall proceed by ballot to vote for the adoption of this act. Those electors who are in favor of adopting [this] act, shall write on their tickets the word "Incorporation;" and those who are not in favor of the same shall write on their ticket "No incorporation;" and if a majority of electors there present shall vote in favor of this act, then they shall proceed to the election of officers as provided for in the second section of this act.

Approved, January 15, 1841.

CHAPTER 90.

AN ACT to levy a territorial tax.

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

SECTION 1. **Rate of tax to be levied for territorial purposes.** That there shall hereafter be levied and collected on all taxable property within this territory, one quarter mill's per cent. on the value thereof, for territory purposes.

SEC. 2. **Duty of county commissioners—how to be collected.** That it is hereby made the duty of the county commissioners of each and every organized county in this territory, when they levy the county tax, to levy in addition thereto the above amount for territorial purposes, which shall be collected in the same manner and at the same time that the county tax is collected, and by the same collector.

SEC. 3. **Duty of collector—receipts to be taken.** That when said tax is collected it is hereby made the duty of the collectors of said taxes to pay the same into the county treasury of his county, there to remain subject to the order of the territorial treasurer; and it is hereby made the duty of the said collectors to take duplicate receipts for the same, one of which they [101] shall transmit by mail or other safe conveyance to the territorial treasurer, and the other they shall keep as a voucher for their own safety.

SEC. 4. **Certain act partly repealed—proviso.** That so much of an act entitled "An act to provide for a territorial revenue," approved January twenty-five, eighteen hundred and thirty-nine as relates to the five per cent. to be set apart by the said county commissioners as a debt due from said county to the territory, is hereby repealed: provided, that nothing in this act shall be so construed as to relinquish to said counties any portion of said five per cent. which has not been paid into said territorial treasury.

SEC. 5. **Of assessment rolls, etc.** The county commissioners of the several counties are hereby required to forward to the auditor of public accounts a correct copy of the assessment roll at as early a period as practicable after the original may be returned.

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

Approved, January 15, 1841.

CHAPTER 91.

AN ACT to change the name of Rising Sun, in Van Buren county, to that of Pittsburg.

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

SECTION 1. That so much of the town in Van Buren county known by the name of "Rising Sun" as was surveyed by Uriah Biggs, shall hereafter be known by the name of "Pittsburg."

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

Approved, January 15, 1841.

CHAPTER 92.

AN ACT to relocate a territorial road running from Keosauqua via Rising Sun and Philadelphia, to Fairfield, in Jefferson county.

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

SECTION 1. **Commissioners—route of road—certain part to be re-located—meeting of commissioners—duty of commissioners.** That William D. McBride, Elijah Purdom, sen., and Suel Kinney, are hereby appointed commissioners to re-locate so much of a territorial road commencing at Keo-[102]-sauqua, in Van Buren county, and running via Rising Sun and Philadelphia, to Fairfield, in Jefferson county, as passes through the farm of the heirs of Joseph F. Wiscatte, deceased. Said commissioners shall meet at Keosauqua on or before the first Monday in July next, and proceed to re-locate so much of said road as passes through the farm aforesaid, according to the law regulating territorial roads, approved December 31, 1838. It shall be the duty of said commissioners to establish said road upon the county road running from Keosauqua via Rising Sun to Portland, if they should deem the ground suitable.

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

Approved, January 15, 1841.

CHAPTER 93.

AN ACT to legalize the survey and make valid in law the present plat of the north half of the town of Columbus, in the county of Des Moines.

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

SECTION 1. That the survey made in eighteen hundred and thirty-six of the north half of the town of Columbus, on section thirty-six, in township number seventy-two north, of range three west, and the plat of the same, be and they are hereby declared good and valid in law.

Approved January 15, 1841.

CHAPTER 94.

AN ACT to authorize Peter Brewer and Company to build a bridge over Skunk river.

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

SECTION 1. **Where bridge to be erected—proviso.** That Peter Brewer, and such other persons as shall be connected with him in the undertaking, be and they are hereby authorized to build a bridge over Skunk river at or near the mouth of Long Creek: provided, said bridge shall be erected in three years' time.

SEC. 2. **Of Bridge, etc.** Said bridge shall have stone abutments and piers, and the wood work shall be made sufficiently strong and durable to render [103] the passage over the same safe to the heaviest kind of traveling vehicles.

SEC. 3. **Height, etc.—duty of company.** Said bridge shall be raised sufficiently high not to impair the navigation of the stream; or if said company otherwise desire, they may erect said bridge in such manner that a portion of the same may be raised after the manner of a drawbridge, for the purpose of permitting water crafts to pass; and in such case they shall always have some one in ready attendance to assist the passage of any boat, vessel, or other water conveyance.

SEC. 4. **Style—powers—proviso—disposition of stock, etc.** Said company shall be known by the name of and style of the "Skunk river bridge company," and by that name may sue and be sued, and shall have other corporate powers to adopt for themselves such by-laws and regulations for their government as a majority of the stockholders may deem expedient: provided, the same be not [in] contravention of the laws of the United States or this territory; shall have succession to them, their heirs and assigns, for fifteen years; and each member shall have power to sell or otherwise dispose of his interest in said bridge as he may desire, and his stock shall be liable to execution as personal property.

SEC. 5. **Officers.** Said company shall elect a president and three trustees, on any of whom a summons in law may be served under the same regulations and with like effect as in ordinary cases.

SEC. 6. **Prohibition—limit of stock.** Said company shall not exercise any banking privileges, and shall purchase no other personal or real property than may be necessary for the erection of said bridge; and the stock of said company, for the purpose aforesaid, shall not exceed ten thousand dollars, and may be held in shares of one hundred dollars each.

SEC. 7. **Toll.** The rate of toll for crossing over said bridge shall be such as the county commissioners of Lee and Des Moines counties shall together agree upon.

Approved, January 15, 1841.

CHAPTER 95.

AN ACT to authorize John Godden, his heirs or assigns, to build a dam across the Des Moines river.

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

SECTION 1. **Point at which dam is to be constructed—height—to contain lock, etc.** That John Godden, his heirs or assigns, are hereby authorized to construct a dam across the Des Moines river, in Van Buren county, in said

territory, opposite the town of Rising Sun, and below the mouth of Chequess Creek. Said dam shall not be more than three feet high above common low water mark, and shall contain a convenient lock not less than one hundred and thirty feet in length, and thirty-five feet in width, for the pas-[104]-sage of steam, keel, and flat boats, rafts, and other water crafts, provided said water crafts will bear two tons burthen.

SEC. 2. **Duty of John Godden—penalty for detention.** It shall be the duty of the said John Godden, his heirs or assigns, at all times to keep the lock in the dam authorized by the first section of this act in good repair; and shall, at all times, pass any steam, keel or flat boat, or other water craft above mentioned, through said lock, free of all charges or toll, and without any unnecessary delay; and if any person or persons shall be prevented unnecessarily, he or they shall be entitled to recover of said owner double the amount of damages he or they may have sustained by such delay.

SEC. 3. **Penalty for injury to dam.** Any person who shall wilfully or maliciously destroy or injure said lock or dam, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined double the amount of damages the owner may have sustained, or be imprisoned, at the discretion of the court.

SEC. 4. **Not to flow lands of others, etc.—Nuisances.** Nothing herein contained shall authorize the individuals named in this act, their heirs or assigns, to enter upon or overflow the lands of any person, without the consent of such person, or to interfere with any other charter already granted on said Des Moines river, or with any mill now in operation, or any of the tributaries of said Des Moines river; and they shall remove all such nuisances as may be occasioned by the erection of said dam which may endanger the health of the vicinity.

SEC. 5. **Power to repeal.** The legislature of said territory (or state, as the case may be) may at any time alter or amend this act so as to provide for the navigation of said river.

SEC. 6. **When dam to be completed.** The dam and locks specified in the first section of this act shall be completed within three years after the third day of March, eighteen hundred and forty-one.

SEC. 7. **Associates.** The said John Godden may associate with himself such persons as he may see proper for the purposes above specified, who shall, when associated, be bound by the provisions of this act in the same manner of the said Godden.

SEC. 8. **Charter for fifty years.** The right of constructing said dam and lock across the Des Moines river at the place above mentioned shall be vested in the said John Godden, his heirs and assigns, for fifty years from and after the third day of March next, eighteen hundred and forty-one.

Approved, January 15, 1841.

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[105] CHAPTER 96.

AN ACT to establish a territorial road from Moscow to Marion.

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

SECTION 1. **Commissioners—route of road.** That George Bumgardner, of Muscatine county, John W. Wilkinson, of Cedar county, and Harvey B. Burnap, of Linn county, be and they are hereby appointed commissioners to lay

out and establish a territorial road from Moscow, in Muscatine county, to Marion, in Linn, via Rochester, Antwerp, and Mason's Grove, in Cedar county, and Ivanhoe, in Linn county.

SEC. 2. **Meeting of commissioners.** The commissioners aforesaid, or any two of them, shall meet at Moscow on the third Monday of April next, or any day thereafter during the year which they may agree upon to proceed to the discharge of their duties; and may adjourn from day to day as circumstances shall require.

SEC. 3. **Duties of commissioners.** That said commissioners shall discharge their duties in accordance with "An act to provide for laying out and establishing territorial roads," approved December 19th, 1838.

Approved, January 15, 1841.

CHAPTER 97.

AN ACT to locate a territorial road from Columbus City, in Louisa county, to Smith's Mills, in Henry county.

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

SECTION 1. **Commissioners—route of road.** That George Key, of Louisa county, James D. Spearman and John Milliford, of Henry county, be and they are hereby appointed commissioners to view and locate a territorial road, commencing at Columbus City, in Louisa county; thence on the nearest and best route to intersect the west line of section number two; thence on the section line west of sections eleven, fourteen, twenty-three and twenty-six, in township number seventy-one north, range number five west; and from thence on the nearest and most approved route to Smith's Mills, on Skunk river.

SEC. 2. **Meeting of commissioners.** That said commissioners, or a majority of them, meet at Columbus City on the first Monday of April next, and shall proceed to locate said road according to the provisions of "An act to establish territorial roads;" and if said commissioners, or a majority of them, shall fail to meet as is herein specified, it shall be legal for [106] said commissioners, or a majority of them, to meet at such time thereafter during the present year as they may agree upon, who shall then proceed to locate said road as above directed.

SEC. 3. **Pay of commissioners, surveyor, etc.** That the commissioners, surveyor and chain carrier, employed to locate the road herein specified, shall receive such compensation for their services as the respective boards of commissioners for the counties of Louisa and Henry may think proper to allow them, and no more.

Approved, January 15, 1841.

CHAPTER 98.

AN ACT to provide for the survey of a territorial road from Burlington, through Henry county, to Keosauqua, in Van Buren county, and the Missouri line.

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

SECTION 1. **Commissioners—route of road.** That Warren Dee, of Des Moines county, John S. Stephenson, of Henry county, and Isaiah M'Mana-

man, of Van Buren county, be and they are hereby appointed commissioners to lay out and survey a territorial road from the city of Burlington, in Des Moines county, to Smith's Mills, and Salem, in Henry county, and thence to Keosauqua, in Van Buren county, and the Missouri line.

SEC. 2. **To follow township line, etc.** The said commissioners shall follow the township line between sixty-nine and seventy north, or as nearly so as practicable; and be allowed to adopt such parts of the route without re-survey as they may be able to procure the field notes for, which may be necessary to make the legal returns.

SEC. 3. **Meeting of commissioners.** The commissioners shall meet at Burlington the first Monday in March, or any time thereafter during the year eighteen hundred and forty-one, and proceed to the discharge of the duties assigned them.

SEC. 4. **Pay of commissioners, surveyor, etc.** The commissioners shall be allowed three dollars per day, and shall employ one surveyor, whose pay shall be four dollars per day; and the necessary laborers, who shall be allowed one dollar and fifty cents per day.

Approved January 15, 1841.

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[107] CHAPTER 99.

AN ACT to authorize Hezekiah H. Gear to keep a ferry.

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

SECTION 1. **Point where ferry to be kept—term.** That Hezekiah H. Gear, his heirs and assigns, exclusively, are hereby authorized to establish and keep a ferry across the Mississippi river from the mouth of the stream called Tete des Morts, in the county of Jackson, and for one mile above said stream, for the term of fifteen years.

SEC. 2. **Boat to be kept, etc.** That within five years from the taking effect hereof, the said Gear, his heirs or assigns, shall cause to be established and kept a good and sufficient horse or steam ferry boat at the place aforesaid, for the safe conveyance of passengers and property across said river without delay.

SEC. 3. **Regulations, etc.** That said ferry, when established, shall be subject to like regulations and under like restrictions as all other ferries are or may be by the general laws of this territory fixing the rates of toll, and prescribing the manner in which licensed ferries shall be kept and regulated.

SEC. 4. **Of failure to comply with law.** That upon the failure of the said Gear, his heirs or assigns, to comply with the regulations of law in any essential particular relative to said ferry, the privilege hereby granted shall be forfeited.

SEC. 5. **How this act to be construed.** Nothing in this act shall be so construed as to interfere with the property of any other person, or with that of the United States, on either side of said river.

SEC. 6. **Flat boat to be kept.** That until said Gear shall provide the ferry aforesaid with a steam or horse ferry boat, he shall immediately procure and keep good and sufficient flat boats, and hands to conform with the objects of the same.

SEC. 7. **Power to repeal.** Any future legislature of this territory (or state) may alter, amend or repeal, this act.

Approved January 15, 1841.

CHAPTER 100.

AN ACT to authorize John R. Sparks and his associates to erect a dam across the Des Moines river.

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

SECTION 1. **Point of construction of dam—height—lock.** That John R. Sparks and his associates, be and they are hereby authorized to construct a dam across [108] the Des Moines river, in Van Buren county, in said territory, on the southwest quarter of section number twenty-seven in township sixty-nine, range nine west, which dam shall not exceed three feet in height above common low water mark, and shall contain a convenient lock not less than one hundred and twenty feet in length and twenty feet in width, for the passage of steam, keel and flat boats, rafts and other water crafts, provided said water crafts will bear two tons burthen.

SEC. 2. **Lock to be kept in repair, etc.—penalty for detention.** It shall be the duty of the persons authorized in the preceding section of this act to build said dam, at all times to keep the lock in the same in good repair; and they shall at all reasonable times pass any water craft above mentioned through free of toll, without any unnecessary delay; and any person who shall be unnecessarily detained shall be entitled to recover of said owners double the amount of damages they shall prove to have sustained by reason of such detention.

SEC. 3. **Penalty for injury to dam, etc.** Any person who shall destroy or in anywise injure either said dam or lock, shall be deemed to have committed a trespass, and shall be liable accordingly; and any person who shall wilfully and maliciously destroy or injure said lock or dam shall be guilty of a misdemeanor, and on conviction thereof shall be fined treble the amount of damage the owners may have sustained, or be imprisoned, at the discretion of the court.

SEC. 4. **Not to flow lands of others—nuisances.** Nothing herein contained shall authorize the individuals named in this act, their heirs or assigns, to enter upon and overflow the lands of any person without the consent of such person; and they shall remove all nuisances as may be occasioned by the erection of said dam which may endanger the health of the vicinity.

SEC. 5. **Power to amend, etc.** The legislature of this territory (or state) may at any time alter or amend this act, so as to provide for the navigation of the said river.

SEC. 6. **Three years allowed.** The dam and lock specified in the first section of this act shall be completed within three years from the first day of May next.

SEC. 7. **Charter for fifty years.** The right of constructing and continuing the aforesaid dam and lock across the Des Moines river shall be vested in the said John R. Sparks and associates, their heirs and assigns, for the term of fifty years from the first day of May next.

SEC. 8. **To take effect.** This act to take effect from and after its passage.

Approved January 15, 1841.

[109] CHAPTER 101.

AN ACT to provide for the compensation of the members, officers, and printers of the legislative assembly, and for other purposes.

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

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

SEC. 2. **Pay of members of H. R.** For pay and mileage of the members of the house of representatives, the sum of six thousand four hundred and twenty-nine dollars and sixty cents.

SEC. 3. **Pay of officers of H. R.** For pay of officers of the house of representatives, two thousand four hundred dollars.

SEC. 4. **Pay of members of council.** For pay and mileage of members of the council, the sum of three thousand two hundred and sixty-nine dollars.

SEC. 5. **Pay of officers of council.** For pay of officers of the council, two thousand nine hundred and twenty-five dollars.

SEC. 6. **R. W. Gray.** To R. W. Gray, for services as recording clerk, the sum of one hundred and sixty dollars.

SEC. 7. **J. N. Hetzel.** To John N. Hetzel, for two days services as assistant secretary of the council, at the commencement of the session, ten dollars.

SEC. 8. **A. Patterson.** To A. Patterson, for stove and axe for the use of the legislature, twenty-two dollars and twenty-five cents.

SEC. 9. **J. S. David.** To John S. David, for rent of library room from the 10th of May, 1840, to 10th of May, 1841, one hundred and forty dollars; also, for articles purchased for said room, one dollar and seventy-five cents.

SEC. 10. **Geo. Beatty.** To George Beatty, for expenses incurred and time lost in visiting York, Pennsylvania, for seals of Iowa, and delivering the same at secretary's office, fifty dollars.

SEC. 11. **Bridgman & Co.** To Bridgman and Partridge, for articles of merchandise as per bill rendered, fifty-two dollars.

SEC. 12. **M. B. Cox & Co.** To M. B. Cox & Co. for articles furnished in fitting up council chamber, etc., etc., as per bill rendered, seventy-eight dollars and fifty cents.

SEC. 13. **John Johnson.** To John Johnson, for labor and expenses in preparing council chamber for use, as per bill, eighty-four dollars and twenty-five cents.

SEC. 14. **Secretary of territory.** To secretary of the territory, for distributing laws of the present session to the various counties, two hundred and five dollars.

SEC. 15. **Charles Nealley.** To Charles Nealley, for candles, nineteen dollars and sixty-eight cents.

SEC. 16. **H. W. Moore & Co.** To H. W. Moore & Co., for envelope paper furnished for use of legislature, twelve dollars.

[110] SEC. 17. **Wesley Jones.** To Wesley Jones, for paper furnished, nine dollars.

SEC. 18. **Thos. O'Neil.** To Thomas O'Neil, for wood furnished for legislative assembly, two hundred and two dollars and fifty cents.

SEC. 19. **S. A. Hudson.** To S. A. Hudson, for tinware, etc., six dollars and thirty-seven and a half cents.

SEC. 20. **W. H. Ladd.** To W. H. Ladd, for tin and iron ware, fourteen dollars and fifty cents.

SEC. 21. **Levi Hager.** To Levi Hager, for taking care of furniture, fitting up house of representatives, etc., the sum of one hundred and ninety dollars and four cents.

SEC. 22. **J. S. David.** To John S. David, for rent of room for governor's office from the first of September, 1839, until the 1st of February, 1841, one hundred and ten dollars and fifty cents.

SEC. 23. **J. S. David.** To John S. David, being the amount of a claim assigned by A. O. David for visiting Cedar county in 1839, as special messenger for election returns, fifteen dollars.

SEC. 24. **J. G. Edwards.** To James G. Edwards, to be paid out of a future congressional appropriation, the sum of two hundred and seventy-five dollars and ten cents, the same being in full of a balance due him over and above the estimated amount appropriated in section sixteen, of chapter fifty-seven, of laws passed at session 1839-'40, for printing journals in pamphlet form.

SEC. 25. **J. G. Edwards.** To James G. Edwards, for papers furnished to both houses, and printing executed for council, six hundred and thirty-eight dollars.

SEC. 26. **Secretary of territory.** To secretary of the territory, being the amount paid out by him for stationery, candles, etc., for the use of the legislature, as per receipted bills furnished, four hundred and fifty-six dollars and fifty-four cents.

SEC. 27. **Secretary of territory.** To secretary of the territory, being the amount of his expenses in going to and coming from Saint Louis in order to draw the money appropriated by congress to defray the expenses of the present session of the legislature, twenty-seven dollars and eighty-seven and a half cents.

SEC. 28. **Wm. Wagner.** To William Wagner, for engraving seals for the different counties of the territory, as per resolution number five, laws of Iowa, session 1838-'39, the sum of three hundred and forty-three dollars, in full of bill rendered.

SEC. 29. **Rev. Samuel Mazzuchelli.** To the Reverend Samuel Mazzuchelli, for rent of building occupied by council, three hundred dollars.

SEC. 30. **Trustees of Methodist Episcopal church.** To the trustees of the Methodist Episcopal church, for rent of building occupied by the house of representatives, four hundred and fifty dollars.

SEC. 31. **John H. McKenny.** To John H. McKenny, for papers furnished the legislative assembly, six hundred and thirty-four dollars.

SEC. 31. **John H. McKenny.** To John H. McKenny, for printing bills, reports, and daily journals of proceedings, etc., two thousand nine hundred and seventeen dollars and ninety-six cents.

SEC. 32. **Jos. T. Fales.** To Joseph T. Fales, for transcribing, indexing and preparing the journals of the house of representatives for publica-[111]-tion, and distributing the same to the clerks of the several boards of county commissioners, five hundred dollars.

SEC. 33. **B. F. Wallace.** To B. F. Wallace, for transcribing, indexing and preparing the journal of the council for publication, and distributing the same to the clerks of the several boards of county commissioners, five hundred dollars.

SEC. 34. **Chas. Nealley.** To Charles Nealley, for wood furnished the librarian, and chopping the same, the sum of seventy-four dollars and thirty-seven cents.

SEC. 35. **W. Cowperthwait.** To W. Cowperthwait, for repairing window, one dollar.

SEC. 36. **M. B. Cox.** To M. B. Cox & Co., for merchandise furnished librarian, four dollars and fifty cents.

SEC. 37. **John Johnson.** To John Johnson, for work done for librarian, four dollars.

SEC. 38. **Evan Evans—David and Kitchen.** To Evan Evans, the sum of twenty-six dollars; to David and Kitchen, three dollars and fifty cents, as reported by the committee on claims.

SEC. 39. **David Hendershott.** To David Hendershott, for paste furnished the house of representatives, the sum of two dollars.

SEC. 40. **H. W. Moore & Co.** To H. W. Moore and company, for ream of ruled letter paper furnished the house of representatives the present session, the sum of four dollars and fifty cents.

SEC. 41. **E. Lowe.** To E. Lowe, postmaster, for postage of letters, papers, documents, etc., during the present session, five hundred and thirty-eight dollars and eighty-two cents.

SEC. 42. **J. R. Woods.** To John R. Woods, for recording the journal of the house of representatives, one hundred and fifty dollars.

SEC. 43. **Edward Langworthy.** To Edward Langworthy, in trust for nine witnesses called before committee at Iowa City, room rent, and sheriff's fees, forty dollars.

SEC. 44. **President of council, and speaker H. R.** For extra pay to the president of the council, and speaker of the house of representatives, two hundred and twenty-five dollars each.

SEC. 45. **Stephen Whicher.** To Stephen Whicher, for mileage, attendance as witness, and actual expenses before committee, twelve dollars.

SEC. 46. **Thomas H. Curts—A. S. Stoddard.** To Thomas H. Curts, for articles furnished for the use of the house of representatives, two dollars and twenty-five cents; and to A. S. Stoddard, two dollars and seventy-five cents for repairing woodsaw and horse.

SEC. 47. **Members of committee appointed to visit Iowa City.** For extra pay to the members of the committee appointed to visit Iowa City, seventy-five dollars each, making two hundred and twenty-five dollars.

SEC. 48. **Members of committee appointed to visit Fort Madison.** For extra pay to the members of the committee appointed to visit Fort Madison, the sum of forty-five dollars each, making one hundred and thirty-five dollars.

SEC. 49. **John H. McKenny.** To John H. McKenny, for printing in book form the laws of the present session, one thousand three hundred dollars.

SEC. 50. **N. W. Springer.** To N. W. Springer, eight dollars and fifty cents.

SEC. 51. **John Clark.** To John Clark, six dollars.

[112] SEC. 52. **A. L. Holland—Luke Hughs.** To A. L. Holland, one dollar; Luke Hughs, three dollars.

SEC. 54. **Jos. Boyles.** To Joseph Boyles, three dollars.

SEC. 55. **Samuel Moore.** To Samuel Moore, twenty-five cents.

SEC. 56. **W. Annabal.** To Mr. Annabal, the enrolling clerk of the house of representatives for the pay of an assistant, ten dollars.

SEC. 57. **Wm. H. Merritt.** To Wm. H. Merritt, the enrolling clerk of the council, eight dollars for an assistant.

Approved January 15, 1841.

JOINT RESOLUTIONS*

[113] NO. 1.

A RESOLUTION to compensate Francis Gehon for his extra services in taking the census.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

Additional allowance of $350—secretary of territory authorized to pay. That Francis Gehon be allowed the sum of three hundred and fifty dollars, in addition to what he has already received from said territory, as pay for his extra services in taking the census of said territory, by virtue of a joint resolution passed in January, 1840; and that the secretary of said territory be instructed to pay the same out of any moneys in his hands not otherwise appropriated.

Approved January 15, 1841.

NO. 2.

JOINT RESOLUTION providing for the printing of the laws of the present session.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

J. H. McKenny appointed printer—to give bond in $10,000—1,500 copies to be printed—index—90 days' time. That John H. M'Kenny be the printer of the laws of the present session, and that he enter into bond immediately [114] to the governor, in the sum of ten thousand dollars, with sureties to be approved of by the governor, conditioned that the said John H. M'Kenny, and his heirs or legal representatives, print, in pamphlet form, in workmanlike style, fifteen hundred copies of all the laws passed and to be passed by the legislative assembly at its present session, with an index thereto; and deliver said copies to the secretary of the territory within ninety days next after the adjournment of the present session.

Pay of printer—distribution of laws. Resolved, further, that said secretary is hereby required to pay said printer for doing the said work, the like prices allowed for similar work by congress; and that he destribute the laws in like manner that the laws of last session were required to be distributed.

*All resolutions, except such as are of general character, and have a binding, or legal effect, are omitted, as not coming within the spirit of the law providing for their publication. They are all mere memorials to Congress.—Compiler.

Secretary of territory to prepare laws, etc.—index—allowance, $250—mode of preparation, etc.—proviso. Resolved, further, that the secretary of the territory is hereby required to prepare for publication and to supervise the printing of the laws of the present session of the legislative assembly, and make an index thereto; and that he be allowed for said service the sum of two hundred and fifty dollars; and that he furnish the printer with copies thereof as soon as practicable, in the order in which they are approved by the governor: provided, that the joint resolutions be printed in their order at the end of the acts.

Presented to the executive, December 31, 1840.

NO. 3.

JOINT RESOLUTION authorizing the secretary to forward copies of the laws under the franking privilege of the executive.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

That the secretary of the territory be instructed to forward, under the franking privilege of the executive, one copy of all the laws of this territory to the governors of the different states and territories of the United States.

Approved January 15, 1841.

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[115] NO. 4.

JOINT RESOLUTION reimbursing the auditor of public accounts for certain moneys paid by him.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

That the secretary of the territory be authorized to pay Jesse Williams twelve dollars for money paid by him for seal for the office of auditor of public accounts; also, nine dollars for postage paid by him as auditor.

Approved January 15, 1841.

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LAWS

OF THE

TERRITORY OF IOWA

ENACTED AT THE SESSION OF THE LEGISLATURE WHICH COMMENCED ON THE FIRST MONDAY OF DECEMBER, A. D., 1841

PUBLISHED BY AUTHORITY

IOWA CITY

PRINTED BY VAN ANTWERP & HUGHES

1841-42

LAWS OF IOWA

[3] CHAPTER 1.

AN ACT authorizing the commissioners of Linn county, to relocate all that portion of the territorial road established from Iowa City to Prairie du Chien, that passes through Marion, in said county.

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

SECTION 1. That the county commissioners of the county of Linn, be and they are hereby authorized and empowered, at their pleasure, to relocate all that portion of the territorial road, established from Iowa City to Prairie du Chien, that passes through the town of Marion, in Linn county.

WARNER LEWIS,
Speaker of the House of Representatives.
J. W. PARKER,
President of the Council.

Approved 21st December, 1841. John Chambers.

CHAPTER 2.

AN ACT to divorce John Haynes from his wife Celia Haynes, late Mrs. Celia Farley.

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

SECTION 1. That the marriage contract heretofore existing between John Haynes and Celia Haynes, late Mrs. Celia Farley, be and the same is hereby dissolved.

Approved December 21, 1841.

[4] CHAPTER 3.

AN ACT to locate a territorial road, from West Point, in Lee county, to the landing on the Des Moines river, opposite Saint Francisville, in Missouri.

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

SECTION 1. **Names of commissioners—route of road.** That John Billips, John Bryerson, and William Stotts, be and they are hereby appointed com-

missioners to locate and mark out a territorial road, commencing at West Point, thence on the nearest and best route to Franklin, thence to the landing on the Des Moines river, opposite Saint Francisville, Missouri.

SEC. 2. **When and where commissioners to meet—may agree upon a time and place for meeting.** That said commissioners, or a majority of them, shall meet at West Point, on the first Monday of April next, and shall proceed to locate said road, according to the provisions of an act to establish territorial roads; and if said commissioners, or a majority of them, shall fail to meet, as herein specified, it shall be legal for said commissioners to meet at such time thereafter, during the present year, as they may agree upon, who shall then proceed to locate said road as above directed.

SEC. 3. **Compensation of commissioners, surveyor, etc., to be allowed by county commissioners.** That the commissioners, surveyor, and chain-carrier, employed to locate the road herein specified, shall receive such compensation for their services as the board of commissioners of Lee county may think proper to allow them, and no more.

Approved January 3, 1842.

CHAPTER 4.

AN ACT to incorporate the Iowa City Mechanic's Mutual Aid Association.

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

SECTION 1. **James N. Ball and others constitute a body corporate by the name of "The Mechanic's Mutual Aid Association of Iowa City"—their powers.** That James N. Ball, A. H. Haskill, A. G. Adams, Edward Lanning, L. W. Swafford, Thomas Comb, Francis Thompson, Thomas Richord, Abraham Burkholder, and such other persons as from time to time shall become members of said corporation, shall be and are hereby ordained, constituted and declared to be one body politic and corporate, by the name and style of "The Mechanic's Mutual Aid Association of Iowa City;" and by that name they and their successors shall have succession, and shall be capable of sueing and being sued, pleading and being impleaded, answering and being answered, defending and being defended, in all courts and places whatsoever, in all manner of actions, suits and complaints, matters and cases, whatsoever; and that they and their successors shall have a common seal, and change and alter the same at their pleasure; and that they and their successors, by the same name, shall be in law capable to purchase, take, receive, hold and enjoy, to them and their successors, any real estate, in fee simple or for term of years, or otherwise, and any goods and chattels, or any personal estate, to the [5] amount of twenty thousand dollars, for the purpose of enabling them the better to carry into execution, encourage and promote such measures as may tend to the advancement of the mechanical arts; and also whatever may tend to the promotion of education, and the advancement of the arts and the sciences. And that they and their successors shall have full power to give, grant, sell, lease, demise, and dispose of the said real and personal estate, or any part thereof, at their will and pleasure; and that they and their successors shall have power, from time to time, to make, constitute, and establish such by-laws, ordinances and regulations, as they shall judge proper, for the election of their officers, for the admission of members, and for regulating all the affairs of the said corporation, as they may deem proper, for the advancement of the object of said corporation: provided, such by-laws

and regulations shall not be repugnant to the constitution or laws of the United States, or of this territory.

SEC. 2. **Officers of the association—James N. Ball and others appointed officers until the first Tuesday in January next—officers to be chosen by members of corporation.** And for the better carrying on the affairs of said corporation, there shall be a president, two vice presidents, one secretary, and one treasurer, of the corporation, who shall hold their offices from the time of their appointment, or election, until the first Tuesday of January then next, and until others shall be chosen in their places; and that the said James N. Ball is hereby appointed president, and the said Thomas Comb and Lewis Swafford, vice presidents, and the said Edward Lanning, secretary, and the said A. G. Adams, treasurer, until the first Tuesday of January next; and that said officers shall, on the first Tuesday of January next, and always thereafter, be chosen by the members of the said corporation in such manner; and afterwards at such time and places as shall be directed by the by-laws of said corporation, to be made for that purpose.

SEC. 3. **Bond for the erection of seminary of learning—time—where to be erected—cost of seminary—certificate of claim to be given by territorial agent of lot on which seminary is built—deed of conveyance given—premises to be used for literary purposes alone.** That in case the said corporation shall enter into good and sufficient bonds, to be approved by the territorial agent, and filed in the office of the secretary of the territory, conditioned that they will erect and finish a seminary of learning within two years from the passage of this act, on the south half of the reservation for school purposes, adjoining the park, in Iowa City, and known as the south half of the west half of block sixty, the aggregate cost of which seminary of learning shall not be less than one thousand dollars when finished, and shall fulfill the condition of said bond, then the territorial agent shall give to the corporation an official certificate of their claim to said lot of ground, and on the presentation to the secretary of the territory, it shall be the duty of said secretary to file the same in his office, and make out and deliver to said corporation a deed of conveyance of the premises described in said certificate; which deed shall be executed as other deeds for lots sold in said city, and be of equal force and validity: provided, that said deed of conveyance shall contain a clause that the premises so donated shall be occupied and used for literary purposes alone; and that the said deed shall be void, and the said premises revert to the territory, when the said premises shall be occupied or used by said corporation, or their successors or assigns, in any other way or manner, or for any other than literary purposes.

SEC. 4. **President, vice presidents, etc., to receive donations.** The president, vice presidents, secretary and treasurer of said corporation, shall be commissioners to receive subscriptions or donations for said institution, under such regulations and conditions as they may deem expedient.

[6] SEC. 5. **Members of corporation liable for performance of all contracts.** The members of said corporation shall be jointly and severally liable for the performance of all contracts and obligations entered into by said institution.

SEC. 6. This act shall take effect from and after its passage.

Approved January 4, 1842.

CHAPTER 5.

AN ACT to legalize the election of George L. Coe, as judge of probate in the county of Louisa.

Elected to fill a vacancy—required notice of a special election not given. Whereas, on the first Monday of August in the year eighteen hundred and

forty-one, George L. Coe was elected to fill a vacancy then existing in the office of judge of probate in the county of Louisa, in all respects in pursuance of law, except that there was not time between the happening of the vacancy aforesaid and the day of holding the general election to give the required notice of a special election. Therefore,

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

SECTION 1. **Election as valid as if twenty days previous notice had been given.** That the election of George L. Coe to the office of judge of probate, in and for the county of Louisa, on the first Monday of August in the year eighteen hundred and forty-one, and all official acts and proceedings of the said George L. Coe, as judge of probate aforesaid, shall be as valid in law to all intents and purposes, as if twenty days previous notice of said election had been given.

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

Approved January 5, 1842.

CHAPTER 6.

AN ACT to locate a territorial road from Keokuk, in Lee county, to Fairfield in Jefferson county.

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

SECTION 1. **Names of commissioners—route of road.** That William A. Donnall of the county of Lee, and John Runnels of the county of Van Buren, and Ira Tillitson of the county of Jefferson, be and they are hereby appointed commissioners to locate and mark a territorial road from Keokuk, on the nearest and best route to Ambrosia, in Lee county; thence to Winchester, in Van Buren county; thence to Fairfield in Jefferson county: provided said commissioners shall, in all instances, choose the nearest and best routes between the several points specified.

SEC. 2. **When and where commissioners to meet—in case of failure sheriff of Lee county to notify them in writing.** The commissioners aforesaid, or any two of them, shall meet at Keokuk, in Lee county, on the first Monday in April next to proceed to the discharge of their duties, and may adjourn from day to day, as circumstances shall require; and in case said commissioners or any two of [7] them fail to meet on the day appointed, then the sheriff of Lee county is hereby authorized and required, on the application of any of said commissioners, either written or verbal, to notify in writing said commissioners of some other time at the place aforesaid.

SEC. 3. **Compensation of commissioners, surveyors, etc.** The commissioners shall be allowed two dollars and fifty cents per day, and shall employ one surveyor, whose pay shall be three dollars per day, and the necessary hands, who shall be allowed one dollar and fifty cents per day.

Approved January 11, 1842.

CHAPTER 7.

AN ACT to locate a territorial road from Deed's mill, on Skunk river, to the boundary line.

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

SECTION 1. **Names of commissioners—route of road.** That Julian Ellis of Henry county, Thomas Small of Jefferson county, and Beriah Haworth of Washington county, be and they are hereby appointed commissioners to lay out and establish a territorial road from Deeds' mills on Skunk river, in Jefferson county, by the way of Brighton in Washington county, the house of Beriah Haworth in said county, Western City in said county, thence nearest and best way to the west boundary line of the territory.

SEC. 2. **When and where commissioners to meet.** That said commissioners meet at Deeds' mill on such day as they may agree, not exceeding twelve months from the passage of this act, to discharge their duties.

SEC. 3. **Compensation of commissioners, surveyors, etc.—how and by whom paid.** Said commissioners shall be allowed one dollar and fifty cents per day for their services, and shall employ one surveyor and as many laboring hands as they may deem necessary; the surveyor's salary shall not exceed two dollars and fifty cents per day, and the laborers shall not exceed one dollar per day, to be paid according to the provisions of an act to provide for the laying out and opening territorial roads, approved January 25, 1839.

Approved January 11, 1842.

CHAPTER 8.

AN ACT to locate and establish a territorial road from Marion in Linn county, to intersect the territorial road from Bellview to Iowa City.

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

SECTION 1. **Names of commissioners—route of road.** That Isaac Butler and Preston Scott of Linn county, J. L. Kirkpatrick of Jackson county, be and they are hereby appointed commissioners to lay out and establish a territorial road from Marion in Linn county, to Bowens and Woods' mill at the falls on the [8] south fork of the Maquoketa, thence to intersect the territorial road leading from Bellview to Iowa City in township eighty-five, north range two east of the fifth principle meridian.

SEC. 2. **When and where commissioners to meet—oath to be taken.** The commissioners above appointed, shall meet at Marion on the first Monday in June next, or at such other time within six months thereafter, as they may agree upon, and shall, before entering upon the duties of the above appointment, take and subscribe before some justice of the peace the usual form of oath, to perform their duties as above specified, faithfully and impartially.

SEC. 3. **Compensation of commissioners, surveyors, etc.—how and by whom paid.** The commissioners shall each receive the sum of three dollars per day; the surveyor three dollars per day; chain carriers and markers, each one dollar and fifty cents per day, during the time they may be necessarily employed in laying out and establishing said road; to be paid in the usual manner by the county commissioners of the several counties through which the road may pass, in proportion to the time of service in each county.

SEC. 4. This act to take effect from and after its passage.

Approved January 11, 1842.

CHAPTER 9.

AN ACT to authorize Martin W. Smith to keep a ferry across the Mississippi river, in Scott county.

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

SECTION 1. **Authority to keep a ferry in Scott county—limits—regulation and restrictions.** That Martin W. Smith, his heirs and assigns, be and they are hereby authorized to establish and keep a ferry across the Mississippi river at the town of Le Claire in Scott county, and for one-half mile above, for the term of ten years from the first of April next; provided, that said ferry when so established, shall be subject to the same regulations and under the same restrictions as other ferries are, or may hereafter be by the laws of this territory; fixing the rate of tolls, and prescribing the manner in which licensed ferries shall be kept and regulated.

SEC. 2. **Boats and hands to be kept.** That said Martin W. Smith, his heirs and assigns, shall, on or before the first of April next, procure and constantly keep at said ferry, a good and sufficient number of flat boats and a sufficient number of hands to work the same, for the transportation of all persons and their property, across said river when passable without delay.

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

Approved January 11, 1842.

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[9] CHAPTER 10.

AN ACT to incorporate the Mechanics' Institute of Dubuque.

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

SECTION 1. **Company declared a body corporate—style and corporate powers.** That Joseph Ogilby, James Reece, Wm. H. Robbins, Benjamin Rupert, A. Cain, R. J. Laughling, M. Hooper, John H. Anderson, James McGreary, J. R. Harvey, D. S. Wilson, A. Keesecker, C. Miller, J. M. Daugherty, J. Smith, Wm. D. Redman, Wm. Miller, P. C. Morehiser, Wm. Read, J. E. Norris, Wm. Hooper, F. Yager, C. Pelan, R. F. Keeling, L. L. Wood, S. B. Johnson, Jacob Harmon and E. S. E. Davis, and their associates and successors, be and they are hereby created a body politic and corporate, by the name of the Mechanics' Institute of Dubuque; and by that name may have succession, and shall be able in law and equity, to sue and be sued, and hold property, personal, real and mixed, not exceeding twenty thousand dollars; to select and choose officers, and make and ordain such by-laws, rules and regulations, as may be convenient or necessary, for conducting the affairs of said institute, not contrary to law.

SEC. 2. **Object of corporation.** The objects of the said corporation are hereby declared to be, to procure a suitable lot of ground and erect thereon, a proper and convenient building for the institute to hold their meetings in; and for the purpose of furnishing themselves with a suitable library for the members of the same; and for all other purposes, which a majority of the members may deem proper, which may not be a violation of law.

SEC. 3. **Each member liable for the performance of contracts.** Each member of said institution shall be personally liable, for the performance of all contracts and obligations, entered into by the same.

Approved January 11, 1842.

CHAPTER 11.

AN ACT to locate and establish a territorial road from the county seat of Delaware county, to the town of West Cascade, in Dubuque county.

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

SECTION 1. **Names of commissioners—route of road.** That Joel Bailey, of Delaware county, Edward Steel, of Dubuque county, and Mahon Lupton, of Jones county, be and they are hereby appointed commissioners, to locate and establish a territorial road, viz.: from the county seat of Delaware, to Dillon's mill; thence across the river and running the west side of the Makoqueta, to the falls on said river, at the town of West Cascade.

SEC. 2. **When and where commissioners to meet—oath to be taken.** That the said commissioners, or any two of them, shall meet at West Cascade, on the first Monday in April next, or at such other time as they, or a majority of them may agree upon, within twelve months thereafter, for the performance of said duty; and prior to com-[10]-mencing the same, shall take and subscribe before some justice of the peace, the usual form of oath, for the faithful discharge of their duties.

SEC. 3. **Compensation of commissioners, surveyors, etc.—how paid.** That the said commissioners and the surveyor, shall each receive the sum of two dollars and fifty cents per day; and the chain carriers and markers shall each receive the sum of one dollar and fifty cents per day, during the time they may be necessarily employed on said road; to be paid according to an act entitled "an act to locate and establish territorial roads."

Approved January 18, 1842.

CHAPTER 12.

AN ACT to authorize Perriander Pollock, and others, to erect a dam across the Wabesipinicon river.

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

SECTION 1. **Authority to erect a dam—where—height of dam—width and length of lock.** That Perriander Pollock, and his associates, be and they are hereby authorized, to erect a dam across the Wabesipinicon river, in Clinton county in said territory; on the southeast quarter of section eight, in township eighty, north, range two east of the fifth principal meridian; which said dam, shall not exceed two and a half feet in height, above common low water mark; and in said dam, shall be constructed a lock or apron, at least thirty feet wide, and eighty feet long, so as to admit of boats to descend, and ascend, with safety.

SEC. 2. **Persons guilty of injury to said dam guilty of misdemeanor—penalty.** That any person who shall destroy or otherwise injure said dam,

shall be deemed to have committed a trespass, and shall be liable accordingly; and any person who shall wilfully or maliciously, destroy or injure said dam, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined treble the amount of damages the owners may have sustained, or be imprisoned at the discretion of the court.

SEC. 3. **Dam must not occasion nuisance.** Nothing herein contained, shall authorize the individuals named in this act, their heirs or assigns, to enter upon and flow the lands of any person, without the consent of such person; and they shall remove all such nuisances as may be occasioned by the erection of said dam, which may endanger the health of the vicinity.

SEC. 4. **Act may be repealed.** That nothing in this act shall be so construed, as to prevent the future legislature of this territory or state, to repeal the same if deemed expedient.

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

Approved January 18, 1842.

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[11] CHAPTER 13.

AN ACT to divorce Naomy Williams, from her husband, Edward Y. Williams.

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

SECTION 1. That the marriage contract heretofore existing between Naomy Williams and Edward Y. Williams, be and the same is hereby dissolved; and that hereafter she be called and known, by the name of Naomy Jones.

Approved January 18, 1842.

CHAPTER 14.

AN ACT to locate and establish a territorial road from Thos. Lingle's mill, in Johnson county, to Marion, via Westport, in Linn county.

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

SECTION 1. **Names of commissioners—route of road.** That Jacob Lebo, Joseph W. Bigger, and Prior Scott, of Linn county, be and they are hereby appointed commissioners, to locate and establish a territorial road from Thomas Lingle's Mill, in Johnson county, via Westport to Marion, in Linn county, on the most practicable route.

SEC. 2. **When and where commissioners to meet—compensation of commissioners, surveyors, etc.** That said commissioners, or a majority of them, shall meet at Thomas Lingle's on the first Monday in May next, or at such other time within three months thereafter, as they may agree upon; and shall proceed to locate said road according to the provisions of an act, to locate and establish territorial roads; and shall receive per day while necessarily employed in the execution of said duties, the following compensation: the commissioners each the sum of two dollars; the surveyor the sum of two dollars; and all other necessary hands, the sum of one dollar and fifty cents.

Approved January 18, 1842.

CHAPTER 15.

AN ACT defining a lawful fence, and providing against trespassing animals.

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

SECTION 1. **Trespassing animals—description of a lawful fence—aggrieved owner to apply to fence viewers.** That if any horse, mare, mule or ass, or any cattle, hogs, sheep or goats, shall break into any ground being enclosed with a strong worm fence, sufficiently staked and ridered, or locked at each joint, [12] five feet in height, or with strong post and rails, or post and pailings five feet high, or with a hedge two feet high upon a ditch three feet deep and three feet wide, or instead of such hedge a rail fence three feet high, or with a sod fence three feet high, with a ditch on each side three feet wide and three feet deep, or a stone fence four feet high, or with a fence five feet six inches high, composed of strong timber, put up in any other proper manner not herein particularly expressed, and the owner or occupier of such enclosure shall consider him or herself aggrieved thereby, the person so injured may apply to the fence viewers of the township, who shall forthwith repair to the place where such injury was done, and then diligently examine such fence.

SEC. 2. **If fence is good—damages to be assessed—certified and delivered to injured party—owner refusing to pay—certificate delivered to justice of peace—process issued thereon—judgment entered—execution issued.** That if, in the opinion of the fence viewers, the fence over or through which the trespassing animal entered, is of such height and strength as is defined in the first section of this act, and in all other respects such a fence as good husbandmen generally keep, they shall proceed from view and enquiry to assess the damages sustained by such applicant, from such trespassing animal or animals; which assessment, including the sum due the fence viewers for their services by this act allowed, the said fence viewers or a majority of them, shall, under their hands and seals, certify and deliver to the person sustaining the damages; and if the owner or possessor of such trespassing animal or animals aforesaid, refuses to pay the said damages on demand, the person injured may deliver said certificate to any justice of the peace within the township, who shall issue process thereon as in other cases of damages; and after trial had, shall enter up judgment and issue execution thereon agreeably to law.

SEC. 3. **Damage sustained—execution to issue for amount and costs of suit as in other cases before justice of peace—damage not sustained—execution awarded against plaintiff for cost of suit—appeal.** That if it shall appear to such justice, that damage hath been done the plaintiff, he shall give judgment for the amount thereof, with costs of suit; and shall issue execution thereon, in the same manner and under like regulations as is by law directed, in other cases tried before a justice of the peace; but if it shall appear that the plaintiff hath not sustained any damage, the justice shall give judgment against him, and award execution thereon for the costs of suit; provided, nevertheless, that either party shall have the privilege of an appeal to the district court, as in other causes tried before a justice of the peace.

SEC. 4. **Compensation of fence viewers—fine in case of failure or refusal to act.** That the sum of fifty cents per day, shall be allowed to each of the fence viewers, for their services rendered under this act; and if any fence viewer, directed to view and report the situation of any fence as aforesaid, shall fail or refuse to do the same, not having reasonable excuse for such failure or refusal, such person shall be subject to a fine not exceeding two dollars, at the discretion of the justice of the peace, for the use of the township, or county, where the townships are not organized.

SEC. 5. **Justice of peace may appoint viewers.** If there be no fence viewers elected or qualified, the person injured may apply to any justice of the peace within his county, who shall appoint two householders, being citizens of the county, to examine said fence, and do all the duties required by the fence viewers.

SEC. 6. **When to take effect.** This act to take effect and be in force, from and after the first day of May next.

Approved January 21, 1842.

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[13] CHAPTER 16.

AN ACT to legalize certain acts of the board of commissioners of Clinton county.

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

SECTION 1. **Sale of lots town of Vandenburg before record of plat, legalized —commissioners relieved from penalty.** That all sales of town lots, by the board of commissioners of Clinton county, in the town of Vandenburg, the seat of justice of said county, which were made before the plat of said town was recorded, are hereby legalized and made obligatory on the part of said board to fulfill and perform, according to the terms of the contracts made with the purchasers; and said commissioners are hereby relieved from all penalties which they may have incurred, by reason of said sales, before the plat of said town was recorded.

Approved January 24, 1842.

CHAPTER 17.

AN ACT to legalize the location of a territorial road in Henry county.

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

SECTION 1. **Names of commissioners—when surveyed—where located—good and valid in law.** That a certain road located and surveyed by George Humphrey and Joseph Newell, commissioners, and Daniel Brewer, surveyor, on the eleventh and twelfth days of March, in the year eighteen hundred and forty-one, in the county of Henry, beginning at the post corner of sections thirty-six and twenty-five, on township line number seventy-four north of range five west; (at which point a territorial road from Blackhawk to Mount Pleasant first intersects the line of Henry county,) thence in a direction to Mount Pleasant till it intersects the national road, is hereby declared to be a territorial road, and as good and valid in law, to all intents and purposes, as if the same had been located and surveyed in pursuance of a special act of the legislative assembly.

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

Approved January 25, 1842.

CHAPTER 18.

AN ACT to divorce Sarah East from her husband, Hardman E. W. East.

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

SECTION 1. That the marriage contract heretofore existing between Sarah East and her husband Hardman E. W. East, be and the same is hereby dissolved, from and after the passage of this act.

Approved January 25, 1842.

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[14] CHAPTER 19.

AN ACT for the incorporation of the town of Mount Pleasant, in Henry county, Iowa territory.

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

SECTION 1. **Boundaries—name.** That all that part or tract of land, lying in township seventy-one north, range six west, in the county of Henry, which is comprised in the town plat of Mount Pleasant, together with all additions that may hereafter be made and recorded thereto, be and the same is hereby constituted a town corporate, and shall be known by the name and title of the town of Mount Pleasant.

SEC. 2. **Qualified voters—election when and where to be held—officers to be elected and how—president and two councilmen a board—proviso.** That the qualified voters for members of the legislative assembly, who have resided within the limits of said corporation for thirty days immediately preceding any such election, shall meet at some suitable place within said corporation, on the first Monday in March next, and annually thereafter, then and there proceed to elect by ballot a president, four councilmen, and a recorder, who shall hold their offices for one year, and until their successors shall be elected and qualified; and the president and any two of the councilmen shall be a board for the transaction of business, but a less number may adjourn from time to time; provided, that in case of the death or absence of the president, the councilmen shall choose a president pro tem. from their own body.

SEC. 3. **Additional officers—oath to be taken—how to open polls, etc.—duty of clerk—duty of recorder.** At the first election to be held under this act, there shall be chosen, by the electors present, three judges and a clerk of said election, who shall each take an oath, or affirmation, faithfully to discharge the duties required of them by this act; and at all subsequent elections the councilmen, or any three of them, shall be judges, and the recorder, clerk of election; and at all elections to be held under this act, the polls shall be opened between the hours of nine and ten in the forenoon, and closed at five in the afternoon, of the same day; and at the close of the polls the votes shall be counted and a true statement thereof proclaimed to the electors present, by one of the judges; and the clerk shall make a true record thereof, and within five days after such an election the clerk shall give notice to the persons elected of their election; and it shall be the duty of the recorder, at each annual election, to give at least five days' notice thereof, by posting up notices at three of the most public places in said town.

SEC. 4. **President may call meetings—proviso—further duties of recorder—may appoint deputy.** It shall be the duty of the president to call meetings of said councilmen, by posting up written notices of such intention, in three of the most public places in said town, at least three days previous to such meeting, and also to preside at all such meetings: provided, that in case of the absence of the president, it shall be the duty of the recorder to give notice of such meeting, as above prescribed. And it shall be the duty of the recorder to keep a fair and accurate record of all their proceedings; and the said recorder is authorized, under his hand and seal, to appoint some competent person as his deputy, who, in his absence, shall do and perform all the duties enjoined upon the said recorder, and for whose acts the said recorder shall be liable.

SEC. 5. **Name of body politic, etc.—general powers of corporation—process how served.** The president, councilmen, and recorder, of said town shall [15] be a body corporate and politic, with perpetual succession, to be known and distinguished by the name of the president and council of the town of Mount Pleasant; and shall be capable in law, in their corporate name, to acquire property, real and personal, for the use of said town, and sell and convey the same; may have a common seal, which they may alter at pleasure; may sue and be sued, defend and be defended, in any court of competent jurisdiction; and when any suit shall be commenced against such corporation, the first process shall be by summons, which shall be served by an attested copy, to be left with the recorder, not less than seven nor more than twelve days before the return day thereof.

SEC. 6. **Officers to take oath, etc.** The officers elected by this act, shall each take an oath or affirmation, to support the constitution of the United States, and the organic law of this territory, (or the constitution of this state, as the case may be,) and also faithfully to discharge the duties of his office.

SEC. 7. **Further powers of corporation—power to levy fines, etc.—proviso—by-laws to be published—proviso.** The president and councilmen shall have power to ordain and establish by-laws, rules and regulations, for the government of said town, and the same to alter, repeal, or re-ordain at pleasure; and to provide in said by-laws for the election of a treasurer, two assessors, a town marshal, and other subordinate officers, which may be necessary for the good government and well being of the town; to prescribe their duties, declare their qualifications, and determine the period of their appointments, and the fees they shall be entitled to receive for their services; and require them to take an oath or affirmation, faithfully to discharge the duties of their respective offices; and may require of them such securities for the performance of the duties of their respective offices as shall be thought necessary. Said president and councilmen shall also have power to fix, to the violation of the by-laws and ordinances of the corporation, such reasonable fines and penalties as they may deem proper, and to provide for the disposition of such fines and penalties: provided also, that no by-laws or ordinances of said corporation shall have any effect until the same shall have been published, three weeks successively, in a newspaper published in said county, or by written notices, posted up in three of the most public places in said town: provided, that nothing done under the provisions of this section shall be incompatible with the laws of this territory.

SEC. 8. **Statement of receipts and expenditures to be published.** The president and councilmen shall, at the expiration of each six months, cause to be made out and published, a correct statement of the receipts and expenditures of the preceding six months.

SEC. 9. **Electors may levy taxes, etc.—ratio of tax—proviso—of nuisances, etc.** The electors of said town, in legal meeting, shall have power, by vote, to direct the levy of taxes upon all real and personal estate within the limits

of said corporation, not exceeding one-half per centum upon said real and personal estate in any one year; to regulate and improve the lanes and alleys, and determine width of side-walks: provided, that no property shall be taken from any individual until such individual shall be paid therefor, the value thereof to be ascertained by twelve disinterested freeholders, to be summoned by the marshal for that purpose; they shall have the power to remove all nuisances and obstructions from the streets and commons, and all other places within said town, and to provide for the removal of the same.

SEC. 10. **Corporation may grant licenses, etc.—proviso.** The president and councilmen shall be authorized to grant, or withhold, at their discretion, all licenses for the retailing of ardent spirits within the limits of the corporation, and to grant licenses and to regu-[16]-late or prohibit all shows and public exhibitions, and to appropriate the proceeds of all such licenses for the benefit of said town: provided, however, that the powers herein granted shall not be construed as to conflict with the general laws of this territory, or the future state of Iowa.

SEC. 11. **Road district—overseer.** The streets, lanes and alleys of said town shall constitute one road district, including the several traveled highways for the distance of one mile from the limits of said town or corporation, and the president and councilmen of said town, shall appoint one overseer of the same, who shall hold his office for one year from the time of his appointment.

SEC. 12. **Recorder's fees—president and councilmen not to receive compensation.** The recorder shall receive such fees for his services as the by-laws and ordinances of said corporation shall prescribe; but the president and councilmen shall receive no compensation, unless the same shall be considered necessary and right, by the electors of said town, in legal meeting assembled.

SEC. 13. **Tax on real and personal property authorized—proviso—limit of tax—duties of president.** For the purpose of enabling the president and councilmen to carry into effect the provisions of this act, they are hereby authorized, annually to levy a tax on all real and personal estate, within the bounds of said corporation, as the same has been or may be appraised: provided, said tax shall in no case exceed the sum for the same year, voted for and directed according to the provisions of the ninth section of this act; and provided that the said tax shall not exceed in any one year, one half per centum of aggregate amount of real and personal estate, within the limits of said town; and the said president and councilmen shall, between the first Mondays of April and May in each year, determine the amount of tax to be assessed and collected within the current year.

SEC. 14. **Tax duplicate to be made out—collection of taxes.** It shall be the duty of the president and councilmen, to make out a duplicate of taxes; charging each individual therein the amount of tax, in proportion to the real and personal estate of such individual within such town; which duplicate shall be signed by the president and recorder, and delivered to the marshal, or such person as shall be appointed collector, whose duty it shall be to collect the same, within such time and in such manner as the by-laws shall direct.

SEC. 15. **Power of collector to sell personal estate, etc.—notice of assessment to be published, etc.—real estate sold may be redeemed.** The said collector shall have power to sell personal estate, and for want thereof to sell real estate for the non-payment of taxes within said town; but no real estate shall be sold by reason of the non-payment of such tax or taxes, unless the assessment of such tax shall have been duly notified in some public newspaper printed in this territory, once each week, for at least six weeks before the day when said taxes are payable; nor unless the intended sale thereof be duly notified, by posting up three written notices of such sale, in three of the most public places in said town, for at least ten days before the day of such sale; nor unless such assessment and proceedings thereon be regular,

and in all things conformable to the provisions of this act; and moreover, all such real estate so sold, may be redeemed in the same manner and within the same period of time, as is, or may be provided by law, in case of any real estate sold for any county tax.

SEC. 16. **Power to repeal, etc., reserved.** This act may be altered, amended or repealed, by any future legislature of this territory, whenever a majority of the citizens of the said town of Mount Pleasant, shall petition for the same.

Approved January 25, 1842.

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[17] CHAPTER 20.

AN ACT to authorize Rachael Holcomb, as administratrix of the estate of Milo Holcomb, deceased, and as guardian of Elvin Milo Holcomb, minor heir of Milo Holcomb, deceased, to sell and convey certain real property.

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

SECTION 1. **Authority to sell and convey real property—time of credit.** That Rachael Holcomb, administratrix of Milo Holcomb, deceased, and guardian of Elvin Milo Holcomb, minor heir of said Milo Holcomb, deceased, is hereby authorized, either at private or public sale, to sell and to convey the following described real property, of which Milo Holcomb deceased, late of Washington county, died seized, to-wit: the northeast quarter of section number thirty-one, in township number seventy-four, north of range seven west, containing one hundred and sixty acres, on a credit not exceeding five years; or on payments to be made annually or otherwise, within five years subsequent to such sale, and conveyance as she may deem proper; which credits and payments are to be secured by mortgage, or other approved security.

SEC. 2. **To be appraised—appraiser under oath—value to be sold for.** That prior to any sale of the property aforesaid, said Rachael Holcomb shall cause said property to be appraised by three disinterested freeholders of said county; said freeholders being under oath or affirmation, to appraise the same according to the best of their knowledge and judgment; said oath or affirmation to be administered by, and filed together with said appraisement, with the clerk of district court of said county; and said property shall not be sold for less than three-fourths of the appraised value aforesaid.

SEC. 3. **Return of sale to the court—deed to be executed.** That upon the sale of the property aforesaid, said Rachael Holcomb, shall make a true and correct return to the district court of said county, at the next term of said court after said sale; and the court being satisfied that said sale has been made in compliance with this act, shall confirm the same; and upon the confirmation of said sale by the court, as aforesaid, the said Rachael Holcomb shall make and execute to the purchaser or purchasers, a good and sufficient deed in fee simple, for the said property; which said deed shall convey all the interest, right and title, of said heirs of said Holcomb to the said property, to the purchaser or purchasers.

SEC. 4. **Dower right.** That three-tenths of the proceeds of the sale of said property, shall be retained and held by said Rachael Holcomb, in lieu of her dower of the same; and the balance shall be retained and accounted for, as the assets of said estate by said administratrix.

SEC. 5. **Loan of proceeds.** That the said Rachael Holcomb shall, immediately upon the receipt of any payments from the purchaser or purchasers of

the real estate aforesaid, loan the same at an interest of at least six per centum per annum, (excepting the three-tenths of the same allowed by the fourth section of this act) and which shall be accounted for by the said administratrix, as assets of said estate.

SEC. 6. **To give security.** That the said administratrix as aforesaid, on or before the day of making out a deed, as provided for in the third section of this act, shall [18] give good and sufficient security, to be approved of by the district court aforesaid, for the faithful performance of the duties required of her by this act.

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

Approved January 25, 1842.

CHAPTER 21.

AN ACT to authorize Jason Wilson to erect a dam across Skunk river, in Lee county.

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

SECTION 1. **To construct a dam—point where constructed—manner of construction—time of completion.** That Jason Wilson, his heirs and assigns, are hereby authorized, to construct a dam across Skunk river in Lee county, in said territory, at a point on the southeast quarter of section seven, in township sixty-nine, north of range four west; which dam shall not exceed four feet above common low water mark, and shall contain a convenient lock not less than one hundred and thirty feet in length and thirty-five feet in width, for the passage of steam, keel, and flat-boats, rafts, and other water-crafts: provided, said water-craft will bear two tons burden: and provided, further, that said dam and lock shall be completed within the term of four years, from the passage of this act.

SEC. 2. **To keep lock in repair—toll free—damages.** That it shall be the duty of the persons authorized in the preceding section of this act, to build said dam, at all times to keep the lock in good repair; and they shall, at all reasonable times, pass any water-craft above mentioned, through free of toll, without any unnecessary delay; and any person who shall be unnecessarily detained, shall be entitled to recover of the owners, double the amount of damages they shall prove to have sustained, by reason of said detention.

SEC. 3. **Penalty for injury—damages on conviction.** That any person who shall destroy, or in anywise injure either said dam or lock, shall be deemed to have committed a trespass, and shall be liable accordingly; and any person who shall wilfully or maliciously destroy or injure said lock or dam, shall be deemed guilty of a misdemeanor; and on conviction thereof, shall be fined treble the amount of the damages the owner may have sustained, or be imprisoned at the discretion of the court.

SEC. 4. **Flowing other lands.** That nothing herein contained, shall authorize the individuals named in this act, their heirs and assigns, to enter upon and flow the lands of any person without the consent of such person; and they shall remove all such nuisances as may be occasioned by the erection of said dam, which may endanger the health of the vicinity.

SEC. 5. **To be amended or repealed.** That the legislature of this territory or state, may at any time alter, amend or repeal this act, so as to provide for the navigation of said river.

Approved January 25, 1842.

[19] CHAPTER 22.

AN ACT to authorize Thomas S. Parks to keep a ferry across the Mississippi river.

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

SECTION 1. **To keep a ferry—term of years—regulations—rate of toll.** That Thomas S. Parks, his heirs and assigns, be and they are hereby authorized, to establish and keep a ferry across the Mississippi river, at any point on section seven, in township number eighty-five, north of range number six, east of the fifth principal meridian, in the county of Jackson, for the term of ten years from the passage of this act: provided, that said ferry when so established, shall be subject to the same regulations and under the same restrictions, as other ferries are, or may hereafter be, by the laws of this territory, fixing the rate of toll, and prescribing the manner in which licensed ferries shall be kept and regulated.

SEC. 2. **Number of boats.** That said Thomas S. Parks, his heirs and assigns, shall, on or before the first of March next, procure and constantly keep for said ferry, a good and sufficient number of flat-boats, and other water-crafts, with a sufficient number of hands to work the same, for the transportation of all persons and their property, across said river when passable without delay.

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

Approved January 26, 1842.

CHAPTER 23.

AN ACT to locate a territorial road from Richmond, in Washington county, to intersect a road from Iowa City, to the county line of Washington county.

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

SECTION 1. **Names of persons to locate—time of meeting of commissioners.** That Nathaniel McClure, John B. Criswell, and Amos Embria, be and they are hereby appointed, to locate a territorial road from Richmond, in Washington county, to intersect a road from Iowa City, to the county line of Washington county, at or near Nathaniel McClure's, in Johnson county; said commissioners shall meet on the first Monday in April next, or at such other time within three months thereafter, as said commissioners shall agree upon.

SEC. 2. **Per diem—surveyor and pay—government of commissioners.** That said commissioners shall each receive two dollars per day for their services, in locating and establishing said road; said commissioners shall employ a competent surveyor, who shall receive two dollars per day for his services; chain carriers and other hands necessarily employed by them, shall each receive one dollar and fifty cents per day for their services; said commissioners shall, in all other respects, be gov-[20]-erned by an act entitled "an act to provide for laying out and establishing territorial roads," approved December 25, 1839.

SEC. 3. **Oath to be taken.** Said commissioners, before entering upon the duties of their office, shall each take and subscribe an oath, before some per-

son duly authorized to administer oaths, faithfully to discharge his duty as commissioner, to locate and establish said road.

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

Approved January 26, 1842.

CHAPTER 24.

AN ACT to district the county of Jackson, into three commissioners' districts.

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

SECTION 1. **County divided.** That the county of Jackson shall be, and is hereby divided into three districts, for the election of county commissioners.

SEC. 2. **First district.** That all that part of said county, lying west of range line dividing ranges two and three, east of the fifth principal meridian, shall compose the first district.

SEC. 3. **Second district.** All that part of said county, lying north of the township line dividing townships eight-five and eighty-six, and east of range line dividing ranges two and three east, shall compose the second district.

SEC. 4. **Third district.** All that part of said county, lying south of township line dividing townships eighty-five and eighty-six, and east of range line, dividing ranges two and three east, shall compose the third district.

SEC. 5. **Election of commissioners—time of service—continuance in office.** At the next annual election, there shall be elected by the qualified voters of said county, one county commissioner from each of said districts, who shall be residents of their respective districts; the person elected from the first district shall serve one year, and the one elected from the second district shall serve two years, and the person elected from the third district shall serve three years; and each commissioner elected according to the provisions of this act, shall continue in office until his successor is elected and qualified.

SEC. 6. **Election of successors—case of vacancy.** At the annual election next preceding the expiration of the time for which any of said commissioners were elected, and every three years thereafter, there shall be elected one commissioner, resident in the district in which the one resides, whose place he is intended to supply, who shall serve three years; in case of vacancy, a commissioner shall be elected from the district in which such vacancy may happen, whose term of service shall be for the unexpired term of his predecessor.

SEC. 7. **Removal without the limits.** If any one of said commissioners, elected as aforesaid, shall remove without the limits of the district in which he was elected, it shall be deemed and taken to be a resignation of his office.

SEC. 8. **Repeal.** All acts and parts of acts that contravene the provisions of this act, are hereby repealed.

Approved January 28, 1842.

[21] CHAPTER 25.

AN ACT supplementary to an act entitled "An act to authorize evidence by the oath of parties."

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

SECTION 1. **Examination of parties in suit—proof of set-off or demand—proof of keeping correct accounts.** That upon the examination of either party, upon the application of the opposite party, in any suit in any court in this territory, said suit being founded on contract, should said party be unable to testify to the correctness or incorrectness of any item or items, in the demand or set-off, the party wishing to prove said demand or set-off shall be allowed to swear to the correctness of said item or items; provided they shall have been charged by him in a regular account, and he shall prove by competent testimony that he is in the habit of keeping his account or accounts correctly.

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

Approved January 28, 1842.

CHAPTER 26.

AN ACT to authorize the county commissioners of Van Buren county to grant a license to Jesse Wright and Henry Bateman to keep a ferry across the Des Moines river at Watertown.

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

SECTION 1. **Grant of license for ferry for five years—regulation.** That the county commissioners of Van Buren county, be and they are hereby authorized and directed to grant a license to Jesse Wright and Henry Bateman, of said county, for the term of five years, to keep a ferry across the Des Moines river opposite Watertown: provided, said Wright and Bateman shall in all respects be subject to the law regulating ferries in this territory.

SEC. 2. **Construction of act.** This act shall not be so construed as to prevent L. P. Harris, his heirs or assigns, from obtaining a license to keep a ferry at any subsequent time.

SEC. 3. This act shall be in force from and after its passage.

Approved January 28, 1842.

CHAPTER 27.

AN ACT to authorize Robert M. G. Patterson to establish and keep a ferry across the Mississippi river at the mouth of Nassua Slough.

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

SECTION 1. **Right to keep a ferry—term of years—subject to regulations—construction of act.** That Robert M. G. Patterson, his heirs and assigns. [22] be and they are hereby authorized to establish and keep a ferry across

the Mississippi river at or near the mouth of Nassau slough, in the county of Lee, for the term of ten years from the passage of this act: provided, that said ferry, when so established, shall be subject to the regulations, and under the same restrictions, as other ferries are or may hereafter be by the laws of this territory, fixing the rates of tolls, and prescribing the manner in which licensed ferries shall be kept and regulated: provided also, that this act shall not be so construed as to interfere with the right that any individual may have to the lands on either side of the river.

SEC. 2. **Privilege of others—boat and number of hands—time allowed.** That no court or board of county commissioners shall authorize any person or persons to keep a ferry within the limits of one mile above the mouth of said Nassau slough: provided, that the said Robert M. G. Patterson shall keep at said ferry a good and sufficient flat-boat, with a sufficient number of hands to work the same, for the transportation of all persons and their property across said river, when passable, without delay, within five months from the passage of this act: and the said Robert M. G. Patterson shall, within five years, procure a good and sufficient horse or steam ferry boat.

SEC. 3. This act to take effect from and after its passage.

Approved January 28, 1842.

CHAPTER 28.

AN ACT to incorporate the Washington Manufacturing Company.

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

SECTION 1. **Body politic—to sue and be sued—conveying estate—value of property.** That Williard Hammond, James H. Gower, and Robert Gower, and such other persons as may associate themselves with them, be and they are hereby created a body politic and corporate, to be known by the name and style of the Washington Manufacturing Company and by that name shall have perpetual succession; may sue and be sued in all courts of law or equity, and shall be capable in law of purchasing, holding, selling, leasing and conveying estate, real, personal, or mixed, so far as may be necessary for the purposes herein named; and for all other purposes necessary to consumate the objects of this incorporation: provided the value of said property shall not exceed forty thousand dollars.

SEC. 2. **Power to construct a dam—lock—dimensions—time of construction.** That said Williard Hammond, James H. Gower, Robert Gower, their associates and successors, be and they are hereby authorized, to construct a dam across the Cedar River, at Washington ferry in Cedar county; which said dam shall not exceed five feet in height, and shall contain a convenient lock, at least one hundred and twenty-five feet in length, and at least thirty-five feet in width; which said lock shall always be kept in a condition convenient and practicable, for the passage of steam, keel, and flat-boats, rafts, and other crafts; and shall be finished within three years from the passage of this act.

SEC. 3. **Repair of lock—passage of boats free of toll—damages for detention.** That said company shall at all times, keep said lock in good repair; and shall, at all times, on the arrival of any boat or other water-[23]-craft as before specified, pass the same through said lock free of toll and without any unnecessary delay; and any person who shall be unnecessarily detained, shall be entitled to recover of said owners, double the amount of damage he may sustain by reason of such detention.

SEC. 4. **Penalty for malicious injury—imprisonment.** That if any person shall in anywise destroy or injure said dam or lock [he] shall be deemed to have committed a trespass, and shall be liable accordingly; and any person who shall wilfully and maliciously destroy or injure said dam or lock, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined treble the amount of damage the owners may have sustained, and be imprisoned at the discretion of the court.

SEC. 5. **Not to flow lands of others—health endangered.** That nothing in this act contained, shall authorize said company to enter upon or flow the lands of any person, without the consent of such person; and said company shall remove all such nuisances as may be occasioned by the erection of said dam, which may endanger the health of citizens in its vicinity.

SEC. 6. **Notice for meeting of members—by-laws and arrangements—not to conflict with laws of U. S.** That any member of said company, may at any time within one year from the passage of this act, by giving at least thirty days previous notice, call a meeting of its members; and said company when convened, shall call one of their number to preside, and may proceed to enact such by-laws, rules and regulations for its government, and such arrangements for the management and conduct of its business, as a majority of them may deem right and proper: provided, the same do not conflict with the laws of the United States, and of this territory and future state of Iowa.

SEC. 7. **Creation of shares not to exceed.** That the capital stock of said company, shall be divided into shares of one hundred dollars each, and as many such shares may be created as the company may direct: provided, they do not in the aggregate, exceed the sum of forty thousand dollars.

SEC. 8. **To be altered, amended or repealed—liability of all debts.** That the legislature of the territory or state of Iowa, may at any time alter, amend or repeal this act; each member of the Washington Manufacturing Company aforesaid, shall be personally liable for the payment of all debts due from the company.

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

Approved January 28, 1842.

CHAPTER 29.

AN ACT to incorporate a college at Washington, in Washington county.

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

SECTION 1. **Names ordained a body corporate—to sue and be sued—pleading, etc.—liability for all debts—common seal.** That George Vincent, William G. Lee, Albert Sturgess, George B. Stover, Alexander Lee, John Cleaves, Henry F. McCully, and William J. Case, and their associates and successors, be and they are hereby ordained, constituted and declared a body corporate in law, by the name and style of the Washington College; and by that name they and their associates and successors, shall have perpetual succession, and [24] shall be capable of suing and being sued, pleading and being impleaded, answering and being answered, defending and being defended, against all manner of actions, suits and complaints, in any of the courts of this territory, and the board of directors of said corporation shall be jointly and severally bound for all debts contracted by said board, in the name of said corporation: pro-

vided, there be an insufficient quantity of property belonging to said corporation to satisfy such demands; and said corporation shall have a common seal, and shall have power to alter or change the same at pleasure.

SEC. 2. **Place of meeting—record of vote and acceptation—election of president and directors—to fill vacancy.** That said corporation shall meet at the court house, in the town of Washington, in Washington county, on the first Monday in June next, and after they shall have agreed to accept this charter, by a vote of two-thirds of the members present, which vote and acceptation shall be recorded by the secretary of said corporation, in a book to be by him kept for that purpose; and at the same time and place the members of said corporation shall proceed to elect from their number seven directors, a president, secretary, and treasurer of said corporation, who shall hold their offices for the term of two years, and until their successors are elected and qualified; and said corporation shall have power to fill vacancies in such manner as they may think proper.

SEC. 3. **President to have no vote—secretary to keep a record—to give bond.** That the president shall be ex-officio president of the board of directors, but shall have no vote in the proceedings of said board of directors, and present such matters to said board for their consideration as he shall think proper; and the secretary of said corporation shall keep a fair record of the proceedings of said board; and the treasurer shall receive and disburse all moneys and effects of said corporation, by order of said board, and prior to his entering upon the discharge of the duties of his said office, shall give bond with sufficient security, in such sum as said board may designate, to be approved by said board of directors, conditioned for the faithful discharge of the duties of his said office; said bond shall be made payable to the Washington College, and on a failure of said treasurer to fulfill the conditions of said bond, the secretary of said corporation shall cause suit to be instituted thereon in the name of the Washington College and proceed to final judgment as in other cases at law.

SEC. 4. **By-laws and regulations—holding personal and real estate, and to sell.** That the board of directors may make such by-laws, rules and regulations, for the government of the said corporation, not contrary to the constitution and laws of the United States, or of this territory, and shall be capable of purchasing and holding any real and personal estate, in the name and for the use and benefit of said college; and shall have power to sell and convey any real and personal estate in their corporate name and capacity, as aforesaid, and do and perform all other acts necessary for the advancement of said corporation.

SEC. 5. **Process to be served on secretary.** That all process against said corporation shall be served upon the secretary thereof, and all mortgages and deeds of conveyance of real estate made by said corporation, shall be signed by the president and at least four of said directors, and attested by the secretary of said corporation.

SEC. 6. **Qualification for membership.** That all persons who shall subscribe the sum of twenty dollars for the benefit of said college, shall be entitled to membership in said corporation, and shall be entitled to at least one vote.

SEC. 7. **To alter or repeal.** That any future legislature of this territory shall have power to alter, amend, or repeal this act at pleasure.

Approved January 29, 1842.

[25] CHAPTER 30.

AN ACT to locate and establish a territorial road from Keosauqua to the southern boundary of the territory.

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

SECTION 1. **Names of commissioners—points of location—termination.** That John Cantril, William Cassady, and William Brooks, all of Van Buren county, be and they are hereby appointed commissioners, to lay out and establish a territorial road from Keosauqua to the southern boundary of the territory, via the northwest corner of the east half, of the southeast quarter of section seventeen, in township sixty-eight, north of range ten west; thence to Hales bridge on Fox river; thence to a point one-fourth mile north of William Wooden's on the Wyaconda; and thence to the southern line of the territory.

SEC. 2. **Meeting of commissioners—employment of surveyor and hands—compensation.** Said commissioners, or a majority of them, shall meet at Keosauqua on the first Monday in April next, or as soon thereafter (within six months) as a majority of them may agree, and proceed to the discharge of the duties enjoined upon them by this act, said commissioners shall employ one surveyor, and such other hands as may be necessary to accomplish said work; who, together with said commissioners, shall receive each such compensation as the board of commissioners of said county of Van Buren may allow.

SEC. 3. **Commissioners to comply with the law.** That said commissioners shall, in all other respects, be governed by and comply with the law now in force, regulating the laying out and establishing territorial roads. This act shall take effect and be in force from and after its passage.

Approved February 2, 1842.

CHAPTER 31.

AN ACT to revive an act to incorporate Iowa City, and for other purposes.

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

SECTION 1. **Former act revived.** That the act entitled "an act to incorporate Iowa City," approved January 15th, 1841, be and the same is hereby revived, and declared to be of full force and effect.

SEC. 2. **Time of election.** That the first election provided for in the second and seventh sections of the said act, shall take place on the first Monday of March next, and on the first Monday of March annually thereafter.

SEC. 3. That all parts of the act hereby revived, contravening this act, be and the same are hereby repealed.

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

Approved February 2, 1842.

[26] CHAPTER 32.

AN ACT amending an act defining the duties of supervisors of roads and highways.

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

SECTION 1. **Supervisor competent to prove warning.** That upon the trial of any action against any person or persons liable to work on the public roads, for the recovery of any penalty, fine or forfeiture, for a refusal or neglect to work on a public road, or for any other delinquency, the supervisor of the road, shall be a competent witness to prove the warning or notice given such person, and any other fact or facts necessary to establish such delinquency; any thing in any former act to the contrary notwithstanding.

Approved February 2, 1842.

CHAPTER 33.

AN ACT to amend an act entitled an act, for the benefit of settlers, etc., on the Half Breed lands.

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

SECTION 1. That the act to which this is amendatory, shall be, and is hereby so amended, that the price and value of improvements made under color of title on the Half Breed lands, lying in Lee county, allowed by the district court under the provisions of the act to which this is amendatory, shall be and remain a lien upon the lands on which such improvements are made, from the time of making said improvements, until the price so allowed shall be paid and satisfied.

Approved February 2, 1842.

CHAPTER 34.

AN ACT to re-locate a certain part of the territorial road, running from Burlington to the mouth of the Des Moines river.

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

SECTION 1. **Names of commissioners—meeting of commissioners—the best practicable route.** That Harman Booth, John Wright, and William Long of the county of Lee, be and they are hereby appointed commissioners to re-locate all that part of the territorial road from Burlington to the mouth of the Des Moines river, which lies between Keokuk and Montrose. It shall be the duty of said commissioners or a majority of them, to meet at Keokuk on the first Monday in March next, and having been duly sworn, proceed to re-locate and establish said road on the [27] nearest and best practicable route along the bluff; said commissioners conforming in other respects to the general act, providing for laying out and opening territorial roads, approved December 29, 1838.

SEC. 2. **Duty of sheriff to notify commissioners—failure of commissioners to meet.** It shall be the duty of the sheriff of the county of Lee, in the event of a majority of the commissioners aforesaid, failing to meet as aforesaid, to notify said commissioners to meet at Keokuk on any subsequent day; and in the event of a majority of said commissioners failing or refusing to act, it shall be the duty of the sheriff aforesaid, to select other suitable and disinterested persons, to serve in the places of such as refuse or fail to act and to notify them accordingly.

SEC. 3. **Compensation for services.** The commissioners and all other necessary persons employed in re-locating said road, shall be allowed such compensation for their services, as the board of commissioners of the county of Lee, may deem reasonable.

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

Approved February 3, 1842.

CHAPTER 35.

AN ACT to amend an act entitled "An act for opening and regulating roads and highways," approved January 17, 1840.

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

SECTION 1. **Application for laying out by petition to commissioners—designation of beginning and termination.** That all applications for laying out or re-locating any county road, shall be by petition to the commissioners of the county, signed by at least twenty legal voters, residing within three miles of where said road is to be laid out or relocated; which petition shall designate the place of beginning, the intermediate points, and the place of termination of said road; and said petition shall in all respects be prepared and acted upon as prescribed in the third section of the act to which this amendatory.

SEC. 2. **Option of commissioners to grant applications—discretion of commissioners—remonstrance against relocation.** That whenever application shall be made to the board of county commissioners, by the petition of less than twenty legal voters, for the reviewing, establishing, or re-location of any county road, it shall be optional with said commissioners to grant the same or not, at their discretion; and in all cases when application is made for the establishment of a road, and the same can with convenience be laid on a township or section line, the commissioners may, at their discretion, order the establishment of such road or roads without actual survey, but in no case shall the prayer of such petitioners be granted where there is a greater number remonstrating against the re-location or establishment of any such road or roads.

SEC. 3. **Power of commissioners to contract for bridges in certain cases.** When a bridge shall be necessary over any creek, river, pond, lake, slough, or place, where the supervisor or supervisors, with his or their hands, in whose district or districts the same may be, cannot conveniently make it, the board of county commissioners of the county wherein such creek, river, pond, lake, slough, or place, shall be, may at their discretion, and they are hereby empowered to contract and agree for the build-[28]-ing, keeping and repairing of such bridge, and to pay for the same out of any money in the county treasury not otherwise specially appropriated.

SEC. 4. **Parts of former act repealed.** That all parts of the act to which this is amendatory, contravening this act, be and the same are hereby repealed.

Approved February 2, 1842.

CHAPTER 36.

AN ACT to locate and establish a territorial road, from Denson's ferry, on the Wabesipinicon river, towards Dubuque.

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

SECTION 1. **Names of commissioners—points of route.** That Frederick Scarborough, and H. Bunk, of Jackson county, and Joseph D. Denson, of Cedar county, be and they are hereby appointed commissioners, to locate and establish a territorial road, commencing at Denson's ferry on the Wabesipinicon; thence to Milford, in Jackson county; thence the nearest and best route, so as to intersect the Military road in Dubuque county, some where in township eighty-seven, north, range one east.

SEC. 2. **Time of meeting.** That said commissioners shall meet at Denson's ferry, on the first Monday of May next, or at such other time during the year, as they may agree upon, and proceed to the discharge of their duties.

SEC. 3. **Compensation for services.** That each of the said commissioners named in the first section of this act, together with the surveyor, shall receive for their services two dollars, and the chain carriers and markers one dollar and fifty cents per day; which several sums shall be paid according to the provisions of an act for laying out and opening territorial roads: provided, that Frederick Scarborough, one of the said commissioners appointed by the first section of this act, shall receive three dollars per day, if he perform the duties of surveyor in addition to that of commissioner.

Approved February 8, 1842.

CHAPTER 37.

AN ACT to divorce Sarah Wilson, from her husband, John Wilson.

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

SECTION 1. That the bonds of matrimony heretofore existing between Sarah Wilson, of Scott county, and her husband John Wilson, be and the same are hereby dissolved, from and after the passage of this act; and that the said Sarah Wilson, be henceforth known by the name of Sarah Smith.

Approved February 8, 1842.

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[29] CHAPTER 38.

AN ACT to amend an act organizing a board of county commissioners in each county.

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

SECTION 1. **Sessions of commissioners not to exceed—to hold extra sessions.** That the number of days occupied at the regular sessions of the boards of

county commissioners, in the several counties within this Territory, shall not exceed eighteen in any one year; not more than six days at their session in July, and not more than four days at each other session required to be held by the act to which this is an amendment: provided, however, that when the public interest requires it, said commissioners shall hold extra sessions, which shall not exceed six days in each year.

SEC. 2. **Expenditures to give items—condition of the finances of the county.** That the statement of the receipts and expenditures of the county, required to be published by the tenth section of the act to which this is amendatory, shall contain a full and particular description of each item, from whom and on what account received, and to whom and on what account expended, together with an accurate statement of the actual condition of the finances of the county, at the end of each fiscal year, including all debts and liabilities of every description, and the assets and other means to discharge the same.

SEC. 3. **Per diem for services.** That the county commissioners shall receive two dollars per day for every day necessarily employed under the provisions of law.

SEC. 4. **Clerk to execute a bond—oath or affirmation.** That upon the taking effect of this act, the commissioner's clerk, in each of the counties in this Territory, is hereby required to execute a bond, with two or more securities, to the acceptance of the board of county commissioners of the proper county, in the penal sum of two thousand dollars, payable to the Territory of Iowa, and conditioned for the faithful discharge of the duties of his office, and shall also take and subscribe an oath or affirmation to be endorsed on said bond, that he will faithfully and impartially discharge the duties of his office, to the best of his skill and ability; which bond, so endorsed, shall be deposited with the county treasurer, and be by him carefully preserved.

SEC. 5. **Suit upon bond.** That suit may be instituted on such bond against the commissioner's clerk and his securities, in the name of the Territory of Iowa, and for the use of the Territory, county, or any party or person injured by the misconduct in office of said clerk, or by the omission of any duty required of him by law.

SEC. 6. **Clerk's fees.** That the county commissioners' clerk shall receive as a compensation for his services the following fees: for recording the proceedings of the county commissioners, or other record, and entering the accounts necessary to be kept in his office, for every one hundred words, ten cents; for making calculation and carrying out the amount of tax on assessment roll, two dollars per day while necessarily employed; for every order on the county treasury, five cents; for making out abstracts of the assessment roll, and certifying the same as required by law, for every sheet of one hundred words, eight cents; and for every other service required of him by law, the county commissioners shall allow him two dollars per day, and no more.

[30] SEC. 7. That the seventh section of said act be and the same is hereby repealed.

SEC. 8. **Duty of clerks to certify and transmit abstracts of the value of property.** The clerk of the board of commissioners for each county shall, on or before the tenth day of December in each year, certify under his hand, and transmit to the auditor of public accounts, by mail, an abstract of the aggregate valuation of the taxable property of the county, as taken from the corrected vaulation of the assessment rolls for that year, as corrected and equalized by the commissioners.

SEC. 9. This act to take effect and be in force from and after the first Monday in April next.

Approved February 8, 1842.

CHAPTER 39.

AN ACT to amend an act entitled "an act establishing a certain territorial road, therein named, approved January 13, 1841.

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

SECTION 1. **Names of commissioners.** That N. Seeley and R. J. Cleaveland, of Jones county, and Charles Dallis, of Cedar county, be and they are hereby appointed commissioners to re-locate all that certain portion of a road, approved January 13th, 1841, running from West Liberty to intersect the military road, in direction to Dubuque, laying between Red Oak Grove, in Cedar county, and Edinburgh, in Jones county.

SEC. 2. **Place of meeting.** That said commissioners shall meet at Red Oak Grove, on the first Monday of April, 1842, or at such other time during the year as they may agree upon, and proceed to the discharge of their duties.

SEC. 3. **Compensation for services.** That each of said commissioners named in the first section of this act, together with the surveyor, shall receive for their services two dollars, and the chain carriers and markers one dollar and fifty cents per day; which several sums shall be paid according to the provisions of an act for laying out and opening Territorial roads: provided, that R. J. Cleaveland, one of the commissioners appointed by the first section of this act, shall receive two dollars and fifty cents per day, if he shall perform the duties of surveyor in addition to those of commissioner.

Approved February 8, 1842.

CHAPTER 40.

AN ACT to divorce Nicey Hull, from her husband, Charles Cornelius Hull.

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

SECTION 1. That the bonds of matrimony heretofore existing between Nicey Hull, and her husband Charles Cornelius Hull, be and the [31] same are hereby dissolved, from and after the passage of this act; and that the said Nicey Hull be henceforth known by the name of Nicey Livingston.

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

Approved February 8, 1842.

CHAPTER 41.

AN ACT to divorce Sarah Connelly, from her husband, William Connelly.

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

SECTION 1. That the marriage contract heretofore existing between Sarah Connelly and William Connelly, be and the same is hereby dissolved.

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

Approved February 8, 1842.

CHAPTER 42.

An ACT to provide for opening and improving the Military Road.

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

SECTION 1. That the board of commissioners of the several counties in this Territory, through which the military road from Dubuque via Iowa City, to the Missouri line passes, be and they are hereby authorized to cause all portions of said military road, that is located through their respective counties, to be opened and improved under like circumstances, that territorial roads are opened and improved.

SEC. 2. That this act shall take effect and be in force from and after the first day of April next.

Approved February 8, 1842.

CHAPTER 43.

AN ACT to authorize William Smith and Vincent G. Smith, to keep a ferry across the Mississippi river, in Jackson county.

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

SECTION 1. **Authority to keep a ferry—location and limits—proviso.** That William Smith and Vincent G. Smith, their heirs or assigns, be and they are hereby authorized to keep a ferry across the Mississippi river, at their landing on fractional section number twenty-four, township eighty-seven north, range four east of the fifth prin- [32] -cipal meridian, and for one mile above said landing; and that said Smiths, their heirs or assigns, have the exclusive privilege of ferrying within the above limits for the term of ten years: provided, that said ferry when so established, shall be subject to the same regulations and under the same restrictions, as other ferries are now or may hereafter be by the laws of this territory or state, as the case may be, fixing the rates of tolls, and prescribing the manner in which licensed ferries shall be kept and regulated.

SEC. 2. **Horse or steam boat to be kept—flat-boat and hands to be kept.** That said William Smith, and Vincent G. Smith, their heirs or assigns, shall, within three years from the passage of this act, procure a good and sufficient horse or steam ferry boat for said ferry; which shall be kept at said ferry for the transportation of all persons and their property across said river without delay; and until said ferry boat shall be provided as aforesaid, the said Smiths, their heirs or assigns, shall keep at said ferry a good and sufficient flat-boat, and a sufficient number of hands to work the same, for the transportation of all persons and their property across said river when passable, without delay.

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

Approved February 10, 1842.

CHAPTER 44.

AN ACT to provide for a special term of the supreme court and to change the time of holding the annual session of the same.

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

SECTION 1. **Term of supreme court where held—proviso.** That a term of the supreme court of the said Territory, shall be holden at Iowa City, on the tenth day of January, A. D. 1842: provided, however, that this act shall not have such effect as to prejudice or affect the rights of any parties in any suit, action, process, matter or proceeding, now pending in said court, or returnable before the same at the next regular term thereof; but that all suits, actions, writs, process, and pleading, now made returnable to said regular term of said court, shall be returned, have day, and be heard and tried at said next regular term, in the same manner as if this act had not been passed.

SEC. 2. **When and where holden after the year 1842.** *And be it further enacted,* That from and after the year eighteen hundred and forty-two, the annual term of the said supreme court shall be held at the seat of government, on the first Monday in January in each year.

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

Approved January 10, 1842.

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[33] CHAPTER 45.

AN ACT to locate and establish a territorial road from Marion, in Linn county, to the Indian boundary, in Benton county.

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

SECTION 1. **Names of commissioners—route of road.** That the board of commissioners of Linn county, if they deem it expedient, are hereby authorized to appoint S. W. Durham and B. C. McGonigal, of Linn county, and William B. Harrison, of Benton county, commissioners to lay out and establish a territorial road from Marion, in Linn county, to the Indian boundary in Benton county, via Nation settlement and B. McGonigal's in Washington township, in Linn county, thence the nearest and most practicable route to Wm. B. Harrison's, near said boundary line in Benton county.

SEC. 2. **When and where commissioners to meet.** That said commissioners shall meet in the town of Marion, on the first Monday in April next, or on such other time within six months thereafter, as a majority of them may agree upon, and proceed to the discharge of their duty according to an act to provide for laying out and opening territorial roads, approved December 29th, 1838.

SEC. 3. **Compensation of commissioners—proviso.** That said commissioners shall receive for all time necessarily employed in the discharge of their duty, the sum of two dollars per day: provided, however, that S. W. Durham, in addition to his services as viewer, shall receive one dollar per day as surveyor, and the chain carriers and markers shall receive each one dollar and fifty cents per day.

Approved February 10, 1842.

CHAPTER 46.

AN ACT to amend an act entitled "an act in relation to the safe custody of persons, arrested for crimes and misdemeanors.

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

SECTION 1. **County to be paid for custody of prisoners—rate of compensation.** That the board of commissioners of any county, from which a prisoner may be transferred under the provisions of the act to which this is amendatory, shall pay the county to which such prisoner may be transferred, the sum of two dollars per month for each prisoner during his confinement, for the use of the jail of such county.

Approved February 10, 1842.

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[34] CHAPTER 47.

AN ACT defining the jurisdiction of the supreme and district court.

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

SECTION 1. **Appellate jurisdiction—in what cases final and conclusive.** That the supreme court of this Territory, shall exercise appellate jurisdiction only as is hereinafter provided, and shall have final and conclusive jurisdiction of all matters of appeal, error or complaint, from the judgments or decrees of any of the district courts of this Territory, and from such other inferior courts as may hereafter be established by law, in all matters of law and equity, where the rules of law or the principles of equity appear from the files, records or exhibits of any such court, to have been erroneously determined.

SEC. 2. **Powers.** The said supreme court is hereby empowered and authorized to take cognizance of all such causes as may be brought before them in manner aforesaid; and to carry into complete execution all their judgments and decrees, according to the rules and principles of common law and equity, and their judgment and decrees shall be final and conclusive on all parties concerned.

SEC. 3. **Rules of practice, etc.** The said supreme court may, from time to time, institute such rules of practice, forms of process to be used, and rules for keeping the dockets, records, and proceedings of said court, as shall be by them deemed conducive to the administration of justice.

SEC. 4. **Court stands adjourned until a quorum of justices attend.** If there shall not be a quorum of the justices of the supreme court, on the first day of the term, the court shall stand adjourned from day to day until a quorum shall attend; and if from any cause the supreme court shall not sit on any day during a term, there shall be no discontinuance by reason thereof.

SEC. 5. **Supervision of inferior courts—writs of error.** The said supreme court shall have the general supervision of all inferior courts, to prevent and correct abuses where no other remedy is expressly provided by law, and shall have authority to issue writs of error, certiorari, habeas corpus, procedendo, supersedeas, and all other writs and process which may be necessary for the due execution of law, the administration of justice, and the perfect exercise of their jurisdiction.

SEC. 6. **Writs of error shall be writs of right—time allowed to infants,etc., to take—not to operate as a supersedeas—proviso—bond to be given to opposite party—amount of bond.** Writs of error from the supreme court to the district courts, shall be writs of right, and may be taken at any time within two years after the rendition of judgment or decree, by any party who shall feel himself aggrieved by said judgment or decree; and if any such party entitled to such writ of error, shall be an infant, feme covert or non-compos, then in two years after the removal of such disability. No writ of error shall operate as a supersedeas, unless some one of the justices of the supreme court shall endorse upon the transcript of the court below the allowance of said writ of error for probable cause of error, and in all such cases, the party issuing out such writ of error, shall give bond to the opposite party with good security, to be approved of by said judge or by the clerk of the district court where such cause was tried; conditioned duly to prosecute said writ of error, and to pay all costs, interest, damages, and the principal debt, in case the judgment or decree of the court below shall be affirmed; such bond shall be in a sum sufficient to cover principal, interest, damages and costs.

[35] SEC. 7. **Application for writ of error—duty of clerk—of sheriff—of court—when defendant resides out of Territory.** The party applying for a writ of error, shall file a transcript of the cause with the clerk of the supreme court, who shall issue a writ of scire facias to hear errors, to the sheriff of the proper county to be served on the adverse party; and if thirty days shall have elapsed from the time of serving said scire facias, and the first day of the supreme court, the said court shall proceed to hear and determine said cause, whether the defendant in error appear or not; if thirty days do not intervene, the cause shall be continued until the next term of court, unless the defendant in error shall enter a voluntary appearance. Whenever the defendant in error resides out of the Territory, and process shall be returned not found, the plaintiff in error may cause publication of the cause to be made, according to such rules as the court may establish, and at the next term after such publication, the court shall proceed to hear the cause in the same manner as if process of scire facias had been duly served.

SEC. 8. **Appeals allowed—in case of writs of error with supersedeas proceedings to be stayed.** Appeals shall be allowed from the district court to the supreme court, as is now provided by law. In cases of writs of error with a supersedeas, it shall be the duty of the clerk of the supreme court as soon as the transcript with the bond, conditioned and approved as above, is filed in his office, to issue a writ of supersedeas directed to the sheriff of the proper county, who shall, on receiving the same, stay all proceedings in his hands if execution has issued, and file the same with the clerk of the district court, and said clerk shall not issue execution thereafter, unless ordered by writ of procedendo from the supreme court.

SEC. 9. **Kind of judgment to be given—damages given when appeals, etc., taken for delay only—rate of damages in certain cases.** The supreme court shall give judgment according to the very right of the cause; and if the judgment shall be reversed from any informality or other proceeding, not requiring a new trial in the court below, they shall give such judgment as the district court ought to have given, and issue execution in the same manner as the district court ought to have done; and on all appeals, or writs of error, taken after the passage of this act, if the said supreme court shall be satisfied that the same is taken for delay only, they may give damages not exceeding twelve per cent. against the appellant or plaintiff in error. If the appellant or plaintiff in error shall not file a transcript of the cause, on or before the third day of the term, the appellee or defendant may file a certificate of the clerk of the court below, that an appeal or writ of error has been taken in the cause, with the

names of the sureties in the appeal or writ of error; thereupon it shall be the duty of the supreme court, to dismiss the appeal or writ of error with ten per cent. damages.

SEC. 10. **Limits of jurisdiction—plaintiff may not sue out of county—proviso.** The district courts shall be held at the court houses in each county; and the judges thereof shall have jurisdiction over all matters and suits at common law and in chancery, arising in each county in their respective districts; when the debt or demand shall exceed fifty dollars, and in all cases of appeal or certiorari from a justice of the peace, judge of probate, or the board of county commissioners, a plaintiff shall not sue a defendant out of the county where he resides, or where he may be found, unless the debt, contract, or cause of action, occurred in the county where the plaintiff resides, or the contract was specifically made payable or to be performed there, when it shall be lawful to sue in such county, and process may issue to the sheriff of the county where the defendant resides; and when there are several defendants living in different counties, the plaintiff may sue, either in the county where the cause of action [36] arose, or where any of the defendants reside, and shall have like process against such as reside out of the county where the action is commenced.

SEC. 11. **Judges to be conservators of the peace—powers as such.** The said judges of the district court, shall be conservators of the peace, and the said courts in term time, and the judges thereof in vacation, shall have authority to award throughout the Territory, returnable to the proper county, writs of injunction, ne exeat, habeas corpus, quo warranto, mandamus, and other writs and process, which may be necessary to the due execution of the powers with which they are or may be invested.

SEC. 12. **Powers of courts.** The said courts shall respectively have authority to hear and determine, all cases of crimes and misdemeanors of whatever kind, that may be committed within any county, and that may be brought before them, by any rules and regulations provided by law.

SEC. 13. All acts and parts of acts contravening the provisions of this act, be and the same are hereby repealed.

SEC. 14. This act to be in force from and after its passage.

Approved February 10, 1842.

CHAPTER 48.

AN ACT concerning oaths and affidavits.

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

SECTION 1. **What officers are empowered to administer oaths.** That the following officers are hereby authorized and empowered to administer oaths and affidavits, in all cases wherein such oath or affidavit may be required by law, viz.: Justices of the peace, clerks of the district court, the clerk of the supreme court, notaries public, and judges of probate.

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

Approved February 10, 1842.

CHAPTER 49.

AN ACT to revive the twelfth section of "an act establishing certain territorial roads therein named," approved July 14, 1840.

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

SECTION 1. **Names of commissioners—route of road.** That Green B. Savery, of Jefferson county, Samuel R. Holcomb, and Samuel Levearenger, of Van Buren county, be and they are hereby appointed commissioners to lay out and establish a territorial road from Fairfield, in Jefferson county, to Portland, in Van Buren county; thence to the northern boundary of Missouri, in a direction toward Jefferson City in Missouri.

SEC. 2. **When and where commissioners—oath to be taken—surveyor and others—oath—compensation.** That said commissioners, or a majority of them, shall meet at Fairfield on the second Monday in March next, or some subsequent day [37] during the year, and after being duly sworn to discharge their duties faithfully and impartially, and after taking to their assistance a competent surveyor, and the necessary number of assistants, who shall also take an oath or affirmation to discharge their duties faithfully, they shall proceed to locate and establish said road, agreeably to the provisions of "an act for laying out and opening territorial roads," and shall receive such compensation as is allowed by law, for laying out county roads.

SEC. 3. This act shall be in force from and after its passage.

Approved February 10, 1842.

CHAPTER 50.

AN ACT amendatory to an act to authorize John R. Sparks and his associates, to erect a dam across the Des Moines river.

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

SECTION 1. **Amendment of act—authority to construct dam—location and limit.** That the first section of an act entitled "An act to authorize John R. Sparks and his associates to erect a dam across the Des Moines river," approved January 15, 1841, be so amended as to read thus: That John R. Sparks and his associates, be and they are hereby authorized to construct a dam across the Des Moines river, in Van Buren county, in said Territory, on the southwest quarter of section number twenty-seven, in township sixty-nine, range nine west; which dam shall not exceed three feet in height above common low water mark, and shall contain a convenient lock, not less than one hundred and thirty feet in length and thirty-five feet in width, for the passage of steam, keel, and flat-boats, rafts, and other water crafts; provided said water crafts will bear two tons burden.

SEC. 2. **First section of amended act repealed.** That the first section of the act to which this is amendatory is hereby repealed.

Approved January 10, 1842.

CHAPTER 51.

AN ACT to authorize the county commissioners of Delaware county, to pay William Smith, senr., William Jones, and Thomas Denson, for their services as commissioners to locate the county seat of said county.

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

SECTION 1. **Per diem of commissioners locating the county seat of Delaware county.** That William Smith, Senr., of Dubuque county, William Jones of Jackson county, and Thomas Denson of Jones county, be and they are hereby allowed the sum of three dollars each per day, for their services as commissioners, in locating the county seat of Delaware county, agreeably to an act entitled "An act to amend an act entitled 'an [38] act to provide for the organization of the county of Delaware, and to locate the county seat thereof,'" approved July 24, 1840.

SEC. 2. **County commissioners to pay the same.** That the county commissioners of said county are hereby required to pay the same out of any money in the county treasury of said county, not otherwise appropriated.

Approved February 10, 1842.

CHAPTER 52.

AN ACT to amend an act to district the territory of Iowa into electoral districts, approved July 30, 1840.

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

SECTION 1. That the county of Clinton be and is hereby set apart from the county of Scott, in the election of members to the house of representatives, and shall be entitled to one member, and Scott county to one member, and the two shall elect one member to the council, as directed in the act to which this is an amendment.

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

Approved February 10, 1842.

CHAPTTR 53.

AN ACT to make certificates of purchase of lands, from any register or receiver of any land office in this territory, evidence of title in the purchaser.

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

SECTION 1. **Nature of action—receipt of receiver or certificate of register prima facie evidence of title—to have the same effect as a deed or patent.** That in any action of tresspass, quarre clausum fregit, action of right, or other actions at law, or in equity, in which the title to or possession, or right of possession, of lands or tenements, may come in question, now or hereafter pending in any court

of this Territory, or before any justice of the peace, the usual duplicate receipt of the receiver, or the certificate of the register, of the proper land office, shall be sufficient prima facie evidence of title, or of right of possession, (as the case may require,) in the person mentioned in such certificate or receipt, as the purchaser of such lands or tenements, or in the assignee of such receipt or certificate, as the case may be, to support such action; and such certificate shall have the same effect in establishing a possession in law as is given to a deed of conveyance or a patent.

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

Approved February 10, 1842.

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[39] CHAPTER 54.

AN ACT to review and re-establish a part of the territorial road from Keokuk, in Lee county, to Iowaville, on the Des Moines river.

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

SECTION 1. **Names of commissioners—route of old road—route of new road.** That Joseph Roberts, Henry Wilson, and James Allen, be and they are hereby appointed commissioners to review and relocate that part of the territorial road, established according to the provisions of "An act to locate and establish a territorial road from Keokuck, on the Mississippi river, to Iowa City, (now Iowaville,) on the Des Moines river, approved December 14, 1839," which commences at the horse tail reach, on said river, and runs to the said town of Keokuck; and that the said commissioners are hereby required to establish the portion of said road hereby ordered to be reviewed, as near the Des Moines river as practicable, and in their opinion right and proper.

SEC. 2. **When and where commissioners to meet—in case of failure to meet the sheriff of Lee county to notify commissioners of time and place of meeting.** That the commissioners aforesaid, or any two of them, shall meet at Keokuck on the second Monday in April next, to proceed to the discharge of their duties, and may adjourn from day to day as circumstances may require; and in case said commissioners, or any two of them, shall fail to attend on the day appointed, at the place aforesaid, then the sheriff of Lee county is hereby authorized and directed, on the application of any one of said commissioners, either written or verbal, to notify in writing said commissioners of some other time of meeting to be by him appointed, and request their attendance at such time and place aforesaid.

SEC. 3. **Compensation of commissioners—by what governed.** That each of said commissioners shall receive the sum of two dollars per day for his services, while engaged in the performance of his duties required by this act; and shall be governed in every respect by the "act to provide for laying out and opening territorial roads," approved December 29, 1839.

Approved February 10, 1842.

CHAPTER 55.

AN ACT to re-locate a part of a territorial road, from Farmington to Dubuque.

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

SECTION 1. **Names of commissioners—route of road.** That David Walker, Roland Grant, and Alexander Gilmore, be and they are hereby appointed commissioners, to relocate that part of said road lying between Mrs. Casey's and Mr. Acorn's, in Lee county.

SEC. 2. **When and where commissioners to meet.** That said commissioners, or a majority of them, shall meet at West Point, on the first Monday of March next, and proceed to relocate and establish said road.

SEC. 3. **Compensation of commissioners, surveyor to be allowed by county commissioners.** That the said commissioners shall take to their assistance a [40] surveyor, and such number of chain carriers and other hands, as the said commissioners may deem necessary; which said surveyor, chain carriers and others so employed as aforesaid, shall be entitled to such compensation as may be allowed by the board of county commissioners.

SEC. 4. This act shall be in force from and after its passage.

Approved February 10, 1842.

CHAPTER 56.

AN ACT to authorize the establishment of certain dams across Skunk river.

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

SECTION 1. **Wm. Pickerell authorized to construct a dam across Skunk—location of dam.** That William Pickerell, his heirs or assigns, be and they are hereby authorized to construct, keep, and maintain a dam across Skunk river, in Washington county, in this Territory, at any point on the southwest quarter of section number twenty, in township number seventy-four, north of range eight west.

SEC 2. **Persons injuring said dam guilty of trespass—maliciously destroying dam guilty of misdemeanor—penalty.** Any person who shall destroy, or in any wise injure said dam, shall be deemed to have committed a trespass, and shall be liable accordingly; and any person who shall wilfully or maliciously destroy or injure said dam shall be deemed guilty of a misdemeanor, and on conviction thereof, before any court of competent jurisdiction, shall be fined treble the amount of damages the owners may have sustained, or be imprisoned at the discretion of the court.

SEC. 3. **Not to enter or flow other lands.** Nothing herein contained shall be so construed, as to authorize the said William Pickerell, to enter upon and flow the lands of any person, without the consent of such person.

SEC 4. **Not to prevent Wm. Russell and Samuel Crippin from the privilege of one half the water—proviso.** That nothing in this act contained, shall be so construed as to prevent William Russell and Samuel Crippin, their heirs and assigns, from the privilege of taking out of the mill-pond (occasioned by said dam) by means of a race or otherwise, one-half of the water which may flow down the channel of said river, for their own use and benefit: provided, that said Russell and Crippin, their heirs and assigns, shall defray one-half of the necessary expenses of keeping said dam in repair.

SEC. 5. **Wm. Russell and Sam'l Crippin to erect a dam across a bayou of Skunk—location—proviso.** That the said William Russell and Samuel Crippin,

their heirs and assigns, be and they are hereby authorized to erect and keep a dam across a bayou of Skunk river; where the county and territorial roads leading from Washington to Brighton, in Washington county, crosses said bayou on the south half of the northwest quarter of section number twenty, in township number seventy-four north of range number eight west, and situated in the county aforesaid; provided, they do not enter upon and flow the lands of any other person without his consent.

SEC. 6. **Persons to injure or destroy guilty of trespass—wilfully or maliciously doing so guilty of misdemeanor—penalty.** That if any person shall destroy, or in any wise injure said dam, he shall be deemed to have committed a trespass, and shall be liable accordingly; and any person who shall wilfully or maliciously destroy or injure said dam, shall be deemed guilty of a misdemeanor, and on conviction thereof, before any court of competent jurisdiction, shall be fined [41] treble the amount of damages the owners may have sustained, or be imprisoned at the discretion of the court.

SEC. 7. **May be altered, amended or repealed.** Any future legislature of the Territory of Iowa or State, (as the case may be) may at any time, alter, amend, or repeal this act.

SEC. 8. This act shall take effect and be in force from and after its passage.

Approved February 10, 1842.

CHAPTER 57.

AN ACT to incorporate the town of Davenport.

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

SECTION 1. **Inhabitants of the town of Davenport made a body corporate—name and style—powers.** That the inhabitants of the town of Davenport, be and they are hereby constituted a body politic and corporate, with perpetual succession, by the name of "the Mayor and Aldermen of the town of Davenport," and by their corporate name may sue and be sued, plead, and be impleaded; may receive, purchase, acquire and hold, and grant, sell and convey, real, personal and mixed property, and do all other acts as natural persons may do; may have and use a common seal, the same at pleasure or break.

SEC. 2. **Boundaries.** The limits of boundaries of said town shall be as follows: Beginning at the point in the middle of the main channel of the Mississippi where the western boundary line of the old town of Davenport, extended, would intersect the middle of the said main channel; thence running northward by and along said western boundary line, to the northwest corner of said old town; thence eastwardly along the northern boundary line of said old town, to the northeast corner thereof; thence eastwardly and along the northern line of blocks numbered on the plat of Le Clair's addition to said town, as blocks number forty-nine, fifty, fifty-one, and fifty-two, to the northeast corner of block fifty-two; thence in the same direction across Rock Island street; thence southwardly along the eastern side of said street to Sauk or Second street; thence eastwardly along the northern boundary of said last mentioned street, to where the same if extended, would reach low water mark on the bank of the Mississippi river; thence at right angles to the last course, to the middle of the main channel of said river, and thence down and along the middle of said main channel to the place of beginning.

SEC. 3. **Town divided into wards—1st ward, 2d ward, 3d ward.** The said town shall be and the same is hereby divided into three wards as follows: All

that part of said town lying west of the middle of Harrison street, shall constitute the first; all that part of said town lying between the middle of Harrison street and the middle of Brady street, shall constitute the second ward; and all that part of said town lying east of the middle of Brady street, shall constitute the third ward.

SEC. 4. **Officers—qualifications—duties of mayor—provision in case of absence, death or resignation of mayor.** The said corporation shall consist of a mayor, who shall be a resident of said town, and six aldermen, two aldermen to be elected in each ward, and to be residents of the ward in which they shall be elected; and the said mayor and aldermen shall be over twenty-one years of age; the mayor shall preside at all meetings of the corporation, but [42] shall not vote on any question except in case of a tie, when he shall give the casting vote. In case of the death, absence, resignation, sickness, or other disability of the mayor, the aldermen shall elect one of their number mayor pro tempore, who shall have all the authority, and perform all the duties of mayor during his absence, or until another shall be elected and qualified.

SEC. 5. **How and when polls to be opened—qualification of voters—proviso.** On the first Saturday of April, 1842, and on the first Saturday of April annually thereafter, polls shall be open at one convenient place in each ward, in said town, at which the qualified voters for members of the legislative assembly, residing within the limits of the ward in which they shall offer their votes, may vote by ballot for a mayor and two aldermen; and the mayor and aldermen so elected, shall hold their offices for one year, and until their successors are elected and qualified: provided, that a failure to hold said election on the day herein prescribed, in any year, shall not work a forfeiture of this charter; and an election may be on any succeeding day, by giving notice thereof according to the provisions of the eleventh section of this act.

SEC. 6. **First election—how held—judges of election—clerk—vacancies—qualification of judges and clerks of election—duties of clerks of elections—result of election to be proclaimed—certificates of votes examined—certificate of elections given—oath to be taken—proviso.** At the first election to be held under this act, two judges of election and one clerk in each ward, shall be chosen viva voce, by the electors of the ward present; and at all subsequent elections the mayor and aldermen, shall at least one day previous to such elections, appoint two judges of elections for each ward; and said judges for each ward respectively, shall appoint their own clerk; and in case of failure of said judges, or either of them to attend, or of refusal to act, the electors present shall choose viva voce a judge or judges to supply such vacancies. No person shall be competent to act as a judge or clerk at such election, who is not a qualified elector. At all such elections the polls shall be opened between the hours of one and two in the afternoon, and closed at the hour of four in the same afternoon; and the clerk at each ward shall keep a poll book, in which he shall enter the name of every voter, in the order in which he shall vote; and at the close of the polls the votes shall be counted by said judges and clerk, and an entry made on the poll books of the number of votes given to each person voted for, and for what office, which shall be certified by the said judges and clerk, and a statement of the result of the election, shall be proclaimed at the door of the house in which election shall be held; and the two judges and clerk of each ward shall give to each of the two persons having the greatest number of votes in their wards for alderman, a certificate of his election; and the judges of the different wards, shall attend at the office of the mayor, between the hours of nine o'clock a. m. and twelve m., on the first Monday after the election with the poll books, and shall examine the certificate of the votes given to each person at the different wards for mayor; and the person having the greatest number of votes, shall be declared duly elected mayor of said town; and the said judges shall make and

deliver to such person, a certificate of his election, which shall be signed by at least a majority of all the judges of said three wards. The mayor and aldermen so elected shall, within ten days after their election, take and subscribe an oath to support the constitution and laws of the United States, and of Iowa, and faithfully, impartially, and to the best of their ability, to discharge the duties of their respective offices; which shall be deposited with and safely kept by the clerk of said corporation: provided, however, that the judges of the first election held under the act, shall [43] meet to examine the returns for the several wards at the office of the district court of Scott county.

SEC. 7. **Powers of mayor and aldermen—officers to be appointed by them—salaries—duties of clerk—journals, laws, bills, bonds, etc., to be signed by the mayor and attested by clerk—to be binding on corporation.** The said mayor and aldermen, a majority of whom shall be a quorum for the transaction of business, shall have power to adjourn their meetings from time to time, unless sooner called together by a written notice from the mayor, designating the time and place of such meeting; they may also by ordinance, prescribe the times for holding their regular meetings; they shall also have power to appoint a clerk, a treasurer, a marshal, an assessor, and such other subordinate officers as they may deem needful; to prescribe their duties and require surety for their performance; to remove at pleasure and appoint others in their stead; to establish the fees or salaries of all such officers of the corporation, where the same are not ascertained by this act; they shall cause their clerk to keep a correct journal of their proceedings, and enter the yeas and nays on any question, at the request of any member; they shall cause to be recorded in a plain legible hand, in a book to be provided for that purpose alone, all the by-laws and ordinances made and ordained by them; which book, together with the said journal, shall be at all times open to the inspection of the electors of said town; the journal of the proceedings of each meeting shall be signed by the mayor and clerk; they shall also sign all by-laws and ordinances passed by said corporation, and the same shall be carefully filed and preserved by the clerk; all bills, bonds, notes, drafts, or contracts, ordered by said corporation, shall be signed by the mayor and attested by the clerk; and all bills, bonds, notes, drafts, or contracts so signed and attested, and in the case of bonds or contracts under seal, sealed with their common seal, shall be valid and binding on said corporation, in law and equity in every court in Iowa.

SEC. 8. **Powers of mayor and aldermen—license of retailers of spirituous liquors—drays, carts, etc.—theatres—public market—fire companies—bakers—to pass all laws necessary to the health, etc., of said town.** The mayor and aldermen shall have full power and authority, to pass all by-laws and ordinances to regulate the stationing, anchorage, landing, mooring, or unloading of boats, vessels, rafts, and all other water-crafts within the limits of said town; to prevent and remove nuisances, to establish night-watches, erect lamps; to provide for licensing and regulating retailors of spirituous liquors within said town; and for annulling the same on good and sufficient complaint made against any person holding such license; to license and regulate drays, carts, and other vehicles, kept for public hire; to prohibit the discharging of fire-arms, and the racing or immoderate running or driving of horses, drays, carts, carriages, wagons, or other vehicles in said town; to provide for licensing and regulating shows, theatricals, and other amusements in said town; to regulate and establish markets, and to rent out the stalls in the same; and to prohibit the selling of meats, poultry, fish, or game, except at the public market; to erect and repair bridges, to regulate and improve all streets, avenues, alleys, side-walks, landings, wharves, public grounds and squares, drains and sewers; to sink and keep in repair public wells; to establish and regulate fire wards and fire companies; to provide for the prevention and extinguishment of fires and if necessary, to

remove or pull down buildings or fences, for the prevention of the spreading of the same; to license bakers and regulate the price and weight of bread, and to prohibit the baking of the same for sale, except by those licensed; and also to pass all such by-laws and ordinances not inconsistent with the constitution and laws of the United States, or of Iowa, as they shall deem [44] necessary and proper, for the health, safety, cleanliness, and convenience of said town.

SEC. 9. **Levy fines—proviso—may be recovered—imprisonment—proviso—marshal duties—compensation of marshal.** The mayor and aldermen shall also have power to fix and impose fines and penalties, for breaches of the by-laws and ordinances by them passed and ordained: provided, the same shall not exceed twenty dollars, for any breach or violation by any one person of any one by-law or ordinance, and the same may be recovered with costs of suit before any justice of the peace or court, having jurisdiction thereof, by action of debt in the name of said corporation; and such person fined as aforesaid, may remain in custody of the marshal until such debt and cost is paid, or shall suffer not more than four months actual imprisonment in the common jail of the county, or guard house of said corporation, provided there shall be one within the limits of said town: provided, that such person fined as aforesaid, shall have the right of appeal to the district court in and for said county, by filing bond with approved security, before the tribunal trying such offender, on the day of said trial; and the marshal of said town shall have the same authority, and may do and perform the same duties, and shall be subject to the same liabilities in the service and return of all such writs and process issued, by and in attending the trial before such justice, for recovery of fines and penalties, for the breach or violation of any of the by-laws or ordinances of said corporation, that constables are in their respective counties; and said writs and process shall be directed to "The marshal of the town of Davenport, or any constable of said county;" and the marshal shall receive for his services, the same fees that are or may be allowed by law to constables for like services.

SEC. 10. **Vacation of office—special election.** The absence from said town for three consecutive months of the mayor or any alderman, or the removal of any alderman out of the ward for which he was elected, shall vacate his office, and a special election shall be held to supply such vacancy; and the person so elected shall hold the office for the remainder of the term for which his predecessor was elected; such special election shall be held and returns made and certificates given in the same manner that the annual elections are, and the person so elected, shall qualify in the same manner.

SEC. 11. **Notice of election to be published—proviso.** The mayor shall give at least ten days previous notice, of every annual or special election; and of the places of holding the same, by advertisement in some newspaper published in said town, or by one written notice, set up at some public place in each ward of said town, in which such election is to be held; provided, that the notice for the first election to be held under this act shall be given by the town council of said town.

SEC. 12. **Mayor and aldermen may levy tax—rate of tax—duty of assessor—power to correct injudicious assessment.** The mayor and aldermen shall have power to assess and levy an annual tax on all property in said town, made subject to taxation by the laws of Iowa for county purposes, not exceeding in any one year one half per centum on the value thereof; which value shall be ascertained by the assessor of said town; and they shall prescribe by ordinance, the time within which said assessor shall make out and return to their clerk the assessment roll, and also the time within which the clerk shall make out and deliver to the marshal, a duplicate thereof, together with a warrant for the collection of the taxes so assessed, signed by the mayor and clerk, and sealed with the common seal of the corporation; [45] they shall also have power to correct or equalize any erroneous or injudicious assessment.

SEC. 13. **Marshal shall be tax collector—written notice to be given and put up—distress and sale—voucher—unpaid lots to be published for eight weeks, stating tax, costs, and number of lots—if not paid to be sold—compensation to marshal for collecting taxes—mayor to execute a deed—good and valid.** The marshal shall be collector of all taxes assessed as aforesaid, by said corporation; he shall, upon receiving the duplicate and warrant aforesaid, make personal demand of every resident charged with tax, if to be found within the town, or leave a written notice of the amount of such tax at his usual place of abode; and shall also put up at least one written notice in each ward in said town, that if the taxes are not paid within twenty days thereafter, the same will be collected by sale of the property of delinquents; at the expiration of which twenty days, said marshal shall, and he is hereby authorized and required by distress and sale of personal property of such delinquent or delinquents, as constables on execution to collect said tax, and all costs remaining unpaid, and pay the said tax over to the treasurer, and the treasurer's receipt shall be his voucher therefor; and if the tax on any lot or piece of land, in which no personal property can be found, shall remain unpaid at the expiration of said twenty days, then the said marshall shall give notice by publication in the nearest newspaper, for eight consecutive weeks, stating the amount of said tax and costs, and the number of the lot, or description of the piece of land on which the same are due, and the owners name if known; and that the said lot or piece of land will be sold to discharge such tax and costs and printer's fees, on a day and at the place in such notice mentioned, and which shall be at least three months after the day of its first publication, unless payment thereof be made on or before said day of sale; on which day, if the said tax, costs, and printer's fees, be not previously paid, said marshal shall proceed to sell the said lot or piece of land, or so much thereof as will discharge said tax, costs, and printer's fees; said sale to take place at the door of the court house in said town, or at the door of the mayor's office; and the mayor and aldermen shall, by ordinance, fix the costs or fees to be allowed said marshal for collecting taxes by sale either of personal or real property, by virtue of this act; the marshal shall give to each purchaser at such sale, a certificate containing the number of the lot or description of the piece of land purchased, the price paid therefor, and the day of sale, and at the expiration of the time limited for the redemption thereof, if the same shall not be redeemed in compliance with the general law in relation to the redemption of lands sold for taxes, the mayor shall execute to the purchaser or his assignee, a deed therefor, under the seal of said corporation, and the same if acknowledged or proven, and recorded as other deeds are, or may be required to be acknowledged or proven and recorded, shall be good and valid in law and equity, to pass a valid title to such a lot or piece of land.

SEC. 14. **By-laws to be published—copy of by-laws with certificate good evidence in suits.** The by-laws and ordinances of said corporation shall be published in a newspaper published in said town, or posted up at one public place in each ward, fifteen days before the taking effect thereof, and the certificate of the clerk, in the book in which said by-laws and ordinances are recorded, shall be sufficient evidence of the same having been done; and the said book, or a copy of any by-law or ordinance, with the certificate of the clerk of publication aforesaid, certified by the said clerk to be a true copy of such by-law or ordinance and certificate, shall be sufficient authentication to allow the same to be read or received in evidence in all actions and suits in any court in this Territory.

[46] SEC. 15. **Receipts and expenditures of corporation signed by clerk to be published.** Twenty days before each annual election the mayor and aldermen shall put up in some conspicuous place in said town, or publish in some newspaper published therein, an account of all the monies received and expended by said corporation since the last annual election, with the sources from which

they were derived, and the objects on which they were expended, which shall be certified by the clerk.

SEC. 16. **Streets and alleys—supervisor.** The streets and alleys of said town, together with the several roads leading therefrom, for the distance of one mile from the corporation limits, shall constitute one road district; and the mayor and aldermen shall have the exclusive right of appointing the supervisor, and if they should deem it necessary of appointing two or more supervisors for said district, who, in every respect, shall act as though appointed by the county commissioners.

SEC. 17. **Mayor and aldermen to receive no compensation unless approved by a majority of voters—additional wards may be created—proviso.** The mayor and aldermen shall receive no compensation for their services, unless the ordinances allowing the same shall first be submitted to and approved by a majority of the voters of said town, in general meeting assembled, ten days' previous notice of the time, place, and object of which meeting shall be given by the mayor, by notice set up at one place in each ward; and the certificate of such approval, signed by the chairman and secretary of said meeting, filed with the clerk and recorded by him with the ordinance, shall be sufficient evidence of such approval. The mayor and aldermen may at any time alter or change the boundaries of the wards herein established, or create additional wards in said town; provided the ordinance passed for that purpose shall be approved, and such approval certified and recorded in the manner provided in this section in relation to the ordinances allowing the mayor and aldermen compensation for their services.

SEC. 18. **Act to incorporate the town of Davenport repealed—proviso—process against mayor—how served.** The act entitled "an act to incorporate the town of Davenport," approved January 25th, 1839, be and the same is hereby repealed, from and after the first Saturday in April next: provided, however, that all by-laws and ordinances in force in said town, on said first Saturday of April next, shall continue in force until altered or repealed by the corporation created by this act; and no suit or judgment then pending or unsatisfied, to which said corporation shall be a party, shall abate, but the same may be prosecuted and enforced, in the name of the mayor and aldermen of the town of Davenport; and suits may be instituted and sustained either in favor of or against them, on such debts, covenants, promises, contracts, agreements, and liabilities, as might or could have been in favor of or against said corporation created by the act hereby repealed, if this act had not been passed. The service of all process against said mayor and aldermen shall be by leaving with the mayor or in his absence with the clerk, a certified copy thereof, and in case of subpoena in chancery, a certified copy of the bill also.

SEC. 19. **Special election to be held for adoption of this act of incorporation—in case of adoption when to take effect.** That a special election shall be held within the corporate limits of the town of Davenport, on the second Monday of March, 1842, at which time a poll shall be opened, at some convenient place in each ward in said town, at which time and place the qualified electors may vote, by ballot, for or against the adoption of this act of incorporation; and if upon a count of the ballots it shall be found that a majority of said electors are in favor of its adoption, then and in that case this act shall take effect and be in force from and after the first Saturday of April, 1842, otherwise it shall be null and void.

[47] SEC. 20. **A. Le Claire relieved from penalty.** That Antonie Le Claire is hereby relieved from any penalties to which he may be liable, for selling lots in said town of Davenport, or any of its additions, before the plat of said town, or its additions, were duly recorded.

SEC. 21. **May be altered, amended or repealed.** That any subsequent legis-

lature of the Territory or State of Iowa may alter, amend, or repeal this act, as they may deem expedient.

Approved February 11, 1842.

CHAPTER 58.

AN ACT to authorize Ransom Long to keep a ferry across the Mississippi river, opposite Salem, in Muscatine county.

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

SECTION 1. **Authorized to keep a ferry—location and limits—term.** That Ransom Long, his heirs and assigns, be and they are hereby authorized to establish and keep a ferry across the Mississippi river, at the southern extremity of the fifth principal meridian, opposite to the town of Salem, in Muscatine county, and half a mile east and half a mile west of said meridian, up and down the river, for the term of twenty years from and after the passage of this act.

SEC. 2. **Subject to same restrictions that other ferries are now or may be.** That said ferry shall be subject to the same regulations, and under the same restrictions as other ferries are or may hereafter be, by the laws of this Territory, or the State of Iowa, fixing the rates of toll, and prescribing the manner in which licensed ferries shall be kept and regulated.

SEC. 3. **Good boat and hands to be kept.** That said Ransom Long, his heirs or assigns, shall keep at said ferry a good and sufficient flat-boat, and number of hands to work the same, for the transportation of all persons and their property across said river, when passable, without delay.

SEC. 4. **May be repealed.** This act may be altered or repealed by any subsequent legislature, and no provision herein contained shall interfere with the rights of other persons.

SEC. 5. That this act shall take effect and be in force from and after its passage.

Approved February 12, 1842.

CHAPTER 59.

AN ACT to relocate a part of a territorial road in Jefferson county.

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

SECTION 1. **Names of commissioners—route of road—when and where commissioners to meet—to comply with provisions of act regulating roads and highways — compensation to be fixed by county commissioners of Jefferson county.** That O. Kinsman, of the county of Washington, B. F. Chastain and James F. Chambers, of the county of Jefferson, be and they are hereby appointed commissioners to review, mark, lay out, and [48] establish, all that part of the territorial road, from the northern boundary of Washington county, to Iowaville, in Van Buren county, which lies between Brighton, in Washington county, and Fairfield, in Jefferson county. Said commissioners, or a majority of them, shall meet at Brighton, on the first Monday in April next, or on such other day as they may agree on, within three months thereafter, and proceed to the duties required of them by this act; commencing at Brighton, thence the

nearest and best route to Fairfield. Said commissioners shall, in all respects where the same is applicable, comply with the provisions of an act entitled "an act for opening and regulating roads and highways." approved January 17, 1840; provided, however, that the compensation of said commissioners, together with that of the surveyor, chain-carriers, marker, etc., employed by said commissioners, shall be fixed by the county commissioners of Jefferson county, after the rendition of said services.

Approved February 12, 1842.

CHAPTER 60.

AN ACT to relocate a territorial road from Farmington to the Missouri line.

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

SECTION 1. **Names of commissioners—route of road.** That Charles Davis, John Burrier and Stephen Weekley, be and they are hereby appointed commissioners to re-locate a territorial road from Farmington to the southern line of the Territory, as follows: beginning in the middle of the old territorial road, near the southeast corner of Stephen Weekley's land; thence, on the line between Weekley and Twamly, to the northwest corner of Twamly's land; thence south, on the line between Burner and Twamly and Burner and Rollins, to the southern territorial line.

SEC. 2. **When and where commissioners to meet—compensation of commissioners, etc., to be allowed by board of county commissioners.** Said commissioners, or a majority of them, shall meet at Harris' ferry landing, opposite Farmington, on the second Monday in April next, or as soon thereafter (within one year) as a majority of them may agree, and proceed to discharge the duties enjoined upon them by this act; said commissioners shall employ one surveyor, and such other hands as may be actually necessary to complete said work, who, together with the said commissioners, shall receive such compensation for their services, as the board of commissioners of the county of Van Buren shall hereafter allow; and in all other respects said commissioners shall comply with the law now in force relative to the laying out of territorial roads.

SEC. 3. **Road from Farmington to line vacated.** That so much of the territorial road already established from Farmington to the southern territorial line, as lies between Stephen Weekley's southeast corner, aforesaid, and the southern territorial line aforesaid, be and the same is hereby vacated.

Approved February 12, 1842.

[49] CHAPTER 61.

AN ACT authorizing James Muir, a minor, to execute a deed to Anson L. Deming and Jesse C. Smith.

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

SECTION 1. **Empowered to make deed—persons—land.** That James Muir, a half breed of the Sac and Fox tribe of Indians, under the age of twenty-one years, be and he is hereby authorized to make and execute a good and sufficient deed in fee simple to Anson L. Deming and Jesse C. Smith, or to any other

person or persons for the fractional southeast quarter of section four, in township sixty-seven north of range four west, situated in the county of Lee, and Territory aforesaid, and containing thirty-four acres more or less.

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

Approved February 12, 1842.

CHAPTER 62.

AN ACT to revive and amend "an act to incorporate the Bloomington Insurance Company," approved January 13, 1840.

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

SECTION 1. **Act revived—Names of commissioners—when and where books to be opened.** That an act entitled "an act to incorporate the Bloomington Insurance Company," be and the same is hereby revived and declared to be of full force and effect, and that John W. Richman, John W. Brady, Robert C. Kinney, Adam Oglevie, Hezekiah Musgrove, John Zeigler, George W. Humphreys, David Clark, or any four of them, are hereby appointed commissioners to open books for subscription of stock, and to superintend the business of the stockholders, until a board of directors shall have been chosen; which books shall be opened in the town of Bloomington, on or before the first day of April, A. D. 1843, and to be kept open until all the shares are taken.

SEC. 2. **Stockholders personally responsible.** That if said company shall become insolvent, and fail to adjust any of its liabilities, then and in that case, the stockholders shall be personally responsible for the same.

Approved February 15, 1842.

CHAPTER 63.

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

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

SECTION 1. **Duty of justice of the peace—when an indictable offence has been committed—duty of officer arresting suspected person.** That whenever by affidavit, it shall be rendered probable to a justice of the peace, that an indictable offence has been [50] committed within any county in this Territory, he shall, by his warrant, cause said person to be arrested; and it shall be the duty of the officer arresting such person, to take him before said justice of the peace who issued the warrant, or before the next nearest justice of the peace, if the justice of the peace who issued the warrant shall be absent or from any other cause shall be unable to attend.

SEC. 2. **Duty of officer when arrest is made out of county—where prisoner shall be committed.** If the arrest of the person charged with a criminal offence shall be made, out of the county where it is charged to have been committed, it shall be the duty of the officer making the same, to take the prisoner to some justice of the peace most convenient for the attendance of the witnesses in favor of the prosecution, and the justice of the peace, if he shall commit

the prisoner to jail, shall direct the warrant of commitment to the jail of the county, where the offence is charged to have been committed, if there be a jail in said county; and if there be none in said county, then in the next nearest county jail.

SEC. 3. **Recognizance of witnesses in behalf of prosecution to be taken—security to be given for appearance in certain cases.** It shall be the duty of the justice to take the recognizance of all the witnesses in behalf of the prosecution; and he may in all cases of felony, in his discretion, require the witnesses for the prosecution to give security for their appearance at the next term of the District Court for the proper county.

SEC. 4. **No bill of indictment to be quashed or judgment averted by failure of county commissioner, District Court or prisoner to perform their duty—proviso.** No bills of indictment shall be quashed, nor shall any judgement be averted by reason of a failure on the part of the county commissioners, to make out and deliver to the clerk of the District Court, a certificate of the appointment of the grand jury, nor by reason of any other informality in selecting or summoning the grand jury; nor by reason of the neglect of the District Court to have the prisoner duly arraigned; nor by reason of a failure on the part of the prisoner to plead not guilty; provided, said prisoner shall make his defence before the petit jury.

SEC. 5. **Grand jury to be sworn—venire to be issued in certain cases to sheriff to summon jurors—venire to be issued when the public good requires it.** It shall be the duty of the District Court to cause each member of the grand jury to be sworn and examined as to his qualifications to serve as a juror; and if the county commissioners' court shall neglect to make out and deliver to the clerk of the District Court, a list of the grand and petit jurors, it shall be the duty of the District Court at any time during the term, to issue a venire to the sheriff to summon the proper number of grand and petit jurors; and if after the grand jury shall have been discharged, a case shall arise during the term of the court, requiring immediate investigation by the grand jury, it shall be in the power of the District Court to have another venire issued, if in the opinion of said court, the public good shall require it.

SEC. 6. **Costs not to be rendered, in case of acquittal, against private prosecutor unless maliciously done—compensation of officer arresting prisoner out of county or Territory.** No costs shall be rendered by the court, in the event of the acquittal of a person charged with a criminal offense, against the private prosecutor, unless the court is satisfied that the prosecution is malicious, or the county or the Territory; except that when any officer in arresting or endeavoring to arrest a person charged with a crime, shall go out of his county, he shall be allowed his necessary traveling expenses out of the county treasury.

SEC. 7. **Defendant admitted to bail and discharged in certain cases—proviso.** In capital cases, the defendant shall be admitted to bail, unless indicted, and tried by the third term after his arrest; in other cases under like circumstances, he shall be discharged absolutely, unless tried by the fourth term after his arrest; provided, that in any of the above cases, the delay of indictment or trial has not been occasioned by the defendant himself.

[51] SEC. 8. **Defendant committed unless fines and costs are paid.** When a pecuniary fine constitutes a portion of the punishment in the case of conviction upon an indictment, the court may direct the defendant to stand committed for any period of time, not exceeding sixty days, in the jail of the county where the offence is tried, if there be a jail, and if there be none, in the jail of the next nearest county in which there may be a jail, unless the fine and costs are sooner paid.

SEC. 9. **Privileges and restrictions of jury.** In trials for misdemeanors, the court may permit the jury to separate for food and refreshment; but in trials for felonies, the jury shall not be separated until there is no prospect of their

agreement to a verdict, and it shall be the duty of the court to provide them all suitable refreshments.

SEC. 10. This act to take effect and be in force from and after its passage.

Approved February 15, 1842.

CHAPTER 64.

AN ACT to amend an act concerning costs and fees.

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

SECTION 1. **When to take effect—Clerk's fees in Supreme and District Courts.** That from and after the passage of this act, the fees and compensation to the several officers and other persons hereinafter mentioned, shall be as follows, towit:

In the Supreme Court and in the District Courts of the Territory, the clerk's fees in all cases, to which the same apply respectively:

For issuing and sealing every writ not exceeding 300 words	$ .50
For each additional folio of 100 words	.12½
Docketing case, first time	.12½
Each subsequent time, not exceeding three times in each cause	.06¼
Entering judgment on a suit without process	.25
Entering cause on judgment docket	.18¾
Entering each order, or rule of court, for every continuance, rule to plead, default to plead, retraxit, non-suit, or discontinuance; or any other order actually entered in the progress of a suit, and counting the whole as one entry	.18¾
Filing each paper in a suit, except appeals from justices, and in no case shall such fees exceed twenty-five cents	.06¼
Filing all papers in appeal or certiorari from justices	.06¼
Issuing bail piece when required	.25
Entering special bail	.12½
Swearing and empanneling each jury	.18¾
Administering oath to each witness on trial	.06¼
Entering verdict of jury and judgment	.50
Entering satisfaction of judgment	.06¼
Issuing writ of execution	.25
Taxing costs	.25
Entering exonerator	.06¼
Entering surrender	.06¼
A commission to take deposition	.50
All motions in one suit	.18¾
[52] All the rules in one suit	.18¾
If there be only one	.06¼
A venire for a jury	.25
Making a complete record in each cause when ordered by the court, for every 100 words	.10
Copy of record when required, for 100 words	.10
Every certificate with seal	.25
A subpoena to include all the witnesses called for at the	

time of issuing	.25
Every search, except for witnesses and officers of court	.12½
Filing record of appeal, writ of error, supersedeas, certiorari, or habeas corpus	.06¼
Taking security on any of the same	.12½
Assessment of damages	.18¾
A subpoena in chancery	.37½
Filing each bill, answer, replication, or other pleading in chancery	.06¼
Copy of any paper not herein provided for, every 100 words	.10
For administering oath in naturalization cases	.06¼
Filing papers in the same	.06¼
Certificate of application	.50
Certificate of naturalization	.50
Taking a recognizance	.25
Issuing and recording marriage license	1.00
Each bond required by law	.50

No fees shall be paid or demanded from grand or petit jurors, or witnesses, for issuing a certificate entitling them to fees as such. The county commissioners shall allow the sheriff and clerk of the District Court, any sum not exceeding thirty dollars per annum, for services in criminal cases, where the party is acquitted.

SHERIFF'S FEES.

Sheriff's fees. For serving any writ and the return thereof (subpoenas excepted) for one defendant	$ .50
Each additional defendant	.25
Every commitment to prison	.25
Discharge from prison	.25
Attending with a person before a judge or court, when required per day at any time not a regular term of court	1.00
Mileage in going with such person before said judge, going and coming, per mile	.04
Serving a writ of possession or restitution	.50
Serving the same with a posse comitatus	1.50
Copy of any paper required by law, for each one hundred words	.10
Serving and returning a subpoena for each person therein named	.18¾
Calling a jury in each cause	.12½
Summoning a grand and petit jury to be paid out of the county treasury, for each pannel	8.00
Traveling fees in cases required by law, going and returning, per mile	.04
Selling land or other property on execution, per day	1.50
[53] Making and executing a deed for land sold on execution	1.00
Serving one person with an order of court, besides milage	.12½
Summoning a jury in cases of forcible entry and detainer	1.50
Serving an execution or order for the partition of real estate or assigning dower, besides mileage	1.00
Each appraiser of real and personal estate, per day	.50
Each bond required by law	.50

For collecting and paying over all sums under two hundred dollars, 2½ per cent; for all sums over two hundred and less than five hundred dollars, 2 per cent; and for all sums over five hundred dollars, 1 per cent.

Returning a writ not served	.06¼
Actual traveling in such cases going and coming, per mile	.04
Receiving a prisoner on surrender by bail	.25
Taking new bail	.50
Giving bail piece	.25
Dieting a prisoner, to be paid out of the county treasury where prisoner is insolvent, per day	.37½

The collector of the county revenue shall receive 5 per cent.

Abstract of assessment roll to be given to collector—notice to be posted up—contents of notices—where collector will attend—proviso—collector may be required to attend in townships, &c.—notice to be given of attendance. That the collector of taxes shall, between the first and fifteenth days of August annually, receive from the county commissioner's clerk an abstract of assessment roll of the taxes assessed by the county commissioners, and immediately after receiving the same he shall cause notices to be posted up in three or more of the most public places in each township or magistrates district throughout the county, one of which notices shall be at the place of holding general elections, stating in said notices what day (which time shall not be less than thirty days from the time of posting up said notices) said collector, or his deputy, will attend at the places of holding the elections in each township or district, for the purpose of receiving taxes, and the collector, or his deputy, shall attend, for the purposes aforesaid, on the day and at the place named in such notices, and shall attend at his office, at the seat of justice of the county, during the month of October to receive taxes from persons wishing to pay the same: provided, that the county commissioners shall at their meeting in July in any one year, if they shall deem it necessary for the convenience of the citizens of any township or townships, district or districts, to enable them to pay their taxes without attending at the county seat, may make an order requiring the county collector to attend two days in such township or district for the purpose of receiving taxes, and shall notify the collector thereof, and the collector shall be bound to attend accordingly, and shall state in the notices to be given as aforesaid on what days he will attend in said township or district for that purpose.

Compensation of collector. That the fees allowed to the collector, on his settlement with the county commissioners, for the collection of taxes, shall be five per centum on the first three thousand dollars; four per centum on all sums between three and four thousand dollars, and three per centum on any sum over four thousand dollars by him collected as aforesaid.

Compensation of sheriff. The sheriff shall be allowed by the county commissioners a sum of money, not less than ten dollars nor more than fifty dollars, for services rendered the county in delivering notices, and duties of that character for which no specific sum is provided by law.

[54] CORONER'S FEES.

Coroner's fees. For view of each body and for taking and returning inquest, to be paid by the deceased's estate when solvent $5.00

Every subpoena, warrant or venire	.25

For all other services the same fees as allowed to sheriffs in similar cases.

FEES OF MASTERS IN CHANCERY.

Fees of Masters in Chancery. For attending and hearing every argument on any subject referred to him, and reporting thereon.....$2.50
Reporting when proceedings are exparte..... .37½
Taking each oath..... .06¼
Advertising for a public sale..... .31¼
Attending and making deed..... 1.50
Taking depositions, every 100 words..... .12½
Issuing a writ, ne exeat or injunction..... .50
Taking bond..... .50
Mittimus ..... .25
Certificate ..... .25

FEES OF JUSTICES OF THE PEACE IN CIVIL CASES.

Fees of justices of peace in civil cases. For docketing each suit.....$ .06¼
For a summons or warrant..... .18¾
Precept for a jury..... .25
Every subpoena including all witnesses asked for at the time ..... .18¾
Swearing a jury..... .12½
Entering verdict..... .12½
Taking and certifying any acknowledgment..... .25
Justices of the Peace and clerks of Courts of Record are hereby empowered to administer an oath whenever the same is authorized by law, and for administering each oath they shall be allowed..... .06¼
Certifying the same..... .12½
Entering a judgment..... .12½
Granting and issuing fee-bill..... .25
Every rule of reference..... .25
Every continuance or adjournment at the request of a party ..... .12½
Taking depositions, for every 100 words..... .10
Certificate of the same..... .12½
Taking bail, recognizance or security..... .25
Every discontinuance or satisfaction..... .12½
Entering amicable judgment..... .25
Transfer of judgment..... .25
Marrying, and making return thereof..... 2.00
Filing each paper required to be filed..... .06¼
Provided, that the filing of all papers in one cause shall not exceed 1.00
Opening judgment after default..... .12½
Taxing costs..... .12½
Issuing writ of attachment..... .37½
[55] For holding inquisition in cases of forcible entry and detainer, in addition to other fees, per day..... 1.00
Writ of restitution, including execution for costs..... .25
Recording the proceedings in each case, per folio of 100 words ..... .10
Rule to take depositions when the witness is out of the Territory ..... .50

FEES IN CRIMINAL CASES.

In criminal cases. For a warrant, search warrant or commitment ..... .25
Taking recognizance ..... .25
Entering judgment for fine..... .25
Discharging a prisoner..... .18¾
For other services fees as in civil cases.

CONSTABLE'S FEES.

In civil and criminal cases:
For serving a summons, for each person therein named.... .25
For serving a warrant..... .25
Copy of every summons..... .12½
Traveling to serve process, computing from the place of service to the place of return, per mile..... .08
Where two or more persons are served, mileage to be computed only from the most remote place unless they are in opposite directions.
Serving a subpoena, besides mileage ..... .12½
Posting and copying attachment..... .18¾
Commitment to prison, besides mileage..... .25
Summoning a jury..... .25
Attending on a jury..... .37½
Advertising and selling property..... .75
For notifying a plaintiff of the service of a warrant, besides mileage ..... .12½

WITNESSES' FEES.

Witnesses' fees. Each witness for a day's attendance before the District Court.....$1.00
Mileage going and coming, per mile ..... .04
The successful party shall in no case recover the costs of more than four witnesses against the other party unless the court or justice of the peace shall deem and certify a greater number to be necessary.

JURORS' FEES.

Jurors' fees. Grand jurors, per day.....$1.00
Petit jurors for each cause in which they are sworn, to be paid by the successful party and taxed in the bill of costs against the losing party, each juror..... .25

FEES OF NOTARY PUBLIC.

Fees of Notaries Public. For every protest of a bill of exchange or promissory note, registering seal, and other services .....$ .75
[56] Attesting letters of attorney and seal..... .50
Noting a bill of exchange for non-acceptance or non-payment ..... .25
Drawing and taking proof of acknowledgment of any legal instrument not exceeding two pages..... 1.00

FEES OF JUDGE OF PROBATE.

Fees of Judges of Probate. For granting letters of administration or proof probate of will	.50
When the same are contested	$1.00
Appointing guardian to minors	.50
Decree for probate of a will when contested	1.00
When not contested	.50
Decree on settlement of an estate	.50
Examining and allowing an inventory, for the first page	.25
Each succeeding page	.10
Any writ or process issued by him under seal	.25
Warrant to appraise or divide estate	.25
Allowing an appeal	.25
Approving securities of executor or administrator	.25
Assigning personal estate to widow	.25
Disallowance of application for letters of administration or probate of will, to be paid by the losing party	.50
For every continuance, when asked by a party	.12
For bonds upon letters of administration or appointment of guardian	.50
Drawing a decree for the settlement of an estate	.50
Drawing order of distribution	.25
A quietus	.25
Filing each paper	.06¼
Administering an oath	.06¼
Recording all papers required by law to be recorded, for 100 words	.10
Copies of the same when required, per 100 words	.10
Appeal or other bonds	.50

COUNTY SURVEYOR'S FEES.

County surveyor's fees. For surveying and platting town lots, for each lot	.25
For every other service per diem	3.00

The survey of the county surveyor shall not be conclusive, but only prima facie evidence of correctness.

SEC. 2. **Compensation of sheriffs and other officers attending court.** The sheriff, his deputies and constables, who shall attend court under the seventeenth section of an act to which this is an amendment, shall be allowed one dollar per day, to be paid out of the county treasury.

SEC. 3. **Acts repealed and modified by this act.** The third, seventh, and nineteenth sections of the act to which this is an amendment, are repealed, with the exception of fees of District Attorney; the others are in full force, except so far as they are modified by this act.

SEC. 4. That this act shall take effect and be in force from and after the first day of August 1842.

Approved, February 15, 1842.

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[57] CHAPTER 65.

AN ACT relative to the survey of the town of Marion.

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

SECTION 1. That the board of commissioners of Linn county, be and they

are hereby authorized and empowered, at their discretion, to order and cause to be closed and discontinued any alley or alleys that may be located or established in the town of Marion, in said county, by having such order duly recorded with the recorded plan of said town.

SEC. 2. That this act shall be in force from and after its passage.

Approved, February 15, 1842.

CHAPTER 66.

AN ACT to authorize David G. Bates and John Forbes, to establish and keep a ferry across the Mississippi river, in Jackson county.

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

SECTION 1. **Right to keep a ferry—point where kept.** That David G. Bates and John Forbes, their heirs and assigns, be and they are hereby authorized to establish and keep a ferry across the Mississippi river in the county of Jackson, at their landing, on the southwest quarter of section nineteen, in township eighty-seven north of range five east, with the exclusive privilege to the same, (which privilege shall be co-extensive with the said quarter section) for the term of ten years.

SEC. 2. **Subject to regulations and restrictions.** That said ferry, when so established, shall be subject to the same regulations and restrictions as other ferries are, or may be by law, fixing the rate of toll, and prescribing the manner in which licensed ferries shall be kept and attended to.

SEC. 3. **Number of boats and hands.** That the said David G. Bates and John Forbes, shall, on or before the first day of April next, procure and ever after keep a good and sufficient number of flat-boats and other water-crafts, for the use of said ferry, with a sufficient number of hands to work the same, for the safe transportation of all persons and their property, across said river when passable.

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

Approved, February 15, 1842.

[58] CHAPTER 67.

AN ACT for the relief of the poor.

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

SECTION 1. **Warning to depart—legal residence in township—definition of settlement of servants and apprentices.** That any person or persons, other than those hereinafter provided for, residing one year in any township in this Territory, without being warned by the overseers of the poor for said township, to depart the same or three years after being once so warned, without being again warned as aforesaid, shall be considered as having gained a legal residence in such township; every indented servant or apprentice legally brought into this Territory, shall obtain a legal settlement in the township where such servant or apprentice first served his master or mistress three years; and every married woman during coverture, and after her husband's death, shall be considered legally settled in the place where he was last legally

settled; but if he shall have, or shall have had, no known legal settlement, then she shall be considered as settled in the place where she was last legally settled before marriage.

SEC. 2. **Exclusion of blacks and mulattoes.** That nothing in this act shall be so construed, as to enable any black or mulatto person, to gain a legal settlement in this Territory.

SEC. 3. **Not to be construed to exclude voters.** That the provisions of this first section of this act, shall not be so construed as to exclude any person from voting at elections, who would otherwise by the laws of this Territory be entitled to vote.

SEC. 4. **Warrant to constables to warn poor persons to depart—clerks to record warrants.** That the overseers of the poor, upon receiving information that any person has come within the limits of their township to reside, who will be likely to become a township charge, shall issue their warrant or order to any constable of the township, commanding him forthwith to warn such poor person to depart the township, by reading such warrant or order of the overseers of the poor, in his or her presence, and hearing or by leaving an attested copy thereof, at his or her last place of residence; and it shall be the duty of such constable receiving such warrant or order, to make immediate service thereof in manner above directed, and to certify on the back of such warrant, that he read the same in the presence or hearing of the person therein named to depart the township, or left an attested copy thereof at his or her last place of residence, as the case may be; which warrant the said constable shall immediately lodge with the clerk of said township, who shall record the same, and the certificate of the constable endorsed thereon within three days thereafter, in the book containing the records of the township.

SEC. 5. **Provision for the suffering condition of the poor, having a legal settlement.** That upon complaint being made, or information given to the trustees of the township in any county having a county poor house, that any inhabitant of such township having a legal settlement therein, is in a suffering condition and requires public assistance or support, said trustees shall inquire into the condition and necessities of such person, and if satisfied that such person ought to be relieved at public expense, they shall make out an order to the directors of the poor-house, to receive and provide for such person, and shall accompany said order with the statement required by the act, to authorize the establishment of poor-houses.

SEC. 6. **Duty of overseers to afford relief—proposals for the maintenance of paupers.** That when the overseers of the poor of any township in any county, having no poor-house, shall be satisfied that any person having [59] legal residence in such township, is in a suffering condition, and ought to be relieved at the expense of such township, they may afford such relief at the expense of their township, as in their opinion the necessities of such person may require; and when more than temporary relief is required, the overseers shall set up a notification in three public places in their township, specifying some time and place at which they will attend for the purpose of receiving proposals for the maintenance of such pauper, which notification shall be posted up at least seven days before the day named therein, for receiving such proposals; and said overseers may contract with such person as they shall think suitable, to take charge of and maintain such pauper, and who will do the same on the most reasonable terms; but they shall not contract for the support of such pauper for a longer period than one year, at any one time.

SEC. 7. **Orders of trustees to directors to receive paupers.** That if the trustees of any township, in any county having a poor-house, shall issue an order to the directors of such poor-house, requiring them to receive and provide for any pauper, and such pauper be rejected by said directors, under the provisions of the ninth section of the act to authorize the establishment of

poor-houses, the overseers of the poor of such township, shall receive and provide for such pauper, according to the provisions of the preceding section of this act.

SEC. 8. **Duty of overseers to afford temporary relief.** That the overseers of the poor of each township, shall also afford temporary relief or support to any person within their township, and not having a legal settlement in the same, when such relief or support is needed.

SEC. 9. **Duty of overseers to remove pauper—townships to pay for the support and removal of their poor—townships to be sued.** That if any person shall become chargeable in any township in which he, she, or they have not gained a legal settlement, it shall be the duty of the overseers of the poor of such township, to cause such person or persons, so soon as their health will permit, to be removed to the township where he, she, or they were last legally settled, if such person or persons have any legal settlement in this Territory; and the overseers of the poor of such township shall receive such pauper or paupers thus removed, and provide for his, her or their maintenance, in the manner pointed out by law; and the township in which such pauper or paupers have gained a legal settlement, and to which he, she or they are transported, shall pay said overseers of the township, which have thus supported and removed said pauper or paupers, all reasonable charges for such support and removal; and upon refusal, may be compelled by an action of debt, brought against the trustees of said township, before the District Court of the county in which either or both of the townships may be situated; and the trustees of each and every township in this Territory, are hereby empowered to sustain said action, against the trustees of any other township in this Territory, for thus supporting and removing their own paupers.

SEC. 10. **Trustees to remove paupers having no legal settlement to other counties.** That in case any person or persons, becoming chargeable to any township as aforesaid, shall have no legal settlement within this Territory, the overseers of the poor in such townships, if directed by the trustees, may remove such person or persons to the State or county where he, she or they have a legal settlement, unless such person or persons shall give sufficient security, to indemnify the said township.

SEC. 11. **Overseers shall keep account of all expenses, make entries of names of the poor, etc.** That the said overseers shall keep fair and accurate accounts of all expenses incurred, for the support of the poor within their respec-[60] tive townships, and make entries in a book of the names of the poor, and the time when each of them became chargeable, together with an account of their own services rendered; and on the first Monday of March annually, the said overseers shall meet the trustees of their respective townships, and exhibit said books and accounts, which the said trustees are hereby authorized to audit and allow, together with such compensation to the said overseers for their services as shall, in the opinion of said trustees, be just and reasonable.

SEC. 12. **Duty of trustees in every township to issue orders for all demands in certain cases.** That it shall be the duty of the trustees, in each and every township, to issue orders to the township treasurer, for any and all such demands as may accrue under the provisions of this act; and the said trustees may issue such orders on the treasury, in favor of the overseers of the poor, at any time during the year, when it shall be necessary to carry into effect any of the provisions of this act.

SEC. 13. **Grants, devises, etc. made to the poor, provision for.** That all gifts, grants, devises, and bequests, hereafter to be made of any houses, lands, tenements, rents, goods, chattels, sum or sums of money, to the poor of any township, by deed, gift, or by the last will and testament of any person or persons or otherwise, shall be good and valid in law; and shall convey such houses, lands, tenements, rents, goods and chattels to the trustees of such township,

and their successors in office, for the use of their poor respectively, under such regulations as shall from time to time be made by law.

SEC. 14. **Former act repealed.** That the act for the relief of the poor, approved January 16, 1840, be and the same is hereby repealed: provided, that in counties where townships are not, or may not be organized, the said act shall be in as full force as if this act had not passed.

Approved, February 16, 1842.

CHAPTER 68.

AN ACT to amend an act entitled "An act to prevent and punish gaming."

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

SECTION 1. **Former act on the subject of gaming amended.—misdemeanor punished by fine and imprisonment.** That the fourth section of an act entitled an act to prevent and punish gaming, approved December 25, 1838, be so amended as to read: Every person who shall bet any money or property, or play at or upon any gaming table, bank or device, prohibited by the preceding section, or who shall bet upon or play at any game, played at or by means of any such gaming table, or bank, or other device, or on the side or against the keeper thereof, shall, on conviction thereof, be adjudged guilty of a misdemeanor, and punished by fine, not exceeding fifty dollars and not less than ten dollars, to be paid into the treasury of the proper county, for the use of such county: provided, that no offense against the provisions of this section shall hereafter be indictable, but that all such offences shall be tried and punished in a summary manner, before any justice of the peace, in the same manner and under like regulations that breaches of the peace are now tried and punished, before justices of the peace.

Approved, February 16, 1842.

[61] CHAPTER 69.

AN ACT to relocate and mark out a portion of the territorial road leading from Farmington, in Van Buren county, to Prairie du Chien.

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

SECTION 1. **Names of commissioners.** That Frederick Andros, Henry F. Lander, and Robert R. Read, be and they are hereby appointed commissioners to locate and mark out, so much of the territorial road, leading from Farmington, in Van Buren county, to Prairie du Chien, according to the provisions of an act passed in 1836, locating and establishing said road, as runs through the county of Clayton.

SEC. 2. **Employment of hands and their compensation.** That the said commissioners shall employ a sufficient number of hands to perform the duties herein required, who shall receive such compensation for their services as the county commissioners of said county may allow.

SEC. 3. **Place of meeting.** That the said commissioners shall meet at Millville, in said county, on the first Monday in June next, or such other time thereafter as a majority of them may agree upon, and proceed to the discharge of

their duties, according to an act to provide for laying out and opening territorial roads, approved December 29, 1838.

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

Approved, February 16, 1842.

CHAPTER 70.

AN ACT to locate and establish a territorial road from Crawfordsville, in Washington county, to Smith's Mills, in Henry county.

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

SECTION 1. **Names of commissioners.** That Absalom Cornelias, Edmund Archibald, of Henry County, and Robert Neil, of Washington county, be and are hereby appointed commissioners to lay out and establish a territorial road from the towL of Crawfordsville, in Washington county, to Smith's Mills, via New London, in Henry county.

SEC. 2. **Place of meeting.** That said commissioners meet at Smith's Mills on such day as they may agree, (not exceeding twelve months from the passage of this act,) to discharge their duties.

SEC. 3. **Per diem of commissioners and surveyor—chain carriers.** That said commissioners shall be allowed one dollar and fifty cents per day for their services, and shall employ one surveyor, and as many chain carriers and axe-men as they shall think necessary; the surveyor shall receive no more than two dollars and fifty cents per day, and the chain carriers and axe-men shall be allowed no more than one dollar per day, to be paid according to the provisions of an act to provide for the [62] laying out and opening territorial roads, approved January the 25th, 1839.

Approved, February 16, 1842.

CHAPTER 71.

AN ACT repealing a portion of an act to locate and establish a territorial road from the town of Dubuque, to Camp Atkinson, approved January 13, 1841.

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

SECTION 1. **Act to locate a road to Camp Atkinson repealed.** That so much of an act entitled an act to locate and establish a territorial road, from the town of Dubuque to Camp Atkinson, approved January 13, 1841, as provides for the location and establishment of said territorial road in the county of Dubuque, be and the same is hereby repealed.

SEC. 2. **Location vacated.** That so much of said territorial road as has been located and established in the county of Dubuque, be and the the same is hereby vacated.

Approved, February 16, 1842.

CHAPTER 72.

AN ACT to authorize the appointment of a county agent, in and for the county of Johnson.

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

SECTION 1. **County commissioners to appoint an agent for Johnson co.—to enter into bond.** That the board of commissioners shall, and it is hereby made their duty, at their next April term, and annually thereafter, to appoint some suitable person as Agent for Johnson county, who, when so appointed, shall enter into bond, with security, in the penal sum of five thousand dollars, to be approved of by the said board of commissioners; said bond to be made payable to the county of Johnson, and conditioned for the faithful discharge of all his duties as such Agent. The bond so executed and approved, shall be filed with the clerk of said board, and a copy thereof duly certified by said clerk, shall be received as evidence in all courts within this territory.

SEC. 2. **Agent first to take an oath.** That the said agent, before entering upon the duties of his said office, shall take an oath faithfully to discharge his duties as such Agent, which oath shall be administered by some person legally authorized to administer the same.

SEC. 3. **Agent to take charge of property, and demand bonds and notes.** That it shall be the duty of said agent, when so appointed and qualified, to take charge of all the unsold property in the county seat of said Johnson county, and also to demand and receive from the county treasurer of said county, or any other person who may hold the same, all notes or bonds due said county for lots heretofore sold in said county seat.

SEC. 4. **Duty of treasurer to hand over all moneys, etc.—treasurer to be sued.** That it is hereby made the duty of the Treasurer of Johnson county to hand over to the said Agent, on demand, all moneys, notes, bonds, [63] or other papers, in any way arising from, or belonging to, the sale or transfer of any lots in said county seat, made previous to such demand, and on the refusal of the said Treasurer, to hand over, as aforesaid, the moneys and effects, as aforesaid, it shall be the duty of the said Agent to commence suit forthwith against said Treasurer, on his bond, in any court having competent jurisdiction.

SEC. 5. **Duty of agent to collect, safely keep and pay over all moneys.** It shall be the duty of said agent, to collect, safely keep, and pay over all moneys arising from the sales of lots in the said county seat, as soon as the same may come into his hands, upon orders issued by the said board of commissioners, for work and labor done or to be done, or for materials furnished or to be furnished, upon contracts entered into, or that may hereafter be entered into by said board, or by said agent, in relation to the erection of the public buildings necessary for said county.

SEC. 6. **Authority of agent to sell lots and other property—the agent to make all notes for the sale of lots payable to himself or successor—agent to make deeds of conveyance.** That the said agent is hereby authorized, under the direction of the said board of commissioners, to sell any lots or other property belonging to said county, upon such terms as the said board may direct, and not otherwise. The said agent shall make all notes or obligations, taken for the sale of the property belonging to said county, or in which said county may have an interest, payable to himself or his successor in office, shall sign all title bonds for deeds, and he or his successor in office, shall make and execute all necessary deeds of conveyance to purchasers, and which said deeds, when so made and executed, by said agent or his successor in office, and acknowledged before some person legally authorized to take the same, shall be

good and valid in law; and the said agent is hereby authorized to execute deeds, as aforesaid, upon all bonds heretofore given by the said board of commissioners, for lots heretofore sold in said county seat, which when made and acknowledged as aforesaid, shall operate as a good and legal conveyance.

SEC. 7. **Qualification for office—power of commissioners to remove agent—vacancy to be filled by board of commissioners.** No person shall be eligible to the office of agent, who shall at the same time hold any other office in said county. The said board of county commissioners shall have the power, either upon complaint being made to them, or upon information derived in any other way, to remove the said agent, for any violation of, or negligence in the discharge of the duties of his office; and all vacancies in said office of agent, whether by removal or otherwise, shall be filled at any time by said board, in the same manner and under the same regulations as are provided in the first and second sections of this act.

SEC. 8. **Agent shall observe and obey all orders of commissioners—duty of agent upon the receipt of moneys to make duplicate receipts.** That the said agent shall observe, obey, and enforce all orders of the said board of commissioners, that may in any way relate to the sale or transfer of any property belonging to said county, or the erection of any public buildings for said county: provided, said orders do not conflict with the provisions of this act: and it shall be the duty of said agent, upon the receipt of any moneys belonging to said county to make duplicate receipts one of which he shall deliver to the person paying the same, the other to be delivered within five days after the payment of the money to the clerk of said board, and by him filed in his office; which said receipts shall specify, particularly the amount of money received by said agent.

SEC. 9. **Duty of agent to report annually and oftener if required—books to be inspected—compensation to agent.** That it shall be the duty of said agent, to report annually to the said board of commissioners, and as much oftener as he may be thereunto required by the said board, all his proceedings as such agent, and to deliver up his books and papers at any time, to be inspected by the said [64] board of commissioners; the said board of commissioners shall allow to the said agent for his services as such agent, such compensation as they may deem reasonable and just, to be paid out of any moneys in the county treasury, not otherwise appropriated.

SEC. 10. **Failure of agent to perform his duty—agent to be indicted and fined for neglect of duty.** That if the said agent, when so appointed and qualified, shall fail to discharge his duties as such agent, according to the true intent and meaning of this act, he shall be liable to the party aggrieved, in an action upon his bond, before any court having competent jurisdiction, and may also be indicted and fined in any sum not exceeding one hundred dollars. This act to take effect and be in force from and after its passage.

Approved, February 16, 1842.

CHAPTER 73.

AN ACT to amend an act establishing the court of probate.

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

SECTION 1. **Duty of judges of probate to deliver over to their successors in office all books, papers, etc.—liability for failure to hand over books, etc.**

That from and after the passage of this act, it shall be the duty of all judges of probate, their executors, or administrators, who now hold or may hereafter hold that office, to deliver over to the successors in office of the said judges of probate, all books and papers relating to said office of judge of probate in their possession, and upon failure to do so within five days after demand, by the successor of said judges of probate, they shall be liable to indictment and punishment by fine, not exceeding one thousand nor less than one hundred dollars.

SEC. 2. **Duty of judges of probate whose term of office expired before the passage of this act—liable to indictment.** That it shall be the duty of all judges of probate, whose term of office expired before the passage of this act, to deliver over to their successors in office, all books and papers relating to their office, within five days after demanded by their successors, and upon their failure so to do, after such demand, they shall be liable to indictment, and the same punishment as is provided for in the first section of this act.

Approved, February 16, 1842.

CHAPTER 74.

AN ACT to authorize Joseph Stephens, to erect a dam across Skunk river.

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

SECTION 1. **Authority to construct a dam—at what point—height of dam—not to back upon dam above—lock to be constructed.** That Joseph Stephens, his heirs or assigns, be and they are hereby authorized, to construct a dam across Skunk river, on the north-east quarter of section thirty-four, of township seventy north, and range four west, in the county of Henry; said dam may be built any height not exceeding six feet, provided it shall not back water upon the dam at Smith's mills, and shall have a convenient lock, not less than twenty-five [65] feet wide, and one hundred and twenty feet long, for the passage of boats, rafts, and other water-crafts.

SEC. 2. **Good repair of lock.** That the said lock shall at all times be kept in good repair, and conditioned to pass any water-craft as above mentioned, free of toll without unnecessary delay.

SEC. 3. **Liability for injury to dam—Penalty for maliciously injuring or destroying dam.** That any person who shall destroy or anywise injure either said dam or lock, shall be deemed to have committed a trespass, and shall be liable accordingly; and any person who shall wilfully or maliciously destroy or injure said dam or lock, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined treble the amount of damages the owner or owners may have sustained, or be imprisoned at the discretion of the court.

SEC. 4. **Not to flow land of others—nuisances to be removed.** That nothing herein contained, shall authorize the owner or owners of said dam, their heirs or assigns, to enter upon and flow the lands of any person without the consent of such person; and he shall remove all such nuisances as may be occasioned by the erection of said dam, which may endanger the health in the vicinity.

SEC. 5. **Not to interfere with navigation.** That the legislature of the territory or State, may at any time, alter, amend, or repeal this act, so as to provide for the navigation of said river.

Approved, February 16, 1842.

CHAPTER 75.

AN ACT to locate a territorial road from Fairfield, in Jefferson county, to the forks of Skunk river, in Washington county.

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

SECTION 1. **Name of commissioner to locate—route—limit of time for location.** That Henry Harden, of Jefferson county, be and he is hereby appointed a commissioner to locate and establish a territorial road from Fairfield, in Jefferson county, thence to the southeast corner of Hadley's farm, thence to Richland, thence to Western City, thence to the forks of Skunk river in Washington county; said commissioner to repair to the town of Fairfield on the first Monday in the month of April next, or any time within three months thereafter, for the purpose of locating said road.

SEC. 2. **Surveyor, chain carriers, etc.—compensation.** That said commissioner shall take to his assistance, a competent surveyor, and the necessary chain-carriers and markers, and said commissioner, surveyor, chain-carriers, and markers, shall receive such compensation, and be governed in all respects not herein provided for, by an act entitled an act for opening and regulating roads and highways, approved January 17th, 1840.

Approved, February 16, 1842.

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[66] CHAPTER 76.

AN ACT making the clerk of the board of county commissioners, elective by the people.

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

SECTION 1. **Election of clerk of board of commissioners by the people—time of election—term of office—to take an oath and enter into bonds.** That an election shall be held on the first Monday in August next, and on the first Monday in August, one thousand eight hundred and forty-four, and on the first Monday in August in every second year thereafter, in each county in this territory, for a clerk of the board of county commissioners; and the clerks so elected, shall continue in office for two years, and until their successors shall be elected and qualified to office, and previous to their entering upon the duties of their respective offices, they shall take and subscribe an oath, and enter into bonds as is now required by law.

SEC. 2. **Places of holding elections—clerk pro tem.** The election provided for in this act, shall be held at the same places, and conducted in all respects as is now provided for by the law regulating general elections; and vacancies shall be filled in the same manner, provided said board may appoint a clerk pro tempore, whose term of service shall continue until a clerk shall be elected and qualified as provided for in this act.

SEC. 3. **Contested elections provided for.** In all contested elections of the before mentioned officers, it shall be settled as provided for in the act in relation to contested elections.

SEC. 4. **Forfeiture for failure to deliver over papers, books and moneys.** Every clerk who shall neglect or refuse to deliver over to his successor in office, all papers, books, and moneys, in his possession, as well as all and every thing appertaining to his office, shall forfeit and pay any sum not exceeding five

hundred dollars, nor less than twenty-five dollars, to be recovered as in action of debt, in any court having jurisdiction of the same.

SEC. 5. **Acts repealed.** All acts and parts of acts, authorizing the county commissioners to appoint clerks, be and the same are hereby repealed.

Approved February 16, 1842.

CHAPTER 77.

AN ACT to divorce Seth Baker from his wife Sally Baker.

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

SECTION 1. That the marriage contract heretofore existing between Seth Baker and Sally Baker, be and the same is hereby dissolved.

Approved, February 16, 1842.

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[67] CHAPTER 78.

AN ACT to vacate the survey and plat of a part of the town of Toolesborough, in Louisa county.

Whereas, the proprietors of the town of Toolesborough, in Louisa county, deem it unnecessary to continue on record all of the plat and survey of said town: Therefore,

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

SECTION 1. **Part of town vacated—part excepted—Power to change location and relocate.** That so much, and all that part of the town of Toolesborough, in Louisa county, that is situated, lying and being west of Mound street, in said town, be and the same is hereby vacated: (block number forty-five and forty-nine excepted) provided, however, that said proprietors shall have the power, and are hereby authorized to change the location of, and re-locate any part of the vacated part of said town, at any time hereafter they may deem proper, by retaining in said resurvey, so far as practicable, the numbers of the blocks and size of the lots, etc., so re-located, and have the same recorded according to law.

SEC. 2. **Not to interfere with the vested rights of others—other parts shall remain as now seen on record.** That the vacating of said part of said town of Toolesborough, shall not interfere with the vested rights of any person or persons, who now own lots in said town, or lots in any block that may be hereafter relocated; and the remainder, or other part of the survey and plat of said town, situated east of Mound street, shall remain as now seen on record. This act to take effect and be in force from and after its passage.

Approved, February 16, 1842.

CHAPTER 79.

AN ACT relative to the navigation of the Maquoqueta river.

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

SECTION 1. **River declared to be a public highway—any obstruction a misdemeanor.** That the Maquoqueta river, be and it is hereby declared to be a public highway, for all navigable purposes whatsoever; and if any person shall in any manner, impede or obstruct the navigation of said river, he shall be considered to have committed a misdemeanor, and on conviction thereof, shall be fined and imprisoned at the discretion of the court.

SEC. 2. **Owners of mill dams to construct schutes or locks for the passage of boats.** That in case of any obstructions in said river, by mill dams or other dams, prior to the passage of this act, it shall be the duty of the owner or owners of said mill dams or other dams, to forthwith construct such schutes or locks in said dams, as will admit flat-boats, or other boats, crafts, etc., to pass with safety; that said schutes or locks shall be at least twenty feet wide, and one hundred and twenty feet long, and shall be completed so as to pass boats and other crafts, within two years from the passage of this act.

Approved, February 16, 1842.

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[68] CHAPTER 80.

AN ACT amendatory of an act to regulate ferries, approved December 20, 1838.

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

SECTION 1. **Power of board of commissioners to regulate ferries.** That the several boards of commissioners of the counties of this Territory, are hereby empowered and required to regulate and establish the rates of ferriage, on every ferry in their respective counties, kept by authority of a charter from a Legislative Assembly.

SEC. 2. **Duty of clerks of commissioners, and keepers of ferries.** That the duty of the clerk of said boards, in such cases, shall be the same as that prescribed in section six of the act to which this is amendatory; and the duty and liability of the keepers of such ferries shall be the same as that prescribed in said act, so far as the same may not be contradictory to those in the charter granted them.

Approved, February 16, 1842.

CHAPTER 81.

AN ACT to authorize Samuel Wells to build a dam across Skunk river.

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

SECTION 1. **Right to build a dam—point to build.** That Samuel Wells, his heirs and assigns, be and they are hereby authorized to build and keep a dam across Skunk river, on the southeast quarter of section number six, in town-

ship number seventy-four, north, of range number nine west of the fifth principal meridian.

SEC. 2. **Liability for injury—Liability for malicious injury.** That any person or persons who shall destroy or in any wise injure said dam, shall be deemed to have committed a trespass, and shall be liable accordingly; and any person who shall wilfully or maliciously destroy or injure said dam, shall be guilty of a misdemeanor, and on conviction thereof shall be fined treble the amount of damages the owner may sustain. .

SEC. 3. **Not to flow other lands or mill wheels.—removal of nuisances—may be amended or repealed.** That nothing herein contained shall authorize the individual named in this act, his heirs and assigns, to enter upon and flow the lands or mill wheels of any person or persons, without the consent of such person or persons; and they shall remove all such nuisances as may be occasioned by the erection of said dam, which may endanger the health of the vicinity of said dam. This act may be amended, altered, or repealed by any subsequent Legislature.

Approved, February 16, 1842.

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[69] CHAPTER 82.

AN ACT to authorize John R. Sloan to keep a ferry across the Mississippi river at the town of Camanche, in Clinton county.

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

SECTION 1. **Right to keep a ferry—for term—subject to certain regulations.** That John R. Sloan, his heirs and assigns, be and they are hereby authorized to establish and keep a ferry across the Mississippi river at the town of Camanche, in Clinton county, for the term of ten years, from the first of April next: provided, that said ferry, when so established, shall be subject to the same regulations, and be under the same restrictions, as other licensed ferries are or may hereafter be, by the laws of this Territory, fixing the rate of tolls, and prescribing the manner in which licensed ferries shall be kept and regulated.

SEC. 2. **Time for procuring boats and hands.** That the said John R. Sloan, his heirs and assigns, shall, within three months from the passage of this act, procure for said ferry a sufficient number of flat-boats and other water crafts, with a sufficient number of hands to work the same, which shall be kept at said ferry, for the transportation of all persons and their property across said river without delay.

Approved, February 16, 1842.

CHAPTER 83.

AN ACT to provide for levying a tax on real and personal property for road purposes.

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

SECTION 1. **Power to levy a tax for road purposes.** That hereafter the board of commissioners in each county in this Territory, may at the same time they make a levy of taxes for county purposes, also fix a per centum on real

and personal property for road purposes, which per centum shall not be less than five cents nor more than twenty-five cents on the hundred dollars valuation, on all property made taxable by the revenue laws of this Territory, said tax to be paid to the supervisors or worked out on the roads.

SEC. 2. **Duty of supervisors to furnish a list of taxable citizens.** That it shall be the duty of each supervisor to furnish the board of commissioners of his county, on or before the first Monday in July annually, a complete list of the individuals liable to pay county tax in his road district, particularly specifying those who are the owners of real estate in his district, whereupon said board shall furnish or have furnished, said supervisors with a list of the road tax assessed on each person in his district, whose duty it shall be to collect or have the same worked out on the roads, allowing one dollar for each day's work.

SEC. 3. **Non-residents to work out road tax—tax collectors authorized to proceed against delinquents—to pay over.** That for the purpose of giving non-residents an opportunity to work out their road tax, the supervisors shall be furnished with a list of the amount of road tax charged on each non-resident tract of land in [70] each supervisor's district; and in case said road tax is not paid or worked out by either residents or non-residents, on or before the first day of November in each year, then the supervisors shall make out a list of delinquents, attach his certificate thereto, and deliver the same to the proper tax collector, who is hereby authorized to proceed to collect said tax according to law, by sale of property, etc., as other taxes are collected, and when collected, to pay over the same to the proper supervisors: provided, however, that county orders shall not be received for said road tax.

SEC. 4. **Supervisors to apply moneys received.** That it shall be the duty of each supervisor to apply all moneys received by him for road tax, to the making or repairing of bridges or improvement of roads within his district; and said supervisors shall pay over to their successors, all moneys that may be in their hands when their successors are sworn into office.

SEC. 5. **Power of supervisors to order out persons to work.** That is shall be the duty of supervisors to order out every person in their road districts, subject to labor on roads and highways, to work two days on the roads within the time provided by law, instead of three days as now provided by said law; and in all other duties said supervisors shall be governed by the road laws now in force in this territory.

SEC. 6. **Requirement of supervisors.** That the said supervisors shall only be required to perform two days services free of charge, instead of three days as now required by law.

Approved, February 16, 1842.

CHAPTER 84.

AN ACT to provide for the expression of the opinion of the people of the territory of Iowa, upon the subject of the formation of a state constitution and government, and to enable them to form a constitution for the state of Iowa.

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

SECTION 1. **Poll to be opened for the expression of opinion on the formation of a state constitution.** That for the purpose of obtaining the expression of the opinion of the people of the Territory of Iowa, upon the subject of the formation of a constitution and state government, a poll shall be opened at each electoral precinct in this territory, at the time of holding the next

general election for members of the Council and House of Representatives, etc.

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

SEC. 3. **Judges shall mark down number of votes for and against a convention—returns to be forwarded to the clerk of county commissioners of each county—duty of clerks to forward abstracts of votes given to secretary's office—secretary of territory to examine and count returns—the governor shall issue his proclamation.** That immediately after the polls are closed, it shall be the duty of the judges of said election, to mark down distinctly on a sheet of paper the number of votes given for, and the number of votes given against a convention, and certify the same, together with the paper containing the [71] names of the voters above mentioned, to be correct; and they shall thereupon carefully seal up said papers, so certified, endorse thereon "Returns for and against a convention," and forward the same to the clerk of the board of county commissioners of the proper county, within five days from the day of the election aforesaid; and it shall be the duty of the clerk by whom said returns shall be received, within four days after the same shall be deposited in his office, to make out an abstract of the votes given for and against a convention, enclose them in an envelope endorsed thereon "Returns for and against a convention for ——— county," (as the case may be,) and transmit the same to the office of the secretary of the territory, who, within thirty days after the election aforesaid, shall, in the presence of the governor, examine and count said returns and file them in his office, and thereupon the governor shall issue his proclamation declaring the number of votes given for and the number of votes given against a convention.

SEC. 4. **Provision for choice of delegates to convention in a certain event.** That if a majority of the votes polled at the election, provided for in this act, shall be for a "Convention," then there shall be another election held for the election of delegates to a convention to form a constitution for the State of Iowa, on the second Tuesday in October next after the election aforesaid; and the notice for said election for delegates, shall be given at least twenty days before the holding thereof; and the manner of giving said notice and all other proceedings connected with said election, shall be in accordance with the provisions of the law, providing for the election of members of the Council and House of Representatives in this territory, so far as the same may be applicable.

SEC. 5. **Number of members apportioned among the counties.** That the convention shall consist of eighty-two members, to be elected within the several organized counties in this territory as follows, to-wit: the county of Lee shall elect eleven members; the county of Des Moines ten; the county of Van Buren eleven; the county of Henry seven; the county of Jefferson five; the county of Washington three; the county of Louisa four; the county of Muscatine four; the county of Johnson three; the county of Cedar two; the county of Linn three; the county of Scott four; the county of Clinton two; the county of Jackson three; the county of Jones one; the county of Dubuque six; the county of Delaware one; and the county of Clayton two. The said delegates shall be citizens of the United States, and shall have resided twelve months within the Territory, before the election aforesaid.

SEC. 6. **Judges of election shall certify as provided by law in other elections—clerks of commissioners shall open returns and certify—case of a tie**

vote county commissioners to provide for. That the judges of election in the several precincts, shall certify the votes for delegates, in the same manner as is provided by law for the election of members of the Council and House of Representatives, and shall send returns of said election, so certified, to the clerk of the county commissioners' court, who shall open said returns and certify the election of delegates in the same manner as is now provided by law, for the election of members of the Council and House of Representatives; and in case of a tie vote between any of the candidates for delegates, it shall be the duty of the clerk of the board of county commissioners, to order a new election to be held within twenty days after said first election, and be conducted in the same manner as said first election.

SEC. 7. **Meeting of the delegates, time and place to form a constitution.** That the said delegates elect, shall meet at Iowa City, on the first Monday of November next, ensuing the election aforesaid, and pro-[72]-ceed to form a constitution and state government, for the territory of Iowa.

SEC. 8. **The adoption of constitution to be published—qualified voters at the general election authorized to vote for or against the constitution—votes for and against constitution shall be returned to clerks of commissioners—clerk to make return to secretary—secretary to open and count in presence of governor.** That when a constitution and form of state government, shall have been adopted by said convention, they shall cause the same to be published in all the newspapers printed in this territory; and at the next general election for members of the Council and House of Representatives, after the formation of a constitution and state government by said convention, the electors of said territory, who are qualified to vote for members of the legislature at said general election, shall be and they are hereby authorized, to vote "for the constitution," or "against the constitution." The votes for and against the constitution, shall be counted and returned to the clerk of the county commissioners' court, in the same manner as required by this act, in the election for convention and against convention; and the clerk of said commissioners shall, in the same manner, transmit returns of said votes for and against the constitution, to the secretary of the territory, who shall open and count the same, as soon as they are all received from the several counties in this territory, in the presence of the governor, who shall issue his proclamation declaring the result.

SEC. 9. **To vote in counties whether residents of such counties or not, for or against a convention—residence necessary to vote for delegates to convention.** That all electors qualified, as aforesaid, may vote for or against a convention, in any county of this territory, whether residents of such county or not; but in the election of delegates to the convention, the said electors shall not vote out of the counties wherein they have their residences.

SEC. 10. **Provision for conducting the several elections.** That the several elections provided for in this act, shall in all respects, be conducted in accordance with the provisions of an act, regulating general elections in this Territory, and the several acts amendatory thereto, so far as the same is applicable, and except as is herein specially provided for.

SEC. 11. **Oath to be administered to voters when challenged.** That whenever a person shall present himself to give his vote or ballot at said elections, and either of the judges shall suspect or any other person shall challenge him to be unqualified for that purpose, the judges shall tender to him the following oath: "You do solemnly swear and declare, (or you do solemnly declare and affirm) that you are of the age of twenty-one years, according to your best knowledge and belief, a citizen of the United States, and that you have been for the last six months, an inhabitant of this territory, and now a resident in this county, and that you have not voted before, in any part of this territory at this election."

SEC. 12. **Secretary to procure this act to be published—duty of the clerks of county commissioners to give notice—duty of sheriffs to post up notices.** That it shall be the duty of the secretary of the territory, to cause this act to be published in the several newspapers of this territory, as soon as the same may be approved by the governor; and it shall be the duty of the clerk of the board of county commissioners in the several counties of this territory, to give notice that a poll will be opened for the purposes specified in the first section of this act, to the sheriff of his proper county, who is hereby required to post up notices in accordance with law, at least twenty days before the general election day, in August next.

SEC. 13. **Secretary of territory to procure suitable rooms, etc.** That it shall be the duty of the secretary of the territory, to procure a suitable room for the meetings of the convention; also, to [73] provide the same with furniture, stationery, and all other things necessary, for the comfort and convenience of the convention.

SEC. 14. That this act shall take effect and be in force from and after its passage.

Approved, February 16, 1842.

CHAPTER 85.

AN ACT to divorce John E. Ely from Minerva Ely.

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

SECTION 1. That the bonds of matrimony now existing between John E. Ely and Minerva Ely, be and the same are hereby dissolved from and after the passage of this act.

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

Approved, February 16, 1842.

CHAPTER 86.

AN ACT for the relocation of a part of the territorial road from Iowa City to Prairie Du Chien.

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

SECTION 1. **Names of commissioners—time and place of meeting.** That Aaron Usher, O. Clark and B. Magonigle of Linn County, be and they are hereby appointed commissioners to relocate all that portion of the territorial road established from Iowa City to Prairie Du Chien that passes from the head of the upper rapids of the Cedar river to Ephraim T. Jervis in Linn county; said commissioners shall meet at such time and place as they or a majority of them shall agree upon, within six months after the passage of this act, and shall receive such compensation for their services as the board of commissioners of the county of Linn may deem proper.

SEC. 2. **To comply with a former law.** That said commissioners in locating said road, shall in all respects comply with the law for opening and regulating roads and highways, approved January 17, 1840.

Approved, February 17, 1842.

[74] CHAPTER 87.

AN ACT to relocate that portion of the territorial road leading from Fairfield, in Jefferson county, to Wapello, in Louisa county, that lies between Checauque river and Jefferson in Henry county.

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

SECTION 1. **Names of commissioners—route.** That Christian Bean, Philip Miller and Joseph Morrison of the county of Henry, be and they are hereby appointed commissioners to relocate that part of the territorial road leading from Fairfield, in Jefferson county, to Wapello, in Louisa county, that lies between Checauque river and Jefferson in Henry county, making the town of Trenton a point on said road.

SEC. 2. **Time and place of meeting.** That said commissioners shall meet at the town of Trenton, or a majority of them, on the first Monday of April next, and shall proceed to relocate that part of said road according to the provisions of an act to locate and establish territorial roads.

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

Approved, February 17, 1842.

CHAPTER 88.

AN ACT to review a part of the territorial road from Moscow via Rochester, to Marion in Linn county.

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

SECTION 1. **Names of commissioners—route.** That John Wilson, Sr. and George Hunt of Muscatine county, be and they are hereby appointed commissioners to review the road from Moscow via Rochester, to Marion in Linn county, from the bridge north of Moscow in Muscatine county, in the north half of the southwest quarter of section four, township seventy-eight north, to the southwest corner of Harvey Hatton's field, in section thirty-two, township seventy-nine, range two west, and that they receive such compensation as the board of commissioners of Muscatine county shall allow them.

Approved, February 17, 1842.

CHAPTER 89.

AN ACT to incorporate the town of Fort Madison.

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

SECTION 1. **Town constituted a body politic—may sue and be sued—use of seal.** That the inhabitants of the town of Fort Madison, [75] be and they are hereby constituted a body politic and corporate, with perpetual succession, by the name of "The Mayor and Aldermen of the town of Fort Madison," and by their corporate name may sue and be sued, plead and be impleaded, may receive, purchase, acquire, and hold, and grant, sell, and convey real,

personal and mixed property, and do all other acts as natural persons may do; may have and use a common seal, and the same at pleasure alter or break.

SEC. 2. **Limits and boundaries.** The limits and boundaries of said town shall be as defined and laid down on the plat of said town recorded in the recorder's office of Lee county, and extending to the middle of the main channel of the Mississippi river, and co-extensive along the middle of said main channel, east and west, with the limits of said town.

SEC. 3. **President and trustees to divide the town into wards—public notice—power to change boundaries of wards.** The president and trustees of the town of Fort Madison, incorporated under the act of the legislature of the Territory of Wisconsin, shall ten days before the time mentioned in this act for holding the first election, divide the said town into three wards, define their boundaries, and give public notice of the same together with the time and place of holding said election, provided, that the mayor and aldermen of said town, shall have power to change the boundaries of said wards at their discretion.

SEC. 4. **Aldermen to be elected—residence—mayor pro tem.** The said corporation shall consist of a mayor, who shall be a resident of said town, and six aldermen; two aldermen to be elected in each ward, and to be residents of the ward in which they shall be elected, and the said mayor and aldermen shall be over twenty-one years of age. The mayor shall preside at all meetings of the corporation, but shall not vote on any question except in case of a tie, when he shall give the casting vote. In case of the death, absence, resignation, sickness, or other disability of the mayor, the aldermen shall elect one of their number mayor pro tempore, who shall have all the authority and perform all the duties of mayor, during his absence, or until another shall be elected and qualified.

SEC. 5. **Time and place for opening polls—term of office—forfeiture of charter.** On the first Monday of April 1842, and on the first Monday of January, annually thereafter, polls shall be opened at one convenient place in each ward in said town, at which the qualified voters for members of the legislative assembly, residing within the limits of the ward in which they shall offer their vote, may vote by ballot for a mayor and two aldermen; and the mayor and aldermen so elected shall hold their offices for one year, and until their successors are elected and qualified: provided, that a failure to hold said election on the day herein prescribed in any year, shall not work a forfeiture of this charter, and an election may be held on any succeeding day, by giving notice thereof, according to the provisions of the eleventh section of this act.

SEC. 6. **Election of officers—appointment of clerk—refusal to act—qualified electors—time of keeping open polls—certificate of election—canceling votes—oath to support the constitution—judges to examine returns.** At the first election to be held under this act, two judges of election and one clerk, in each ward, shall be chosen, viva voce, by the electors of the ward present; and at all subsequent elections the mayor and aldermen shall at least one day previous to such election, appoint two judges of elections for each ward, and said judges for each ward, respectively shall appoint their own clerk, and in case of failure of said judges, or either of them, to attend, or of refusal to act, the electors present shall choose viva voce, a judge or judges to supply such vacancies. No person shall be competent to act as a judge or clerk at such election, who is not a qualified elector at all such elections. The polls shall be opened be-[76]-tween the hours of one and two in the afternoon, and close at the hour of four in the same afternoon. The clerk at each ward, shall keep a poll-book, in which he shall enter the name of every voter, in the order in which he shall vote, and at the close of the polls the votes shall be counted by said judges and clerk, and an entry made on the poll-book of the number

of votes given to each person voted for, and for what office, which shall be certified by the said judges and clerk, and a statement of the result of the election shall be proclaimed at the door of the house in which such election shall be held; and the two judges and clerk of each ward, shall give to each of the two persons, having the greatest number of votes in their ward, for alderman, a certificate of his election, and the judges of the different wards shall attend at the office of the mayor, between the hours of nine o'clock a. m. and twelve o'clock m., on the first Monday after the election, with the poll-books, and shall examine the certificate of the votes given to each person, [for mayor, and the person] having the greatest number of votes, shall be declared duly elected mayor of said town; and the said judges, shall make and deliver to such person, a certificate of his election, which shall be signed by at least a majority of all the judges of said three wards. The mayor and aldermen, so elected, shall within ten days after their election, take and subscribe an oath to support the constitution and laws of the United States, and of Iowa, and faithfully, impartially, and to the best of their ability, to discharge the duties of their respective offices, which shall be deposited with, and safely kept, by the clerk of said corporation; provided, however, that the judges of the first election, held under this act, shall meet to examine the returns from the several wards, at the office of the clerk of the district court of Lee county.

SEC. 7. **Power to transact business—prescribing time and place of meeting—appointment of officers—duties—salaries—journal of proceedings—inspection of journal—signing of by-laws—seal.** The said mayor and aldermen, or a majority of whom shall be a quorum for the transaction of business, shall have power to adjourn their meetings from time to time, unless sooner called together by a written notice from the mayor, designating the time and place of such meeting; they may also, by ordinance, prescribe the times for holding their regular meetings; they shall also have power to appoint a clerk, a treasurer, a marshal, an assessor, and such other subordinate officers as they may deem needful; to prescribe their duties, and require surety for their performance; to remove them at pleasure, and appoint others in their stead, and to establish the fees or salaries of all such officers of the corporation, where the same are not ascertained by this act; they shall cause their clerk to keep a correct journal of their proceedings, and enter the yeas and nays on any question, at the request of any member. They shall cause to be recorded, in a plain, legible hand, in a book, to be provided for that purpose alone, all the by-laws and ordinances made and ordained by them, which book, together with the said journal, shall be all times open to the inspection of the electors of said town. The journal of the proceedings of each meeting, shall be signed by the mayor and clerk; they shall also sign all by-laws and ordinances passed by said corporation, and the same shall be carefully filed and preserved by the clerk. All bills, bonds, notes, drafts, or contracts, ordered by the said corporation, shall be signed by the mayor, and attested by the clerk; and all bills, bonds, notes, drafts or contracts, so signed and attested, and in the case of bonds or contracts under seal, sealed with their common seal, shall be valid and binding on said corporation, in law and equity, in every court in Iowa.

[77] SEC. 8. **Power to pass ordinances—to remove nuisances—retailers of liquors—licenses—regulating drays and carts—inhibition of dangerous pastimes—shows and theatricals—markets, their regulation—power to regulate streets, sidewalks, wharves, public grounds, fire companies—bakers and bread—health of the town—establishment of ferries.** The said mayor and aldermen, shall have full power and authority to pass all by-laws and ordinances, to regulate the stationing, anchorage, landing, mooring or unlading of boats, vessels, rafts and all other water crafts,within the limits of said town, to prevent and remove nuisances, to establish night watches, erect lamps, to pro-

vide for licensing and regulating retailers of spiritous liquors within said town, and for annulling the same on good and sufficient complaint made against any person holding such license; to license and regulate drays, carts, and other vehicles kept for public hire; to prohibit the discharging of fire-arms, and the racing or immoderate running or driving of horses, drays, carts, carriages, wagons or other vehicles, in said town; to provide for licensing and regulating shows, theatricals, and other amusements, in said town; to regulate and establish markets, and to rent out the stalls in the same, and to prohibit the selling of meats, poultry, fish, or game, except at the public market; to erect and repair bridges; to regulate and improve all streets, avenues, alleys, sidewalks, landings, wharves, public grounds, and squares, drains, and sewers; to sink, and keep in repair, public wells; to establish and regulate fire wards and fire companies, to provide for the prevention and extinguishment of fires, and if necessary, to remove or pull down buildings or fences, for the prevention of the spreading of the same; to license bakers, and regulate the price and weight of bread, and to prohibit the baking of the same for sale, except by those licensed; and also to pass all such by-laws and ordinances, not inconsistent with the constitution and laws of the United States or of Iowa, as they shall deem necessary and proper for the health, safety, cleanliness, and convenience of said town, and the citizens thereof; and also whenever any license or charter for any ferry or ferries, within the limits of said town, now in existence, shall have determined, either by lapse of time, expiration of charter, or forfeiture, the said mayor and aldermen, shall have the exclusive right to establish a ferry or ferries, across the Mississippi river, within the limits of said town, and to lease the same for a year or term of years, as to them may seem most expedient.

SEC. 9. **Fines for breaches of law—process to collect fines—imprisonment for breaches—appeal to the court—authority and duty of marshal—fees of marshal.** The said mayor and aldermen shall also have power to fix and impose fines and penalties, for breaches of the by-laws and ordinances, by them passed and ordained, provided, the same shall not exceed twenty dollars, for any breach or violation, by any one person of any one by-law or ordinance, and the same may be recovered with cost of suit, before any justice of the peace or court, having jurisdiction thereof, by action of debt, in the name of the said corporation; and such person fined as aforesaid, shall remain in custody of the marshal, until such debt and cost is paid, or shall suffer not more than four months nor less than ten days, actual imprisonment in the common jail of the county, or guard house of said corporation, provided there shall be one within the limits of said town, provided that such person fined as aforesaid, shall have the right of appeal to the district court, in and for said county, by filing bond with approved security, before the tribunal trying such offender, on the day of said trial; and the marshal of said town shall have the same authority, and may do and perform the same duties, and shall be subject to the same liabilities, in the service and return of all such writs and process, issued by and in attending the trial, before such justice, for recovery of fines and penalties, for the breach or violation of any of the by-laws or ordinances [78] of said corporation, that constables are in their respective counties; and said writs and process, shall be directed to the marshal of the town of Fort Madison, or any constable of said county; and the said marshal shall receive for his services, the same fees that are or may be allowed by law, to constables for like services.

SEC. 10. **Vacation of office—special election.** The absence from said town, for three consecutive months, of the mayor or any alderman, or the removal of any alderman out of the ward for which he was elected, shall vacate his office, and a special election shall be held, to supply such vacancy, and the person so elected, shall hold the office for the remainder of the term for which

his predecessor was elected; such special election shall be held and returns made and certificate given, in the same manner that the annual elections are, and the person so elected shall qualify in the same manner.

SEC. 11. **Notice of election.** The mayor shall give at least ten days previous notice of every annual or special election, and of the places of holding the same, by advertisement in some newspaper, published in said town, or by one written notice, set up at some public place in each ward of said town, in which such election is to be held; provided that the notice for the first election to be held under this act, shall be given by the recorder of said town.

SEC. 12. **Power to assess and levy taxes—return of assessment roll.** The mayor and aldermen, shall have power to assess and levy an annual tax, on all property in said town, made subject to taxation by the laws of Iowa for county purposes, not exceeding in any one year, one per centum on the value of real estate, and one-half per centum on the value of personal estate, which value shall be ascertained by the assessor of said town; and they shall prescribe by ordinance, the time within which said assessor shall make out and return to their clerk, the assessment roll, and also the time within which the clerk shall make out and deliver to the marshal, a duplicate thereof, together with a warrant for the collection of the taxes so assessed, signed by the mayor and clerk, and sealed with the common seal of the corporation; they shall also have power to correct or equalize any erroneous or injudicious assessment.

SEC. 13. **Collector—written notice to tax payers—distress of delinquents—notice in newspapers—execution of lots for taxes—place of sale—costs and fees—marshal's certificate to purchasers—redemption.** The marshal shall be the collector of all taxes assessed as aforesaid, by said corporation; he shall, upon receiving the duplicate and warrant aforesaid, make personal demand of every resident charged with tax, if to be found within the town, or leave a written notice of the amount of such tax at his usual place of abode, and shall also put up at least one written notice in each ward in said town, that if the taxes are not paid within twenty days thereafter, the same will be collected by sale of the property of delinquents; at the expiration of which twenty days, said marshal shall, and he is hereby authorized and required, by distress and sale of personal property of such delinquent or delinquents, as constables on execution, to collect said tax, and all costs remaining unpaid, and pay the said tax over to the treasurer, and the treasurer's receipt shall be his voucher therefor; and if the tax on any lot or piece of land, on which no personal property can be found, shall remain unpaid at the expiration of said twenty days, then the said marshal shall give notice by publication in the nearest newspaper, for eight consecutive weeks, stating the amount of said tax and costs, and the number of the lot or description of the piece of land on which the same are due, and the owner's name if known; and that the said lot or piece of land, will be sold to discharge [79] such tax and costs, and printer's fees, on a day and at the place in such notice mentioned, and which shall be at least three months after the day of its first publication, unless payment thereof be made on or before said day of sale; on which day, if the said tax, costs, and printer's fees, be not previously paid, said marshal shall proceed to sell the said lot or piece of land, or so much thereof as will discharge said tax, costs, and printer's fees; said sale to take place at the door of the court house, in said town, or at the door of the mayor's office; and the mayor and aldermen shall, by ordinance, fix the costs or fees, to be allowed said marshal, for collecting taxes by sale, either of personal or real property, by virtue of this act; the marshal shall give to each purchaser at such sale, a certificate containing the number of the lot or description of the piece of land purchased, the price paid therefor, and the day of sale; and at the expiration of the time hereinafter limited for the redemption thereof, if

the same shall not be redeemed, the mayor shall execute to the purchaser or his assignees, a deed therefor, under the seal of said corporation; and the same if acknowledged, or proven and recorded, as other deeds are, or may be required to be acknowledged, or proven and recorded, shall be good and valid in law and equity, to pass a valid title to such lot or piece of land.

SEC. 14. **Right to appeal in two years—minors.** If the owner of such lot or piece of land, or his assignees, or grantee, or his, her, or their attorney, shall appear at any time within two years after such sale, and pay the purchase money with interest, and twenty per centum penalty thereon, or deposit the same with the treasurer, he shall be entitled to the right of redemption of said lot or piece of land; saving, however, to minors the right of such redemption, at any time within one year after arriving at full age.

SEC. 15. **By-laws and ordinances to be published.** The by-laws and ordinances of said corporation, shall be published in a newspaper published in said town, or posted up at one public place in each ward, fifteen days before the taking effect thereof; and the certificate of the clerk in the book, in which said by-laws and ordinances are recorded, shall be sufficient evidence of the same having been done; and the said book or a copy of any by-law or ordinance, with the copy of the certificate of the clerk of publication aforesaid, certified by the said clerk to be a true copy of such by-law or ordinance, and certificate, shall be a sufficient authentication to allow the same to be read or received in evidence, in all actions and suits, in any court in this territory.

SEC. 16. **Moneys received and expended.** Twenty days before each annual election the mayor and aldermen shall put up in some conspicuous place in said town, or publish in some newspaper published therein, an account of all the moneys received and expended by said corporation, since the last annual election with the sources from which they were derived, and the objects on which they [were] expended, which shall be certified by the clerk.

SEC. 17. **Right of corporation over road district—supervisor.** The streets and alleys of said town, together with the several roads leading therefrom, for the distance of one mile from the corporation limits, shall constitute one road district, and the mayor and aldermen shall have the exclusive right of appointing the supervisor for said district, who in every respect shall act as though appointed by the county commissioners.

SEC. 18. **No compensation for mayor, etc.** The mayor and aldermen, shall receive no compensation for their services.

[80] SEC. 19. **Repeal of former act—by-laws to continue in force until—validity of contracts.** The act now in force, passed by the legislature of the Territory of Wisconsin, incorporating the town of Fort Madison, be and the same is hereby repealed, from and after the first Monday in April next: provided, however, that all by-laws and ordinances in force in said town, on said first Monday of April, shall continue in force until altered or repealed by the corporation created by this act; and no suit or judgment then pending, or unsatisfied, to which said corporation shall be a party, shall abate, but the same may be prosecuted and enforced, in the name of the mayor and aldermen of the town of Fort Madison; and all debts, covenants, promises, contracts, and agreements, and all liabilities contracted, made and entered into by the president and trustees of said town, or by their authority, to or with any person or persons, shall survive and be as good and valid in law and equity, as if contracted, made, and entered into, by the said mayor and aldermen, of the town of Fort Madison; and suits may be instituted and sustained, either in favor of or against them, on such debts, covenants, promises, contracts, agreements, and liabilities, as might or could have been in favor of or against said corporation, created by the act hereby repealed, if this act had not been passed; the service of all process, against said mayor and alder-

men, shall be by leaving with the mayor, or in his absence with the clerk, a certified copy thereof; and in case of subpoena in chancery, a certified copy of the bill also.

Approved, February 17, 1842.

CHAPTER 90.

AN ACT relative to officers of the legislative assembly.

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

SECTION 1. **Election for Secretary and Sergeant-at-arms for the council—for the house—oath.** That at the commencement of each session of the legislative assembly, there shall be elected by ballot, one secretary, and one sergeant-at-arms, for the council; and one chief clerk, and one sergeant-at-arms, for the house of representatives; said officers when elected, shall be sworn by the presiding officers of their respective houses, faithfully and promptly to perform the duties of their offices.

SEC. 2. **Duties of officers—employment of assistants.** That it shall be the duty of the secretary and chief clerk, to keep the journals of their respective houses, and record them; they shall do the engrossing and enrolling also, of each house; they each shall be allowed (when the president of the council, or speaker of the house shall deem it necessary) to employ an assistant secretary or clerk, who shall be allowed three dollars per day; also an engrossing clerk, who shall be allowed two dollars per day.

SEC. 3. **Sergeant-at-arms to act as door-keeper—employment of fireman—boy as messenger—duty of sergeant-at-arms.** That the sergeant-at-arms in each house, shall, in addition to the duties of his office, perform those of door-keeper; he shall employ a trusty person as fireman, whose compensation shall not exceed one dollar and fifty cents per day; also an active, intelligent boy, as messenger, who shall be allowed one dollar per day. The sergeants-at-arms shall take care of the apartments of their respective Houses, keep them clean, and the furniture in order, and exercise a general supervision over the [81] conduct of the firemen and messengers, who shall act as their assistants when necessary.

SEC. 4. **Control of officers.** All the officers shall be under the direction of the presiding officer of their respective houses.

SEC. 5. **Per diem.** The secretary and chief clerk, shall each be allowed four dollars per day, in full for their services, and the sergeants-at-arms three dollars per day.

Approved, February 17, 1842.

CHAPTER 91.

AN ACT to incorporate the Cedar Rapids Manufacturing Company.

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

SECTION 1. **Names of corporators—power of company to contract, to sue and be sued—use of common seal.** That N. B. Brown, A. L. Roach, Harman Van Antwerp, S. H. Tryon, and their associates and successors, be and they

are hereby created a body politic and corporate, under the name of the "Cedar Rapids Manufacturing Company," and by that name shall have perpetual succession; and shall have power to contract and be contracted with, sue and be sued, plead and be impleaded, answer and be answered, in all courts of competent jurisdiction, may have and use a common seal, and be vested with all the powers and privileges necessary to the object of their incorporation, not contrary to law and the rights of other individuals.

SEC. 2. **Power to hold, purchase, sell lease etc.—limit of real estate.** That said company shall have power and be capable of holding, purchasing, improving, selling, leasing, renting, and conveying estate, real, personal, and mixed, for the use of said incorporation; provided, that the real estate owned by said company, shall not, at any one time, exceed thirty thousand dollars in value.

SEC. 3. **Distribution of stock.** That the capital stock of said company, shall be divided into shares of fifty dollars each.

SEC. 4. **Meeting of members—receiving subscription—election of directors—term of office—authority to operate.** That the members of said company, shall meet at any time a majority of them may agree upon, within one year from the passage of this act, and when so convened, may proceed to enact such rules, regulations, and by-laws, for the government and conduct of said company, and adopt such method and arrangement for receiving subscriptions to the capital stock thereof, as a majority of them may deem right and proper: provided, they do not conflict with the laws of the United States, of this territory or of the future State of Iowa; and shall, at the same time, and annually thereafter, elect by ballot five directors, and electing which, each share of the capital stock shall be entitled to one vote, and the person receiving the highest number of votes, shall be declared duly elected, to hold the office for one year, and till his successor be chosen; the directors shall choose one of their number president of the company, and appoint such other officers and agents, as a majority of them may think necessary, for the management of the business of said company; and by said directors, the property, stock, and concerns of said institution, shall be managed, subject to the regulations and instructions of a majority of [82] the stockholders; they shall have full power and authority to put into operation, and execute all the designs and instructions of the stockholders, and all contemplated in this charter.

SEC. 5. **Conveyances of real estate.** That all conveyances of real estate, shall be signed by the president of the company, and by him acknowledged in his official capacity, and the seal of the company shall be thereto affixed; which conveyance, so executed and acknowledged, shall be binding on the company, according to the tenor and meaning of the same.

SEC. 6. **Stock, personal property, and transferable.** That the stock of said company, shall be deemed personal property, and assignable and transferable on the books of the company; but no subscriber indebted to said incorporation, shall be permitted to make a transfer of stock, until such indebtedness be adjusted to the satisfaction of the directors.

SEC. 7. **Authority to construct a dam—height of dam—lock—passage of boats—locks to be completed—good repair—free of toll.** That said corporation be, and is hereby authorized to construct a dam across the Cedar river, in Linn county, at the rapids of said river; which dam shall not exceed four feet in height, above common low water mark, and shall contain a convenient lock, not less than one hundred and thirty feet in length, and thirty feet in width, or a sluice at least forty feet wide, for the passage of steam, keel, and flat-boats, rafts, and other water-crafts; which said dam and lock, or sluice, shall be completed within four years from the passage of this act;

and said lock or sluice shall, after completed, be kept in good repair, for the passage of all kinds of water-craft without delay and free of charge.

SEC. 8. **Injury or malicious destruction—fine and imprisonment.** That any person who shall destroy or in any wise injure either said dam or lock, shall be deemed to have committed a trespass, and shall be accordingly liable; and any person who shall wilfully or maliciously, in anywise injure or destroy said dam or lock, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined treble the amount of damage sustained by said company, or imprisoned at the discretion of the court.

SEC. 9. **Insolvency of corporation.** That if said incorporation should become insolvent, and fail thereby to meet any obligation against them, the stockholders thereof shall be personally liable therefor.

SEC. 10. That this act may be amended or repealed by any subsequent legislature of this territory, or State of Iowa.

SEC. 11. That this act shall take effect and be in force from and after its passage.

Approved, February 17, 1842.

CHAPTER 92.

AN ACT to re-locate a part of a territorial road, in Washington county.

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

SECTION 1. **Point to be changed.** That the territorial road which commences at a point where the military road crosses the north line of Washington county; thence to the north line of the State of Missouri, via Washington, Brighton, and Fairfield, be and the same is hereby changed, so as to [83] run from the fifteenth mile stake, on said road, to intersect a county road leading from Washington to Richmond, in said county, at a point one half mile north of the town plat of the said town of Washington; thence on said road to the public square in said town.

Approved, February 17, 1842.

CHAPTER 93.

AN ACT to authorize the establishment of poor houses.

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

SECTION 1. **Power of county commissioners to erect poor houses—purchase of land—tax to defray—to pay over.** That the county commissioners of each and every county within this territory, shall be, and they are hereby authorized, to erect and establish poor houses within their respective counties, whenever in their opinion, such a measure will be proper and advantageous, and for that purpose it shall be lawful for said commissioners, to purchase such lot or tract of land, as they may deem necessary for the accommodation of the institution: provided, that if the commissioners of any county shall think proper to purchase land, and erect a poor house under the provisions of this act, the expense of such purchase and erection, shall be de-

frayed by a tax levied on the general assessment roll for that express purpose, and collected and paid over in the same manner that other taxes are.

SEC. 2. **Board of directors to be appointed—oath of directors—term of office—clerk and his duties—vacancies, how filled.** That whenever the commissioners of any county shall have completed a poor house, for the reception of the poor, they shall immediately meet and appoint three judicious persons, residents of the county, who shall form a board of directors, to take charge of and manage the affairs of such poor house, agreeably to the provisions of this act; and the directors so appointed, shall, previous to their entering on the duties of their appointment, take an oath or affirmation, faithfully to discharge the duties of their office, and shall continue in office one year, and until their successors are appointed and qualified; and said board of directors shall appoint a clerk of their own body, whose duty shall be defined by the board; and if a vacancy shall happen in the board of directors, the county commissioners shall appoint some suitable person or persons to fill such vacancy, and who shall hold his or their office until the next annual meeting.

SEC. 3. **Quorum for business—shall be a body corporate, known by the name of—to sue and be sued—to contract and purchase—rules and regulations—to meet quarter-yearly.** That the board of directors, or a majority of them, shall form a quorum to transact business, and shall be a body corporate and politic, with perpetual succession, and shall be known by the name of the board of directors, of the poor house of ———county, (naming the county,) and by that name they may sue and be sued, defend and be defended, in any court within this territory; they may make all such contracts and purchases as may be necessary for the institution, and may prescribe such rules and regulations, as they may think proper for the management and good government of the same; and for introducing the practice of sobriety, morality, and industry, among its inhabitants, they shall meet quarter-yearly at such place as they may agree upon, and the president may call a special meeting of the board as often as the interests of the institution require it.

[84] SEC. 4. **Appointment of superintendent, his residence—compensation and duties—security—removal—discipline — appropriation of proceeds—persons to be received.** That the board of directors shall appoint a superintendent, who shall reside in some apartment in the poor house, or other building contiguous thereto, and shall receive such compensation for his services, perform such duties and give such security for their faithful performance, as the board shall judge proper; he shall be governed in all respects, by the rules and regulations of the board, and may be removed by them at pleasure; he may require all persons received into the poor houses, to perform such reasonable and moderate labor, as may be suited to their ages and bodily strength, the proceeds of which shall be appropriated to the use of the institution, in such manner as the board of directors may point out; the superintendent shall receive into the poor house, any person who shall produce to him such an order or voucher as is hereinafter required, and shall enter in a book to be provided by him, and kept for that purpose, the name and age as near as may be, of every person so received into the poor house, together with the day on which such person was received.

SEC. 5. **Visits to examine condition—inspection of books and accounts.** That the board of directors shall cause the poor house to be visited, at least once in every month, by a member of their body; which member shall carefully examine the condition of the paupers, the manner in which they are fed, clothed, or otherwise provided for and treated; shall ascertain what labor they are required to perform; and shall inspect the books and accounts

of the superintendent, and make report thereof at the next meeting of the board.

SEC. 6. **Annual report—expenses of support.** That the board of directors shall annually report to the commissioners of the county, the state of the institution, with a full and correct account of all their proceedings, contracts, and disbursements, and the expenses of establishing and supporting the institution, shall be paid on the order of county commissioners out of any money in the county treasury, not otherwise appropriated.

SEC. 7. **Binding out to apprenticeship.** That the directors aforesaid, shall have power to bind out to apprenticeship, all such poor children as may belong to such poor house, males until the age of twenty-one, and females until the age of eighteen years, unless any such female shall be married previous to that age, on such terms and conditions, as are prescribed by an act concerning apprentices and servants.

SEC. 8. **Order for the payment of expenses for necessaries.** That in every county, within which a poor house may be established, it shall be the duty of the directors of such poor house, to give an order on the county commissioners for the payment of such reasonable and necessary expense, as may have been incurred by any township or individual, in removing any pauper to the poor house, or that may have been incurred immediately preceding such removal, by reason of delay caused by the sickness of such pauper, and the county commissioners shall draw their order on the county treasurer for such amount; provided, that said directors shall not give such order,unless they shall previously determine that such pauper is legally a county charge.

SEC. 9. **Order for admission of paupers — warning to depart—causes of non-admission.** That no person shall be admitted to such poor house, as a pauper, unless upon the order of the trustees of the proper township, or of the county commissioners, directed to the board of directors of the poor house of the proper county, which order shall be accompanied by a statement of the facts, signed by said trustees or county commissioners, setting forth the name, age, birth-place, length of residence, previous [85] habits, and present condition of the person, claiming to be a pauper; together with the time or times at which such person or persons, if not a native of the county or township, has been warned to depart therefrom, and if neglected to be warned or removed, the reason or cause of such neglect; and if, on a full examination of the facts or circumstances, touching the right of such pauper to admission into the poor house, which may come to the knowledge of the directors, they shall be of opinion, from the failure or neglect of duty on the part of the overseers of the poor, or from want of proper legal residence, or from any other cause, such person is not legally chargeable to the county as a pauper, he or she, shall not be admitted to the poor house, and the superintendent shall not admit any person into the poor house as a pauper, unless upon the order of a member of the board of directors.

SEC. 10. **Non-residents must be removed—authority conferred upon the directors by a former act.** That in case any person shall become an inmate of any poor house, supported as a pauper, whose proper place of residence is in another county, state, or territory, it shall be lawful for the board of directors of such poor house, to cause such pauper to be removed to his or her proper place of residence, in the same manner as overseers of the poor, are authorized and required to remove persons not legally chargeable by the provisions of the act entitled "an act for the relief of the Poor," and all the power and authority vested in the overseers of the poor, by and in virture of said act, necessary to carry into effect the provisions of this section, are hereby conferred upon the directors of poor houses, for the purposes herein mentioned.

SEC. 11. **Discharge of paupers after restoration to health, from temporary**

infirmities. That when any person has been, or shall hereafter be received into any poor house, as a pauper, on account of any infirmity or disease, the directors of such poor house may, when in their opinion such person is so far restored to health and bodily strength, as to be able to support himself or herself, direct the superintendent of such poor house, to discharge such person therefrom.

SEC. 12. **Provision for non-resident paupers not in a condition to return home.** That if any paupers shall be in a situation, that will not admit of their removal to the poor house, or to their proper residence, the directors of the poor house shall have power to provide for the maintenance and support of such paupers, out of the county treasury, in the same manner as if such paupers were in the poor house, until their condition will admit of their removal to the poor house, or to their proper residence.

SEC. 13. **Power of commissioners to levy a tax when the ordinary revenue proves insufficient.** That the county commissioners be, and they are hereby authorized and empowered, in case the ordinary revenue of the county shall prove insufficient for the support of the poor, to levy and collect a poor tax, not exceeding one mill on the dollar, of the valuation of the property taxable for county and territorial purposes, to be entered on the grand list and collected as other taxes.

SEC. 14. **Allowance to directors.** That the county commissioners may allow the directors for their services, such sum as they may deem reasonable, not exceeding one dollar and fifty cents per day, for every day necessarily employed in the duties of their appointment, to be paid out of the county treasury, on the order of said commissioners.

Approved, February 17, 1842.

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[86] CHAPTER 94.

AN ACT to amend an act, subjecting real and personal estate to execution.

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

SECTION 1. **When real estate shall be levied upon by virtue of an execution—certificate of sheriff to purchaser or plaintiff—deed to purchaser in case of nonredemption.** That whenever any real estate, shall be levied upon, by virtue of an execution, issued upon any judgment, order or decree obtained in any court of record, either at law or in equity, the same shall be sold for the best price the same will bring at public auction, and the sheriff shall give to the purchaser thereof, or to the plaintiff in execution, if the same was bid off by him, a certificate, stating the price for which the same was sold, the day of the said sale, and that in fifteen calendar months, from that date, the purchaser, or plaintiff in execution, will be entitled to a deed to said land, unless the same shall be redeemed as hereinafter provided.

SEC. 2. **Possession of defendants—right of creditors to redeem—duty of the sheriff if the land shall not be redeemed.** That the defendant in execution, shall remain in possession of said land so sold, during the said fifteen months; that said defendant, his executors or administrators, shall have the right to redeem said land, at any time before the expiration of twelve calendar months, from the said day of sale; and any person who may be a judgment creditor of said defendant at the expiration of said twelve months, may within three calendar months thereafter, redeem said real estate, by paying to the plaintiff in execution, or to the sheriff for his use, the amount for which the said land

sold, with ten per cent. added thereto, and if the said land shall not be redeemed as aforesaid, it shall be the duty of the sheriff to make to the purchaser, or plaintiff in execution, a deed which shall operate as a conveyance of all the right, title and interest of said defendant in execution, to said real estate, and shall be prima facia evidence of the regularity of the sheriff's proceedings.

Approved, February 17, 1842.

CHAPTER 95.

AN ACT regulating the keeping of stallions and jacks.

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

SECTION 1. **Exclusion of stallions and jacks from the limits of any town or village.** That it shall not be lawful for any person to keep or let to mares, any stallion or jack, within the limits of any town or village in this territory, or within two hundred yards thereof, unless such person shall provide an inclosure so arranged as to obstruct the view from all the inhabitants in the town and vicinity as aforesaid; any person so offending, shall on conviction thereof, be fined not less than one nor more than five dollars, for every such offence, which fine shall be collected on complaint to any justice of the county where the offence may be committed.

Approved, February 17, 1842.

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[87] CHAPTER 96.

AN ACT to provide for receiving the proportion of money to which Iowa will be entitled under the distribution law.

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

SECTION 1. **Treasurer of the territory to receive distribution.** That the treasurer of the territory be and he is hereby authorized, to receive from the proper authorities of the United States, all sums of money to which said territory may be entitled under the provisions of the act of congress, of the fourth of September 1841, entitled "an act to appropriate the proceeds of the sales of the public lands," etc.

SEC. 2. **Subject to appropriation by assembly.** And the said treasurer is hereby required to keep all sums of money received as aforesaid, subject to appropriations hereafter to be made by the legislative assembly.

Approved, February 17, 1842.

CHAPTER 97.

AN ACT supplementary to an act regulating marriages, approved January 6, 1840.

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

SECTION 1. That all marriages which may have been solemnized by any regularly ordained or licensed minister of the gospel in this territory, previous to the taking effect of this act, shall be in all respects as valid in law, as though the same had been solemnized by a minister licensed as required by the third section of the act to which this is a supplement.

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

Approved, February 17, 1842.

CHAPTER 98.

AN ACT to amend an act relative to divorce, alimony, and for other purposes.

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

SECTION 1. **When a husband abandons his wife.** That when the husband is about to abandon, or has abandoned his wife, with the intention of leaving the territory, and neglects or refuses to provide for her maintenance, upon a statement filed by her of that fact, with the clerk of the district court, supported by the affidavit of some creditable person, the clerk shall thereupon, issue a capias, to hold the said husband to bail, and endorse thereon, that bail is required, and in what sum, according to the circumstances of the case.

[88] SEC. 2. **Held to bail.** That when the husband is held to bail, the undertaking of the bail shall be, that the defendant appear at the next term of the district court, to abide by, and perform the decrees of the court, in the case, and at the next term of the court such order shall be taken in the premises as is provided for in the eighth section of the act to which this is amendatory.

SEC. 3. **Amendment.** That the third section of the act, to which this is amendatory, be and is hereby so amended, that only three months residence in the territory, is required, previous to filing a bill for a divorce by any person under the said act.

SEC. 4. **Proceedings against a non-resident for divorce.** That in all cases of proceedings, against a non-resident defendant for divorce, the plaintiff may cause personal service of the bill and subpoena to be made on the defendant by some disinterested person, and by proof of service, so made by the affidavit of the person making the same, or by his testimony in open court, the plaintiff may proceed to a decree in the same manner as if publication had been duly made, and the defendant had not appeared: provided, such service shall have been made in time for the defendant to reach the place where the suit is pending, by travelling at the rate of twenty miles per day, before the decree is made.

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

Approved, February 17, 1842.

CHAPTER 99.

AN ACT supplemental to "an act relative to incorporated religious societies."

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

SECTION 1. **Religious societies make out an abstract statement of their organization.** That hereafter, any religious society desirous of exercising the privileges, and enjoying the benefits of the act to which this is a supplement, may make out an abstract statement of their organization, containing the name and location of such society, the name and style of the officers in such organization, have the same signed by all the officers of such society, at the time of making out such statement, and procure the said statement to be recorded upon the records in the recorder's office of the proper county.

SEC. 2. **Statement to be placed on record.** That when such statement is placed upon record, as aforesaid, said society shall be entitled to all the privileges, and subject to all the restrictions of the act to which this is a supplement, in like manner as said society could be if incorporated by act of this legislative assembly.

SEC. 3. **Fee of the recorder.** The fee of the recorder for recording said statement, shall be one dollar.

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

Approved, February 17, 1842.

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[89] CHAPTER 100.

AN ACT to authorize boards of commissioners to appoint agents to dispose of real estate.

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

SECTION 1. **Power of commissioners of any county to appoint an agent to sell estate.** That the board of commissioners of any county in this territory, be and they are hereby authorized, at their discretion to appoint an agent to sell and dispose of the real estate belonging to any such county, in such manner as they may order and direct.

SEC. 2. **Oath of agent and bond.** That the said agent, before he enters upon the duties of his office, shall take an oath, faithfully and impartially to perform the same, and shall give a bond in such penal sum, as the board of county commissioners may direct, to be approved of by them, and which shall be filed with the clerk of said board.

SEC. 3. **The agent to sell estate and give certificate.** That when any agent shall be appointed, as provided in the first section of this act, shall sell and dispose of any real estate, of such county, said agent shall immediately make out and deliver to the purchaser or purchasers, a certificate, and state therein the terms of said sale, the amount for which it was sold, the amount received, the amount unpaid, (if any) and the time when it will fall due, and the said agent shall within ten days thereafter, deliver a copy of such certificate to the clerk of the board of county commissioners, of his proper county at his office.

SEC. 4. **Commissioners to execute deeds.** That any board of commissioners, who shall have appointed an agent, according to the provisions of this act,

shall at their first session after the terms of sale shall have been complied with, as specified in any certificate of their agent, make out, execute, and deliver, on application at the office of the clerk of said board, a good and sufficient deed or deeds to the purchaser or purchasers for the same.

SEC. 5. **Sales made by agent valid.** That all sales heretofore made of any real estate, and deeds executed for the same by any agent having been duly appointed for that purpose, by the board of commissioners of any county in this territory, be and the same are hereby declared good and valid, and sufficient for the conveyance in fee simple, of such real estate.

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

Approved February 17, 1842.

CHAPTER 101.

AN ACT supplemental to an act regulating criminal proceedings.

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

SECTION 1. **Power of justices to issue warrants to search for counterfeits.** That when an affidavit is filed with a justice of the peace, stating that the affiant suspects and believes that counterfeit money, whether bank notes or coin, is concealed in any particular house or place, [90] or about the person of any one, and stating also that such affiant believes that such person knows it to be counterfeit, the justice if he thinks there is sufficient ground for such suspicion, shall issue his warrant to search for such property.

SEC. 2. **Proceedings to be had.** That if such counterfeit money be found, then the same proceedings shall be had as is provided for in the second chapter of the act to which this is amendatory, providing for the arrest, examination, and entering into recognizance of prisoners in other cases.

Approved February 17, 1842.

CHAPTER 102.

AN ACT to provide for the assessment and collection of taxes from the town of Zarahemla, in Lee County.

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

SECTION 1. That the assessor and collector of taxes, in Lee county, be and they are hereby required to assess and collect the taxes on the land covered by the plat of a certain town in Lee county, called Zarahemla, recorded in the recorder's office of said county, as other land is taxed in said county, and not as town property or town lots.

SEC. 2. That nothing herein contained, shall be considered as recognizing the legality of the survey, or record of said town plat.

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

Approved February 17, 1842.

CHAPTER 103.

AN ACT authorizing the reduction of the minimum price of the unsold lots in Iowa City, and their sale for work and materials, and for other purposes.

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

SECTION 1. **To reduce the minimum price of lots in Iowa City.** That it is hereby made the duty of the territorial agent, to reduce the minimum price of the unsold lots in Iowa City, and of any and all lots, in said city, which may have been, or may hereafter become forfeited, fifty per centum below the prices fixed thereon, under existing valuations.

SEC. 2. **Agent authorized to sell forfeited lots for work on the capitol.** That the said territorial agent, be and he is hereby authorized to sell any of the unsold and forfeited lots, in Iowa City, to any person or persons applying for the same, for work to be done on the capitol, or for necessary materials furnished therefor, at the reduced minimum price.

SEC. 3. **Preceding sections to remain in force six months.** The provisions contained in the preceding sections, in reference to the reduction of the price of lots, and of their sale for necessary materials or work, to be applied toward the completion of the capitol, in [91] Iowa City, shall be and continue in force for six months, from and after the first day of May next, and no longer.

SEC. 4. **Duty of agent to publish statement of the foregoing provisions.** And it is hereby made the duty of the territorial agent, to cause to be published, a brief statement of the provisions contained in the foregoing sections, for six weeks immediately succeeding the passage of this act, in all the papers now published in this territory, and in some paper in the cities of Cincinnati, Louisville and St. Louis, in Springfield, Illinois, and in Indianapolis, Indiana.

SEC. 5. **To enforce the collection of notes given for lots.** That it is hereby made the duty of the territorial agent, to enforce the collection of all notes given for lots in Iowa City, in 1839, in the name of the acting commissioner, and to institute proceedings at law or otherwise, for the immediate collection of the same.

SEC. 6. **Agents salary—superintendent's pay to be for time employed.** The salary of the territorial agent, shall hereafter be five hundred dollars, only, per annum, and the superintendent of public buildings at Iowa City, shall be paid only in proportion to the time he shall be actually employed upon the said buildings, at the rate of one thousand dollars per annum.

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

Approved February 17, 1842.

CHAPTER 104.

AN ACT to relocate a part of a territorial road in Louisa county.

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

SECTION 1. **Names of commissioners to relocate—points—to be governed by the general law.** That James W. Isett, Thomas Stoddard, and Samuel Woodsides, be and they are hereby appointed commissioners to relocate, if

they deem it expedient and conductive to public convenience, all that part of the territorial road, lying between the towns of Fredonia and Port Allen, in said Louisa county: provided, that no part of the expense created in said relocation, shall be paid by said county of Louisa; said commissioners shall meet at Fredonia on the last Monday of March next, and proceed to review, and if they deem it expedient, as aforesaid, relocate so much of said road as above described, and said commissioners shall in all respects be governed by the general law relative to the establishment of territorial roads. This act to take effect from and after its passage.

Approved February 17, 1842.

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[92] CHAPTER 105.

AN ACT to relocate a part of the territorial road from Iowa City to Burlington.

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

SECTION 1. **Name of commissioner to relocate road.** That Robert Walker of Johnson county, be and he is hereby appointed to relocate that part of the road leading from Iowa City to Burlington, which passes through sections No. 22 and 27, in township No. 79, range No. 6, west of the fifth principal meridian.

SEC. 2. **To take a surveyor.** That said commissioner, shall on the first Monday in April next, or on any other day, within one month thereafter, take to his assistance a surveyor, and such other hands as he may think proper, and proceed to discharge the duties of his office.

SEC. 3. **Compensation.** That said commissioner, surveyor, and other hands necessarily employed, shall receive such compensation as is usually allowed for like services.

Approved February 17, 1842.

CHAPTER 106.

AN ACT to authorize James Leonard to establish and keep a ferry across the Mississippi river, at the town of Charleston, in Jackson county.

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

SECTION 1. **Right to establish a ferry—point—subject to regulations.** That James Leonard, of the county of Jackson, his heirs, and assigns, be and he is hereby authorized, to establish and keep a ferry across the Mississippi river, at the town of Charleston, in the county of Jackson, for the term of ten years, from the passage of this act: provided, that said ferry, when so established, shall be subject to the same regulations as other ferries are, or hereafter may be, by the laws of this territory, fixing the rates of tolls, and prescribing the manner in which licensed ferries shall be kept and regulated.

SEC. 2. **To keep boats and hands.** That the said Leonard, shall immediately procure and keep at said ferry, a sufficient number of good flat boats and other water crafts, with a good and sufficient number of hands to work the same for the transportation of all persons and their property, across said river, when passable, without delay.

SEC. 3. That no person, or persons, shall establish a ferry, within one half mile, either above or below the ferry hereby established.

SEC. 4. This act to take effect and be in force, from and after the twentieth day of March next.

Approved February 17, 1842.

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[93] CHAPTER 107.

AN ACT to change the name of the town of Vandenburg, in Clinton county, to that of "De Witt."

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

SECTION 1. That the name of Vandenburg, the present seat of justice in and for the county of Clinton, be and the same is hereby changed to that of "De Witt."

SEC. 2. This act shall take effect from and after its passage.

Approved February 17, 1842.

CHAPTER 108.

AN ACT to repeal an act to create the office of Superintendent of Public Instruction.

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

SECTION 1. **Office abolished.** That an act to create the office of superintendent of public instruction, approved January 13, 1841, be and the same is hereby repealed.

SEC. 2. **Duty of inspectors to report the condition of schools.** That it shall be the duty of the school inspectors of the different districts in the several counties in this territory, to report the true condition of all the schools in their respective districts to the clerk of the boards of county commissioners in the several counties in this territory on or before the first day of November, annually, and it is hereby made the duty of the several clerks aforesaid, to arrange the said several reports in order, and transmit the same to the legislative assembly of the territory, annually, on or before the second Monday after its annual organization.

Approved February 17, 1842.

CHAPTER 109.

AN ACT entitled an act supplementary to an act providing for the appointment of a superintendent of public buildings at Iowa City, and the appointment of a territorial agent, and for other purposes.

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

SECTION 1. **Agent to sell forfeited lots.** That it shall be lawful for the territorial agent to sell at private sale, to any person or persons applying for

the same, any forfeited and unsold lot or lots in Iowa City, for the price fixed upon such lot or lots, under the provisions of the ninth section of the act to which this is supplementary.

[94] SEC. 2. **Agent to give certificate of final payment.** That whenever full and final payment shall have been made for any lot or lots in Iowa City, the territorial agent shall give to the person or persons entitled thereto, a certificate of full and final payment for the same.

SEC. 3. **Transfer of duties from superintendent to agent.** That the duties required to be performed by the acting commissioner, in the act entitled "an act to grant certain lots of land in Iowa City for church and literary purposes," approved July 31, 1840, shall hereafter be performed by the territorial agent.

SEC. 4. **Certificates of final payments to be filed in secretary's office—to make a deed.** That whenever any certificate of full and final payment for lots in Iowa City, shall be presented to the secretary of the territory, he shall file the same in his office and make out a deed of conveyance in accordance with such certificate, which deed of conveyance shall be sealed with the seal of the territory, signed by the governor and countersigned by the secretary, and when thus executed, shall convey to the grantee a title in fee simple to the lot or lots therein described.

SEC. 5. **Secretary to keep a record of deeds—compensation to secretary.** It shall be the duty of the secretary of the territory to keep a record in his office of all deeds of conveyance made out by him and executed according to the provisions of this act, and as a compensation for the duties required of the said secretary under this section, he shall be entitled to have and receive the sum of one dollar and fifty cents for each deed by him thus made out and recorded, to be paid by the territorial agent, out of any money in his hands arising from the proceeds of the sale of lots in Iowa City.

Approved February 17, 1842.

CHAPTER 110.

AN ACT to divorce James V. Hill, of Linn county, from his wife Eliza Hill.

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

SECTION 1. That the bonds of matrimony existing between James V. Hill, of Linn county, and his wife, Eliza Hill, be and the same are hereby dissolved.

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

Approved February 17, 1842.

CHAPTER 111.

AN ACT to divorce Clarissa Welch from her husband Samuel C. Welch.

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

SECTION 1. That the marriage contract heretofore existing be-[95]-tween Clarrissa Welch, and her husband Samuel C. Welch, be and the same is hereby dissolved.

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

Approved February 17, 1842.

CHAPTER 112.

AN ACT to divorce Rebecca Fisher from her husband John Fisher.

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

SECTION 1. That the marriage contract heretofore existing between Rebecca Fisher, and her husband John Fisher, be and the same is hereby dissolved, from and after the passage of this act.

Approved February 17, 1842.

CHAPTER 113.

AN ACT for the relief of James Davis, former sheriff of Muscatine county.

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

SECTION 1. That the board of commissioners of the county of Muscatine, be and they are hereby authorized, to give James Davis, former sheriff of Muscatine county, and ex officio collector of taxes, such further time as they may deem reasonable, to make out a list of delinquents as required by the laws regulating the collection of county revenue, and that they make such settlement with said James Davis, as collector aforesaid, as they may deem just and equitable.

SEC. 2. That said board of commissioners are hereby authorized, to require the present sheriff of said county, to collect all unpaid taxes heretofore assessed.

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

Approved February 17, 1842.

CHAPTER 114.

AN ACT to amend the militia law.

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

SECTION 1. **Officers to be exempt from military duty.** That all military officers, who are now or may hereafter be commissioned, and who shall serve as such in the militia of this territory, or in that of one of the United States, for the space of [96] four years, shall be exempt from military duty in time of peace: provided, however, that no such officer who may have served in the militia of this territory, shall be so exempt, unless by his resignation after such term of service duly accepted, or in some other lawful manner, honorably discharged from his commission.

SEC. 2. **Non-commissioned officers and musicians exempt conditionally.** Every non-commissioned officer, musician, and private of every uniform company, raised or hereafter to be raised, who has uniformed himself or shall hereafter uniform and equip himself, and whose term of service in such company, may have amounted or shall amount to seven years, from the time of his enrollment therein, shall be exempt from military duty, except in cases of war, insurrection, or invasion.

SEC. 3. **Uniform members exempt conditionally.** If any member of such company, who shall have been regularly uniformed and equipped, shall upon his removal out of the district of such company, or upon the disbandment thereof, enlist into another uniform company and uniform and equip himself

therefor, and serve in the same, whenever the whole term of his services in such companies computed together shall amount to seven years, he shall be exempt from military duty, in like manner, as if he had served the whole period in the company in which he was first enrolled.

SEC. 4. **Officers elected to hold their commissions during the pleasure of commander-in-chief.** And be it further enacted, that all officers hereafter elected or appointed, who shall willingly consent to such election or appointment, may hold such office during the pleasure of the commander-in-chief, unless removed by a legal court martial, but no such officer shall, under the provisions of this act, be entitled to resign his office until he has served at least two years from and after his election or appointment, and no resignation shall be accepted for a shorter term of service, without good cause shown to the satisfaction of the officer to whom such resignation shall be presented.

SEC. 5. All acts or parts of acts, which may conflict with this act is [are] hereby repealed.

Approved February 17, 1842.

CHAPTER 115.

AN ACT relative to the survey of the town of Salem, in Muscatine county.

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

SECTION 1. That William Chambers, be and he is hereby authorized, to re-survey the north half of the town of Salem, in Muscatine county, and vacate the lots therein, in such manner as he may deem proper.

Approved February 17, 1842.

[97] CHAPTER 116.

AN ACT to repeal an act to regulate the mode of petitioning the legislature in certain cases.

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

SECTION 1. That an act entitled an act, to regulate the mode of petitioning the legislature, in certain cases, approved January 25, 1839, be and the same is hereby repealed.

Approved February 17, 1842.

CHAPTER 117.

AN ACT to locate and establish a territorial road, from Chas. Nealy's, in Muscatine county, to Iowa City, in Johnson county.

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

SECTION 1. **Names of commissioners to lay out a road—points—place and time of meeting.** That Charles Nealy, H. H. Winchester, and George Bum-

gardner, of Muscatine county, be and they are hereby appointed commissioners, to lay out and establish a territorial road, to commence in the county of Muscatine, at or near the dwelling house of Charles Nealy; thence on the nearest and best route to Iowa City. Said commissioners, or any two of them, shall meet at the house of Charles Nealy, in Muscatine county, on the first Monday of June next, A. D. 1842, or at such other time during said year as they may agree upon, and proceed to locate said road, and one of the above named commissioners may act as surveyor.

SEC. 2. **Compensation.** That each of the commissioners named in this act, together with all other hands employed by them, shall receive such compensation for their services, as the county commissioners of Muscatine county may direct: provided, however, that no part of the expense created in locating said road, shall be paid by the counties of Louisa and Johnson.

SEC. 3. That the commissioners aforesaid, shall, in all other respects, be governed by an act for opening and regulating roads and highways, approved January 17, 1840.

Approved February 17, 1842.

CHAPTER 118.

AN ACT for the organization of townships.

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

SECTION 1. **Board of county commissioners to divide counties into townships.** That the board of county commissioners in each county, not yet divided into townships, shall as soon as they are of opin-[98]-ion that a majority of the people of the county desire it, proceed to divide the county into townships in the following manner: They shall divide the county into townships of such shape and size as the convenience and interests of the citizens may require, confer upon each township the name preferred by the inhabitants of the same, and appoint the place where the first meeting of the electors shall he holden. The clerk of the said board shall record the name of each township, the time when it was set off, and a particular description of its boundaries.

SEC. 2. **Townships when organized to be formed into bodies politic.** That the several townships which have been or may hereafter be organized, be and they are hereby formed into bodies politic and corporate, capable of suing and being sued, pleading and being impleaded in any court of law or equity in this territory.

SEC. 3. **Time and place of election to choose a chairman—electors to choose judges of election.** That the electors of each township, shall on the first Monday in April, annually, after the organization of the same, assemble at some place within the township at the hour of 10 a. m., and when eight or more electors shall have assembled, they shall elect from their number a chairman, whose duty it shall be to preside over the meeting, and to direct any constable present to remove or arrest any disorderly person or persons, and if necessary to confine them until the close of the meeting, and it is hereby made the duty of such constable to obey such orders; said electors shall then proceed to elect by ballot three persons having the qualifications of electors as judges of the election, who shall appoint the necessary clerk, and take an oath or affirmation faithfully to discharge the duties of their office.

SEC. 4. **First meeting of electors.** That the first meeting of the electors of any township, shall be held at the place appointed by the board of county commissioners, but all future meetings shall be held at such place as the trustees of the township may direct.

SEC. 5. **Election of township clerk and other officers—oath.** That after the election of the chairman, and judges of the election, in the manner aforesaid, the electors shall proceed to the election of one township clerk, three trustees, two overseers of the poor, three fence viewers, a sufficient number of supervisors of highways, two constables, and one township treasurer, which several officers shall continue in office until their successors shall be chosen and qualified, and shall on their respective appointments take an oath or affirmation faithfully to discharge the duties of their respective offices.

SEC. 6. **Clerk to keep record.** That it shall be the duty of the township clerk, to keep fair and accurate records of all public transactions at the township meetings, to make out within two days after the elections of township officers a list of all of those of whom oaths are required by law, stating the offices to which they have been respectively chosen, and deliver the same to a constable of the township, requiring such constable forthwith to summons such officers to appear before a justice of the peace, or before such clerk within ten days, to take such oaths or affirmations as may by law be required, which oaths or affirmations the said clerk is authorized to administer, and of which he shall make a record, and in case any township officer shall take the oath of office before any justice of the peace, such justice shall file a certificate thereof with the clerk of the township, who shall record the same.

SEC. 7. **Clerk to record in book all private roads, cartways, brands of cattle, etc.—compensation for recording.** That it shall be the further duty of the township clerk, to record in a book to be provided by him for that purpose, all private roads or [99] cartways established by the trustees, together with the ear marks and brands of all cattle, sheep, and hogs, and such other marks as any person may wish to have recorded in said township, but he shall not record the same mark to two different persons, and the said clerk shall be entitled to receive of the person employing him as aforesaid for recording such marks or brands, the sum of twenty-five cents, and shall deliver a certified copy of such record to the owner if required, and for recording private roads or cartways, he shall be entitled to receive ten cents for every sheet of one hundred words, provided that in counties not divided into organized townships, the duties required of the township clerk in this section shall be performed by the clerk of the board of county commissioners.

SEC. 8. **Forfeiture for using marks or brands of others—Forfeiture to be recovered by action of debt.** If any person shall knowingly mark any of his horses, cattle, sheep, or hogs, with the same mark or brand previously recorded, and still used by any individual resident in the same organized township (or within five miles of such person in counties not divided into organized townships) the person so offending shall forfeit and pay for every such offense five dollars, to be recovered by action of debt before any justice of the peace, in the name and for the use of the person whose mark or brand shall be used, and if any person shall knowingly mark or brand the horses, cattle, sheep or hogs, of any other person with his own mark or brand, the person so offending shall forfeit and pay for every such offense, to the person injured, ten dollars, to be recovered by action of debt before any justice of the peace, in the name and for the use of such person; and if any person shall knowingly and wilfully destroy or alter any mark or brand upon any cattle, horses, sheep or hogs, the property of another, the person so offending shall on conviction thereof, before any justice of the peace, forfeit and

pay for every such offense a sum not exceeding ten dollars, and double damages to the party injured.

SEC. 9. **Township treasurers to give bond—in case of forfeiture of treasurer's bond, to proceed by motion in district court.** That every person elected to the office of township treasurer, shall previous to entering on the duties of his office, give bond with security to the trustees of such township, and their successors in office, in such sum as the trustees may deem proper, conditioned for the faithful performance of his duty in receiving and paying over all moneys which may come into his hands for the use of the township, which bond shall be lodged with the clerk of the township, and if the said bond shall become forfeited, the township clerk by order of the trustees, is hereby authorized to proceed in a summary manner by motion in the district court, to recover and collect the same for the use of the township or an other person or party entitled to the same.

SEC. 10. **Treasurers to retain 3 per cent of monies paid into township treasury.** That each township treasurer shall be allowed and may retain three per centum of all moneys paid into the township treasury for receiving, safe keeping, and paying over the same to the order of the trustees.

SEC. 11. **Trustees to settle accounts of supervisors and demands against the township—time and place of meeting—further duties of trustees—number of supervisors.** That it shall be the duty of the trustees of the township to settle the accounts of the supervisors of the highways and overseers of the poor, and to examine and settle all accounts and demands against the township, for which purposes the said trustees, supervisors of highways, overseers of the poor, and clerk, shall meet on the first Monday of March annually, at the place of holding the township meetings, and at the same time and place it shall be the further duty of the trustees to divide their respective townships into road districts where they have not already been [100] divided, to make any alteration they may deem proper in road districts previously made, and to determine the number of supervisors to be chosen at the annual township election, one of which supervisors shall be chosen in each road district: provided that the electors of any township set off by the board of county commissioners for organization, shall at their first meeting vote for four or more supervisors, as they may deem necessary, and after the trustees have taken the oath of office they shall proceed to divide the townships into road districts, and allot each district to such supervisor resident therein, as may have received the highest number of votes, and if no supervisor shall have been elected in any district then the trustees shall appoint the same.

SEC. 12. **Supervisors to buy scrapers and ploughs to repair roads.** That the supervisor of any road district, is hereby authorized to purchase, and keep in repair for the use of his district, one scraper, and such ploughs as he may deem necessary, which tools shall be used exclusively in making and repairing roads, and a receipt for the money paid in purchasing or repairing the same, shall [be] a competent voucher for the amount in the annual settlement of his accounts.

SEC. 13. **Majority of trustees power to levy a poor tax — articles subject to taxation—one mill on the dollar—clerk to make out assessment roll—constables collecting tax to give bond—penalty of neglect to collect and pay over amount of tax—treasurer to give notice and proceed by motion before district court.** That the trustees of each and every township, whenever a majority of the whole number of electors in said township shall deem it expedient, or when it shall become necessary for the support of the poor, shall have power and authority to lay a tax: provided, that such articles only shall be subject to taxation as are made liable by the laws for assessing and collecting county revenue, and that the amount of tax so

levied, shall not exceed the amount authorized to be levied on the same articles for county purposes, and if a poor tax, it shall not exceed one mill on the dollar, and when a tax is so assessed, either for township purposes, or for the support of the poor, it shall be the duty of the township clerk to make out from the county assessment roll for the township, an assessment of the tax voted for by the township, or ordered by the trustees for the support of the poor, a duplicate of which he shall deliver within twenty days to such constable of the township as the trustees shall direct, and the other duplicate within the like time to the township treasurer, and the constable receiving such duplicate, shall before he proceeds to the collection of the taxes charged therein, give bond with two or more securities, to be approved by the trustees of the township, to the treasurer of the township, conditioned to collect and pay over to the said treasurer, or his successor in office, the amount of said tax within four months, and in case the said constable shall neglect or refuse to collect and pay over the whole amount of said tax, within the time specified in said bond, it shall be the duty of the township treasurer, after giving ten days written notice to said constable and his securities, to proceed in a summary manner by motion before the district court, and recover the amount due from such constable with twenty per centum damages thereon for such neglect or refusal, and shall have execution therefor against said constable and his securities, and the constable collecting such tax shall receive like compensation as is or may be allowed at the time to the county collector for like services.

SEC. 14. **Trustees shall issue their warrants to constables to notify electors —constables shall warn electors.** That at least twenty days before the annual township meeting, the trustees shall issue their warrant to a constable of the township, directing him to notify the electors of such township to assemble at the time and place of their annual meeting, and said warrant shall enumerate the officers to be chosen at such meeting, and on the application of two or [101] more freeholders of the township for that purpose, said trustees shall insert in said warrant such other business as may be proposed, to be submitted to said township meeting, and no tax shall be laid at such meeting unless notice thereof shall have been given in said warrant, and the constable who shall receive such warrant, shall warn the electors of such township by setting up copies of said warrant in three of the most public places in each township, at least fifteen days before the meeting of such electors.

SEC. 15. **Persons chosen and refusing to serve shall forfeit.** That any person chosen to any office under this act and not exempted by law, who shall neglect, or refuse to serve in such office, shall forfeit and pay to, and for the use of the township the sum of two dollars, to be recovered before any justice of the peace, and it is hereby made the duty of the township treasurer to sue for the same, and for all fines and forfeitures under this act for neglect or misconduct in office of any township officer: provided, that no person chosen to any office by this law created shall be obliged to serve in such office two years successively.

SEC. 16. **Trustees to fill vacancies—in case of electors failing to assemble in time.** That when by reason of non-acceptance, death, or removal of any person chosen to an office in any township, at the annual meeting in April, or in any case where there is a vacancy, the trustees shall fill such vacancy, and the person thus chosen shall take the same oath and be liable to the same penalties as though he had been chosen at the annual meeting; and in case there should not at any annual meeting under this act be a sufficient number of electors assembled for the choice of a chairman, as is hereinbefore provided, between the hours of ten o'clock in the fore-

noon and four in the afternoon, so that no township officers can be chosen by the electors, it shall then be the duty of the trustees to appoint all officers in this law enumerated, and the township officers thus appointed shall take the same oaths and be liable to the same penalties as though they had been elected at the annual meeting.

SEC. 17. **Duty of officer to deliver over books, etc.** That it shall be the duty of all township officers, to deliver over to their successors in office under this act, all books and papers relating to their respective offices.

SEC. 18. **County commissioners may alter boundaries.** That whenever the board of county commissioners may deem it conducive to the public convenience, to alter the size and boundaries of any township, they shall be and are hereby authorized, to make such alteration.

SEC. 19. **Townships desirous of being organized.** That any township desirous of being set off for organization, shall apply to the board of county commissioners, and it shall be the duty of said board, when satisfied that a majority of the legal voters of said township are desirous of organization, to direct their clerk to record the boundaries of said township in a book provided for that purpose, and give said township such name as the citizens thereof may prefer: provided, that no townships in any one county shall have the same name.

SEC. 20. **Application for laying out private roads by petition—petitioners to enter into bonds.** That all applications for laying out any cart-way or private road, shall be by petition to the board of trustees, signed by at least six freeholders of the township, residing in the vicinity where the said private road or cart-way is to be laid out; and the said petition shall specify the place of beginning, intermediate points, if any, and place of termination of said road; and one or more of the signers of said petition shall enter into bonds with sufficient security, payable to the treasurer of said town-[102]-ship, conditioned for the payment of all costs and expenses arising from the view and survey of said private road or cart-way.

SEC. 21. **Notice to be given before petitioning—freeholders as reviewers—time to review—remonstrance may be filed—bar against damages—to provide gates.** That previous to the presentation of any petition, for such cart-way or private road, notice thereof shall be given, by posting up two written notices, one at the place of holding the township elections and one in the immediate vicinity of the proposed cart-way or road, at least three weeks before the sitting of the board at which said petition shall be presented, and the petition being presented, and the board being satisfied that notice has been given as aforesaid, they shall appoint three disinterested freeholders of said township as viewers of said road, and a surveyor if required by the petitioners to survey the same, and shall issue an order directing the viewers, after they have been duly sworn, to proceed on a day named in said order, or within five days thereafter, to view and lay out said road, or if a surveyor be appointed to lay out and survey said road and make report to the board aforesaid at their next meeting, and if no remonstrance signed by at least six signers shall be filed with said board, or presented the day on which said viewers make their report, and said viewers shall report in favor of establishing said road, then the same shall be recorded in the record of said township as a private road or cart-way, which said record shall be a bar to any application for damages, and the said trustees shall issue their order to the owner or owners of the land through which the said road or cart-way may be established, directing him or them within such time as they may deem proper to provide such gates as may be necessary for a quick and convenient passage through such fences as may cross said road.

SEC. 22. **Damages for injury of premises.** That if any person or persons, through whose land any such cartway or private road may be laid out, shall feel injured thereby, and remonstrance having been made as provided for in the preceding section, shall make application to the said trustees at their first session after the view of said cartway or private road, it shall be the duty of said trustees to appoint three disinterested freeholders of said township, whose duty it shall be to proceed, after being first duly sworn, to view that part of said cartway or private road through the premises of said complainant, and assess the damages of said complainant, if any, and make report in writing to said board, and if said viewers shall report that the advantages of said private road or cartway are not equal to the damages occasioned thereby to the premises of the complainant, and shall therein report the amount of damage the petitioners shall be required to pay the damages so assessed, and until he does so said trustees shall refuse to establish said private road or cartway, and all the expenses of the viewers and surveyor, if any, both at the first and second view, shall be paid by the said petitioners, and if they shall neglect or refuse so to do, it is hereby made the duty of the said treasurer to commence suit on the bond, and prosecute the same to final judgment and execution.

SEC. 23. **Constables to take an oath and file bonds.** That the constables shall take the oath and file the bond required in the "act for electing constables, and defining their duties," approved January 24, in the year 1839.

SEC. 24. **Trustees to be judges of elections held in townships—quorum for the transaction of business.** That the trustees by virtue of their office, shall be judges of all general and special elections held within their respective townships, and shall conform to the requirements in that respect of the act regulating [103] general elections, and a majority of the trustees at any township meeting, shall be a quorum for the transaction of any business.

SEC. 25. **Former acts repealed.** That the act providing for the organization of townships, approved January 10, 1840, and an act to amend an act providing for the organization of townships, approved January 15, 1841, are hereby repealed.

SEC. 26. **No compensation to judges and clerks.** That the judges and clerks of election in said township shall receive no compensation from the county treasury for services as such.

SEC. 27. This act shall take effect and be in force from and after its passage.

Approved, February 17, 1842.

CHAPTER 119.

AN ACT to establish an insurance company, in the city of Dubuque.

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

SECTION 1. **Company established—name and style—amount of capital—may be increased—limits—shares.** That an insurance company to be called "The Dubuque Insurance Company," shall be established in the city of Dubuque, in the territory of Iowa, with a capital stock of one hundred thousand dollars, which may be increased at the will of the stockholders to any amount not exceeding two hundred thousand dollars, divided into shares

of one hundred dollars each, to be subscribed and paid for by individuals, companies, or corporations, in the manner hereinafter specified.

SEC. 2. **Ed. Langworthy and others authorized to open subscription books —place—time—when directors to be chosen—may reopen subscription books.** Edward Langworthy, Wm. Lawther, J. P. Farley, Charles D. Townsend, Timothy Davis, Patrick Quigley, Robert Waller, and Henry Simplot, or any three of them, be and they are hereby authorized to open books of subscription in said city, for the capital stock of said company on the first Monday in May next, and keep them open every day from ten o'clock, a. m. till four o'clock, p. m., for the space of six days, when the same shall be closed. If within six days five hundred shares shall have been subscribed for, it shall be lawful for the subscribers to meet after fifteen days' notice in the public prints of the time and place of meeting shall have been given, and choose their directors, who may at any time after ten days' public notice given, cause the subscription books to be opened and continue open until the whole amount of said stock shall have been taken.

SEC. 3. **Company declared a body corporate—name and style—may sue and be sued, etc.** The subscribers for the stock of the company aforesaid, their associates, successors, and assigns, shall be and they are hereby ordained, constituted, and declared a body corporate and politic, by the name and style of "The Dubuque Insurance Company," and by that name they and their successors shall have perpetual succession, and shall be capable in law of contracting and being contracted with, of suing and being sued, of impleading and being impleaded, of answering and being answered unto, of defending and being defended against in all courts and places whatever, in all manner of actions, suits, complaints, and causes, and they and their successors may have and use a common seal.

SEC. 4. **Time and manner of payment of shares—company not to make any policy until all the shares subscribed for are paid.** The payment of the stock subscribers shall be made and com-[104]-pleted by the subscribers respectively, at the time and in the manner following, that is to say: at the time of subscribing there shall be paid on each share one dollar; after the election of directors and before the company shall go into operation, there shall be paid upon each share ten dollars, and the balance upon each share shall be subject to the call of the directors. And the said company shall not be authorized to make any policy, or contract, or insurance, until the whole amount of shares subscribed shall be actually paid or satisfactorily secured to be paid on demand by approved notes, or by mortgage on real estate.

SEC. 5. **Power of corporation to make insurance—kinds—may lend their surplus money—per cent—may be insured themselves—not to loan anything but gold and silver.** The coporation hereby created, shall have full power and authority to make all kinds of insurance against losses on goods or merchandise in the course of transportation, whether happening on the land or on the water, and to make such other insurances as they may deem expedient; to lend their surplus or unemployed money, or capital on interest not exceeding ten per cent. per annum, to companies, corporations, and individuals upon personal or real security, and generally to do and perform all necessary matters and things relating to, or connected with, these objects, or with either of them, and they may also cause themselves to be insured against risks upon their interest which they may have in any vessel, goods or merchandise: provided, that said corporation shall loan nothing but gold and silver, or the notes of specie paying banks, such as are of par value in the city of Dubuque, or the city of St. Louis.

SEC. 6. **Number of directors—when elected—for how long—inspectors of election—one vote for each share—absentees may vote by proxy—election**

may be held on other days. The stock and affairs of the said company aforesaid, or corporation, shall be managed and conducted by nine directors, who shall be stockholders of the company, and residents within the territory. They shall after the first year be elected on the first Monday in May, in each year, at such time and place in the city of Dubuque, as the board of directors for the time being shall appoint, and shall hold their offices for one year and until others shall be chosen to supply their places, and no longer; ten days public notice of such election shall be previously given, and the election shall be held under the inspection of three stockholders, to be previously appointed for that purpose by the board of directors, and shall be made by ballot by plurality of the stockholders present, allowing one vote for every share, and stockholders not personally present, may vote by proxy made in writing directly to the person representing them at such election. In case that it should happen at any time that an election of directors should not be made on any day when pursuant to this act it ought to have been made, the said corporation shall not for that cause be deemed to be dissolved, but it shall and may be lawful on any other day to make and hold an election of directors in such manner as shall be regulated by the by-laws and ordinances of the company.

SEC. 7. **President—death or resignation—vacancy how filled.** The directors chosen regularly by the stockholders of said company, shall as soon as may be, after every annual election, proceed to choose out of their own body one person to be president, who shall preside until the next annual election thereafter, or in case of the death, or resignation of the president, or any director, the vacancy may be filled by the board of directors, and in case of the absence of the president, the board of directors shall have power to appoint a president pro tempore, who shall have all powers, and perform all the duties of the president regularly chosen.

SEC. 8. **Board—powers—to appoint assistants—to appoint secretary and clerks—to make dividends—to make by-laws, etc.—proviso.** The directors may by the by-laws, or ordinances of said com-[105]-pany, direct what number of directors shall constitute a board and be competent for the transaction of the business of the corporation, and they shall have power (subject to said by-laws) to appoint from their own body, one or more persons to act or assist in the performance of the business of the company with such salaries and allowances as they may think proper, and also appoint a secretary and such clerks and other servants as they may deem expedient, and they shall also have power to declare and make dividends of the profits of the business arising from the company, and make and prescribe such by-laws, rules and regulations as to them may seem proper, touching the business and interest of said company: provided that a majority of the whole number of directors shall be necessary to make any such by-laws.

SEC. 9. **Stock considered personal property, transferable, etc.—proviso.** The stock of said company shall be considered personal property, and shall be assignable and transferable, according to such rules and restrictions as the board of directors shall from time to time make and establish, subject, however, to the general law of the territory, or future state, as the case may be, as the same exists or may be changed hereafter.

SEC. 10. **May purchase real estate—may hold it as security—may purchase real estate when sold in virtue of judgment in favor of company—shall not employ stock funds to buy goods, wares, etc.—nor funded debt—nor make payment without seal—but may purchase to use in ordinary transactions—may transfer the same.** It shall be lawful for said company, to purchase and hold such real estate, as may be convenient for the transaction of its business not exceeding twenty thousand dollars in value, and

also to take and hold any real estate as a security, or in mortgage, or in pledge, to secure the payment of debts due, in good faith to the company, either for shares of capital stock or otherwise, and also to purchase real estate at any sale, made in virtue of any judgment at law, or decree in equity, made in favor of said company, to receive and take in satisfaction of any debt previously due to said company, any real estate, to hold all such real estate, except that herein first mentioned, which is intended for the ordinary use and accomodation of said company, so long only as may be necessary to enable said company to make sale of the same for money or other property; but it shall not be lawful for the said company, to use and employ any part of its stock funds as capital in buying and selling goods, wares, and merchandise, or any commodities whatever, nor in brokering operations, or business, nor the purchase of any stock or funded debt, created or to be created by, or under any act of the United States, or of any particular state, nor make any contract for the payment of money, only except under the seal of said corporation; but it shall nevertheless be lawful for the said company, to purchase any such stock, or funded debts, as aforesaid, for the purposes of vesting any part of the stock, funds, or money of said company, therein to be made available in the line of its ordinary business, and also to sell and transfer the same, and reinvest the proceeds thereof in other stocks or funded debt, when and as often as the exigencies of the said corporation may require.

SEC. 11. **Policies to be subscribed by president — attest of secretary — policies may be given without the presence of directors.** All policies, or contracts of insurance, which may be made or entered into by said corporation, shall be subscribed by the president, or president pro tempore, or by such other officers as shall be designated for that purpose by the by-laws, and attested by the secretary, and being so signed and attested, shall be binding upon said corporation, without the seal thereof, according to the tenor, and effect, true intent, and meaning of such policies and contracts, and all such policies and contracts, may be signed, and carried on, without the presence of the board of directors, by [106] assistants, or committee, if done in conformity with the by-laws, shall be binding upon the company to all intents and purposes.

SEC. 12. **Construction of this act—when to take effect—to continue in force 30 years—name may be used longer for final settlement.** That this act shall be liberally construed, for the beneficial purposes intended, and shall take effect from and after its passage, and shall continue in force for thirty years, and no longer; but after the expiration of said term, it may use said corporate name, style, and capacity, for the purpose of suits, and other necessary transactions for the final settlement and liquidation of the accounts and business of said company, and for the sale of real estate and other property, but not for any other purposes.

SEC. 13. **Stockholders personally liable.** That the stockholders of said company, shall be personally liable for all contracts, and obligations, made and entered into by said institution.

SEC. 14. **May be amended or repealed.** That any subsequent legislature may amend or repeal this act.

Approved, February 17, 1842.

CHAPTER 120.

AN ACT to change the name of Rising Sun, to Pittsburgh.

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

SECTION 1. That the name of that part of the town of Rising Sun, in Van Buren county, which lies above the mouth of Chegnest Creek, known as Clayton's addition, is hereby changed, and shall hereafter be known by the name of Pittsburgh, in common with that part of said town, lying below the mouth of said creek.

Approved February 17, 1842.

CHAPTER 121.

AN ACT relative to the "Davenport Institute."

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

SECTION 1. **Names of persons constituted a body corporate — name and style—powers—proviso.** That Thomas S. Hoge, David Hoge, Alfred Sanders, James Thorington, E. Tichenor, L. E. Johnson, J. L. Davies, A. B. Hichcock, John Owens, jr., A. H. Brownlee, G. McKown, J. W. McCaunnon, H. W. Cheever, E. M. Mackemer, Z. H. Goldsmith, A. W. McGregor, James Hall, and their associates and successors, who may become members of such incorporation, are hereby created a body politic and corporate by the name of the "Davenport Institute," and by that name shall have perpetual succession, and shall possess the necessary powers of a corporation, and such as are usually granted to a corporation for literary and scientific purposes: provided, that the yearly value of the real and personal estate, held by such institute, shall not exceed five thousand dollars.

[107] SEC. 2. **By-laws.** Said institute may establish such by-laws as may be deemed necessary, not contrary to law.

SEC. 3. **Officers—how elected.** The officers of the said institute, shall consist of a president, vice president, secretary, and treasurer, and such other officers as may be deemed necessary, to be elected in such manner and to serve for such time as the society, by their by-laws, shall determine.

SEC. 4. **May be altered, amended, or repealed.** That any subsequent legislature shall have power to alter, amend, or repeal, any or all of the foregoing provisions of this act.

Approved, February 17, 1842.

CHAPTER 122.

AN ACT to incorporate the city of Keosauqua.

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

SECTION 1. **Boundaries—name and style.** That all that part or tract of land, recorded by James Hall, and company, in the office of the recorder of

deeds, for Van Buren county, Iowa territory, as the town of Keosauqua, and the northwest quarter of section thirty-six, in township number sixty-nine, north of range, ten west of the fifth principal meridian, be and the same is hereby constituted an incorporated city; and shall hereafter be known by the name or title of the "City of Keosauqua."

SEC. 2. **Qualification of voters—election—officers—to be a board—proviso.** It shall be lawful for the free white male inhabitants of said city, being of twenty-one years of age, and having resided therein for three months previous, to meet at some convenient place in said city of Keosauqua, on the first Monday of May, and annually thereafter, and then and there proceed by a majority of votes, to elect by ballot, a mayor, five aldermen, and one recorder, who shall hold their offices one year, and until their successors are elected and qualified; and any three of them excepting the recorder, shall be a board for the transaction of business, but a less number may adjourn from time to time: provided, that if an election of a mayor, aldermen, and recorder, shall not be made on the day when, pursuant to this act, it ought to be made, the said corporation shall not, for that cause, be deemed to be dissolved; but it shall, and may be lawful, to hold such election at any time thereafter, pursuant to public notice, to be given in the manner hereinafter prescribed.

SEC. 3. **First election—judges and clerks of election—result of elections to be proclaimed—persons notified of their election—notice of election to be posted up.** At the first election to be held under this act, there shall be chosen viva voce by the electors present, two judges and a clerk of said election, who shall each take an oath or affirmation, faithfully to discharge the duties required of him by this act; and at all subsequent elections, the council shall appoint three judges and a clerk of the election; and at all elections to be held under this act, the polls shall be opened between the hours of nine and ten o'clock a. m., and remain open until five o'clock p. m., of said day; at the close of the polls the votes shall be counted, and a true statement thereof proclaimed to the electors present, by one of the judges, and the clerk shall make a true record thereof; and within five days after such election, the said clerk shall give notice to the persons elected of their election, and make true returns to the recorder; and it shall be the duty of said city council, at least ten days before each [108] annual election, to give notice of the same by posting up notices in three of the most public places in said city.

SEC. 4. **Duties of recorder.** It shall be the duty of the recorder, or his deputy, to attend all meetings of the council, and keep a fair and accurate record of all their proceedings; and the said recorder is authorized under his hand and seal, to appoint some competent person as his deputy, who, in his absence, shall do and perform all and singular the duties enjoined upon said recorder, and for whose acts the said recorder shall be liable.

SEC. 5. **Power of mayor and aldermen — to acquire property—seal—sue and be sued—summons with whom left.** That the mayor and aldermen and inhabitants of said city, shall be a body corporate and politic, with perpetual succession, to be known by the name of the mayor and aldermen of the city of Keosauqua; and shall be capable in law, by their corporate name, to acquire real and personal property, within and for the use of said city; to sell and convey the same; may have a common seal, and may alter and change the same at pleasure; they may sue and be sued, plead and be impleaded, defend and be defended, in all manner of courts of judicature in this territory, and in all manner of actions whatever; and when any suit shall be brought against the city, an attested copy of the summons shall be left with the mayor, or at his place of residence, ten days before the return thereof, or in his absence with the recorder of said city.

SEC. 6. **By-laws and regulations—to fix compensation of officers—fines—proviso—collection of fines—ordinances to be published.** The mayor and aldermen shall have power to make and establish by-laws, regulations and ordinances, for the government of the city, and alter and repeal the same at pleasure; to prescribe the duties and compensation of such subordinate officers, as they may deem proper; to appoint and remove them at pleasure; to fix reasonable fines and penalties for any violation of the laws and ordinances of the corporation: provided, that no person shall be fined exceeding fifty dollars for any one offense, against any one ordinance, and may be recovered by action of debt, before any justice or any magistrate of competent jurisdiction, within the limits of the city, and to provide for the collection and disposition of the same; and no by-laws and ordinances shall take effect, until they shall have been published; and the recorder shall keep a record of the publication of all by-laws and ordinances, which record shall be sufficient evidence of the publication of the same in all cases whatsoever.

SEC. 7. **Streets and alleys—sewers, landings—liquor houses—pedlars—shows—races—dogs—hogs—markets—houses of ill-fame—tax—proviso—assessor and collector—fire company—gunpowder—to pass all laws necessary to carry the foregoing into effect.** The city council shall have power to improve streets, lanes and alleys, within the said corporation; to grade, ditch, and cut sewers; to make and repair wharves or public landings, within the corporation; to license houses where liquor is sold; to license the vending of merchandise; to license pedlars; to license and prohibit shows and other public exhibitions; to prohibit the discharging of fire-arms, and the racing or immoderate running of horses within the corporation; to levy and collect a tax on dogs; to restrain or prohibit the running at large of hogs and ferocious animals; to establish and regulate public markets; to establish a ferry and for annually leasing the same; to restrain and prohibit houses of ill fame, and all indecent exhibitions within the city; to levy and collect a tax on real and personal property within the corporation, and subject to a county tax: provided, it shall not exceed in any one year, more than the one-fourth of one per centum of the aggregate amount of all such taxable property; the said tax shall be assessed and collected by such officer or officers, as the city council may from time to time appoint, in such manner, and under the same regulations, as are or [109] may be provided by law, for the assessment and collection of county taxes, to provide against danger by fire, and for this purpose there may be organized within the limits, one fire company, not to exceed twenty-five members; and when so organized, the members thereof shall be exempt from militia duty; to prohibit the keeping in any one place, large quantities of gun-powder; they shall have power to pass all laws and ordinances, not inconsistent with the laws of the United States and the laws of this territory, for the purpose of carrying the aforesaid powers into effect, and for the preservation of the peace, health, and cleanliness of said city.

SEC. 8. **Marshal—Power and duties of marshal—fees—extent of jurisdiction—fines, to whom paid.** The council shall appoint a suitable person to be marshal of the city, whose duty shall be to execute and return all process directed to him by the mayor, or any justice of the peace, within the limits of the corporation, in the name of the mayor and aldermen of the city of Keosauqua, and shall have the same authority, and perform the same duties, and be subject to the same liabilities, that constables are in their respective counties; and shall receive the same fees for services that are or may be allowed by law to constables within this territory, and do and perform all other duties that may be imposed on him by ordinance; and the mayor or

any justice of the peace, residing within the limits of said corporation, shall have jurisdiction co-extensive with the county, in all cases, where the mayor and aldermen of said city are plaintiffs or complainants; and all fines collected for any violation of the laws of this territory, where the offense has been committed within the limits of the corporation, shall be paid into the city treasury.

SEC. 9. **Writs—how served and returned.** All writs and process issued by any justice of the peace, or any other court, under any of the ordinances of the corporation, shall be served and returned in like manner, and with like effect, as writs and process are now served and returned under the laws of this territory.

SEC. 10. **Power and duty of mayor.** The mayor shall not vote except in case of a tie, when he shall give the casting vote; he shall sign all laws or ordinances passed by the board, and see that they are faithfully executed; he shall sign all bonds and drafts ordered by the city council, and attested by the recorder; and all such bonds or drafts so signed, shall bind the said corporation, and shall be good in law and equity in every court in the territory, for what is therein expressed.

SEC. 11. **Resignation or absence.** In case of the resignation, absence, sickness, or death of the mayor, the aldermen shall elect one of their number mayor pro tem., who shall be invested with all the authority, and perform all the duties of mayor during his absence, or until another is elected and qualified.

SEC. 12. **Oath to be taken.** The mayor and aldermen, and all other officers of the city, shall, before entering upon their respective duties, take and subscribe an oath, to support the constitution of the United States, and the laws of this territory, and faithfully perform the duties for which they were elected, which oath shall be filed with the clerk.

SEC. 13. **Treasurer—to settle quarterly with council—to give bond.** The council shall also appoint a city treasurer, who shall receive and safely keep all moneys which may come into his hands, and when he receives moneys from the marshal, or any other person, for the use of said city, he shall give a receipt for the same; he shall, once in every three months, make out a list of all moneys by him received and paid out, and make a complete settlement with the council; he shall not [110] purchase, buy, or in any way trade for any city orders, at a less value than the amount called for by the same; he shall give to the council a bond, with security to their satisfaction, and be in all things governed by the by-laws and ordinances.

SEC. 14. **Streets and alleys—persons liable for expense of sidewalk—proviso—proviso.** When any street, lane, or alley shall be improved, the city council shall assess the cost thereof to the owners of the property on each side of the street, lane, or alley, so made, according to the number of feet front each person does own on said street, lane, or alley; and in like manner if sidewalks are only made, each person shall be liable for the expense incurred in front of his, her, or their property; and if the said assessment is not paid, after giving due notice thereof, the property shall be sold after giving the usual notice, as in case of execution, for to satisfy the amount with costs: provided, that if the owner of any such property is a non-resident, a notice posted in the office of the recorder, for sixty days, shall be a legal notice, and the owners of any property sold under this act may redeem the same within one year after such sale, by paying the costs, assessment, and twenty-five per cent. interest per annum: provided, the city council shall have discretionary power to charge to the owners of property, such part of the expenses of improving any street, lane, or alley, as they may deem just, the balance to be paid out of the city treasury.

SEC. 15. **Resignation or absence of mayor [aldermen]—vacancy—recorder pro tem.** In case of the death, resignation, or absence of one month, without leave of the mayor, or [of] any of the aldermen, it shall be the duty of the recorder to give ten days' notice of an election to be held, to supply the vacancy, and in case of the death, or resignation of the recorder, the council shall in like manner call an election to fill the vacancy, and may appoint a recorder pro tem., until one is elected and qualified.

SEC. 16. **Limits of city a road district.** The limits of the said city shall form a road district, and persons residing therein shall be liable to work the roads, according to the laws of this territory for other districts.

SEC. 17. **This act not to interfere with county or territory.** That nothing in this act shall be so construed, as to interfere with the rights of the county or territory, to tax the people within the limits of said city.

SEC. 18. **Election of justice of peace—term of service.** At the first election, under this act, there shall be elected two justices of the peace, the one having the highest number of votes to be elected for two years, and the other for one year, and annually thereafter there shall be elected a justice of the peace, who shall hold his office for two years, and until his successor is elected and qualified.

SEC. 19. **Repealing clause.** That on application of a majority of legal voters of said city, any future legislature of the territory or state of Iowa, may alter, amend, or repeal this act.

SEC. 20. This act to take effect and be in force from and after its passage.

Approved, February 17, 1842.

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[111] CHAPTER 123.

AN ACT to incorporate the Mount Pleasant Literary Institute.

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

SECTION 1. **E. Kilpatrick and others declared a body corporate—name and style—powers.** That E. Kilpatrick, Esq., Samuel Nelson, Esq., J. D. Payne, L. B. Hughes, Charles Stoddard, N. J. Smith, John P. Grantham, J. C. Hall, Esq., G. W. Patterson, John Monroe, N. Lagthroop, H. M. Snyder, Robert Monroe, G. W. Kesler, Samuel Brazelton, William Thompson and their associates, are hereby ordained, constituted and declared, a body corporate, by the name of "The Mount Pleasant Literary Institute," and by that name they and their successors shall have perpetual succession, and shall be capable of suing and being sued, impleading and be impleaded, answering and being answered, defending and being defended against, in all manner of actions, suits, and complaints, in any of the courts in this territory; that they and there successors shall have a common seal, and have power to alter, or change the same at pleasure.

SEC. 2. **Charter to be accepted by a vote of two-thirds members present—officers.** That said corporation shall meet on the first Monday in April, A. D. 1842, at the office of the clerk of the district court, of Henry county, and after they shall have agreed to accept this charter, by a vote of two-thirds of the members present, which vote and acceptance shall be recorded in a book to be kept by the secretary thereof, they shall proceed to elect from their number, to act as the fiscal board of the said incorporation, a president, secretary, treasurer, and six trustees, who shall hold their offices until the first Monday in September next, following said election, and until their successors are elected.

SEC. 3. **Power and duties of the president—secretary—treasurer—to give bond—payable to the institute—board of trustees—powers—same.** That the president shall be ex-officio president of the board of trustees, and shall have a vote in all matters that shall come before the board, shall have the power to call special meetings of the trustees, and present such matters to said board for their consideration, as he shall deem expedient and proper; that the secretary shall keep a faithful record of the proceedings of said board. The treasurer shall receive and disburse all moneys and effects of said corporation, by order of the board, attested by the secretary, and prior to his entering on the duties of his office, the said treasurer shall give bond with sufficient security, in such sum as the board may designate, conditioned for the faithful discharge of his duties as treasurer. Said bond shall be made payable to the Mount Pleasant Literary Institute, and on failure of said treasurer to fulfill the condition thereof, the secretary shall cause suit to be instituted thereon, and proceed to final judgment, as in other cases. The board of trustees shall have power to make by-laws, rules and regulations, to govern said institution not contrary to the constitution of the United States, or the laws of this terriory, shall be capable of purchasing, holding, being seized of by purchase, donation, deed of gift, grant or devise, lease or release, of any estate, real in fee simple, life estate, estate for years, and of holding any personal estate, goods and chattels, for the purpose of carrying into effect the objects of said incorporation, and advancing science and literature; and that for that purpose aforesaid, said board shall have power to sell, and convey by deed of grant, warranty, lease, mortgage, or otherwise, all or [112] any part of the real and personal property of which they may be seized or possessed, and do all other acts, necessary for the advancement of said institution; that all process shall be served upon the secretary, and all deeds executed by the incorporation, shall be signed and acknowledged by the secretary by order of the board, and attested by the seal of the same.

SEC. 4. **Membership—privileges of members.** All persons who shall subscribe the sum of twenty-five dollars, for the benefit of said institution, shall be entitled to membership in said incorporation, and entitled to at least one vote in all business properly before [the] corporation, for each twenty-five dollars subscribed, and moreover eligible to any office or situation in the fiscal board.

SEC. 5. **Election.** There shall be an election of the fiscal board on the first Monday in September, in every year.

SEC. 6. **Fiscal board to be elected—powers of fiscal board.** That the members of said corporation, shall meet annually, on the first Monday in September, at such place as the president of the fiscal board may direct, and proceed to elect the officers named in the second section of this bill, which officers when elected and qualified, shall continue the fiscal board of said incorporation, said board shall manage the literary department of said institution, shall appoint such number of professors, tutors, and teachers, as they shall deem expedient and proper, and shall regulate their salaries; said board shall make, and ordain such wholesome rules and regulations, as will secure good order and propriety of conduct of the students, and persons attached to said institution.

SEC. 7. **Price of tuition.** The fiscal board shall have the power to fix the price of tuition, which shall in all cases be applied for the payment of the officers, professors, tutors, and teachers of said institute.

SEC. 8. **Vacancy—how filled.** That whenever a vacancy shall occur in any of the offices as above named, by death, resignation, removal, or otherwise, the fiscal board shall fill such vacancy by appointment, which appointment shall continue until the next annual election of said corporation, and until their successors are qualified.

SEC. 9. **Application of funds.** That all funds and property, held by this institution, and all rents, interests, and annuities, shall be faithfully applied, for the benefit of education and science.

SEC. 10. **No religious test of admission.** That said institution shall be under charge of the Methodist Episcopal Church, but there shall be no religious test for the admission of students to said institute.

SEC. 11. That any future legislature, shall have power to alter, amend or repeal this act.

Approved February 17, 1842.

CHAPTER 124.

AN ACT to incorporate an insurance company at the town of Farmington, Van Buren county.

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

SECTION 1. **Company established—amount of capital may be increased—proviso—amount of shares.** That an insurance company shall be, and is hereby established, in the town of Farmington, with a capital stock of not less [113] than fifty thousand dollars, which may be increased from time to time, in such manner as the directors of said company may prescribe, to any amount not exceeding five hundred thousand dollars, divided into shares of one hundred dollars each, to be subscribed and paid for by individuals, companies, or corporations, as herein directed.

SEC. 2. **Payments—forfeit—balance subject to call of directors—not to make a policy until shares paid.** That at the time of subscribing, there shall be paid on each share one dollar, and nine dollars more within thirty days after the first election of directors. If any stockholder fail to make such payment, such stockholder shall forfeit the amount paid on such stock, at the time of subscribing; the balance due on each share shall be subject to the call of the directors, and the said company shall not be authorized to make any policy or contract of insurance until the whole amount of shares subscribed shall be actually paid in, or secured to be paid on demand, by approved notes, or mortgages on real estate.

SEC. 3. **Names of commissioners to open subscription books—place or places—when first election to be held—books, papers, monies, etc., of commissioners to be delivered to directors as soon as elected—books may be reopened.** That Jonas Houghton, Isaac A. LeFever, Jesse Wright, Lawrence Scott, and Solomon Beckley, or any three of them, are hereby constituted commissioners to open books for the subscription for the capital stock of said company, at such time as they may deem expedient, in Farmington, and at such other places as they may think proper, under their own superintendence, or such other persons as they may appoint, and keep them open until one hundred shares at least, are subscribed; and whenever one hundred shares, or upwards, shall have been subscribed, the said commissioners, shall by public notice, appoint the time and place of holding the first election of directors, who shall continue in office until their successors are chosen at the next annual election. It shall be the duty of the commissioners as soon as the board of directors are elected, to deliver over [to] them all books and papers, and pay over all moneys they may have received, belonging to said company, deducting therefrom their reasonable expenses; and the said directors shall have power to reopen said subscription books at any time and place, until the whole stock be taken.

SEC. 4. **President—vacancy or resignation—secretary, clerks, agents, etc. salaries, how fixed.**—That the directors regularly chosen by the stockholders, shall as soon as may be, after the first and every annual election, choose out of their own body, a president, who shall preside in the board until the next annual election. In case of death, removal, or resignation of the president, or any director, the vacancy shall be filled by the board of directors; they may appoint a president pro-tempore in case of the absence of the president, they shall also appoint a secretary and all subordinate officers, clerks, agents, and servants, who shall hold their offices during the pleasure of the board, they may, from time to time, appoint one or more persons from their body, to assist in transacting the business of said company, with such salaries as they may think proper, they shall fix the president, and all other officers, define their powers, and prescribe their duties.

SEC. 5. **Company made a body corporate—name and style—may sue and be sued, etc.—seal.** That the subscribers for the stock of said company, their associates, successors, and assigns, shall be and they are hereby ordained, constituted, and appointed a body corporate and politic, by the name and style of "The Farmington Insurance Company," and by that name they and their successors shall have perpetual succession, and shall be capable in law, of contracting and being contracted with, of suing and being sued, of impleading and being impleaded, of answering and being answered unto, of defending and being defended against, in all courts and places whatever, in all manner of actions, suits, and complaints, and causes, and they [114] and their successors may have and use a common seal, and may alter or change the same at pleasure.

SEC. 6. **Powers of corporation—kinds of insurance—fix the premium of insurance—may loan—proviso—per cent—may be insured themselves.** That the corporation hereby created, shall have full power and authority, to make all kinds of insurance against loss on ships, steamboats, or other vessels, their cargoes, goods, wares, merchandise, freight, produce, property of every kind, in the course of transportation by land or water, and to make insurance against loss or damage by fire, on land or water, on every description of property or merchandise; to make all kinds of insurance upon lives, and to make such other insurance as they may judge expedient; to fix the premium of insurance, to lend money on bottomry and respondentia, to lend their surplus, or unemployed capital; provided, said corporation shall loan nothing but gold and silver, or the notes of specie paying banks, such as are at par credit in said town of Farmington, or city of St. Louis, Missouri, on real or personal securities, to companies, corporations, or individuals, at a reasonable rate of interest, not to exceed in any case ten per cent. per annum; the said company may also cause themselves to be insured, against all martime and other risks, and upon the interest they may have in any vessel, goods, or merchandise, in virtue of any loans they may have on bottomry or respondentia, or against all losses they may incur by reason of any insurance made by them on any life or lives, or against losses by fire, the perils of the sea, or inland navigation and transportation.

SEC. 7. **Directors—shall be elected by stockholders—term of service—election by ballot—notice of elections, etc., to be made public—votes—proxy—proviso.** That the stock, property, and affairs of the company or corporation aforesaid, shall be managed and conducted by five directors, who shall be stockholders of said company, residing within this territory, and after the first election, they shall be elected by the stockholders, annually, on the first Monday in January, at the office of the company, unless the directors appoint some other place, and they shall hold their office one year, or until their successors are chosen in like manner and no longer; such election shall be by ballot, under the inspection of the stockholders, (holding no office in said company) to be previously appointed by the board of directors; notice of every election of directors, and all other general meetings of the stockholders, shall be made public for at

least twenty days previous to such meeting, and at every such meeting or election, each share shall entitle the holder to vote. Absent stockholders may vote by proxy, such proxy being made in writing to a stockholder present at such meeting. In case it shall happen, that an election of directors shall not be made on any day that it ought to have been made, pursuant to this act, the said corporation shall not for that cause be dissolved, but it shall be lawful, on any other day, to hold an election of directors, in such manner, as the by-laws and ordinances of the said company may direct.

SEC. 8. **Board—power to make by-laws—to manage funds—to insure—to settle and adjust losses—to make dividends—president may insure, fix premiums, etc.—and do all acts necessary to the management of the corporation.** That a majority of the directors of said company, shall constitute a board, competent to transact the business of the corporation; they shall have power and authority to make all necessary by-laws, rules and regulations, for their own government, and for the management and disposition of the stock, property, and funds of the business of said company, to insure against all risks, authorized by this act, to receive for the amount of premiums and guarantees, such notes, endorsed and payable in such manner, and at such times as they may think proper, in conformity to the by-laws made on the subject, to settle and adjust all losses for which [115] the company may become liable, to arbitrate and compromise all doubtful claims against said company for loss or damages, to declare and make dividends semi-annually, of so much of the clear profits arising from the business of the company, as shall appear to them advisable, and cause the same to be paid to the stockholders, in proportion to the amount paid by each respectively; the board of directors may, however, confide to the president, or any two of the directors, the power of insuring risks, fixing, and receiving premiums and guarantees, adjusting and paying losses, to such an amount as they may think prudent, and the power to do and perform all acts, necessary and convenient for the management of the affairs of said corporation, and to carry into effect the powers and purposes of this act.

SEC. 9. **Policies, etc., to be subscribed by the president.** That all policies or contracts of insurance, and instruments of guarantee, made by said company, shall be subscribed by the president, or the president pro tempore, and attested by the secretary.

SEC. 10. **Duty of secretary.** That it shall be the duty of the secretary, at every annual election, or other general meeting of the stockholders, to lay before them a correct and particular statement of the condition and affairs of the company.

SEC. 11. That the board of directors shall convene according to their by-laws, or whenever required by the president, or any two of the directors.

SEC. 12. **Stock to be considered personal property.** That the stock of said company, shall be considered personal property, and shall be assignable and transferrable on their books, or otherwise, according to such rules and restrictions as the board of directors shall make and establish.

SEC. 13. **May purchase real estate—limits.** That it shall be lawful for the company to purchase and hold such real estate as shall be necessary for the transaction of its business, not exceeding the yearly value of five thousand dollars.

SEC. 14. **May hold real estate security—may purchase in virtue of judgment.** That the company may also take, and hold real estate, as security, or on mortgage, or pledge, to secure the payment of debts due to the company, either for shares of capital stock, or otherwise, to purchase and hold real estate sold in virtue of any judgment, or decree, in favor of said company, and to receive and hold real estate in satisfaction of any debts due to the company, previously contracted in the course of its lawful dealings.

SEC. 15. **Not to deal in goods, wares, etc.** That the said company shall not

employ any of its stock, funds, or money, in buying or dealing in goods, wares, merchandise or other commodities.

SEC. 16. **Premiums agreed on—vendor may under notice assign to vendee—company may be exonerated.** That said company may charge such premiums on its policies as may be agreed on by the parties, and if the property insured, be sold, the vender may assign to the vendee the policy, but shall give notice of such assignment to the company before any loss happen, and said company when notified, shall be at liberty to return a ratable proportion of the premium, and be exonerated therefrom.

SEC. 17. **Loss to be paid within 60 days.** That when the company shall be notified of any loss incurred on any policy made by it, without any misconduct or violation of the policy, on the part of the insured, it shall pay the amount lost, within sixty days after notice.

SEC. 18. **Officers to give bond.** That the directors of said company, may require sufficient bond and security from any officer of the company, conditioned for the faithful performance of his duties.

[116] SEC. 19. **To continue in force 30 years only—name and style may be used longer for final settlement.** That this act shall be liberally construed for the beneficial purposes intended, and shall take effect from and after its passage, and shall continue in force for thirty years, and no longer, but after the expiration of said term, it may use said corporate name, style and capacity for the purpose of suits, and other necessary transactions, for the final settlement and liquidation of the accounts and business of said company, and for the sale of real estate and other property, but not for any other purposes.

SEC. 20. **May be altered, amended or repealed.** That this act may be altered, amended, or repealed, by any subsequent legislature, for any fraud or abuse of any of the provisions herein contained.

SEC. 21. **Stockholders individually liable.** That the stockholders of said company shall be individually liable for the payment and fulfillment of all debts or contracts made by said institution, if it should at any time become insolvent.

Approved February 17, 1842.

CHAPTER 125.

AN ACT to provide for the compensation of members, officers, and printers of the legislative assembly, and for other purposes.

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

SECTION 1. **Monies appropriated.** That the following sums are hereby appropriated, out of any monies in the hands of the Secretary of the Territory, for the following purposes, viz.:

SEC. 2. **Pay of members of house of representatives.** For pay and mileage of the members of the house of representatives, the sum of six thousand four hundred and thirty-four dollars and eighty cents.

SEC. 3. **Pay of officers of house of representatives.** For pay of officers of the house of representatives, two thousand seven hundred dollars.

SEC. 4. **Pay of members of council.** For pay and mileage of the members of the council, three thousand two hundred and fourteen dollars and fifty cents.

SEC. 5. **Pay of officers of council—proviso.** For pay of officers of the council, two thousand twenty-five dollars: provided, that Daniel Chance, shall receive the sum of ninety dollars, out of the allowance hereby made to firemen of the

council, and Samuel Wilson, the sum of one hundred and thirty-five dollars, the balance of said allowance.

SEC. 6. **W. Lewis.** To W. Lewis, for extra pay as speaker of the house of representatives, two hundred and twenty-five dollars.

SEC. 7. **J. W. Parker.** To J. W. Parker, for extra pay as president of the council, two hundred and twenty-five dollars.

SEC. 8. **John S. David.** To John S. David, for rent of library room, from May 10, to Nov. 10, 1841, and for rent of executive office from Feb. 1 to May 22, 1841, seventy-eight dollars and sixty-six cents.

SEC. 9. **J. B. Newhall.** To J. B. Newhall, for thirty-eight copies of Sketches of Iowa, fifty-seven dollars.

SEC. 10. **Secretary of territory.** To secretary of the territory, being the amount paid out [117] by him for stationery, candles, &c., as per vouchers, for the use of the legislature, for the present year, one thousand six hundred and fifty-one dollars and forty-one cents.

SEC. 11. **Secretary of territory.** To secretary of the territory, for amount of mileage to Linn and Cedar counties, for returns of election, two hundred and sixty-five miles, at ten cents per mile, twenty-six dollars and fifty cents.

SEC. 12. **Secretary of territory.** To the secretary of the territory, for amount paid J. W. Grimes, for rent of room for executive office, from 13 May, 1841, to 12 May, 1842, the sum of one hundred dollars.

SEC. 13. **Van Antwerp & Hughes.** To Van Antwerp & Hughes, for papers furnished the house of representatives, four hundred and ninety-one dollars.

SEC. 14. **N. Jackson.** To N. Jackson, for papers furnished the house of representatives, two hundred and fifteen dollars.

SEC. 15. **W. Crum.** To W. Crum, for papers furnished the house of representatives, two hundred and eighty-seven dollars.

SEC. 16. **Van Antwerp & Hughes.** To Van Antwerp & Hughes, for printing bills, reports, etc., for the council and house of representatives, two thousand six hundred and seventy-four dollars and forty-four cents.

SEC. 17. **Jas. W. Woods.** To J. W. Woods, for transcribing, indexing, and preparing the journals of the council for publication, and distributing the same to the clerks of the several boards of county commissioners, the sum of three hundred and fifty dollars.

SEC. 18. **J. T. Fales.** To J. T. Fales, for transcribing, indexing, and preparing the journals of the house of representatives, for publication and distributing the same, the sum of three hundred and fifty dollars.

SEC. 19. **Wm. W. Coriell.** To Wm. W. Coriell, for printing the journal of the house of representatives, of 1841, nine hundred dollars.

SEC. 20. **Russell & Hughes.** That the sum of seven hundred and fifty dollars be allowed to Russell & Hughes, for publishing the journal of the council of 1840, and '41, to be paid out of any funds in the hands of the Secretary of the Territory, not otherwise appropriated.

SEC. 21. **James M. Hawkins.** To James M. Hawkins, (postmaster) for postage of letters, papers, documents, &c., during the present session, for the house of representatives, the sum of three hundred and nine dollars and twenty-one and three-quarter cents; and also for postage of letters, papers, documents, &c., for the council the present session, two hundred and nineteen dollars and thirty-eight cents.

SEC. 22. **Francis Reyno.** To Francis Reyno, for dusting and renovating carpet and other labor, making in all three days, also one basket, the sum of five dollars.

SEC. 23. **T. S. Parvin.** To T. S. Parvin, for services rendered as assistant secretary of the council, pro tem., the sum of thirty dollars.

SEC. 24. **B. F. Wallace.** To B. F. Wallace, late secretary of the council,

for his attendance and services, during the present session of the council the sum of thirty-six dollars.

SEC. 25. **L. B. Hughes.** To L. B. Hughes, for two days service as sergeant-at-arms of the council, pro tem., at the commencement of the session of 1840 and 1841, the sum of six dollars.

SEC. 26. **John Hawkins.** To John Hawkins, (justice of the peace) for swearing in twenty-two members of the house of representatives, the sum of three dollars.

[118] SEC. 27. **Jesse Williams.** That Jesse Williams, be allowed for two maps and books furnished, one to each house, at session of 1840 and '41, eight dollars.

SEC. 28. **John Boyden.** To John Boyden, for two days service as fireman of the house of representatives, four dollars.

SEC. 29. **Secretary of territory.** To secretary of the territory, for fuel and candles, up to 12th May, 1842, for executive office, forty-six dollars.

SEC. 30. **Walter Butler.** To Walter Butler, for 75 cords of wood, furnished during the present session, one hundred and fifty dollars.

SEC. 31. **William Abbee.** To William Abbee, (fireman) for cutting wood for the use of the house, thirty dollars.

SEC. 32. **N. Jackson.** To N. Jackson, for papers furnished the legislative council, one hundred and eighteen dollars.

SEC. 33. **Wm. Crum.** To W. Crum, for papers furnished the legislative council, one hundred and forty-nine dollars.

SEC. 34. **Van Antwerp & Hughes.** That Van Antwerp & Hughes, editors of the Iowa Capitol Reporter, be allowed the sum of two hundred and fifty-nine dollars, for 259 copies of said paper, furnished to the members of the council, during the present session of the legislative assembly.

SEC. 35. **B. W. Gillock.** That Braxton W. Gillock, be allowed the sum of twenty-six dollars, for thirteen days service in assisting the Secretary of the Territory, to convey a portion of the annual appropriation for the expenses of the present legislative assembly, from Dixon, Ill., to Iowa City.

SEC. 36. **S. Parker.** To S. Parker, for inkstands, seventy-five cents.

SEC. 37. **Morgan Reno**—To Morgan Reno, for services rendered in assisting the secretary, in arranging the halls for the reception of the legislature, and for fuel and candles furnished for the use of the library, and for other services and expenses rendered in removing the furniture from Burlington to Iowa City, the sum of seventy-six dollars and twenty cents.

SEC. 38. **Morgan Reno**—That the said Morgan Reno, be allowed the sum of eleven dollars and fifty cents, to be by him appropriated, to pay for one copy of Niles' Register, from the first of January, 1840, to the first of January, 1842.

SEC. 39. **William Greene**—To William Greene, for binding books for the secretary's office, and for binding various volumes for the library, sixteen dollars and seventy-five cents.

SEC. 40. **Walter Butler**—To Walter Butler, eighteen dollars and fifty cents, for receiving furniture of the territory, cutting wood, putting up stoves, etc.

SEC. 41. **Miles Driskell**—To Miles Driskell, for furnishing paste for enveloping for council, two dollars.

SEC. 42. **E. J. Darken.** To E. J. Darken, for preparing abstracts of council journals, during the present session, seventy-five dollars.

SEC. 43. **Rev. Samuel Mazzuchelli**—To the Rev. Samuel Mazzuchelli, for rent of room to store the furniture of the legislature and council, 12 months, as per contract with former secretary, sixty dollars.

Approved February 17, 1842.

[119] CHAPTER 126.

AN ACT for the encouragement of agriculture.

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

SECTION 1. **Money appropriated—objects—to whom appropriated.** That the sum of twelve hundred dollars per annum, or such other sum as the congress of the United States may grant for that purpose, shall be and is hereby appropriated for the promotion of agriculture, and household manufactures in this territory, in the manner following, to-wit: The county of Clayton, thirty dollars; the county of Clinton, twenty dollars; the county of Cedar, thirty dollars; the county of Dubuque, seventy dollars; the county of Des Moines, one hundred and forty dollars; the county of Henry, eighty dollars; the county of Jones, twenty dollars; the county of Jackson, thirty-five dollars; the county of Johnson, thirty-five dollars; the county of Linn, thirty dollars; the county of Lee, one hundred and forty dollars; the county of Louisa, forty-five dollars; the county of Muscatine, forty-five dollars; the county of Scott, forty-five dollars; the county of Washington, thirty-five dollars; the county of Jefferson, sixty dollars; the county of Van Buren, one hundred and forty dollars; Iowa Territorial Agricultural Society, two hundred dollars.

SEC. 2. **When a territorial agricultural society may be formed—its privileges and duties.** A Territorial Agricultural society may be organized at the seat of government, in the same manner as county agricultural societies are now organized, and shall have the same privileges, and perform the same duties for the whole territory, and shall have its meetings and fairs, at such times and places as the proper officers of the society may direct.

SEC. 3. **Other societies organized—powers and limits—membership.** Whenever the citizens of any township or townships, whether organized or not, shall desire to form an agricultural society, they shall be organized in the same manner as county societies are organized; shall be called together for the purpose of organization, at such time and place as those requiring the call shall direct; and shall have the same powers and duties for their respective limits, as county societies now have; territorial, county and township societies shall regulate the price of admission to membership, and the price of annual subscription.

SEC. 4. **Sum to be given to county society when the amount of subscription made is reported to the secretary of territory—proviso.** When any county agricultural society, now formed, or to be formed in this territory, shall raise by voluntary subscription any sum of money, the president and treasurer shall make and subscribe an affidavit of the facts of the formation of such society, and of their having raised a certain sum, specifying the amount thereof, which affidavit shall be filed with the secretary of the territory, who shall, if congress shall appropriate the sum herein mentioned, pay to the treasurer of the society a sum equal to the amount of such subscription, not exceeding the amount to which such society would be entitled, under the apportionment aforesaid; and when there are two or more societies in any county, the said secretary shall divide the sum appropriated to such county among them: provided, each society shall raise, by voluntary subscription, a sum equal to the amount set apart for such county.

SEC. 5. **Officers—duty of officers—premiums—how awarded—proviso.** The Iowa Territorial Society, and the several societies in counties now formed, or to be formed in this territory, shall annually elect such officers, as they may deem proper; and it shall be the duty of [120] such officers, annually to regulate and award premiums, on such articles, productions, and improvements, as they may deem best calculated to promote the agricultural, and household

manufacturing interests of this territory; having especial reference to the net profits which accrue, or are likely to accrue, from the mode of raising the crops or stock, or the fabrication of the article, with the intention that the reward shall be given to the most profitable or economical mode of competition: provided, always, that before any premium shall be delivered to the person claiming the same, shall deliver to the president of the society, as accurate a description of the process, in preparing the soil, raising the crop, or feeding the animal, as may be; also the product of the crop, or of increase in the valuation of the animal, with a view of showing accurately the profit of cultivating the crops or feeding and fattening the animal.

SEC. 6. **Abstract of expenditures to be transmitted to the secretary of territory—county societies to transmit annual reports to territorial society.** The president of the territorial society, and the several presidents of the societies in counties who shall receive or expend any of the moneys hereby appropriated, shall annually, in the month of November, transmit to the secretary of the territory, a detailed account of the expenditure of all moneys, which shall come into their hands under this act, stating to whom and for what purpose paid, with the vouchers therefor; and said presidents of said societies in counties, shall annually transmit in the month of November, to the executive committee of the territorial society, all reports or returns which they may demand, and receive from the applicants for premiums, together with an abstract of their proceedings during the year.

SEC. 7. **Executive committee to report to secretary of territory.** The executive committee of the territorial agricultural society, shall examine all reports and returns, made by the presidents of societies in counties, and condense and arrange the same, together with a report of their own proceedings during the year, to the secretary of the territory, in the month of December in each year.

SEC. 8. **Ex officio members.** The presidents of the several county societies, or delegates from them, to be chosen annually for that purpose, shall be ex-officio members of the Iowa Territorial Agricultural Society.

CHAPTER 127.

AN ACT to amend an act, for the incorporation of the town of Bloomington.

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

SECTION 1. **Corporation extended.** That the corporation of the town of Bloomington, be and the same is hereby made to extend to the middle of the main channel of the Mississippi river, opposite said town.

SEC. 2. **Powers of president and trustees to license—proceeds of license, how applied.** That the president and trustees of said corporation, shall have the exclusive power to grant licenses for the retailing ardent spirits within the limits of the corporation; and the proceeds of such licenses shall be appropriated, the one half for the benefit of said corporation, and one half to be paid into the county treasury.

SEC. 3. **Taxes—streets and alleys—special tax—rate of tax.** That if the electors of said town, shall have directed the levy of taxes, according to the seventh section of the act, to which this is [121] amendatory, and if it is deemed necessary to improve the streets and alleys, and if such improvements will considerably increase the value of lots in the vicinity of such improvements, and if a majority of the owners of such lots shall apply for such improvements, the president and trustees shall have power to levy a special tax for that purpose,

on the lots thus increased in value, not exceeding twelve per cent. on the first assessment, provided such special tax shall not be more than one half of cost of such improvement; the other half or more, as the case may be, to be paid by the corporation.

SEC. 4. **Personal or real estate may be sold by collector for taxes—notice of sale to be published—to be posted up ten days before sale—terms of sale.** The collector of taxes of said corporation, shall have power to sell personal estate, and for want thereof, to sell real estate for the non-payment of taxes in said town; but no real estate shall be sold by reason of the non-payment of such taxes, until notice of the intended sale shall have been published in a public newspaper, printed in the town of Bloomington, if any be printed there, if not, in a newspaper printed at the seat of government of this territory, once every week, for at least four weeks previous to such sale; and notice of the said tax sale, shall be posted in three public places in said town, ten days before the said sale; and there shall also be a list of the delinquent lots, which are to be sold, posted up in some conspicuous place in the town, for public inspection, at least ten days previous to the sale. The sale and terms of redemption shall be governed by the laws governing the sale of real estate for county taxes.

SEC. 5. **Owners of entire blocks to have the possession and use of alleys therein.** That the president and trustees are hereby authorized, to permit any person owning all the lots in any block in said town, to enclose and have the possession and use of the alley of said block, so long as such person may own every lot of such block.

SEC. 6. **When to take effect.** This act to take effect from and after its passage.

SEC. 7. **May be amended or repealed.** This act may be amended or repealed by any future legislature.

SEC. 8. **Repealing clause.** All parts conflicting with this act. of the act to which this is amendatory, be and the same are hereby repealed.

Approved February 18, 1842.

JOINT RESOLUTIONS

[123] No. 1.

A JOINT RESOLUTION authorizing the secretary of the territory to effect a loan of money to pay the members of both branches of the legislature their mileage.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

Loan to be authorized. That the Honorable O. H. W. Stull, secretary of the territory, be authorized to effect a loan of sufficient amount of money, to pay the respective members of both branches of the legislative assembly their mileage in traveling to and from the seat of government, the present session.

Approved December 14, 1841.

No. 2.

A JOINT RESOLUTION to provide for the sale of the surplus copies of the statutes of this territory.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

Laws of the Territory to be distributed. That the secretary of the territory be and he is hereby authorized and required to distribute all the surplus copies of the acts of the several sessions of the territorial legislature (after retaining one hundred and fifty copies of each in the territorial library) in equal portions to the several boards of county commissioners in this territory.

Duty of county commissioners. That the said commissioners are hereby authorized to receive and sell the same for the following prices, to-wit: The acts of the first session of said legislature for one dollar each, and the acts of the subsequent sessions for fifty cents each, except the acts of the extra session held in the [124] year 1840, which they are hereby authorized to sell at twenty-five cents each.

That the several boards of county commissioners shall so soon as the said acts shall be sold, or any part of them, pay over to the order of the treasurer of the territory, the amount of money for which the same may sell, and return all copies remaining unsold, and deliver the same at their respective offices.

Approved January 3, 1842.

No. 3.

A JOINT RESOLUTION authorizing the secretary to pay George C. Robbins, for furnishing seals for the district courts of Linn and Jones counties.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

Compensation to G. C. Robbins. That George C. Robbins be allowed the sum of twenty dollars, for engraving and furnishing seals for the district courts for the counties of Linn and Jones, and the secretary of the territory is hereby authorized to pay the above amount out of any money in his hands not otherwise appropriated.

Approved January 28, 1842.

No. 4.

A JOINT RESOLUTION providing for the distribution of the reports of the supreme court.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

Acts of extra session amended—number of copies distributed. That the joint resolution passed at the extra session of the territorial legislature in July, A. D. 1840, approved August 1st, 1840, providing for distributing the reports of the supreme court of the territory, be so amended as to entitle the clerks of the several district courts in this territory, to five copies each, for the use of the district courts of the several counties.

Approved January 28, 1842.

No. 5.

A JOINT RESOLUTION relative to compensation to William L. Gilbert and C. Ruggles.

Resolved, by the Council and House of Representatives of the Territory of [125] *Iowa:*

That William L. Gilbert be allowed the sum of fifteen dollars, for five days' services in assisting engrossing and enrolling clerk, and that C. Ruggles be allowed the sum of three dollars and fifty cents, for repairing chairs.

Approved February 17, 1842.

No. 6.

A RESOLUTION for the relief of John Lorton and Hawkins Taylor.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

Compensation to John Lorton and Hawkins Taylor. That the treasurer of the territory be, and he is hereby authorized to pay John Lorton the sum of twenty-one dollars, and to Hawkins Taylor, twelve dollars, for services rendered under an order of the executive, in demanding a fugitive from justice, of the executive of the State of Missouri.

Approved February 17, 1842.

No. 7.

JOINT RESOLUTION authorizing the payment of money to the secretary of the territory.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

Appropriation to secretary of territory, $200—preparing halls, etc. That the sum of two hundred dollars, be and the same is hereby allowed to O. H. W. Stull, secretary of the territory, for preparing the legislative halls for the accommodation of the legislative assembly, removing furniture from Burlington to Iowa City, personal expenses, etc.

Approved February 17, 1842.

No. 8.

A RESOLUTION authorizing the payment of money to James F. Hanby.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

That Jesse Williams, the territorial agent, be and he is hereby instructed to pay James F. Hanby, the certificate drawn in favor of Herrin & Hanby, to-wit: thirty-six dollars and twenty-eight cents.

Approved February 17, 1842.

[126] No. 9.

A JOINT RESOLUTION relative to the printing of the laws of the present session.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

Van Antwerp & Hughes appointed printer—to give bond in the sum of $10,000—1,500 copies to be printed—index—90 days time. That Van Antwerp & Hughes, be the printers of the laws the present session, and that they enter into bond immediately to the governor, in the sum of ten thousand dollars, with sureties to be approved of by the governor, conditioned that the said Van Antwerp & Hughes, and their heirs or legal representatives, print in pamphlet form, in a workmanlike style, fifteen hundred copies of all the laws passed, and to be passed by the legislative assembly at its present session, with an index thereto, and deliver said copies to the secretary of the territory, within ninety days, next after the adjournment of the present session.

Pay of printer. *Resolved further:* That the said secretary is hereby required, to pay said printers for doing the said work the sum of eleven hundred dollars..

Secretary to prepare laws, etc.—index—distribution of laws—compensation $500—mode of preparation, etc.—proviso. *Resolved further:* That the secretary of the territory is hereby required to prepare for publication, and to supervise the printing of the laws of the present session of the legislative assembly, and make an index thereto; and that he distribute the laws in the like manner, the laws of the last session were required to be distributed, and that he be allowed for said service, the sum of five hundred dollars, and that he furnish the printers with copies of said laws as soon as practicable, in the order in which they are approved by the governor: provided, that the joint resolutions be printed in their order at the end of the acts.

Approved February 17, 1842.

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LOCAL LAWS

OF THE

TERRITORY OF IOWA

ENACTED AT THE SESSION OF THE LEGISLATURE WHICH COMMENCED ON THE FIRST MONDAY OF DECEMBER, 1842

PUBLISHED BY AUTHORITY

IOWA CITY
PRINTED BY HUGHES & WILLIAMS
1843

SECRETARY'S OFFICE,
March 1, 1843.

I do hereby certify that the Acts, Resolutions and Memorials, hereinafter published, have been compared with the copies on file in this Office, and that they correspond in every respect with said copies.

O. H. W. STULL,
Secretary of Iowa Territory.

LAWS OF IOWA

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[3] CHAPTER 1.

ROAD.

AN ACT to re-locate a part of the territorial road leading from West Point, in Lee county, to Salem in Henry county.

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

SECTION 1. **Names of commissioners and route of road—when and where to meet.** That Elkanah Perdew, John Burns and Elijah Creele, are hereby appointed commissioners to relocate so much of the territorial road leading from West Point, in Lee county, to Salem, in Henry county, as lies between Benjamin Graham's and the north line of Lee county. Said commissioners shall meet at the house of said Graham on the second Monday of February next, or as soon thereafter as convenient, and proceed to relocate so much of said road as above described.

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

JAMES M. MORGAN,
Speaker of the House of Representatives.
JOHN D. ELBERT,
President of the Council.

Approved, 19th December, 1842.
JOHN CHAMBERS.

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[4] CHAPTER 2.

A. SCOTT BROWNLEE.

AN ACT granting to A. Scott Brownlee and others, the right to construct a mill race.

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

SECTION 1. **Authority to construct a mill race through the public lands granted—route of race—privilege to construct works.** That A. Scott Brownlee and his associates, their heirs and assigns, be and are hereby authorized to dig or construct through the public lands a canal or race of such capacity as may be necessary for milling purposes, from a point on the Waubsipinicon river, near to the southwest corner of section one, in township eighty (80) of range

two (2) east of the (5) fifth principal meridian, or from the southwest side of fraction number (3) three in said section, towards and through the south half of the northeast quarter of the section aforesaid to the foot of the bluff on the north side of the Waubsipinicon bottom; thence along and as near to the foot of the bluff as conveniently may be, to fraction number (1) one, in section number (6) six, in township (80) eighty of range (3) three east of the (5) fifth principal meridian; thence by the course of the large sloughs and bayous on the northern side of section (5) five, of the last above mentioned township, and the channel on the northern side of what is commonly known as Quinn's Island, to discharge the waters of such race again into said river, and to construct such works as may be necessary for the efficiency and security of the said race, and for the advantageous use of the same for the purposes aforesaid.

SEC. 2. **Penalty for injury to.** Any person or persons who shall obstruct or destroy, or in anywise injure said race, or any works appurtenant thereto, shall be deemed to have committed a trespass, and shall be liable accordingly. And any person who shall wilfully or maliciously obstruct, destroy, or in any wise injure said race, or any of the works appurtenant thereto, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined treble the amount of the damages the owners may have sustained, or be imprisoned, at the discretion of the court.

[5] SEC. 3. **Act to continue in force until sale of public lands—may be altered or amended.** This act to take effect from and after its passage, and continue in force till the public lands aforesaid shall have been sold by the general government: provided, that the legislature shall at all times have the power to alter, amend, or repeal this act.

Approved, 3d January, 1843.

CHAPTER 3.

DES MOINES COUNTY.

AN ACT to legalize the acts of the County Commissioners of Des Moines county in certain cases.

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

SECTION 1. **Act of county commissioners of, in appointing Wm. B. Remey county recorder, made good and valid.** That the acts of the county commissioners of Des Moines county, in correcting the assessment roll for the year eighteen hundred and forty-one, and the appointment of William B. Remey, county recorder, for said county, to fill the vacancy of John M. Garrigues, deceased, be and the same are hereby declared good and valid in law.

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

Approved, 3d January, 1843.

CHAPTER 4.

ROAD.

AN ACT to authorize the Board of Commissioners of Van Buren County to establish a certain road.

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

SECTION 1. **County commissioners of Van Buren county authorized to locate a certain road—route of same.** That the board of commissioners of Van Bu-[6]-ren county are hereby authorized to establish a road that was surveyed by their order, in July, 1841, commencing at or near the southeast corner of section seven of fractional township sixty-seven, north of range eight west, and running from thence to Keosauqua, so as to terminate where it intersects the road leading from Bentonsport, by Columbus, to Keosauqua.

Approved, 3d January, 1843.

CHAPTER 5.

PHILIP ROCLURE.

AN ACT to change the name of Philip Roclure.

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

SECTION 1. **Changed to Philip Reddick.** That the name of Philip Roclure, of Linn county, in said territory, and a natural born citizen of Germany, be and the same is hereby altered and changed to Philip Reddick, and that he shall hereafter be known and called by the name of Philip Reddick, which shall be his lawful name: provided, that such change of name shall in no way effect the collection of debts owing to or due from the said Roclure, or in any way effect his legal rights.

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

Approved, 6th January, 1843.

CHAPTER 6.

UNIVERSALIST SOCIETY.

AN ACT Supplementary to an act entitled "an Act to grant certain lots of lands in Iowa City, for Church and Literary purposes, approved July 31, 1840.

Be it enacted by the Council and House of Representatives [7] *of the Territory of Iowa:*

SECTION 1. **Additional time granted to complete house for worship.** That the denomination of Christians known as the First Universalist Society of Iowa City, be, and they are hereby allowed, in addition to the time given in the above

recited act, an extension of one year for the purpose of completing their church, which is now commenced on the west half of Church Reserve, block sixty-six, in Iowa City.

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

Approved, 7th January, 1843.

CHAPTER 7.

ROAD.

AN ACT to locate a territorial road from Bennett's mill in Buchanan county, via the county seat of Delaware, to Olmstead's mill in said county.

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

SECTION 1. **Commissioners named and route of road—when and where to meet.** That Robert W. Green, Joel Bailey, and O. A. Olmstead, be, and they are hereby appointed commissioners to locate and mark a territorial road, commencing at Bennett's Mill, in Buchanan county, by the county seat of Delaware county, thence to intersect the road leading from Marion, in Linn county, to the city of Dubuque, at or near Olmstead's Mill, in Delaware county. Said commissioners, or a majority of them, shall meet at Bennett's Mill, in Buchanan county, on the first Monday of June next, or as soon thereafter as convenient, and proceed to locate and mark said road as above described.

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

Approved, 12th January, 1843.

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[8] CHAPTER 8.

COUNTY.

AN ACT to relocate the county seat of Lee county.

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

SECTION 1. **Names of commissioners — time and place of meeting.** That Thomas O.Wamsly, of Henry county, Isaac N. Selby, of Van Buren county, and Stephen Gearheart, of Des Moines county, are hereby appointed commissioners to relocate the seat of justice of Lee county, and it shall be their duty to meet at Franklin, in said county, on the second Monday in March next, and they, or a majority of them, shall proceed forthwith to select a suitable place for said seat of justice; and they shall not be restricted in said selection more than to do equal justice to all the inhabitants of the county as near as possible.

SEC. 2. **Oath of commissioners and form.** That the commissioners aforesaid shall each, before entering upon their duties as such commissioners, take and subscribe before some justice of the peace, or other person authorized to administer oaths, the following oath, viz.: I, A. B., do solemnly swear, or affirm, that I am not, either directly or indirectly, interested in the relocation or removal of the seat of justice of Lee county, and that I am not the owner of any real estate, of any kind, in said county and that I do not hold any equitable claim to any real estate in said county; and I do further swear, or affirm, that I

will perform the duties imposed upon me by the law by which I am appointed, and that I will honestly and faith- [9] -fully, according to the best of my abilities, and in strict compliance with said law, discharge all the duties enjoined upon me by said law, without the slightest partiality towards any person or persons and without bias from fear, favor or recompense, or the hope of any gain or advantage to me in any respect whatever.

SEC. 3. **Proceedings to be committed to writing—to be recorded.** That said commissioners, or a majority of them, immediately after they have selected a suitable place for the seat of justice of said county of Lee, shall commit their proceedings to writing, describing the place they have selected, together with the quarter section or such part or parts of sections, township and range, and shall deliver the same with any donations of any kind, deed or deeds, for land which they may receive, to the clerk of the board of county commissioners of Lee county, whose duty it shall be to receive and record the same in the order book of the proceedings of said board, and to notify said board thereof immediately.

SEC. 4. **Commissioners not to be interested persons.** If it shall be shown at any time that either of said commissioners, named in the first section of this act, were interested in said relocation or received any gratuity or reward or any promise thereof, other than what is by this act allowed, such commissioners shall be liable to indictment for perjury and be liable to the penalty for said crime.

SEC. 5. **Place selected to be permanent seat of justice.** That the place so selected by said commissioners shall be and remain the seat of justice of Lee county.

SEC. 6. **Courts to be held at Fort Madison for certain time.** That the courts shall be held at Fort Madison until a sufficient house shall be furnished by the county, or some person or persons, to hold the courts in at the seat of justice, and so soon as such house shall be furnished it shall be the duty of the board of county commissioners of said county to give notice thereof by public advertisement, and from that time the courts shall be held at the seat of justice.

SEC. 7. **Duty of commissioners relative to a new court house at the new seat of justice.** It shall be the duty of the board of county commissioners of Lee county, to proceed to erect a court house and such other public building or buildings as they may deem necessary at the seat of justice, so as aforesaid selected.

SEC. 8. **Provision against the failure of commissioners to meet—seat of justice may be located at Fort Madison.** That if the said commissioners, by this act appointed to relocate the seat of justice of Lee county, shall fail or refuse to meet at the time and place named in the first section of this act, and perform the duties enjoined on them, it shall be lawful and it is hereby made their duty to meet at said place at any time within one month after said time as aforesaid appointed, that they or a majority of them may agree upon, and then and there perform the duties by this act enjoined; but [10] nothing in this act shall be so construed as to prevent the commissioners from locating the county seat at Fort Madison.

SEC. 9. **Sheriff to notify commissioners of their appointment, and to serve other notices—allowance for the same.** It shall be the duty of the sheriff of Lee county, to notify the commissioners by this act appointed, of their appointment, at least ten days before the time appointed for them to meet, and to serve such other notices as he may be directed to do by the board of county commissioners of Lee county, or their clerk, for which said board shall make him a reasonable allowance, to be paid out of the treasury of said county.

SEC. 10. **Per diem and mileage of commissioners.** The said commissioners shall receive three dollars per day for the time they shall be necessarily em-

ployed in the relocation of said seat of justice, and three dollars for every twenty-five miles travel, on the usually traveled route, in going to the place appointed for them to meet, and in returning home, to be paid out of the treasury of Lee county.

SEC. 11. This act to be in force from and after its passage.

Approved, 13th January, 1843.

CHAPTER 9.

ROAD.

AN ACT to locate a certain territorial road therein named.

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

SECTION 1. **Names of commissioners, and route of road—when and where to meet.** That Arthur Thomas, of the county of Dubuque, William Ward and Daniel Brown of Jackson county, be and they are hereby appointed commissioners to locate and mark a territorial road, commencing at Cascade in Du Buque county, and running thence the nearest and best route to or near the mouth of Tete Des Morts in Jackson county. Said commissioners or a majority of them, shall meet at Cascade on the third Monday of June next, or as soon thereafter as convenient, and proceed to locate and mark said road as above described: provided, that the petitioners for said road shall pay all expenses for locating and marking said road.

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

Approved, 16th January, 1843.

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[11] CHAPTER 10.

ROAD.

AN ACT to relocate a part of the territorial road leading from Fort Madison, in Lee county to Fairfield in Jefferson county.

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

SECTION 1. **Commissioners' names and route of road—when and where to meet.** That Ira Tillotson, Andrew Kennady and William Daugherty be and they are hereby appointed commissioners to relocate so much of the territorial road running from Fort Madison, in Lee county, to Fairfield, in Jefferson county, as lies between James Galliher's and David C. Brown's, in Jefferson county. Said commissioners, or a majority of them, shall meet at the house of David C. Brown on the third Saturday in March next, and proceed to relocate that part of said road above described.

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

Approved, 16th January, 1843.

CHAPTER 11.

ROAD.

AN ACT to relocate a part of a territorial road leading from Davenport in Scott county to Marion in Linn county.

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

SECTION 1. **Commissioners names and route of road—where and when to meet—duty of commissioners—Cedar county to be at no expense.** That Washington A. Rigby, William Mason, and Bunak Weeks, be and they are hereby appointed commissioners to relocate all that part of the territorial road leading from Davenport, in Scott county, to Marion in Linn county, which lies in Cedar county [12] between the mile post marked forty-four miles to Davenport, and the mile post marked forty-eight miles. It shall be the duty of said commissioners, or a majority of them, to meet at Daniel Comstock's on the first Monday in April next, or on such day thereafter as they may agree upon, and having been duly sworn to proceed to relocate and establish said road on the nearest and best route between said before-mentioned points, having due reference to the accommodation of the citizens on said route as well as the public generally. Said commissioners conforming in other respects to the general act providing for laying out and opening territorial roads: provided, the said county of Cedar shall be subject to no expense by said relocation.

Approved, 18th January, 1843.

CHAPTER 12.

McCARVERSTOWN.

AN ACT to change the name of the town of McCarverstown, in Henry county to Lowell.

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

SECTION 1. That the name of the town of McCarverstown, in the county of Henry, be and the same is hereby changed to Lowell.

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

Approved, 20th January, 1843.

CHAPTER 13.

ROAD.

AN ACT to establish a territorial road in Lee county.

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

SECTION 1. **Commissioners' names.** That William Chance, Jacob Coon and Wil-[13]-liam Killgore of Lee county, be and they are hereby appointed commissioners to locate and mark a road commencing at the Des Moines river

in said county below Smith's mills, opposite a road leading from Waterloo in Missouri, to said river; to run thence in a direction to Fort Madison by R. B. Robinsons, and intersecting the road leading from Fort Madison, to Farmington, at or near William Skinners.

SEC. 2. **When and where to meet—failure provided for—not to pass through certain enclosures.** That said commissioners, or a majority of them, shall meet at William Chances on the first Monday in May next, and shall proceed to locate said road, according to the provisions of an act to establish territorial roads, and if said commissioners or a majority of them shall fail to meet as herein specified, it shall be legal for them to meet at such time thereafter, within six months after said time, as they may agree upon, and shall then proceed to locate said road as above directed; provided, that in laying out said road, they shall not run it through any person's enclosure, without the consent of the owner, unless a sufficient way cannot be had without.

SEC. 3. **Compensation to commissioners, surveyors, etc.** That the commissioners, surveyor, chain carriers and other hands employed to locate said road as herein specified, shall receive such compensation for their services as the board of county commissioners may think proper to allow them.

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

Approved, 21st January, 1843.

CHAPTER 14.

GEORGE BUMGARDNER.

AN ACT to allow George Bumgardner, and others, further time to file in the secretary's office a plat of the survey of a certain territorial road.

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

SECTION 1. **Further time to file a plat of survey of road granted.** That George Bumgardner, Charles Nealy, and H. H. Winchester, be allowed until the first day of February next to file in the secretary's office of said territory a plat of the survey of a territorial road from Charles Nealy's, in Muscatine county, to Iowa City, in Johnson county.

[14] SEC. 2. **When filed, road to be a public highway.** And if said plat is so filed the said road shall be, in law, a public highway.

Approved, 21st January, 1843.

CHAPTER 15.

COUNTY.

AN ACT to legalize the acts of the sheriff of Clayton county.

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

SECTION 1. That the bond executed by Ambrose Kenedy, sheriff of Clayton county, and his securities, approved December 26th, 1842, shall be good and valid, in law, as if the same had been approved on the first day of the October term of the district court for said county, in the year 1842.

SEC. 2. That the official acts of the aforesaid Ambrose Kenedy, sheriff, shall be as good and valid, in law and equity, as if said bond had been approved at the time specified by the statute in such cases made and provided.

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

Approved, 21st January, 1843.

CHAPTER 16.

ROAD.

AN ACT to locate a territorial road from Moscow, in Muscatine county, to intersect a road from Bloomington to Iowa City at or near Hudson, in Muscatine county.

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

SECTION 1. **Names of commissioners.** That Daniel L. Healy, John Wilson, Sen'r., and George W. Hunt, of Muscatine county, be and they are hereby appointed, to locate a territorial road from Moscow in Muscatine county, to intersect a road from Bloomington to Iowa City, at or near Hud-[15]-son, in Muscatine county. Said commissioners shall meet at Moscow on the first Monday in April next, or at such other time, within three months thereafter, as said commissioners shall agree upon.

SEC. 2. **Authority to employ surveyors and assistants—compensation of same.** That said commissioners shall take to their assistance a surveyor, and such number of chain carriers and other hands, as the said commissioners may deem necessary; which said surveyor, chain carriers and others so employed as aforesaid, shall be entitled to such compensation as may be allowed by the board of county commissioners of said county.

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

Approved, 21st January, 1843.

CHAPTER 17.

ROAD.

AN ACT to relocate a part of a territorial road in Henry county.

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

SECTION 1. **Commissioners' names and route of road.** That Abraham Updegraff, William Nichols and Peter Moore, be and they are hereby appointed commissioners to relocate that part of the territorial road from Mount Pleasant to Trenton, in Henry county, that runs through sections 24 and 13 in Trenton township, upon the same ground that is now used or traveled on in said sections.

SEC. 2. **Where and when to meet.** That said commissioners, or a majority of them, shall meet at Solomon Blacks on the second Monday in March next, and proceed to relocate and establish said road.

SEC. 3. **Surveyors and assistants—compensation of same.** That said commissioners shall take to their assistance a surveyor, and such number of chain carriers and other hands, as the said commissioners may deem necessary; which said surveyor, chain carriers and others so employed as aforesaid, shall be entitled to such compensation as may be allowed by the board of county commissioners of Henry county.

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

Approved, 21st January, 1843.

[16] CHAPTER 18.

INCORPORATION.

AN ACT to incorporate the Scott county Hydraulic company.

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

SECTION 1. **Names of corporators—name and style of company—election of clerk, and use of the seal.** That Antonie Leclaire, George L. Davenport, John Owens, Ambrose C. Fulton, Thomas S. Hoge, Daniel T. Newcomb, James Davenport, Egbert S. Barrows, Jabez A. Burchard, Jr., and Harvey Leonard, with such other persons as shall be associated with them for the purposes hereinafter specified, and their successors, be and they are hereby created a body corporate and politic, by the name and style of the Scott County Hydraulic Company, and as such, shall be capable of electing a clerk and other officers, of using a seal and of exercising the usual and necessary powers of a corporate body for the purposes specified.

SEC. 2. **Amount of capital stock—dividend of shares—regulation of shares.** That the capital stock of said company shall consist of not more than one hundred and fifty thousand dollars, and shall be divided into shares of one hundred dollars each, which shall be subscribed and paid for under such regulations as the aforesaid corporators, owning a majority of the stock of said company, shall prescribe.

SEC. 3. **Authority to make by-laws.** That said company, when formed, shall have power to make all by-laws necessary for the regulation of said company, and the trans-[17]-fer of stock; provided, the by-laws shall not be inconsistent with the laws of this territory or of the United States.

SEC. 4. **Not valid without the sanction of the owners of a majority of the stock subscribed.** That the by-laws of the company shall not be valid or binding until they shall have received the sanction of the vote of the owners of a majority of the stock subscribed.

SEC. 5. **When to appoint a board of directors—time and manner of appointment.** That so soon as ten thousand dollars of the capital stock shall have been subscribed, the stockholders owning a majority of the stock subscribed by said company, shall have power to appoint a board of five directors, one of whom shall be president of said company, and the election of directors shall take place annually thereafter, at Davenport, in such manner as the by-laws shall prescribe.

SEC. 6. **A record of stock subscribed to be kept, etc.—records at all times to be open to inspection of claimants against the company.** The company shall cause a record to be kept of all stock subscribed, and all transfers of stock, with owners' names, and amount held by each; which records shall at all times be open to the inspection of those having claims against said company, and no transfer of stock shall be legal until entered upon said records.

SEC. 7. **Office to be kept in Davenport.** That said company shall keep the office of its clerk, and its records and papers, in the town of Davenport, in said Scott county.

SEC. 8. **Power to use water—not to enter upon other lands without consent of owners—highways not to be obstructed.** That the company shall have power to take from the Mississippi river sufficient water for their purpose, at such point on the Upper or Rock Island rapids in Scott county, as they may deem proper, and convey the same over or through any suitable ground, by means of a race, canal or water-way, of such capacity as shall be deemed sufficient,

to any point which may be selected by said company not more than two miles from said town of Davenport; provided, that said company shall not enter upon the lands not owned by the company for the purpose of making drains or ditches, or for any other purpose, without the consent of the owner of such land; provided further, that said company shall in nowise obstruct any public highway.

SEC. 9. **Power to dispose of water privileges.** That the company shall have power to dispose of any water privilege or power, which they may create under the provisions of the eighth section of this act, either by sale of any part or the whole of their interest in said water power, or by lease of the same, precisely as individuals could or might dispose of their private property.

SEC. 10. **Power to purchase lands, etc., necessary for their purpose—privileges to cease, unless ten thousand dollars be paid within twenty-four months from date of this act—act may be amended or repealed.** That the company shall have power to purchase and own in their corporate name any ground, mills and water privilege which may be necessary for the purpose of obtaining and securing the right to direct the water of their race or canal, and to locate and construct the water-way through or upon the same, together with any quantity of ground that the company may deem necessary for the purpose of crea-[18]-ting and employing the water power of said company, and for the erection of suitable works and buildings for the accommodation of any and all manufacturing establishments which may be put in operation by the water power, to be created under this act of incorporation; provided, that all the rights, privileges and immunities created by this act shall cease and be utterly void unless the sum of ten thousand dollars shall be subscribed and actually paid in, of the capital stock of said company, within twenty-four months from the date of this act.

SEC. 11. That any future legislature may alter or repeal this act.

Approved, 21st January, 1843.

CHAPTER 19.

ROAD.

AN ACT to authorize the county commissioners of Johnson county to vacate a part of the territorial road leading from Wyoming to Iowa City; also, to relocate a part of said road.

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

SECTION 1. **Names of commissioners, and route of road.** That the county commissioners of the county of Johnson be and they are hereby authorized to vacate so much of the territorial road, leading from Wyoming to Iowa City, as lies within the northwest quarter of section fifteen, township seventy-nine, range six west of the fifth principal meridian; also to relocate that part of said road which runs through the northeast quarter of the section, township and range aforesaid, if they think public convenience requires the same.

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

Approved, 24th January, 1843.

[19] CHAPTER 20.

ROAD.

AN ACT to locate a certain territorial road therein named.

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

SECTION 1. **Commissioners names, and route of road—when and where to meet.** That H. W. Gray, of Linn county, O. A. Olmstead, of Delaware county, and Philip Hogan, of Dubuque county, be and they are hereby appointed commissioners to locate and mark a territorial road, commencing on the road leading from Iowa City to Prairie Du Chien, at Jonathan H. Jenkins' in Linn county, thence to intersect the road leading from Dubuque to Fort Atkinson, at Philip Hogan's, thence to the city of Dubuque. Said commissioners, or a majority of them, shall meet at the house of Jonathan H. Jenkins on the second Monday of June next, or as soon thereafter as convenient, and proceed to locate and mark said road as above designated.

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

Approved, 24th January, 1843.

CHAPTER 21.

INCORPORATION.

AN ACT to establish a seminary of learning at Grandview, in Louisa county.

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

[20] SECTION 1. **Names of corporators declared a body politic—powers.** That there shall be established in the town of Grandview, in Louisa county, a seminary of learning for the instruction of young persons in science and literature, to be called The Grandview Seminary, and that Henry Rockafellow, William Thompson, John Ronalds, Spencer Wilson, Robert Childers, Gabriel Walling, George Humphrey, Alexander Ross, Martin Gray and Clark Alexander, and their associates and successors, are hereby declared a body politic and corporate, in law, by the name and style of The Grandview Seminary.

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

SEC. 3. **Number of shares—made personal property and transferable.** The stock of said seminary shall consist of shares of ten dollars each, which shall be deemed personal property, and shall be transferable on the books of said corporation in such manner as may be prescribed by the board of trustees: provided, that the funds, privileges and immunities of said corporation shall be used for no other purpose than that of education.

SEC. 4. **Seminary to be managed by a board of trustees—number, and time, and manner of election of officers—notice of time and place for holding same,**

to be posted up in public places. The corporate concerns of said seminary shall be managed by a board of trustees, consisting of five members, three of whom shall constitute a quorum for the transaction of business. They shall be elected by the stockholders on the first Monday of April annually, and shall hold their offices for the term of one year, and until their successors are duly elected. In the election of trustees each stockholder shall be entitled to one vote for every share by him owned, and may vote in person or by proxy. Said trustees shall elect one of their number to be president of their board, and shall have power to fill vacancies in their own body. If any election shall not be made on the day designated by this act, such election may be held on any other day, provided a notice of the time and place of holding such election, signed by three of the [21] stockholders, be posted up at two or more public places, in and near the town of Grandview aforesaid, twenty days before such election.

SEC. 5. **Power of trustees to appoint agents and other officers—to make by-laws, etc.—to make deeds.** The board of trustees shall have power to appoint subordinate officers and agents, to make, ordain, and establish such ordinances, rules and regulations as they may deem necessary for the good government of said seminary, its officers, teachers and pupils, and for the management of the property and affairs of the said corporation to the best advantage, not inconsistent with the laws of the United States, nor of this territory.

SEC. 6. **Same to be signed by the president, two of the board attest.** That all deeds and other instruments of conveyance shall be made by order of the trustees, sealed with the seal of the corporation, signed by the president, and by him acknowledged in his official capacity, and attested by two other members of the board of trustees.

SEC. 7. **Act may be amended or repealed.** That any future legislature shall have power to alter, amend or repeal this act, which shall take effect from and after its passage.

Approved, 24th January, 1843.

CHAPTER 22.

GEORGE DUDEN.

AN ACT to legalize the acts of George Duden, a justice of the peace.

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

SECTION 1. That the appointment of George Duden to the office of justice of the peace in Van Buren township, Van Buren county, by the trustees of said township, is hereby made valid for the time he was appointed to fill said office, and that all his acts as justice of the peace, since his appointment by said trustees, are hereby made good and valid, in the same manner as if he had been elected and duly qualified, as provided by the law for the election of justices of the peace.

[Presented, 24th January, 1843; retained three days by the governor, and takes effect without his approval.]

[22] CHAPTER 23.

JACOB MINTUN.

AN ACT to legalize the acts of Jacob Mintun, a justice of the peace.

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

SECTION 1. That the official acts and proceedings of Jacob Mintun, who was appointed a justice of the peace in the spring of 1842, by the trustees of the township of Wapello, in the county of Louisa, are hereby declared to be as legal and as valid to all intents and purposes as if the said Jacob Mintun had been duly elected a justice of the peace for said township, at the annual township election.

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

[Presented, 24th January, 1843; retained three days by the governor, and takes effect without his approval.]

CHAPTER 24.

FERRIES.

AN ACT to authorize William Benham and David B. Sears, to keep a ferry across the Mississippi river, near the head of Rock Island.

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

SECTION 1. **William Benham and David B. Sears, to keep a ferry across Mississippi river at the head of Rock Island—privileges and term of years—regulations and restrictions.** That William Benham and David B. Sears, their heirs and assigns, be and they are hereby authorized to establish and keep a ferry across the Mississippi river at the head of Rock Island, from fractional section thirty-two, in township number seventy-eight, north of range number four, east of the fifth principal meridian in the county of Scott, with the exclusive privilege, for the distance of one mile above, and one mile below said fractional section, for the term of [23] ten years from the passage of this act; provided, that said ferry when so established, shall be subject to the same rules and regulations, and under the same restrictions as other ferries are, or may hereafter be, by the laws of this territory, fixing the rate of toll and prescribing the manner in which licensed ferries shall be kept and regulated.

SEC. 2. **Boats and hands to be kept.** That said William Benham and David B. Sears, their heirs and assigns, shall on or before the first day of April next, procure and constantly keep for said ferry a good and sufficient number of flat boats and other water crafts, with a sufficient number of hands to convey all persons and their property across said river, when passable, without delay.

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

Approved, 26th January, 1843.

CHAPTER 25.

INCORPORATION.

AN ACT to amend an act entitled an act for the incorporation of the town of Farmington, in Van Buren county, Iowa Territory.

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

SECTION 1. **Taxes to be levied on real and personal estate—improvements of lanes, alleys and side-walks.** That the president and councilmen shall have power to direct the levy of taxes upon all real and personal estate within the limits of said corporation, not exceeding one-half per centum upon said real and personal estate in any one year, to regulate and improve the lanes and alleys, and to determine the width of side walks.

SEC. 2. **President and council to lay off districts—to appoint overseers, and duty of same.** And the president and councilmen shall lay the said district off into not less than two nor more than four sections, as they may think necessary, and shall appoint one overseer to each section, so laid off, who shall hold his office for one year from the time of his appointment. The said overseers shall report to the president and councilmen at such times and in such manner as they may direct.

[24] SEC. 3. **Other acts repealed.** That all acts and parts of acts contravening the provisions of this act be and the same are hereby repealed.

SEC. 4. This act to take effect from and after its passage.

Approved, 26th January, 1843.

CHAPTER 26.

ROADS.

AN ACT to legalize the location of certain territorial roads.

Whereas, Gabriel Walling of Louisa county, Richard Lord of Muscatine county, and George W. Hawkins of Johnson county, were made commissioners by an act of the legislature, and authorized to lay out and establish a territorial road from Black Hawk, in Louisa county, via Grandview, to Iowa City, in Johnson county, and as said commissioners did not in all respects lay out and establish said road agreeably to the provisions of said act. Therefore,

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

SECTION 1. That the road or roads located and established by said Gabriel Walling, Richard Lord and George W. Hawkins, during the year eighteen hundred and forty-one, and returns of their proceedings made to the county commissioners, be and the same are hereby legalized.

SEC. 2. And be it further enacted, that so much of the territorial road between Burlington and Black Hawk, lying and being in the county of Louisa, that was located and established by Samuel Fullenwider, Wesley Swank and James Clark, of Des Moines, in the year eighteen hundred and forty-one, agreeably to an act of the legislature of this territory, authorizing the location of said road, but returns not to be made to the county commissioners of said Louisa county according to law, be and the same is hereby legalized.

SEC. 4. That the commissioners, surveyors and other hands employed in locating the roads referred to in the first section of this act, shall have such compensation for their services as the county commissioners of the counties

through which said roads pass, may order and direct; provided, however, that the county of Johnson shall not pay any portion of the expense created in locating said roads.

Approved, 26th January, 1843.

[25] CHAPTER 27.

ROAD.

AN ACT to relocate a part of the territorial road leading from Trenton, in Henry county, to Washington, in Washington county.

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

SECTION 1. **Commissioners' names and route of road.** That Thomas Gaskel, John Black and Charles Clifton are hereby appointed commissioners to relocate so much of the territorial road, commencing at the place where the said territorial road leaves a certain county road, running from Mount Pleasant to Holcomb's Mill, in Washington county, and proceed to locate the territorial road on said county road until it strikes the northwest corner of the northeast quarter of section nine, in township No. seventy-three, north of range seven west, and from thence on a due north line to intersect the old road in Washington county. Said commissioners shall meet at the house of Widow Plunkett's on the first Monday of March next and proceed to relocate so much of said road, as above described, according to law.

SEC. 2. **Surveyors and assistants—their compensation.** That said commissioners shall take to their assistance one surveyor, two chain carriers, and such other hands as a majority of them may deem necessary, for which services they shall severally receive such compensation as may be allowed by the county commissioners of Henry county.

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

Approved 28th January, 1843.

[26] CHAPTER 28.

ROAD.

AN ACT to relocate a certain part of the territorial road running from Burlington to Keosauqua, in Van Buren county, via Salem, in Henry county.

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

SECTION 1. **Commissioners' names and route of road.** That Aaron Cox, David Wilson and Jonathan Pickering, of the county of Henry, be and they are hereby appointed commissioners to relocate a part of the above mentioned road that lies between the ford of Prairie creek and Thomas Cooks, in Jackson township, Henry county.

SEC. 2. **Where and when to meet—surveyor and assistants.** It shall be the duty of said commissioners, or a majority of them, to meet at the house of Thomas Cooks, on the third Monday of March next, or within six weeks thereafter, as may suit their convenience. Said commissioners shall take to their assistance one surveyor, and such other hands as they may think necessary, and after being duly qualified according to law, made and provided in such cases, shall proceed to relocate and establish all that part of said road.

SEC. 3. **Their compensation.** Said commissioners and their assistants, shall receive such compensation for their services as the county commissioners of the county of Henry, shall deem just and right.

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

Approved, 28th January, 1843.

[27] CHAPTER 29.

DUBUQUE.

AN ACT to amend an act to incorporate the city of Dubuque.

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

SECTION 1. **Power of mayor and aldermen to regulate the city.** That the mayor and aldermen of the city of Du Buque, shall have the charge and control of the public squares in said city, and full power to remove all obstructions from the same, required by the public interest.

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

Approved, 28th January, 1843.

CHAPTER 30.

DENTON J. SNYDER.

AN ACT for the relief of Denton J. Snyder, Sheriff of Muscatine county.

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

SECTION 1. **Authority to collect taxes in Muscatine county.** That Denton J. Snyder, sheriff of Muscatine county, an ex-officio collector of taxes, be and he is hereby authorized to cause notices to be posted up in three of the most public places in each township of said county, stating in said notices what day (which time shall not be less than thirty days from the time of posting up said notices) said collector, or his deputy, will attend at the place of holding the elections in each township for the purpose of receiving the taxes of eighteen hundred and forty-two, as is provided in like manner in an act to amend an act concerning costs and fees, approved February fifteenth, eighteen hundred and forty-two.

[28] SEC. 2. **Appointment of day of sale.** That the board of commissioners of said county are hereby authorized to appoint such day for the sale of property for the payment of taxes, as they shall deem proper, and to do all things necessary to enable said collector to make a speedy collection of the taxes for the year eighteen hundred and forty-two.

Approved, 28th January, 1843.

CHAPTER 31.

BRAXTON W. GILLOCK.

AN ACT for the relief of B. W. Gillock, ex-sheriff of Lee county.

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

SECTION 1. That for the purpose of enabling B. W. Gillock, ex-sheriff of the county of Lee, to collect the taxes due said county for the year eighteen hundred and forty, the county commissioners of said county be and they are hereby authorized to extend such further time to the said B. W. Gillock as they may deem necessary.

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

Approved, 30th January, 1843.

CHAPTER 32.

ROAD.

AN ACT to legalize the location of a certain territorial road.

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

SECTION 1. That a certain territorial road, located and surveyed by Thomas Hatfield and Robert Smith Jr., of Clinton county, and Samuel P. Higginson, of Cedar county, in the year A. D. 1841, leading from Camanche, in Clinton county, to Iowa City, in Johnson county, in accordance with the provisions of an act of the legislative assembly, entitled an act to establish certain territorial roads, approved January 7th, 1841, be and the same is hereby declared a territorial road, and as good and valid in law, to all intents and purposes as if the same had been located, surveyed and the plat and field notes returned [29] to the secretary's office within the time prescribed by the law regulating the laying out and opening territorial roads, approved December 29th, 1838.

SEC. 2. This act to take affect and be in force from and after its passage.

Approved, 1st February, 1843.

CHAPTER 33.

ROAD.

AN ACT to establish a certain territorial road.

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

SECTION 1. **Names of commissioners, and route of road.** That William Maxon, Elisha Henry and Andrew Brisbine, be and they are hereby appointed commissioners to extend the road across the Wapsenonoc creek, in Cedar county, so as to intersect the Bloomington and Rockingham territorial roads, on the nearest and best route, in the direction to Iowa City and Bloomington.

SEC. 2. **When and where to meet—surveyors and assistants—their compensation.** That said commissioners shall meet at the house of Andrew Brisbine, in Cedar county, on the third Monday in March next, or on such other day thereafter as they may agree upon, and shall proceed to the discharge of their duties in accordance with the provisions of an act entitled an act for opening and regulating roads and highways, approved January 17th, 1840; provided, that said commissioners shall receive for their services one dollar and twenty-five cents for each day they shall be necessarily employed in the discharge of their duty, and provided further, all the expenses of establishing said road shall be paid by said petitioners.

Approved, 1st February, 1843.

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[30] CHAPTER 34.

NASHVILLE SEMINARY.

AN ACT to establish a seminary of learning at the town of Nashville, in the county of Lee.

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

SECTION 1. **Names of corporators—name and style of association.** That there shall be established a seminary of learning at the town of Nashville, in

the county of Lee, for the instruction of young persons of both sexes in science and literature, to be called the Union Academy at Nashville, and that James Anderson, Elias Smith, Alfred Beall, Cyrus W. Wheelock, Samuel Brierly, John Spain, Tuther Fuller, Josephus Beall, W. W. Wills, Joseph Taylor, William Parish, Justict Sealy and their associates and successors are hereby declared a body politic and corporate in law, by the name of the Union Academy at Nashville.

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

SEC. 3. **Number of shares, same made personal property and transferable.** The stock of said academy shall consist of shares of ten dollars each, which shall be deemed personal property, and shall be transferable on the books of said corporation in such manner as may be prescribed by the board of trustees; provided, that the annual income of said corporation, not including tuition, shall not exceed the sum of two thousand dollars, and its funds, privileges and immunities shall be for no other purpose than that of education.

[31] SEC. 4. **Number of trustees, duty of—manner of election, and term of service—power to fill vacancies—notice of time and place of holding elections.** The corporation concerns of said academy shall be managed by a board of trustees, consisting of five members, three of whom shall constitute a quorum for the transaction of business. They shall be elected by the stockholders on the first Monday in May, annually, and shall hold their offices for the term of one year, and until their successors are duly elected. The election of trustees shall be by ballot, and each stockholder shall be entitled to one vote for every share owned by him to the amount of ten shares, and then, to one vote for every five shares over and above that amount. Any stockholder may vote in person or by proxy. Said trustees shall elect one of their number to be president of their board, and they shall have power to fill any vacancies in their own body. If an election shall not be made on the day designated in this act, such election may be held on any other day, provided a notice of the time and place of holding such election, signed by three stockholders, and to be affixed to the door of the most public house in Nashville, at least ten days before the election.

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

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

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

Approved, 2d February, 1843.

[32] CHAPTER 35.

MOUNT PLEASANT.

AN ACT to amend an act entitled an act for the incorporation of the town of Mount Pleasant, in Henry county.

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

SECTION 1. **Qualifications of voters—time and place of electing officers.** That the qualified voters for members of the legislative assembly who have resided within the limits of said corporation for thirty days immediately preceding any such election, shall meet at some suitable place, within said corporation, on the first Monday in May next, and annually thereafter, then and there proceed to elect, by ballot, such officers as is [are] named in the second section of the act, to which this is amendatory, which said officers, when so elected, shall be governed in all respects agreeably to the provisions of said act.

SEC. 2. **Failure to elect works no forfeiture.** Any failure heretofore on the part of the qualified voters of said corporation to hold an election agreeable to the provisions of the act, to which this is amendatory, shall not be so construed as to work a forfeiture of said charter.

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

Approved, 3d February 1843.

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[33] CHAPTER 36.

FERRY.

AN ACT to authorize Henry DeCamp and Samuel H. Colyer to keep a ferry across the Mississippi river at the town of Wyoming.

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

SECTION 1. **Henry Decamp and Samuel H. Colyer to keep a ferry across Mississippi river at Wyoming—privileges.** That Henry De Camp and Samuel H. Colyer, their heirs and assigns, be and they are hereby authorized to establish and keep a ferry across the Mississippi river, at the town of Wyoming, in the county of Muscatine, with the exclusive privilege to the same within the following limits, to-wit: From any point within the boundary of said town, upon the Mississippi river, for a term of ten years.

SEC. 2. **Steam boat with sufficient number of hands to be kept—flat boat to be kept until steam boat be procured.** Said Henry De Camp and Samuel H. Colyer, their heirs or assigns, shall, within one year from the passage of this act, procure for said ferry a good and sufficient horse or steam ferry boat, with a sufficient number of hands to work the same, for the safe transportation of passengers and freight across said river at all times; and until said horse or steam ferry boat shall be so procured, said De Camp and Colyer, their heirs or assigns, shall procure, and constantly keep on hand, a sufficient number of flat and other boats, for the convenient transportation of persons and property across said river.

SEC. 3. **Restrictions, and rate of toll.** Said ferry, when so established, shall be subject to the same regulations and restrictions as other ferries are, or may be, by law, fixing the rate of toll and prescribing the manner in which licensed ferries shall be kept and regulated.

SEC. 4. **Act may be altered or repealed.** That any future legislature shall have power to alter, amend or repeal this act.

SEC. 5. This act to take effect from and after its passage.

Approved, 4th February 1843.

[34] CHAPTER 37.

ROAD.

AN ACT to relocate a part of a territorial road in Washington county.

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

SECTION 1. **Route of road.** That the territorial road which commences at a point where the military road crosses the north line of Washington county; thence to the north line of the state of Missouri via Washington, Brighton and Fairfield, be and the same is hereby changed so as to run from the fifteenth mile stake on said road south, or nearly south, to the northeast corner of the northwest quarter of section number seventeen, in township number seventy-five north, range number seven west; thence south on the half section line to the east end of North street in the town of Washington; thence west on said North street to Iowa street, in said town; thence south on said Iowa street, to Washington street; thence west on said Washington street to Marion street, in said town.

SEC. 2. **Names of commissioners.** That Joseph Adams, of Washington county, be and he is hereby appointed a commissioner to mark and locate said road.

SEC. 3. **When and where to meet—surveyors and assistants.** Said commissioner shall repair to the fifteen mile stake aforementioned, on the first Monday of April next, or any time within three months thereafter, for the purpose of locating said road.

SEC. 4. **Their compensation.** That the said commissioner may take to his assistance a competent surveyor, chain carriers and marker, if necessary, and shall receive such compensation as the county commissioners may deem just and reasonable.

SEC. 5. **Former act repealed.** An act entitled an act to relocate a part of a territorial road in Washington county, approved February 17th, 1842, be and the same is hereby repealed.

Approved, 4th February, 1843.

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[35] CHAPTER 38.

IOWA MEDICAL SOCIETY.

AN ACT to incorporate the Iowa Medical Society.

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

SECTION 1. **Names of corporators—name and style of association and powers—to sue and be sued, to use a seal—to hold and sell real and personal estate—amount of same limited—object of association.** That E. Bliss, B. S. Olds, J. Bowen, J. D. Elbert, H. Murray, John Bell, Jr., John Bell, sen'r., Geo. J. Huey, John W. Finley, F. Andross, S. M. Ballard, R. D. Barton, Timothy Maxon, E. S. Barrows, J. M. Weatherwax and their associates, together with such as may associate with them, be and they are hereby created a body corporate and politic, with perpetual succession, by the name and style of the "Iowa Medical Society," and by that name they may sue and be sued, plead and be

impleaded, in all courts of law and equity—may have a common seal and may change the same at pleasure;—they shall be capable of holding real or personal estate by gift, grant, or devise, and may sell and convey the same, provided the value thereof shall not exceed twenty thousand dollars, and the same shall be devoted exclusively to the object of promoting and elevating the cause of medical science and its collateral branches.

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

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

SEC. 4. **Act may be amended or repealed.** That any future legislature may alter, amend, or repeal this act.

Approved, 6th February, 1843.

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[36] CHAPTER 39.

ROAD.

AN ACT to relocate the territorial road leading from Burlington, in Des Moines county, to the bridge on Sugar creek, in Lee county, via Fort Madison.

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

SECTION 1. **Commissioners names, and route of road—when and where to meet.** That Reuben Conly, of Lee county, and Richard Land and John Bailey, of Des Moines county, be and they are hereby appointed commissioners to relocate the territorial road leading from Burlington, in Des Moines county, via Fort Madison, in Lee county, to the bridge on Sugar creek, in said county. Said commissioners, or a majority of them, shall meet at Burlington on the first Monday of April next, or as soon thereafter as may be convenient, and proceed to relocate and mark said road, agreeably to an act entitled an act to provide for laying out and opening territorial roads, approved December 29th, 1838: provided, said road shall not exceed sixty feet in width.

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

Approved, 6th February, 1843.

CHAPTER 40.

VAN BUREN COUNTY.

AN ACT to authorize the Judge of Probate, of Van Buren county, to appoint a suitable person to transcribe the probate records.

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

SECTION 1. That the judge of probate, in Van Buren county, be authorized to employ some suitable person to transcribe in proper bound books, all the probate records made in said county previous to the month of August, A. D. 1841, and that the board of com- [37] -missioners for said county be required to pay for such transcribing, such price as they shall deem just and right.

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

Approved, 6th February, 1843.

CHAPTER 41.

HENRY HARDEN.

AN ACT granting further time to Henry Harden to file the plat of a certain territorial road, in the office of the secretary.

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

SECTION 1. That Henry Harden, of Jefferson county, have until the twelfth day of March next, to file in the secretary's office a plat of a survey of a territorial road leading from Fairfield, in Jefferson county, to the forks of Skunk river, in Washington county. Said road was surveyed and located under an act bearing date February 16th, 1842.

SEC. 2. That if said plat shall be filed within the time aforesaid, said road shall be as legal as if it had been filed within the time prescribed by law.

SEC. 3. This act to take effect from and after its passage.

Approved, 8th February, 1843.

CHAPTER 42.

DENMARK.

AN ACT to vacate certain streets in the town of Denmark, in the county of Lee.

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

SECTION 1. That the street commencing at the southeast corner of said town and running west to the southwest corner of said town, thence north as far as the southwest corner of out lot number sixteen, be and is hereby declared vacated and discontinued as effectually as if it never had been laid out.

SEC. 2. This act shall take effect from and after its passage.

Approved, 9th February, 1843.

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[38] CHAPTER 43.

FORT MADISON.

AN ACT entitled an act to amend an act for the incorporation of the town of Fort Madison.

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

SECTION 1. **Sale of town lots for corporation taxes.** That all sales of town lots, for corporation taxes, in the town of Fort Madison, shall bear interest at the rate of fifty per cent. per annum on the amount of such sales.

SEC. 2. **Compensation of mayor and aldermen.** That the mayor and aldermen of Fort Madison may receive each the sum of one dollar, each meeting, for their services from and after the first of January, 1844.

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

Approved, 9th February, 1843.

CHAPTER 44.

FERRY.

AN ACT amendatory to an act entitled an act to authorize Robert M. G. Patterson to establish and keep a ferry.

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

SECTION 1. That the act authorizing Robert M. G. Patterson, his heirs or assigns, to keep a ferry, etc., be so amended as to extend the time specified in said act to the term of twenty years: provided, that said Patterson, his heirs or assigns, comply with all the provisions of the act to which this is an amendment.

Approved, 10th February, 1843.

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[39] CHAPTER 45.

ST. PETERS.

AN ACT to provide for holding elections at St. Peters and other places.

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

SECTION 1. **County commissioners of Clayton county—to establish additional election precincts.** That it shall be the duty of the board of county commissioners of Clayton county, and they are hereby required to establish election precincts at each of the following places, to-wit: one at St. Peters, and one at some convenient place at Lake Pepin.

SEC. 2. **Notices of election to be made out and posted up.** That the clerk of the board of the county commissioners of said county of Clayton, shall forward to the judges of elections, at the above precincts, the requisite election notices, and it shall be the duty of the judges aforesaid, to cause the same to be set up in the same manner as is by law required of the sheriff in other precincts; and the notices thus put up shall be good and valid in law; any act to the contrary notwithstanding.

SEC. 3. **Returns of election made by clerk of the board of county commissioners.** The returns of the aforesaid election precincts, may be returned to the clerk of the board of county commissioners aforesaid, by any suitable person appointed by the aforesaid judges of elections, and such returns shall be good and valid.

SEC. 4. **County commissioners of Delaware county to establish additional election precincts—returns to be made by the clerk of board—notices of to be made out and posted up—county commissioners of Jackson county authorized to lay off additional election precincts, etc.** That is shall be the duty of the board of county commissioners of Delaware county, to establish a precinct for election purposes, at the town of Democracy, in Buchanan county. The returns of elections held at the aforesaid precincts, shall be returned to the clerk of the board of county commissioners of Delaware county, in the manner prescribed by law. And the board of commissioners of Jackson county are hereby authorized to lay off an additional precinct or town- [40] -ship, for election and

other purposes, to include Patrick Maloney's settlement, which is bounded by the Dubuque county line on the north.

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

Approved, 10th February, 1843.

CHAPTER 46.

SALEM.

AN ACT to amend an act incorporating the town of Salem, in Henry county, approved January the 14th, 1840.

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

SECTION 1. **Regulations relative to roads in town.** That the corporation limits of the town of Salem, exclusive of the lanes and alleys, shall constitute one road district, including all the roads and highways leading to and from said town, for the distance of one mile from the corporation limits.

SEC. 2. **Time of meeting of electors.** It shall be lawful hereafter for the inhabitants of said town, having the qualifications of electors, to meet in said town of Salem, on the second Monday of April, and annually thereafter, for the purpose of electing their officers, and shall be governed in all respects according to the provisions of said charter, to which this is an amendment.

SEC. 3. **Time of electing supervisor of roads.** It shall be lawful for the qualified voters, within the respective road districts, to meet on the second Monday above mentioned, in the town of Salem, and annually thereafter, and, in conjunction with the voters within the limits of the corporation, shall then proceed to elect their supervisor, or supervisors of roads and highways within the respective districts.

SEC. 4. **Other acts and parts of acts repealed.** All acts and parts of acts that come within the purview of this act, are hereby repealed.

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

Approved, 10th February, 1843.

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[41] CHAPTER 47.

ROAD.

AN ACT to locate a territorial road from the northern boundary of Missouri to the town of Keosauqua, in Van Buren county.

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

SECTION 1. **Commissioners names and route of road.** That Charles Dailey, Thomas Cox, as commissioners, and Samuel Gilland, as surveyor, be and they are hereby appointed to locate and establish a territorial road, commencing at the southwest corner of section nine, in fractional township sixty-seven, north of range eight west, near the Missouri line; thence westward to the northeast corner of section thirty-six, township sixty-eight, north of range nine west; thence west eighty rods, between sections twenty-five and thirty-six; thence to James Burnes' smith shop; thence the shortest and best route to intersect the

territorial road, leading from Keokuk to the line at the town of Keosauqua, Van Buren county.

SEC. 2. **Where and when to meet—surveyor and assistants—failure to meet provided for.** That said commissioners and surveyor shall meet, at the place of commencing said road, on the first Monday in April next, and shall proceed to locate and establish said road, according to the provisions of an act to locate and establish territorial roads. And if said commissoners or surveyor, or a majority of them, should fail to meet at such time and place, as herein specified, it shall be the duty of the sheriff of Van Buren county to notify said commissioners of a day, to be by him appointed, of the time and place of a second meeting of said commissioners, who shall then proceed to locate said road as above directed.

SEC. 3. This act to take effect from and after its passage.

Approved, 10th February, 1843.

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[42] CHAPTER 48.

JACKSON COUNTY ACADEMY.

AN ACT to incorporate the Jackson County Academy.

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

SECTION 1. **Names of corporators—name and style of association—power to acquire and sell real and personal estate—to sue and be sued, to use a seal, etc.** That there shall be established at Andrew, in Jackson county, a seminary of learning, for the instruction of youths of both sexes, in arts, science, and literature, to be known by the name and style of "The Jackson County Academy," and that M. H. Clark, John Forbes, N. Butteworth, S. S. Fenn, W. Hopkins, W. A. Warren, H. Herrington, R. B. Wykoff, O. A. Crary, J. S. Kirkpatrick, Joseph Mallard, and Robert Fowler, and their associates and successors, are hereby declared a body politic and corporate in law and in fact, by the name and style of "The Jackson County Academy," and by that name shall have perpetual succession, and power to acquire, possess, retain, and enjoy, mixed, personal, and real property, and the same to sell, grant, convey, rent, or otherwise dispose of at pleasure; and they shall have power to contract and be contracted with, sue and be sued, plead and be impleaded, in all courts of law or equity, and they shall have and use a common seal.

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

SEC. 3. **Annual income limited—disposition of same.** The annual income, exclusive of tuition, shall not exceed two thousand dollars, and that the total capital stock of said institution [43] shall not exceed fifty thousand dollars, and that its funds, privileges and immunities, shall be used for no other purposes than that of education.

SEC 4. **Time and manner of electing trustees—number and duty of same—may elect other officers—number of votes given and how.** The stockholders of said academy shall, on the first Monday in October next, and on the same day annually thereafter, elect, by ballot, a board of trustees, consisting of twelve members, seven of whom shall constitute a quorum, whose duties shall be to transact and perform, or cause to be performed, all the functions, concerns and

business of said academy; and said stockholders shall elect or appoint such other officers as may, in their opinion, be requisite, and shall give such other directions to the board of trustees as may, in their estimation, be of importance to the corporation; and each stockholder shall be entitled to one vote for every share owned by him, to the amount of ten shares, and then to one vote for every five shares over and above that amount. Any stockholder may vote in person or by proxy.

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

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

SEC. 7. **Act when to take effect.** This act shall take effect, and be in force, from and after its passage.

Approved, 10th February, 1843.

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[44] CHAPTER 49.

KEOSAUQUA.

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

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

SECTION 1. **Certain words of certain lines in, repealed—fines for offences against ordinances—manner of recovering fines.** That the words within and between the words property, for, in the fifth line of the fifth section of the act to which this [is] amendatory, be and the same are hereby repealed, and that the sixth section of said act be so amended as to read; provided, that no person shall be fined exceeding fifty dollars for any one offence against any one ordinance; which fine may be recovered in a summary manner before any justice of the peace of competent jurisdiction.

SEC. 2. **Words in the original act stricken out and others inserted.** That the word "majority," in the fifth line of the second section of said act be repealed, and the word "plurality" substituted therefor.

SEC. 3. **Eighteenth section of original act repealed.** That the eighteenth section of said act be and the same is hereby repealed, from and after the first Monday of May next.

SEC. 4. **Use of county jail to be allowed to said city.** That the use of the county jail of Van Buren county be allowed to the authorities of said city, for the confinement of persons committed by any justice of the peace, in cases of the violation of the ordinances of said city.

SEC. 5. **Liability of mayor and aldermen for neglect of duty.** That the mayor shall be liable for any neglect or mal-practice in office in all respects as justices of the peace, are or may be liable by law.

SEC. 6. **Limits of said corporation to form a school district, under direction of mayor and aldermen subject to the laws of the territory.** That the limits of said corporation shall form a school district, which shall be under the direction and control of the mayor and [45] aldermen of said city, subject however, in all other respects, to the general laws of this territory relative to schools and school districts.

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

Approved, 10th February, 1843.

CHAPTER 50.

FERRY.

AN ACT to authorize Ezra F. Denison and Newton P. Denison to keep a ferry across the Mississippi river.

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

SECTION 1. **Ezra F. and Newton P. Denison to keep a ferry across Mississippi river near mouth of Iowa river—privileges and term of years.** That Ezra F. Denison and Newton P. Denison, of the county of Louisa, in said territory, their heirs and assigns, be and they are hereby authorized to establish and keep a ferry across the Mississippi, at or near the mouth of the Iowa river, embracing a distance along the west bank of said Mississippi of two miles, extending one mile on either side of the said Iowa river from the middle of its channel; and the said Ezra F. Denison and Newton P. Denison, their heirs and assigns, shall have the exclusive privilege of ferrying within the above limits for the term of twenty years.

SEC. 2. **Regulations and restrictions—rate of tolls.** The ferry hereby established, shall be subject to the same regulations and restrictions as other ferries are, or may be hereafter, by law in this territory, fixing the rate of tolls, and prescribing the manner in which licensed ferries shall be kept.

SEC. 3. **Steam or horse boats with sufficient number of hands to be kept.** That the said Ezra F. and Newton P. Denison, their heirs and assigns, shall keep or cause to be kept at the place aforesaid, a good and sufficient boat, or boats, to be propelled by horse or steam power, for the safe conveyance of persons and their property, across said river without delay.

SEC. 4. **Not to interfere with the rights of others—act may be amended or repealed.** Nothing in this act shall be construed so as to interfere [46] with the rights that any person may have to the lands on either side of said river.

SEC. 5. Any future legislature may alter, amend, or repeal this act, which shall take effect from and after its passage.

Approved, 10th February, 1843.

CHAPTER 51.

FERRIES.

AN ACT regulating ferries across English river.

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

SECTION 1. **County commissioners of Washington county authorized to grant licenses for ferries across English river—pay for licenses not to be required—regulations and restrictions.** That the county commissioners of Washington

county, may, if they think proper, grant licenses to any person or persons, to keep a ferry or ferries across English river in said county, without compelling such person or persons to pay license; such ferry or ferries shall be in all other respects regulated according to the provisions of the law regulating ferries.

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

Approved, 10th February, 1843.

CHAPTER 52.

HENRY COUNTY.

AN ACT authorizing the election of an additional justice of the peace and constable in Centre township, Henry county.

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

SECTION 1. **Authority to elect additional justices of the peace and constables given—Time and manner, and place of election.** That the voters of Centre township, Henry county, be and they are hereby authorized to elect on the first Monday [47] of April next, and at each annual meeting thereafter, an additional justice of the peace and constable, in and for said township, the said election to be conducted in every particular the same as that of other township elections.

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

Approved, 10th February, 1843.

CHAPTER 53.

DAM.

AN ACT to authorize Isaac R. Campbell and others, to construct a dam across the Des Moines river, in the county of Lee.

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

SECTION 1. **Isaac R. Campbell and others to erect a dam across the Des Moines river—location, dimensions of dam and lock—time of completion of same.** That Isaac R. Campbell and company be and they are hereby authorized to construct a dam across the Des Moines river, in the county of Lee, so far as the jurisdiction of the territory of Iowa extends on said river, on the southeast quarter of section one, in township sixty-six north, range seven west, in the county of Lee: provided, the said Isaac R. Campbell and company shall, before they proceed to construct said dam, erect a good and sufficient lock for the purpose of letting boats of all kinds through said dam safe without delay. Which dam shall not exceed five feet above low water mark, and shall contain a convenient lock not less than one hundred and thirty feet in length, and thirty-five feet in width, for the passage of boats, rafts and water crafts of all kinds. The said dam shall be completed within the term of two years from the passage of this act.

SEC. 2. **Lock to be kept in good repair and free of toll—penalty for detention.** It shall be the duty of the said Isaac R. Campbell and company to keep the lock and dam in good repair, and they, at all times, shall pass any water craft above mentioned through, free of toll, without delay; and any person, who shall be unnecessarily detained, shall be [48] entitled to recover of the owners double the amount of damages they shall prove to have sustained by reason of such detention.

SEC. 3. **Penalty for trespass or injury.** Any person who shall destroy, or in any wise injure either said dam or lock, shall be deemed to have committed a trespass and shall be liable accordingly. Any person who shall wilfully and maliciously destroy or injure said lock or dam, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined treble the amount of damage the owners may have sustained, or be imprisoned, at the discretion of the court.

SEC. 4. **Not to overflow other lands—nuisances must be removed.** Nothing herein contained shall be construed to authorize the individuals named in this act, their heirs or assigns, to enter upon and flow the lands of any person. And they shall remove all such nuisances as may be occasioned by the erection of said dam, which may endanger the health of the vicinity.

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

Approved, 10th February, 1843.

CHAPTER 54.

LAUREL SUMMERS.

AN ACT for the relief of Laurel Summers.

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

SECTION 1. **Certain claim to be paid by territorial treasurer.** That the treasurer of the territory of Iowa, be required to pay to Laurel Summers the sum of one hundred and seventy dollars, out of any moneys not otherwise appropriated: provided, the said Summers shall produce to the treasurer aforesaid the certificate of the secretary of the territory, that the account of A. C. Donaldson, for carrying the mail between Davenport and Dubuque, during the session of the territorial legislature of A. D. 1838-'9, has been disallowed by the proper auditory officer at Washington.

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

Approved, 10th February, 1843.

[49] CHAPTER 55.

WALTER BUTLER.

AN ACT for the relief of Walter Butler.

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

SECTION 1. **Allowance of money.** That there be allowed to Walter Butler the sum of one hundred and seventy-five dollars, for the use of library room, storage room, and for removing furniture, as per contract with the secretary; and that the secretary of the territory be required to pay the same out of any moneys, in his hands, not otherwise appropriated.

SEC. 2. **To be paid by the secretary of territory.** And that the sum of one hundred and fifty dollars be allowed him for rent of Secretary's office, to be paid out of any moneys, in the secretary's hands, not otherwise appropriated.

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

CHAPTER 56.

FARMERS' HALF BREED LAND COMPANY.

AN ACT to incorporate the Farmers' Half Breed Land Company, in the county of Lee.

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

[50] SECTION 1. **Names of corporators—name and style of corporation—powers—to sue and be sued, to use a seal with power to alter the same—may hold and enjoy real and personal estate, purchase interest of other companies, etc., etc.—objects of association.** That Joseph Roberts, Robert Roberts, John Wright, James McMurry, David Galland, John Spaine, Hillis, A. Kerr, Elias Smith, Joseph Webster, Tibets, Daniel Hines, Theophilus Bullard, John South, Samuel Brierly, Johnson Meek, Wesley Elmore, P. N. Miller, Grisam Danks, John McCall, Aley Chance, and James Allen, of the county of Lee, with such other persons as shall hereafter be associated with them, for the purpose hereinafter specified, and their successors, be and they are hereby constituted a body corporate and politic, with succession, by the name and style of "The Farmers' Half Breed Land Company," and as such shall be capable of suing and being sued, answering and being answered, in all courts of justice; they may have a common seal, and may alter the same at pleasure; they shall be capable of purchasing, receiving, holding, and enjoying any estate, real and personal, necessary for the promotion of the objects of said company; [51] which objects are hereby declared to be to purchase from the several companies and persons who are interested in the Half Breed land, in the county of Lee, and to secure to each and every person interested and residing on the land, their homes, or lands, as they may desire, and to perfect the title to the same, and these corporate powers shall be used for no other purposes than above mentioned.

SEC. 2. **Amount of capital stock and amount of shares—regulations for payment of stock—installments collected by suits.** The capital stock of said company shall not consist of more than two hundred thousand dollars, to be divided into shares of not less than one hundred dollars each, which shall be subscribed and paid for under such regulations as said company, or a majority of them, may prescribe. The installments on such shares, when due and unpaid, may be collected at the suit of the directors of said company, at their direction, as other debts.

SEC. 3. **Power to make by-laws, restrictions of the same—to receive the sanction of stockholders.** Said company, when formed, shall have power to make all by-laws necessary for the regulation of the concerns of the company; provided, such by-laws shall not be inconsistent with the laws of the United States and the laws of this territory, and which by-laws shall not be valid or binding until they have received the sanction, by vote, of a majority of the stockholders.

SEC. 4. **Number of shares that may be taken—one vote allowed for each—stockholders may vote by proxy.** Any person may take as many shares as he may see proper. Each stockholder shall, in all elections held by said company, be entitled to one vote for every share by him subscribed to the amount of five shares, and one vote for every five shares over and above that number, and upon which all installments, duly called for, have been paid; and any stockholder may vote by proxy, appointed in writing, but none but a stockholder shall be a proxy.

SEC. 5. **Amount to be subscribed before the election of president and directors can take place—quorum to transact business—election of officers to be**

annual—time and place of election. So soon as twenty thousand dollars of the capital stock of said company shall have been subscribed, the stockholders, or a majority of them, shall have power to elect a board of nine directors, one of which shall be president of said company, and seven of whom shall be a quorum to transact business, and the election of directors shall take place annually thereafter, at such time, and on such notice being given, as the by-laws shall prescribe.

SEC. 6. **Record of stock subscribed to be kept open for inspection—liability of stockholders.** The company shall cause a book of record to [be] kept, in a suitable place for that purpose, of all stock subscribed, and all other proceedings, with the owners names, and the shares held by each, which record shall at all times be kept open for the inspection of all persons interested, or having claims against said company. The stockholders shall be individually liable for all the contracts and debts of the company in proportion to the amount of stock owned by each, and judgment against said company shall hold good in law against each stockholder.

[52] SEC. 7. **Commissioners to receive subscription— books to be opened for same—when and where—one per centum of amount subscribed must be paid at time of subscribing.** That the persons named in the first section of this act shall be commissioners to receive subscriptions, and also to do and perform all necessary acts to organize the company, and they are hereby authorized to cause books to be opened, at such time, and in such place, as a majority of them shall direct, to receive subscriptions to the capital stock of said company. The commissioners shall require one per centum upon each share to be paid at the time of subscribing.

SEC. 8. **Commissioners to call a meeting of stockholders—notice of same to be posted up in public places—time and place of meeting—officers elected.** That whenever the sum specified in the fifth section of this act shall be subscribed, the commissioners shall call a meeting of the stockholders, by causing at least two weeks notice, of the time and place of such meeting, to be posted in three of the most public places in the county, in which the books shall have been opened and the stock subscribed; and on such notice being given, the stockholders shall meet at the time and place appointed, and when so assembled may proceed to elect their directors, and adopt their regulations, as specified in this act.

SEC. 9. **President and directors to take oath—treasurer to give bond with security—time and place of paying installments and notice thereof—stockholders not required to pay more than 10 per centum upon their stock at any one time.** The president and directors, previous to their entering on the duties of their offices, shall severally take an oath or affirmation faithfully and impartially to discharge the duties of their offices, by virtue of the provisions of this act, and the rules of the corporation; they shall appoint a treasurer, who shall give bond, payable to the president and directors of The Farmers' Half Breed Land Company, with securities in double the amount that may be committed to his charge, for the faithful performance of the trust committed to him, and shall take an oath or affirmation faithfully to discharge the duties of his office, which said oath or affirmation and bond shall be filed in the office of the clerk of the district court of Lee county. The directors shall order and direct the time and place when the stockholders shall pay in their installments, and give notice thereof, as required by the eighth section of this act; neither shall any stockholder be bound to pay more than ten per centum on the amount of his stock, at one time, nor more than twenty per centum per annum in any one year, except by consent of a majority of the stockholders.

SEC. 10. **Amount to be paid into the treasury before objects of company can be carried out—qualifications of officers.** That whenever the sum of thirty

thuosand dollars, in gold or silver coin, or current bank notes, may have been paid into the treasury of said corporation, it shall be the duty of said directors to carry out the objects of this association by purchasing the lands known as the "Half Breed Lands," ceded by the Sac and Fox Indians, situated in the county of Lee, in the name of said company, from all those compa- [53] -nies or others owning the said lands, and to hold the same for the use of the company and be disposed of as hereinafter provided.

SEC. 11. No person shall hold any office in said company unless he shall be a stockholder, and a resident on the Half Breed Tract.

SEC. 12. **Time to wind up the affairs of the company—manner of doing so.** So soon as the directors shall ascertain that they have purchased and obtained the rights and interest of the companies and individuals interested in said lands, it shall be their duty to proceed to wind up the affairs of the company, and to provide for the payment of all debts due, and against said company. The said directors, for and on behalf of said company, for the purpose of perfecting and securing the title to said land, and making an equal partition of the same amongst the stockholders, shall proceed to ascertain the amount of stock held by each person, and when so ascertained, they shall make out a complete list of the same, setting down the name of each stockholder, and shall cause the same to be published in some newspaper in the territory.

SEC. 13. **Duty of directors to examine lands and value the same—disposition of to holders—duty of holders to file title papers to claims with directors to be investigated—decision and disposition by directors.** The said directors shall proceed to examine the land, both occupied and unoccupied, and the value the same as in a state of nature, and all lands that are claimed and held by any stockholder shall be set apart by the directors, and conveyed by them to the person claiming or holding the same, in proportion to the amount of stock held by such stockholder and if any stockholder, at the winding up of the affairs of said company shall claim to hold an undivided interest in said land, as having purchased from the Half Breed, or other person, previous to the formation of said company, it shall be the duty of such person, so claiming the same. to file with the directors his or her title papers for allowance, and the said directors shall proceed to investigate the claim or claims of the person so filing such papers, and if they shall find said claim to be just, they shall set the same apart to the person claiming such interest, and execute a deed therefor; and if such person shall have claimed and improved any particular part or tract of land, the said undivided interest shall be laid upon the tract so claimed, so far as the same shall extend, for which no charge shall be made.

SEC. 14. **Residue of lands to be sold for payment of debts of company, or divided among the stockholders, pro rata.** If after the stockholders have drawn lands to the amount of stock held by each person, it shall appear that there is any land remaining, it shall be the duty of the directors to sell the same at its valuation, the proceeds of which shall be appropriated for the payment of debts against said company; but if there shall be no such debts, then the said proceeds shall be divided among the stockholders in proportion to the amount of stock held by each.

SEC. 15. **Powers given directors to make all rules and regulations to carry foregoing into execution—proviso.** The said directors shall have power to do all acts necessa- [54] -ry to carry into effect the objects of this act: provided, that nothing in this act shall be so construed as to authorize them to enter into any kind of speculation in said lands.

SEC. 16. **Act may be amended or repealed.** This act may be repealed, altered or amended, by any future legislature, and shall take effect, and be in force, from and after its passage.

Approved, 13th February, 1843.

CHAPTER 57.

DELAWARE COUNTY.

AN ACT to attach Delaware to Dubuque county, for judicial purposes.

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

SECTION 1. That the county of Delaware be and the same is hereby attached to the county of Dubuque for judicial purposes.

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

Approved, 13th February, 1843.

CHAPTER 58.

WASHINGTON MANUFACTURING COMPANY.

AN ACT to amend an act, entitled an act to incorporate the Washington Manufacturing Company.

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

[55] SECTION 1. **Names of corporators—name and style—powers—to sue and be sued, to purchase or sell real and personal estate—amount of same limited.** That James H. Gower, Robert Gower, Jackomyer Baldwin and Peter Dilts, and such other persons as may associate themselves with them, be and they are hereby created a body politic and corporate to be known by the name and style of the Washington Manufacturing Company, and by that name shall have perpetual succession, may sue and be sued, in all courts of law or equity, and shall be capable in law, of purchasing, holding, selling, leasing and conveying estate, real, personal or mixed, so far as may be necessary for the purposes herein named, and for all other purposes necessary to consummate the objects of this incorporation; provided, the value of said property shall not exceed forty thousand dollars.

SEC. 2. **Authorized to construct a dam across Cedar river—location, dimensions of same, with lock—sluice for the passage of boats, rafts, etc., to be constructed—dimensions of same, time of completion—to be kept in good repair.** That said James H. Gower, Robert Gower, Jackomyer Baldwin and Peter Dilts, their associates and successors, be and they are hereby authorized, to construct a dam across the Cedar river, at Washington ferry, in Cedar county, which said dam shall not exceed five feet in height, and shall contain a convenient lock, at least one hundred and twenty-five feet in length, and at least thirty-five feet in width, or a sluice at least forty feet wide for the passage of steam, keel and flat boats, rafts and other water crafts; which said dam and lock or sluice shall be completed within four years from the passage of this act, and said lock or sluice shall, after completed, be kept in good repair for the passage of all kinds of water crafts without delay and free of charge.

SEC. 3. **Penalty for injury to works.** That if any person shall in any wise destroy or injure said dam, lock, or sluice, [he shall] be deemed to have committed a trespass, and shall be liable accordingly; and any person who shall wilfully and maliciously destroy or injure said dam, lock or sluice, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined

treble the amount of damages the owners may have sustained, and be imprisoned at the discretion of the court.

SEC. 4. **Dam not to flow other lands without consent of owners—nuisances must be removed.** That nothing in this act contained, shall authorize said [56] company to enter upon or flow the lands of any person, without the consent of such person, and said company shall remove all such nuisances as may be occasioned by the erection of said dam, which may endanger the health of citizens in its vicinity.

SEC. 5. **Notice for meeting of members for election of officers—power to make by-laws, proviso.** That any member of said company, may at any time within one year from the passage of this act, by giving at least thirty days' previous notice, call a meeting of its members, and said company, when convened, shall call one of their number to preside, and may proceed to enact such by-laws, rules and regulations for its government, and such arrangements for the management and conduct of its business, as a majority of them may deem right and proper: provided, the same do not conflict with the laws of the United States and of this territory and future State of Iowa.

SEC. 6. **Division of shares—aggregate amount of same not to exceed $40,000.** That the capital stock of said company shall be divided into shares of one hundred dollars each, and as many such shares may be created as the company may direct: provided, they do not in the aggregate exceed the sum of forty thousand dollars.

SEC. 7. **Act may be amended or repealed—personal liability of stockholders for debts of company.** That the legislature of the territory of Iowa, or state of Iowa, may at any time alter, amend or repeal this act. Each member of the Washington Manufacturing Company aforesaid, shall be personally liable for the payment of all debts due from the company.

SEC. 8. **Dam obstructing navigation, privileges to be forfeited thereby.** That said company shall, by said dam, in no case obstruct the free passage of any steam boat, flat boat, keel boat, or other water-craft, free of charge. In case of any violation of the above provisions, said company shall be liable to the owner or owners of any boat or water-craft, so obstructed, for damages in treble the amount sustained by such owner or owners.

SEC 9. **Certain sections of original act repealed.** That in case said dam shall be found to present obstructions to the navigation of said river, then the privileges conferred by the provisions of this act, shall cease and be forfeited.

SEC. 10. That the third section of the act, to which this is amendatory, together with so much of the provisions of said act as contravenes the provisions of this act, be and the same are hereby repealed.

SEC. 11. That this act shall take effect and be in force from and after its passage.

Approved, 13th February, 1843.

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[57] CHAPTER 59.

DENMARK ACADEMY.

AN ACT to incorporate an Academy in Denmark, Lee county.

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

SECTION 1. **Name and style of association—names of corporators—made trustees, with term of office.** That there shall be and hereby is estab-

lished in the town of Denmark, in Lee county, a literary institution for the purpose of instructing youth of both sexes in science and literature, to be called the Denmark Academy, and that Isaac Field, Reuben Brackett, Oliver Brooks, Hartwell J. Taylor and Asa Turner, Jr., and their successors, are hereby declared a body politic and corporate, in law, by the name and style of the trustees of the Denmark Academy, to hold their office for one year from the first Monday in March next, or till others shall be duly elected to succeed them in the manner hereinafter provided.

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

SEC. 3. **Donations of property by certain individuals in Denmark to constitute stock—same to be sold and the interest of the fund arising therefrom to be used—amount of shares, made transferable—amount of income limited.** That the stock of said academy shall consist first of the donation made by Timothy Fox, Lewis Epps, William Brown, and Curtis Shedd, proprietors of the town of Denmark, to-wit: one-half of all the lots in said town of Denmark, the amount arising from the sale of [58] which shall forever remain as a permanent fund, and the interest only be used, and in consideration of said donation the said proprietors shall be considered as holding three shares each in the stock of the said academy; second shares of twenty-five dollars each, which shall be deemed personal property, and shall be transferable on the books of said corporation in such manner as may be prescribed by the board of trustees; provided, that the annual income of the said corporation (not including tuition) shall not exceed three thousand dollars, and that its fund, privileges and immunities shall be used for no other purpose whatever than education.

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

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

SEC. 6. That all deeds and other instruments of conveyance shall be made by order of the trustees, sealed with the seal of the corporation, signed by the president, and be by him acknowledged in his official capacity, in order to insure their validity.

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

Approved, 3d February, 1843.

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[59] CHAPTER 60.

DAM.

AN ACT to authorize Robert McKee and Ovid Grennell to construct a dam part way across the Des Moines river.

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

SECTION 1. **Robert McKee and Ovid Grennell, to erect a dam across the Des Moines river—location, dimensions of dam and lock—boats to pass free of toll.** That Robert McKee and Ovid Grennell, be and they are hereby authorized to construct a dam across the Des Moines river, so far as the jurisdiction of the territory of Iowa extends, opposite the town of St. Francisville, in the state of Missouri: provided, that they shall first erect a good and sufficient lock, one hundred and thirty feet in length, and thirty-five feet in width, for the purpose of letting steam boats, keel boats, rafts and other water-crafts, through said dam safe, without delay, toll free; said dam shall not exceed five feet high, above low water mark.

SEC. 2. **Heighth of dam and lock—to be kept in good repair—time of completion.** It shall be the duty of the said Robert McKee and Ovid Grennell to keep said dam and lock, at all times, in good repair, and to let all boats, rafts, and other water-crafts, through, without delay, free of toll; said dam shall be completed within two years from the passage of this act.

SEC. 3. **Penalty for detention of boats—penalty for trespass upon dam.** Any person who shall be unnecessarily delayed by reason of said dam, shall be entitled to recover, from the persons named in this act, in any court having competent jurisdiction of the same, the amount of damage they may prove to have sustained by reason of such detention.

SEC. 4. **Imprisonment as for misdemeanor.** Any person who shall destroy, or in any wise injure, said dam or lock, shall be deemed to have committed a trespass, and shall be liable accordingly. And any person, who shall wilfully or maliciously [60] destroy or injure said dam or lock, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined treble the amount of damages the owners may have sustained, or be imprisoned, at the discretion of the court.

SEC. 5. **Not to overflow other lands without the consent of owners—nuisances must be removed.** Nothing in this act shall be so construed as to authorize the persons, named in this act, to enter upon and flow the lands of any person, without the consent of the owner. And they shall remove all such nuisances as may be occasioned by the erection of said dam, which may endanger the health of the vicinity.

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

Approved, 13th February, 1843.

CHAPTER 61.

IOWA CITY.

AN ACT donating out lot No. 10, in Iowa City, to the citizens thereof.

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

SECTION 1. **Conditions upon which grant is to be made.** That out lot No. 10, in Iowa City, is hereby granted to the citizens of said city, for the purposes hereinafter expressed, and for no other purpose or use whatever: provided, the said citizens shall, as a condition of this grant, enclose and keep enclosed said lot, with a good and substantial fence.

SEC. 2. **To be used as a public burying ground.** The said lot is hereby declared to be a public burying ground, and as such shall at all times be free for that purpose under such rules and regulations as the citizens of Iowa City may establish, necessary to carry out the design and object of the aforesaid grant.

SEC. 3. **Superintendence and future disposition of said lot in the hands of trustees to be elected by citizens.** The superintendence and management of said burying ground shall be exercised by three trustees selected by the citizens of said city, at a public meeting to be held within two months after the passage of this act. Notice of the time and place shall be given two weeks previous to holding said meeting, by publication in the newspa- [61] -pers of said city, or setting up at least five written notices, calling said meeting, at the most public places in said city. The persons, when chosen as above provided, shall hold their office, as trustees, for one year, and until their successors are chosen in manner aforesaid. Should Iowa City ever become incorporated, the management and control shall then be vested in the mayor and city council.

SEC. 4. **Governor to execute deed for same.** The governor is hereby authorized to execute a deed of conveyance to the citizens of said city, for the purpose and use aforesaid, as soon as notified of the election of trustees, as above provided.

Approved, 13th February, 1843.

CHAPTER 62.

ROAD.

AN ACT to establish a territorial road from Birmingham, Van Buren county, by the colony in Jefferson county, to the Indian Agency.

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

SECTION 1. **Commissioners' names and route of road.** That William Shepherd and Robert Rutlidge, of Van Buren county, and John I. Mudget, of Jefferson county, be and they are hereby appointed commissioners to lay out and establish a territorial road from Birmingham, in Van Buren county, by the way of the colony, in Jefferson county, the nearest and best route to the Indian agency, if the late treaty with the Sac and Fox Indians is ratified.

SEC. 2. **Where and when to meet.** That the said commissioners shall meet at Birmingham, on such day as they may agree upon, not exceeding twelve months from the passage of this act, to discharge their duties.

SEC. 3. **Surveyor and assistants—their compensation.** Said commissioners shall take to their assistance one surveyor, and such other persons as shall be actually necessary for the laying out of said road, and shall receive such pay as the commissioners of Van Buren and Jefferson counties shall deem just.

Approved, 13th February, 1843.

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[62] CHAPTER 63.

ROAD.

AN ACT to vacate a part of the plat of the town of Port Allen, and to legalize the relocation of a part of a territorial road.

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

SECTION 1. **Directions to vacate.** That all of the original plat of the town of Port Allen, in the county of Louisa, with the exception of blocks numbered 100, 101, 102, 103, 104, 116, 117, 118, 119, 120, 99, 91, 92, 93, 94, 95, 67, 68, 69, 70, 71, 72, 105, 89, 76, 52 and 36, and also except the street leading from the landing on the west side of the Cedar river, to the territorial road leading from the Mississippi river, via Blackhawk, Harrison, Fredonia, etc., to Iowa City, which street is hereby declared to be a part of said road, be and the same is hereby vacated.

SEC. 2. **A part of territorial road legalized.** That the relocation of that part of the territorial road from the Mississippi river, via Blackhawk, Harrison, and Fredonia, etc., to Iowa City, which lies between the town of Fredonia and Port Allen, made by Thomas Stoddard and James W. Isett, on the 4th Monday in March, 1843, is hereby declared to be as legal and as valid to all intents and purposes as if the plat of said road had been filed in the office of the secretary of the territory, within the time prescribed by law.

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

Approved, 13th February, 1843.

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[63] CHAPTER 64.

ROAD.

AN ACT to review and establish a part of a territorial road leading from Fort Madison in Lee county, to Iowaville, in Van Buren county.

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

SECTION 1. **Names of commissioners and route of road.** That E. A. Boyer, John Saylor and William Meacham, be and they are hereby appointed commissioners to relocate that part of said road as lies between Hiram Holmes and Iowaville, in Van Buren county.

SEC. 2. **When and where to meet.** That said commissioners, or a majority of them, shall meet at the house of Hiram Holmes, in said county, on the sec-

ond Monday in April next, or within three months thereafter, at such time as may be agreed upon by said commissioners, or a majority of them, and shall proceed to the discharge of their duty according to an act to provide for laying out and opening territorial roads, approved, December 29th, 1838.

SEC. 3. **Surveyors and commissioners compensation.** That said commissioners, surveyor, chain carriers and markers, shall receive such compensation for their services as may be allowed by the county commissioners of Van Buren county.

SEC. 4. This act shall be in force from and after its passage.

Approved, 13th February, 1843.

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[64] CHAPTER 65.

ROAD.

AN ACT to locate a territorial road from Cascade, in Dubuque county, to O. A. Olmstead's mill, in Delaware county.

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

SECTION 1. **Names of commissioners and route of road—Dubuque and Delaware not to incur expense thereby.** That Edwin Steel, William Chadwell, and O. A. Olmstead, be and they are hereby appointed commissioners to locate and mark a territorial road commencing at Cascade, in Dubuque county, running from thence the nearest and best route to or near O. A. Olmstead's mills in Delaware county, said commissioners or a majority of them shall meet at Cascade on the third Monday of June next, or as soon thereafter as shall be convenient, and proceed to locate and mark said road as above described: provided, that the counties of Dubuque and Delaware shall not be charged with any of the expenses for locating and marking the road aforesaid.

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

Approved, 13th February, 1843.

CHAPTER 66.

FERRY.

AN ACT to authorize Thomas McCraney and James Churchman to keep a ferry across the Mississippi river, at or near the upper end of the City of Dubuque.

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

SECTION 1. [65] **Thomas McCraney and Jas. Churchman to keep a ferry across Mississippi river near Dubuque—privileges and term of years—rate of ferriage.** That Thomas McCraney and James Churchman, their heirs and assigns, be and they are hereby authorized to establish and keep a ferry across the Mississippi river, at or near the north end of Dubuque city, departing from the west bank, between the upper end of the canal and the mouth of Lake Pocosta, to the east bank of the Mississippi, in Wisconsin, with

the exclusive privilege for the term of fifteen years from the passage of this act: provided, that said ferry, when so established, shall be subject to the same rules and regulations, and under the same restrictions, as other ferries are, or may hereafter be, by the laws of this territory, fixing the rates of ferriage, and prescribing the manner in which licensed ferries shall be kept and regulated.

SEC. 2. **Flat boats and other water crafts with sufficient number of hands to be kept—not to interfere with rights secured to Timothy Fanning.** That said Thomas McCraney and James Churchman, their heirs and assigns, shall on or before the first day of April next, procure, and constantly keep for said ferry, a good and sufficient number of flat boats and other water crafts, with a sufficient number of hands, to carry all persons and their property, across said river, when passable, without delay: provided, that nothing in this act shall interfere with any rights secured to Timothy Fanning in his ferry charter.

SEC. 3. **Non-user to work forfeiture.** The non-user of the privileges of this act, for the space of one year after its passage, shall work a forfeiture of the same.

SEC. 4. **Act may be amended or repealed.** Any future legislature shall have power to alter, amend, or repeal this act.

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

Approved, 13th February, 1843.

CHAPTER 67.

DAM.

AN ACT to authorize Robert McKee and Ovid Grennell to construct a dam part way across the Des Moines river.

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

SECTION 1. [66] **Robert McKee and Ovid Grennell, to erect a dam across the Des Moines river—location, dimensions of dam and lock—boats to pass free of toll.** That Robert McKee and Ovid Grennell, be and they are hereby authorized to construct a dam across the Des Moines river, so far as the jurisdiction of the Territory of Iowa extends, opposite the town of St. Francisville, in the State of Missouri: provided, that they shall first erect a good and sufficient lock, one hundred and thirty feet in length, and thirty-five feet in width, for the purpose of letting steam boats, keel boats, rafts and other water-crafts, through said dam safe, without delay, toll free; said dam shall not exceed five feet high, above low water mark.

SEC. 2. **Height of dam and lock—to be kept in good repair—time of completion.** It shall be the duty of the said Robert McKee and Ovid Grennell to keep said dam and lock, at all times, in good repair, and to let all boats, rafts, and other water-crafts, through, without delay, free of toll; said dam shall be completed within two years from the passage of this act.

SEC. 3. **Penalty for detention of boats—penalty for trespass upon dam.** Any person who shall be unnecessarily delayed by reason of said dam, shall be entitled to recover, from the persons named in this act, in any court having competent jurisdiction of the same, the amount of damage they may prove to have sustained by reason of such detention.

SEC. 4. **Imprisonment as for misdemeanor.** Any person who shall destroy, or in anywise injure, said dam or lock, shall be deemed to have committed a trespass, and shall be liable accordingly. And any person, who shall wilfully or maliciously destroy or injure said dam or lock, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined treble the amount of damages the owners may have sustained, or be imprisoned, at the discretion of the court.

SEC. 5. **Not to overflow other lands without the consent of owners—nuisances must be removed.** Nothing in this act shall be so construed as to authorize the persons, named in this act, to enter upon and flow the lands of any person, without the consent of the owner. And they shall remove all such nuisances as may be occasioned by the erection of said dam, which may endanger the health of the vicinity.

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

Approved, 13th February, 1843.

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[67] CHAPTER 68.

DAMS.

AN ACT authorizing the construction of Slopes in mill dams in Skunk river.

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

SECTION 1. **Owners of dams holding charters may construct slopes—act extended to certain counties on.** That all persons in the counties of Jefferson, Henry, Lee, and Des Moines, that are owners of mill dams in Skunk river, that passes through the above named counties, that have obtained charters for the construction of dams and locks in their respective mill dams, may construct and put in slopes.

SEC. 2. **Time of construction and dimensions of slopes—those complying may have further time to comply with their charters granted.** Those constructing good and sufficient slopes in said mill dams, within twelve months from the passage of this act, that will admit the passage of flat boats, rafts, and other water-crafts, at all times, with safety, when the river is in a good stage for safe navigation, shall have a further time of five years to comply with the provisions of their charters in constructing their locks.

SEC. 3. **Forfeiture for failure to comply.** Any owner or owners of mill dams, in the above named portion of said river, that have or have not, by any act of the legislature of this territory, obtained a charter for the construction of a lock, should fail in complying with the above provisions of this act, in the construction of good and sufficient slopes, and keep the same at all times in good repair, for the passage of flat boats, and other water-crafts, shall forfeit and pay any person the amount of damages they may prove to have sustained by reason of such detention, before any court having competent jurisdiction of the same.

SEC. 4. This act to take effect from and after its passage.

Approved, 13th February, 1843.

[68] CHAPTER 69.

DAM.

AN ACT to authorize Arthur Thomes and others to erect a dam part way across the Des Moines river.

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

SECTION 1. **Arthur Thomes and others to erect a dam part way across the Des Moines river—location, dimensions of dam and lock.** Thomes and sons, and such other persons as may associate themselves with said Thomes and sons, be and they are hereby authorized to erect a dam across the Des Moines river so far as this territory has jurisdiction. Said dam shall be within the limits of section twenty, in township sixty-seven, north of range seven west, in Lee county; which dam shall not exceed five feet in height, above common or low water mark, and shall contain a convenient lock, not less than one hundred and thirty feet in length, and thirty-five feet in width, for the passage of steam, keel and flat boats, rafts and other water-crafts.

SEC. 2. **Dam and lock to be kept in good repair—boats to pass through free of toll and without delay—penalty for detention.** It shall be the duty of the persons authorized in the preceding section of this act, to build said lock and dam, and at all times to keep the lock in the same in good repair, and they shall at all times, on the arrival of any boat or other water-craft as above specified, pass the same through free of toll or charge, without any unnecessary delay, and any person who shall be unnecessarily detained, shall be entitled to recover of said owners double the amount of damages they shall have sustained by reason of such detention.

SEC. 3. **Not to obstruct the navigation of the river.** It shall be the duty of said Arthur Thomes and his associates, before they put in any timber, rock or other materials for building said dam, to build, erect and put in good and successful operation said [69] lock as before specified, so that they will not in any wise obstruct the navigation of said river.

SEC. 4. **Not to flow the lands of others without consent of the owners—nuisances must be removed.** Nothing herein contained shall authorize the above named individuals or their associates, to enter upon or flow the lands of any person, without the consent of such person, and they shall remove all such nuisances as may be occasioned by the erecting of said dam, which may endanger the health of the citizens in its vicinity.

SEC. 5. **Time of completion.** The said dam and lock, specified in this act, shall be completed within three years from the first of October, one thousand eight hundred and forty-three.

SEC. 6. **Act may be altered or amended.** The legislature of this territory may at any time hereafter alter, or amend this act so as to provide for the navigation of said river.

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

Approved, 13th February, 1843.

CHAPTER 70.

LEE COUNTY.

AN ACT supplemental to an act entitled "An Act for the relocation of the seat of Justice of Lee county, approved 13th January, 1843.

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

SECTION 1. **Public buildings to be erected by county commissioners—time for doing so—to be done upon the faith of donations made or to be made, without expense to the county.** That it shall be lawful for the county commissioners of the county of Lee, to proceed at any time after a relocation of the county seat of said county is or shall be made by the commissioners appointed by the act to which this is a supplement, to erect such public buildings as they, or a majority of them, may deem necessary; provided, the same is done alone on the faith of donations which is or may hereafter be made for that purpose, by the proprietors and others interested in said relocation, but no part of such expendi-[70]-ture shall be paid for out of the county treasury, unless the same [is] contracted for one year after the said relocation.

SEC. 2. **Court house at Fort Madison to be retained for one year and then to be sold—proceeds to be divided and how.** That the county commissioners of Lee county shall retain the present court house, as the property of the county, for one year after the removal of the county seat from Fort Madison, after which time they may sell the same, together with the lots on which said court house stands, for the best price the same will bring at public sale, and they shall equally divide the proceeds of such sale between the corporation of Fort Madison, and James Wilson, and the county of Lee, in proportion to the amount each paid in the purchasing of said lots, and the erection of said court house, unless otherwise ordered by the future legislature.

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

Approved, 13th February, 1843.

CHAPTER 71.

PETIT JURORS.

AN ACT for the relief of petit jurors, in certain cases.

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

SECTION 1. **County commissioners of Van Buren, Des Moines, Lee and Dubuque, required to further pay jurors of 1842—clerk of district court to certify to the number of days each juror served—proviso.** That the board of county commissioners of Des Moines, Lee, Van Buren and Dubuque counties, be and they are hereby required to allow a further sum of one dollar per day to each petit juror who served as such at the district court of said counties under an act to amend an act concerning costs and fees, approved, February 15th, 1842, by presenting to said commissioners, from under the hand and seal of the clerk of the district court of said counties, a certified statement of the number of days served: provided, nothing in this act shall be so construed as to allow any juror any further compensation for the same days services for which he may have received pay from the marshal of said territory.

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

Approved, 13th February, 1843.

[71] CHAPTER 72.

WASHINGTON COUNTY.

AN ACT to legalize the acts of certain road commissioners, in Washington county.

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

SECTION 1. **Acts of road commissioners of—locating a certain road legalized.** That the acts of Louis W. Day, R. B. Davis, and Almon Fairchild, of Washington county, commissioners appointed to locate a territorial road, commencing at the twenty mile stake, on the road leading from Iowa City to Burlington, on the south side of the Iowa river, to a point where the military road, leading from Iowa City to Mount Pleasant, crosses the same, be and the same are hereby declared lawful.

SEC. 2. **Route of road.** The road laid out by said commissioners, from the twenty-first mile stake, on the road leading from Iowa City to Burlington, on the west or south side of Iowa river, to intersect the military road near where said road crosses English river, be and the same is hereby declared a territorial road.

Approved, 15th February, 1843.

CHAPTER 73.

ROAD.

AN ACT to relocate a part of the territorial road leading from Burlington to Iowa City.

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

SECTION 1. **Names of commissioners and route of road.** That David Scott, of Des Moines county, be and he is hereby appointed a commissioner to review and establish a [72] part of the territorial road which lies between the town of Dodgeville and the Wappello road, commencing at a point north on said road parallel with the street called Flint, in said town; thence south with said street to the south side of said town, thence east to the section line dividing section 14 and 15 in township seventy-one, north of range three west; thence south with said line until it intersects the Mount Pleasant road; thence along said road until it intersects the road leading from Burlington to Wappello, at or near John Repley's, and that so much of said road as lies between the commencing point and the Wappello road, are hereby vacated.

SEC. 2. **Surveyors and assistants—their compensation.** That said commissioner shall take to his assistance one surveyor and two chain carriers who shall survey and mark said road as all other roads are marked, and the petitioners most interested shall pay all expense of said relocation, which shall be done within three months from the passage of this act.

SEC. 3. This act to take effect from and after its passage.

Approved, 15th February, 1843.

CHAPTER 74.

CLAYTON COUNTY.

AN ACT to relocate the county seat of Clayton county.

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

SECTION 1. **Names of commissioners—time and place of meeting—to select a place for a seat of justice—restriction in doing so.** That Hardin Nowlin of Dubuque county, [73] William Jonas of Jackson county and David Mowland of Delaware county, are hereby appointed commissioners to relocate the seat of justice for Clayton county, and it shall be their duty to meet at Prairie La Porte, in said county, on the first Monday in April next, and they, or a majority of them, shall proceed forthwith to select a suitable place for said seat of justice; and in such selection they shall not be restricted more than to do equal justice to all the inhabitants of said county as near as possible.

SEC. 2. **Oath to be taken by commissioners, and form.** That the commissioners aforesaid shall each before entering upon their duties aforesaid, take and subscribe before some person authorized to administer the same, the following oath, to-wit: I, A. B., do solemnly swear or affirm that I am not directly or indirectly interested in the relocation or removal of the seat of justice of Clayton county, and that I will faithfully and impartially perform the duty imposed on me by the law by which I am appointed, according to the best of my abilities, without partiality, favor or affection, or without bias from fear or reward, or the hope of reward, or of any advantage to me in any respect.

SEC. 3. **Proceedings to be committed to writing—to be recorded by the clerk of the board of county commissioners.** That said commissioners, or a majority of them, immediately after they have selected the place for the seat of justice of said Clayton county, shall commit their proceedings to writing, describing the place they have selected, together with the quarter section or such part or parts of sections, township and range, and also name the place, and shall deliver the same, with any donations of any kind, deed or deeds for land which they may receive, to the clerk of the board of county commissioners of Clayton county, whose duty it shall be to receive and record the same in the order book of the proceedings of said board, and to notify said board thereof immediately.

SEC. 4. **Penalty for commissioners receiving any gratuity or reward other than this act allows.** If it shall be shown at any time, that either of said commissioners named in the first section of this act, were interested in said location or received any gratuity or reward, or any promise thereof other than what is by this act allowed, such commissioners shall be liable to indictment for perjury and be liable to the penalty for said crime.

SEC. 5. **Place selected to be permanent seat of justice.** That the place so selected shall be and remain the seat of justice for Clayton county.

SEC. 6. **Courts to be held at Prairie La Porte for the time being—new court house to be erected and notice of its completion given.** That the courts shall be held at Prairie La Porte, until a sufficient house shall be furnished by the county or some person or persons, to hold the courts in at the seat of justice, and so soon as such house shall be furnished it shall be the duty of the board of county commissioners of said county, to give notice thereof by public advertise-[74]-ment posted in the different precincts at places where the elections are held, and from that time the courts shall be held at the seat of justice.

SEC. 7. **Provision against failure of commissioners to meet.** That if said commissioners by this act appointed to relocate the aforesaid seat of justice for Clayton county, shall fail or refuse to meet at the time and place named in the first section of this act, and perform the duties enjoined on them, it shall be lawful, and it is hereby made their duty, to meet at said place at any time within one month after said time as aforesaid appointed, that they or a majority of them may agree upon, and then and there perform the duties by this act enjoined.

SEC. 8. **Per diem and mileage of commissioners.** The said commissioners shall receive three dollars per day for the time they shall be necessarily employed in the relocation of said seat of justice, and three dollars for every twenty miles travel, on the usual travelled route, in going and returning from said place of meeting, to be paid out of the county treasury of Clayton county.

SEC. 9. **Seat of justice may be fixed at Prairie La Porte—choice of location to be made by vote of citizens of county—time and manner of holding election —returns of election to be filed with county commissioners and recorded by the clerk of the board.** Nothing in this act shall prevent the commissioners aforesaid from fixing the seat of justice at Prairie La Porte, if they think that the public interest requires it to be located at that place: provided, that if the legal voters of said county shall wish to decide between the place selected as the seat of justice and Prairie La Porte, and shall make the same known to the board of county commissioners of said county, by petition, signed by a majority of the legal voters of said county, it shall be the duty of said board to cause an election to be held on the first Monday in June next; said election to be conducted in the same manner as is prescribed by the law regulating general elections.

At the election aforesaid, the electors shall proceed to vote by ballot, those in favor of Prairie La Porte remaining the seat of justice shall vote Prairie La Porte on the ticket, those in favor of the selection made by the commissioners appointed by this act, shall vote the name of said place on their ticket. The votes thus given shall be returned and canvassed according to the law governing general elections; and the place receiving the greatest number of votes shall be and remain the seat of justice of said county. It shall be the duty of the clerk of the board of county commissioners to file the returns of the election aforesaid, in his office, and also to record the same in the record book of said county.

SEC. 10. This act to be in force from and after its passage.

Approved, 15th February, 1843.

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[75] CHAPTER 75.

IOWA CITY COLLEGE.

AN ACT to incorporate the Iowa City College.

Whereas, it has been represented to the council and house of representatives of the territory of Iowa, that the quarterly meeting conference of the Methodist Episcopal Church, at Iowa City, have determined to establish a college institution in Iowa City, to the support of which they are pledged to use their efforts, and which college is forever to be conducted on the most liberal principles; accessible to all religious denominations, and designed for the benefit of our citizens in general. And, whereas, the convenience of Iowa City for a public institu-[76]-tion, the eligibility and healthfulness of its location, render it an appropriate place, and if conducted upon free and enlight-

ened principles, would be of immense benefit to the citizens of the territory of Iowa, by disseminating knowledge and useful literature. Therefore,

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

SECTION 1. **Name and style of college—for the use of all religious denominations—names of trustees, and number of,—time and place of first meeting.** That a seminary of learning shall be and the same is hereby established in Iowa City, the established seat of government for the territory of Iowa, to be known by the name and style of the "Iowa City College," which shall be founded and maintained forever, upon a plan the most suitable for the benefit of the youth of every class of citizens, and of every religious denomination, who shall be freely admitted to equal advantages and privileges of education, and to all the literary honors of said college, according to their merit, under the direction of twenty-five trustees, to-wit: John M. Colman, Bartholomew Weed, George B. Bowman, Leonard Jewett, Anson Hart, Edward K. Hart, William C. Reagan, Peter H. Patterson, Jesse Bowen, James P. Carleton, John D. Elbert, John A. Parvin, Joseph Williams, Robert Lucas, John Demoss, Stephen B. Gardner, A. E. McArthur, Curtis Bates, Isaac P. Van Hagan, Robert Hamilton, James L. Thompson, Milton M. Jennison, Ephraim Killpatrick, Roswell H. Spencer, Adam Reister, Jesse P. Farley, who, with their successors, shall be trustees, of said institution and shall hold their first meeting at the place of its location on the first Monday in April, A. D. 1843.

SEC. 2. **Power to hold and sell property—amount limited.** That the said trustees, and their successors, by the name of "The Trustees of the Iowa City College," shall be a body politic and corporate, and as such forever to exist, and are hereby made able and capable in law to have, possess, purchase, receive, enjoy and retain, hold or dispose of, for the use of said college, lands, tenements, rents and annuities, and other hereditaments, in fee simple, or for a term of years, life, lives, or otherwise, and also monies, bonds, bills, notes, goods, chattles, interests or effects, of whatever nature, quality or kind soever, by the gift, bargain, sale or demise, of any person or persons, body politic or corporate, capable of making the same, and the same to grant, demise, sell, alien and confirm in such manner as they shall judge most conducive to the interest of said college. This college shall not hold a greater amount of real estate, exclusive of college edifices, than thirty thousand dollars.

SEC. 3. **To sue and be sued.** That the said trustees, and their successors, by the name and style of "The Trustees of the Iowa City College," as aforesaid, shall be capable, in law, to sue and be sued, plead and be impleaded, in [77] any court or courts of record, before any judge, judges or justices within this territory, and elsewhere, in all manners of suits, complaints, pleas, causes, matters and demands, of whatsoever kind, nature or form they may be, and all and every other matter, nature and thing therein to do, in as full and effectual a manner as any person or persons, body or bodies, politic or corporate, of like nature, within this territory, may or can do.

SEC. 4. **Power of trustees to fill vacancies—penalty for absence and want of moral character—college to be under patronage of Methodist church—conference of same may employ agents to procure donations—shall appoint a board of visitors—duty of same to report.** The said board of trustees shall have power to fill all vacancies that may occur in their own body, by death, resignation or otherwise, at their first meeting, after such vacancy or vacancies may occur, thus keeping up the full number of twenty-five forever, and whenever any trustee shall be absent from three stated semi-annual meetings, without good cause assigned at the fourth, or whenever a majority of all the

trustees shall declare any one of their body incompetent, for want of moral character, the board of trustees shall declare their seats vacant, the said board shall immediately proceed to fill such vacancies. The said trustees shall have the power to place said college under the patronage of the annual conference of the Methodist Episcopal church, in which said college may be situated, on the condition that the said annual conference shall employ an agent to solicit and procure donations for the erection of said college edifice; and said conference shall have the power of appointing annually, any number of visitors, not exceeding nine, who, or so many as shall convene with the board of trustees, shall constitute a joint board in the permanent appointments of all officers of said college. And the visitors, or as many as shall act, shall report to the conference next succeeding the appointment, the condition of the college, and whether it is conducted in conformity with its charter.

SEC. 5. **Oath of office of trustees, and form—appointment of president of board and other officers—treasurer to give bond—his duties and penalty for breach of—duties of secretary—duties of president—president pro tem may be appointed.** That the said trustees of the "Iowa City College," before entering upon the trust reposed in them, shall severally take the following oath of office, to be administered to them by any justice of the peace in the territory of Iowa, That is to say, I, A. B. do solemnly swear (or affirm,) that I will, to the best of my ability and judgment, faithfully and truly discharge the duties of a trustee of the "Iowa City College," pursuant to the laws of the territory of Iowa, the constitution of the United States, and the charter granted by the territory of Iowa establishing said college, without favor, affection, or partiality, so help me God. And the said trustees shall have power to appoint annually, from their own body, a president of the board, a treasurer, and a secretary, and the treasurer so appointed shall give bond, with such security and [78] in penalty as the trustees shall think proper, payable to the territory of Iowa for the use of said college, which bond shall, by the treasurer and his securities, be acknowledged before the clerk of the district court, of the United States in the territory of Iowa, in and for the county of Johnson, and by him certified and recorded in his office, a copy of which shall be evidence against said treasurer and his securities, for a breach thereof, and it shall be conditioned for the true and faithful discharge of his duty as treasurer of said college, and for the safe keeping of all monies, bonds, notes, deeds, mortgages, trusts or other property belonging to the institution, or which shall be put into, or from time to time come into his hands, which bond may be renewed whenever the said trustees shall require it. And it shall be the duty of said treasurer, to receive and safely keep all monies, bonds, notes, obligations, or conveyances, of real, personal or mixed property, belonging to said college; and shall not pay out any of said money except on the order of the president and countersigned by the secretary, and for any breach of said bond, the treasurer and securities may be proceeded against as upon other official bonds, in the proper courts of the territory of Iowa. The treasurer shall moreover once in every year, and as much oftener as the trustees may require, render to them an account of all monies in his hands, and all monies paid out, stating from whom and what source received, and to whom paid. And in case the treasurer shall fail or refuse to perform any of the duties required of him by this act, the trustees of said college shall have power to declare his office vacant, and proceed to the election of a treasurer to fill the vacancy. And it shall be the duty of every treasurer on leaving the office by removal, resignation or otherwise, upon the order of the board signed and countersigned as aforesaid, to pay and deliver all monies and other property in his hands belonging to said college, into the hands of his successor in office. And it shall be the duty of the secretary to keep a fair record of all the proceedings of the board of trustees, and at the close of every session,

lay them before the president for his signature, and to do and perform all other acts which by this charter may be required of him. And it shall be the duty of the president of the board to preside in all their meetings, when present, and to perform all duties which are required and usually performed by the presiding officer in all similar bodies; and in case of absence at the time of any meeting of the board, it shall be the duty of the trustees to appoint a president pro tem.

SEC. 6. **Use of seal—appointment of president of college, faculty professors, etc.—authority to be jointly used by trustees and visitors—powers delegated to the faculty—visitors may make temporary appointments in faculty, subject to the approval of the whole board.** That the said trustees and their successors, shall have authority to make and use a common seal, with such devices and inscrip-[79]-tions as they shall think proper, and the same to change, alter, and renew at pleasure; and shall also at any regular meeting of the board from time to time, forever hereafter, have full power and authority to constitute and appoint permanently, in such manner as they shall deem expedient, a president of the college or college of faculties, together with such professors and other instructors as may at any time be necessary to form an efficient faculty for the proper instruction of students in the arts and sciences, in the learned professions and in all the branches of liberal and professional instruction, as taught in the best colleges of our country; or in case the institution is placed under the patronage of the annual conference, as provided for in this act, then the power and authority granted in this section to the board of trustees, shall be jointly exercised by said trustees, and the visitors that may be present at any regular meeting of said board. And the said president and professors, with such other instructors as may by the trustees be included, shall be known and distinguished by the name of "The Faculty of the Iowa City College," and in that name shall be capable of exercising such powers and authorities, rights and privileges in the institution, as shall be delegated to them according to the by-laws enacted by the trustees. The said board of trustees, trustees and visitors, as the case may be, may at any meeting make a temporary appointment of any of the foregoing faculty, whose term of service shall expire at the next regular meeting of the board of trustees. And a majority of the board of trustees, or board of trustees and visitors, as the case may be, may at any time, by resolution to that effect, declare the appointment of office to any of the faculty or instructors vacant, and proceed to fill such vacancy at such meeting, or at any future meeting they may designate.

SEC. 7. **Time of holding meeting of trustees—number to constitute a quorum—majority required to make ordinances.** That the said trustees and their successors in office, shall meet at least twice every year, in stated semi-annual meetings, to be appointed by their own ordinances, and at such other times as by their said ordinances they may direct, for the purpose of transacting such business for the prosperity and welfare of the institution as may come before them, in all which meetings nine trustees being present shall constitute a quorum for transacting business. But a majority of said twenty-five trustees shall be required to make, pass and establish ordinances, rules and by-laws, not contrary to the laws of this territory, for the government of said college, and the proper education of its students, and by them to delegate to the president, professors and other teachers, such powers and authorities as they may judge expedient for the government of the institution. And the said majority of trustees [80] shall also have power at any legal meeting, to alter or amend any rules or regulations by them established, and to do all matters and things which they may deem expedient, for the faithful fulfilment of their trust.

SEC. 8. **Board may admit gratuitously person or persons, under certain circumstances.** That the said trustees and their successors, shall have authority, whenever in their opinion the funds of the institution may justify the measure, to admit gratuitously, in whole or in part, as the respective cases may require, such person or persons as they may think proper to enjoy the benefits of tuition in said college. And said trustees are hereby authorized to receive subscriptions, donations and bequests, either in money, personal, real or mixed property, for the purpose of enabling them to meet the expenditures requisite in establishing and continuing said institution.

SEC. 9. **May hold a commencement and graduate students—may confer degrees, manner of—examination to be held, and when.** That for the purpose of stimulating and encouraging the students in their progress, and promoting the general interests of the institution, the said trustees and faculty shall have full power and authority, once in every year or oftener, as they by an ordinance shall direct, to hold a public commencement, with exercises suited to the occasion, and to graduate with literary honors, such students as shall from time to time be found to have merited the same by their character and acquirements. And said trustees and faculty shall have power and authority in furtherance of the aforesaid objects, to confer upon the deserving any and all degrees in the arts and in the learned professions, whether honorary or otherwise, in as full and ample a manner as in any similar institution, and may issue, when they deem it expedient, testimonials or diplomas, bearing the seal of said college, as certificates of the same, signed by the president of the college. It shall also be the duty of the faculty, prior to each commencement, to hold a public examination in presence of such trustees as may be able to attend, and of other citizens, at which time all the students of said college shall be examined in the several branches of learning which they have respectively studied, and that the fidelity of the teachers and the diligence of their pupils may appear.

SEC. 10. **Half lot in Iowa City donated to college upon certain conditions—when fulfilled deeds for the same to be executed, and how, and by whom.** That there is hereby donated to the said college the following piece of ground, known and designated as the "north half of block No. five," in the city of Iowa, as designated in the plat of said city, on the following conditions to wit: That the said trustees shall erect or cause to be erected, within the city of Iowa, or its precincts, a college edifice or edifices, within five years from the passage of this act, worth the sum of five thousand dollars, or buildings for the pur-[81]-poses aforesaid, worth ten thousand dollars, within ten years from the passage of this act, and the proper officers of the territory are hereby required, as soon as the trustees of said college shall have made a bona fide commencement to build said college edifice or edifices, to execute to said trustees a bond for a deed to said lot of ground, and as soon as said buildings aforesaid shall be completed, according to the provisions of this section, it shall be the duty of the proper officers of the territory to execute to the trustees aforesaid a deed, in fee simple, to said lot of ground, to have and to hold, to use and dispose of the same, for the purposes aforesaid, and no other.

SEC. 11. **Non-user of privileges works no forfeiture.** This act is hereby declared to be a public act and shall be construed liberally for every beneficial purpose, hereby intended, and no omission to use any of the privileges, hereby granted, shall cause a forfeiture of the same, nor shall any gift, grant, conveyance, or devise, to or for the benefit of said college, be defeated or prejudiced, by any misnomer, misdescription, or informality, whatever: provided, the intention of the parties can be shown or ascertained beyond reasonable doubt.

SEC. 12. **Act may be amended or repealed.** This act may be altered, amended or repealed by any future legislature of the territory, or state, of Iowa: provided, however, that the real estate hereby donated to said college shall not revert to said territory.

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

Approved, 15th February, 1843.

CHAPTER 76.

ROAD.

AN ACT to locate a territorial road in Henry and Washington counties and vacate a part of a territorial road in said counties.

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

SECTION 1. **Names of commissioners and route of road.** That C. T. Hendrix, John Easly, of Wash-[82]-ington county, and R. M. Pickle, of Henry county, be and they are hereby appointed commissioners to lay out and establish a territorial road from the late residence of Zeno Plunket, in Henry county, to intersect a county road leading from Washington to Holcomb's mill, in Washington county, at said mill.

SEC. 2. **When and where to meet.** That said commissioners may meet at said mill on such day as they may agree (not exceeding six months from the passage of this act) to discharge their duties.

SEC. 3. **Surveyors and assistants—their compensation.** Said commissioners shall be allowed one dollar and fifty cents per day, for their services, and shall employ one competent surveyor and as many laboring hands as may be necessary. The surveyor shall receive two dollars and fifty cents per day, and the laborers shall not receive to exceed one dollar per day, to be paid according to the provisions of an act to provide for the laying out and opening territorial roads, approved January 25th, 1839.

SEC. 4. **Vacation of part of old road.** That so much of a territorial road, leading from Trenton, in Henry county, to Washington, the seat of justice of Washington county, established by virtue of the 9th section of an act entitled an act establishing certain territorial roads, therein named, and approved January 14th, 1840, as lies between the late residence of Zeno Plunket, in Henry county, and Washington, in Washington county, be and the same is hereby vacated.

SEC. 5. **New survey declared a territorial road.** That the county road aforesaid, leading from Washington, the seat of justice of Washington county, to Holcomb's mill, in said county, be and the same is hereby declared a territorial road.

Approved, 15th February, 1843.

CHAPTER 77.

DIVORCE.

AN ACT to divorce certain persons therein named.

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

SECTION 1. [83] **John and Sally Armstrong.** That the bonds of matrimony heretofore existing between John Hanna Armstrong, of Des Moines county, late of Ohio county, Virginia, and Sally Armstrong, his wife, be and the same are hereby dissolved.

SEC. 2. **Bethany and James Shearman.** That the bonds of matrimony contract heretofore existing between Bethany Shearman, of Des Moines county, and James Shearman, be and the same are hereby dissolved, and that the said Bethany Shearman shall hereafter be known as Bethany Hall.

SEC. 3. **Maria S. and David Blanchard.** That the bonds of matrimony heretofore existing between Maria S. Blanchard and David Blanchard, of Des Moines county, be and the same are hereby dissolved, and that the said Maria S. Blanchard hereafter be known as Maria S. Wirt.

SEC. 4. **Mary and Rezin Duval.** That the bonds of matrimony contract heretofore existing between Mary Duval and Rezin Duval, of Van Buren county, be and they are hereby dissolved.

SEC. 5. **William A. and Catharine Cochran.** That the bonds of matrimony heretofore existing between William A. Cochran and Catharine Cochran, of Van Buren county, be and they are hereby dissolved.

SEC. 6. **Mary Ann and Reuben Smiley.** That the bonds of matrimony heretofore existing between Mary Ann Smiley and Reuben Smiley, of Lee county, be and they are hereby dissolved, and the said Mary Ann Smiley be authorized to retain her infant child and have the guardianship of the same, and the child to bear her maiden name (Lucus).

SEC. 7. **Henry and Ann Hart.** That the bonds of matrimony heretofore existing between Henry Hart and Ann Hart, of Johnson county, be and they are hereby dissolved.

SEC. 8. **Benjamin F. and Lucretia Piper.** That the bonds of matrimony heretofore existing between Benjamin F. Piper and Lucretia Piper, of Washington county, be and they are hereby dissolved.

SEC. 9. **Lucena and Rothens H. Scott.** That the bonds of matrimony heretofore existing between Lucena Scott and Rothens Howard Scott, of Lee county, be and they are hereby dissolved.

SEC. 10. **George C. and Ann Collins.** That the bonds of matrimony heretofore existing between [84] George C. Collins and Ann Collins, of Des Moines county, be and they are hereby dissolved.

SEC. 11. **David and Ann Elizabeth Slater.** That the bonds of matrimony heretofore existing between David Slater and Ann Elizabeth Slater, of the county of Dubuque, I. T., be and they are hereby dissolved.

SEC. 12. **Albert and Sophroney Hurd.** That the bonds of matrimony heretofore existing between Albert Hurd and Sophroney Hurd, his wife, of the county of Dubuque, I. T., be and they are hereby dissolved.

SEC. 13. **Nancy and James Moffit.** That the bonds of matrimony heretofore existing between Nancy Moffit and James Moffit, of Van Buren county, I. T., be and they are hereby dissolved.

SEC. 14. **Hester Ann and Robert Campbell.** That the bonds of matrimony heretofore existing between Hester Ann Campbell, of Clayton county, in the

territory of Iowa, and Robert Campbell, of said county, be and they are hereby dissolved, and that the said Hester Ann Campbell shall hereafter be known by the name of Hester Ann Grifeth.

SEC. 15. **Elizabeth and William Ridgeway.** That the marriage contract heretofore existing between Elizabeth Ridgeway, of the county of Louisa, Iowa territory, her husband, William C. Ridgeway, be and they are hereby dissolved.

SEC. 16. **Name of wife and children changed.** That the said Elizabeth Ridgeway shall hereafter be known by, and bear the name of Elizabeth Hurley, and the name of the infant child of the said parties, shall hereafter be that of Joseph Newell Hurley.

SEC. 17. **John A. and Huldah Street.** That the bonds of matrimony heretofore existing between John A. Street and Huldah Street, of the county of Johnson, and territory of Iowa, be and the same are hereby dissolved.

SEC. 18. **Edward and Sarah Falsome.** That the bonds of matrimony heretofore existing between Edward Falsome and Sarah Falsome, of Henry county, territory of Iowa, be and the same are hereby dissolved.

SEC. 19. **Elmira and Icabod Clemmonds.** That the bonds of matrimony heretofore existing between Elmira Clemmonds and her husband Jacob Clemmonds, of Lee county, Iowa territory, are hereby dissolved.

SEC. 20. This act to take effect and be in force from and after its passage.

[This bill having been returned by the governor with his objections thereto, and after reconsideration, having passed both houses by a majority of two-thirds, it has become a law this 16th day of February, A. D. 1843.]

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[85] CHAPTER 78.

ROAD.

AN ACT to locate a territorial road in Louisa and Washington counties.

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

SECTION 1. **Names of commissioners and route of road.** That Isaiah P. Hamilton, and James P. Morgan, of Washington county, and Samuel Bell, of Louisa county, be and they are hereby appointed commissioners to locate and establish a territorial road from Richmond, in Washington county, on the nearest and best route to Columbus City, in Louisa county.

SEC. 2. **When and where to meet.** Said commissioners, or a majority of them, shall meet on the first Monday of May next, or within six months thereafter, at the town of Richmond, in Washington county, to discharge their duties.

SEC. 3. **Surveyors and assistants—their compensation.** Said commissioners shall be allowed one dollar and fifty cents per day, for their services, and shall employ one competent surveyor, and as many laboring hands as they may deem necessary. The surveyors salary shall not exceed two dollars per day, and the laborers shall not exceed one dollar per day, to be paid according to the provisions of an act to provide for the laying out and opening territorial roads, approved January 25th, 1839.

Approved, 16th February, 1843.

[86] CHAPTER 79.

JAMES M. DENISON.

AN ACT to legalize the acts of James M. Denison, an acting Justice of the Peace in and for the county of Linn.

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

SECTION 1. **Official acts as justice of the peace of Linn county made valid.** That all and every official acts of James M. Denison, an acting justice of the peace, in Washington township, Linn county, done and performed by virtue of his election to said office, in April, A. D. 1842, be and the same are hereby declared to be as legal and valid, to all intents and purposes, as though the said James M. Denison had filed his official bond with the clerk of the district court of said county, as prescribed by statute.

SEC. 2. **Proviso.** That the acts of the said James M. Denison, hereafter done and performed as justice of the peace, by virtue of his said election, within the time for which he was elected, shall be legal and binding to all intents and purposes: Provided, always, That nothing in this act shall be so construed as to legalize any act or acts of the said James M. Denison, which would have been illegal, had he been a legal justice of the peace.

SEC. 3. This act to take effect from and after its passage.

Approved, 16th February, 1843.

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[87] CHAPTER 80.

ROAD.

AN ACT to locate a territorial road, from a certain point on the territorial road leading from Bloomington to Iowa City, to the rapids on Cedar river.

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

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

SEC. 2. **Where and when to meet—surveyors and assistants, oath of—acts for government of commissioners.** That the commissioners, appointed as aforesaid, shall meet at Elias Overman's in Muscatine county, on the first Monday in May next, and proceed to locate said road by taking to their assistance a competent surveyor, two chainmen, and one marker, who, together with the commissioners, shall take an oath for the faithful performance of their respective duties. The commissioners shall in all other respects be governed by an "act to provide for laying out and opening territorial roads," approved, December 29, 1838.

SEC. 3. **Compensation of surveyors and commissioners—certain counties not to incur any expenses thereby.** That the commissioners, surveyor, and other hands aforesaid, shall receive for their services the following compensation: the commissioners and surveyor, one dollar and fifty cents each, per day; the chainmen and marker one dollar per day, for every day that they may be necessarily employed in locating said road; provided, that [88] no part of the expense of locating said road shall be paid from the treasury of either of the counties through which it passes.

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

Approved, 16th February, 1843.

CHAPTER 81.

WILSON STANLY.

AN ACT to legalize the acts of Wilson Stanly, administrator, and Mary Duval, administratrix, of the estate of Samuel G. Jackson, deceased.

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

SECTION 1. **Acts as administrator of the estate of Samuel G. Jackson made good and valid.** That the acts of Wilson Stanly, as administrator, and Mary Duval, late Mary Jackson, administratrix, of the estate of Samuel G. Jackson, deceased, be and the same are here made good and valid.

SEC. 2. **Manner of collecting notes.** That all notes or bonds given in the name of the said Wilson Stanly and Mary Jackson, now Mary Duval, as aforesaid, shall be collectable in the names of the administrators and administratrix of said Jackson's estate, and all suits commenced in their names shall not be abated, or in any otherwise affected, by anything informal or incorrect in the granting of letters of administration.

SEC. 3. **Authority to sell certain real estate—notice of sale.** That George G. Wright, now administrator, and Mary Duval, administratrix, of said Jackson's estate, are hereby authorized to sell all or such portion of the real estate of said Jackson, on the second Monday in April next, as shall be necessary to pay the debts against said Jackson's estate, by giving notice of the sale four weeks, in four of the most public places in Van Buren county, previous to said day of sale.

SEC. 4. This act to take effect from and after its passage.

Approved, 16th February, 1843.

[89] CHAPTER 82.

DAM.

AN ACT allowing the holders of a charter to erect a dam across the Des Moines at Bentonsport, further time, and vacate a portion of the town plat of Bentonsport.

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

SECTION 1. **Holders of a certain charter to erect a dam across the Des Moines river at Bentonsport—further time to vacate a part of town Bentonsport—**

time to complete dam—navigation of the river not to be impeded during progress of the work. That the holders of a charter to erect a dam across the Des Moines river, in Van Buren county, at the town of Bentonsport, approved January seventeenth, 1839, be allowed until the 17th day of January, 1845, to complete said dam and lock, as provided for in the original charter; provided, that nothing in this act shall authorize them to impede the navigation of said Des Moines river, during the time the said dam and lock are being erected.

SEC. 2.—**What part of the plat of the town of Bentonsport to be vacated.** Be it further enacted, that so much of the plat of the town of Bentonsport, in Van Buren county, that includes the lower public landing, or that portion of land known as the lower public landing, be and the same is hereby vacated.

SEC. 3. This act to take effect from and after its passage.

Approved, 16th February, 1843.

CHAPTER 83.

MUSCATINE LYCEUM.

AN ACT to incorporate the Muscatine Lyceum.

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

SECTION 1. [90] **Names of corporators—name and style of association—may hold and sell property—may sue and be sued, use a seal.** That D. Clark, J. C. Irvin, J. A. Parvin, E. E. Fay, and W. G. Woodward, their associates and successors, are hereby created a body corporate, by the name and style of "The Muscatine Lyceum," with perpetual succession, with power to acquire and possess property, real, personal, and mixed, and to manage and dispose of the same at pleasure; and such corporation shall have power to contract and be contracted with, to sue and be sued, to have and use a common seal, and to alter the same at pleasure.

SEC. 2. **Objects of association.** The objects of the above corporation shall be the establishment of a library and scientific apparatus, the cultivation of the arts and sciences and the diffusion of useful knowledge, which objects shall be pursued by such means, and in such manner, as may from time to time be prescribed in the by-laws of the institution: provided, the same are not inconsistent with the laws of the land.

SEC. 3. **Appointment of president and other officers, powers and duties of same.** The officers of the said lyceum shall be a president, vice president, secretary, and treasurer, with the powers and duties usually incident to those offices, together with such other officers, and with such tenure of office, as shall be prescribed in the by-laws.

SEC. 4. **Members of the former Muscatine Lyceum to be members of this association—manner of admission of other members—place and manner of calling first meeting—officers in former institution to hold same in this.** Those persons who now are members of the association styled "The Muscatine Lyceum," shall be members of this corporation, and entitled to vote at its meetings. Future members shall be admitted as shall be ordered in the by-laws. And those persons who now hold offices in the above named association shall continue to hold the same offices under this act, until a new election is ordered by the lyceum. And any two of the above officers may

call the first meeting under this act, by posting up notice of the time and place of the meeting, in two public places in the county of Muscatine, seven days, at least, before the day of meeting. No failure to elect officers at any time appointed, shall work a forfeiture of this charter, but such election may be ordered anew, and the former officers shall serve until new elections. Vacancies occurring by death, resignation, or removal, may be filled in such manner as shall be provided by the lyceum.

SEC. 5. **Deeds to be sealed with seal of lyceum.** All deeds and other instruments of conveyance shall be seal-[91]-ed with the seal of the corporation, signed by the president, and by him acknowledged in his official capacity.

SEC. 6. **Act subject to the action of future legislature.** This act shall take effect from its passage, and shall be subject to the future action of the legislature.

Approved, 16th February, 1843.

CHAPTER 84.

APPROPRIATION ACT.

AN ACT to provide for the compensation of members, officers, printers of the Legislative Assembly, and for other purposes.

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

SECTION 1. **Pay and mileage of members of Council.** That the following sums are hereby appropriated out of any monies in the hands of the secretary of the territory, [92] for the following purposes, to-wit:—For pay and mileage of the members of the council, three thousand two hundred and two dollars and fifty cents.

SEC. 2. **Pay of officers of Council.** For pay of officers of the Council, one thousand and eighty-nine dollars.

SEC. 3. **Pay and mileage of members of House of Representatives.** For pay and mileage of the members of the House of Representatives, six thousand four hundred and five dollars.

SEC. 4. **Pay of officers of House of Representatives.** For pay of the officers of the House of Representatives, one thousand and ninety-eight dollars.

SEC. 5. **John D. Elbert extra pay as president of Council.** To J. D. Elbert, for extra pay as president of the council, two hundred and twenty-five dollars.

SEC. 6. **James M. Morgan extra pay as speaker of House of Representatives.** To James M. Morgan, for extra pay as speaker of the House of Representatives, two hundred and twenty-five dollars.

SEC. 7. **Secretary of territory for miscellaneous expenses.** To the secretary of the territory for miscellaneous expenses of the legislative assembly, for the session of 1842 and '3, as vouchers, fifteen hundred and thirty dollars and fifty cents.

SEC. 8. **S. C. Trowbridge, postage.** To S. C. Trowbridge, (postmaster,) for postage of letters, papers, documents, etc., for the House of Representatives, the sum of three hundred and ten dollars and seventy-nine cents. For postage for the Council, two hundred and twenty-three dollars and fifty-three cents.

SEC. 9. **Williams & Hughes for printing.** To Williams and Hughes, for printing bills, etc., for the Council, seven hundred and eighty-five dollars and twenty-five cents; for legislative reports, one hundred and forty-four dollars.

SEC. 10. **Williams and Hughes for printing.** To Williams and Hughes, for printing rules, etc., for House of Representatives, twenty-one dollars and seventy-five cents; for printing legislative reports. two hundred and seventy-one dollars.

SEC. 11. **William Crum for printing.** To William Crum, for incidental printing for the House of Representatives, nine hundred and sixty dollars and forty-nine cents; for printing legislative reports, three hundred and eighty-eight dollars. To William Crum, for 86 tokens of paper, printing the rules of the Council and other incidental printing, as per bill, the sum of seventy-five dollars.

SEC. 12. **John B. Russell for printing journals of Council for 1841-'42.** To J. B. Russell, for printing the journal of the Council, for the session of 1841 and '2, as per resolution, seven hundred and fifty dollars.

SEC. 13. **Wilson and Keesecker for printing journal of House of Representatives for 1841-'42.** To Wilson and Keesecker, for printing of the House of Representatives, for the session of 1841 and '2, as per resolutions, seven hundred and fifty dollars.

SEC. 14. **B. F. Wallace for supervising, indexing and distributing journals of house of representatives for 1842-'43.** To B. F. Wallace, for supervising, indexing and distri-[93]-buting the journals of the house of representatives for the session of 1842 and '3, four hundred and fifty dollars, as per resolution.

SEC. 15. **Joseph T. Fales for supervising, indexing and distributing journals of council for 1842-'43.** To J. T. Fales, for supervising, indexing and distributing the journals of the council for the session of 1842 and '3, as per resolution, the sum of four hundred and fifty dollars.

SEC. 16. **Walter Butler, for rent, etc.** To Walter Butler, for storage, rents, removing furniture, etc., as per bill, one hundred and fifty dollars.

SEC. 17. **John Powell for preparing legislative halls.** To John Powell, for superintendence and personal labor in nailing down carpets, etc., fifty dollars.

SEC. 18 **Secretary, supervising, indexing and distributing laws of 1842-'43.** To the secretary of the territory, for supervising, indexing and distributing the laws of the session of 1842 and '3, as per resolution, four hundred and fifty dollars.

SEC. 19. **Secretary, for transporting of specie.** To the secretary, for cashing drafts and transporting specie, etc., fifty dollars, as per resolution.

SEC. 20. **F. H. Lee, for swearing members, etc.** To F. H. Lee, for swearing members of the house of representatives, and witnesses before committee, five dollars.

SEC. 21. **G. S. Hampton, for swearing witnesses before committee.** To G. S. Hampton, for swearing witnesses before investigating committee, fifteen dollars, as per resolution.

SEC. 22. **John H. McKenny for printing.** To John H. McKenny, for printing rules for library, ten dollars.

SEC. 23. **William L. Gilbert for swearing members of council.** To William L. Gilbert, for swearing members of the council, two dollars.

SEC. 24. **Certain newspapers for publishing act to provide for the expression of the opinion of the people on the question of state government.** To each of the following papers, thirteen dollars, for publishing an act to provide for an expression of the opinion of the people upon the subject of a convention, etc., approved, February the 16th, 1842, to-wit: Miners Express, Davenport Gazette, Iowa Sun, Bloomington Herald, Iowa Capital Reporter, Iowa Standard, Iowa Territorial Gazette, Hawkeye, and Lee county Democrat.

SEC. 25. **John Lewis, services as sergeant-at-arms of council.** To John Lewis, for three days services as sergeant-at-arms of the council, the sum of nine dollars.

SEC. 26. **James W. Woods, services as secretary of council.** To James W. Woods, late secretary of the council, for his attendance and services during the present session of the council, the sum of thirty-four dollars.

Approved, 17th February, 1843.

JOINT RESOLUTIONS

RESOLUTION No. 1.

WILSON & KESUCKER.

JOINT RESOLUTION fixing the compensation to Wilson & Kesucker for printing the Journal of the House of Representatives, 1841 & 42.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

That Wilson and Kesucker be allowed the sum of six hundred and fifty dollars and thirty-four cents for printing the journals of the house of representatives for the session of 1841 and '42.

Approved, 6th February, 1843.

RESOLUTION No. 2.

JOHN B. RUSSELL.

JOINT RESOLUTION authorizing pay to John B. Russell for printing Journal of the Council 1841 and 1842.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

That John B. Russell, editor of the Bloomington Herald, be allowed the sum of seven hundred and fifty dollars for printing the journal of the council, for the years 1841 and 1842, and that the secretary of the territory be and he is hereby authorized to pay the said John B. Russell the said sum out of any monies in his hands, not otherwise appropriated.

Approved, 9th February, 1843.

[96] RESOLUTION No. 3.

GEORGE S. HAMPTON.

JOINT RESOLUTION fixing the compensation of George S. Hampton, for services rendered the House of Representatives.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

That George S. Hampton be allowed the sum of fifteen dollars, for services in swearing witnesses before a committee appointed by this house, and that the secretary of the territory be required to pay the same out of any monies not otherwise appropriated.

[Presented 11th February, 1843; retained three days by the governor, and takes effect without his approval.]

RESOLUTION No. 4.

DELAWARE COUNTY.

JOINT RESOLUTION relative to seals for Delaware county.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

That Col. Thomas Cox, be and he is hereby authorized to employ C. M. Doolittle, of Jackson county, to furnish a full set of seals for Delaware county, and a seal for the district court of Clinton county; for which the said C. M. Doolittle shall receive such compensation out of the territorial treasury, as the legislature may hereafter direct.

Approved, 13th February, 1843.

RESOLUTION No. 5.

B. F. WALLACE & J. T. FALES.

JOINT RESOLUTION allowing to B. F. Wallace and Joseph T. Fales additional compensation.

Resolved, by the Council and House of Representatives of the Territory of Iowa.

That B. F. Wallace and Joseph T. Fales, each be allowed the sum of one hundred and fifty dollars in addition to the amount al-[97]-lowed them in the "act establishing the prices of public printing, etc.," for superintending the printing, indexing, distributing, etc., the journals of their respective houses the present session, and that the secretary of the territory be authorized to pay the same.

Approved, 14th February, 1843.

RESOLUTION No. 6.

SECRETARY OF TERRITORY.

JOINT RESOLUTION authorizing the payment of money to the secretary of the territory.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

That the sum of fifty dollars be and the same is hereby allowed to O. H. W. Stull, secretary of the territory, for money advanced for the transportation of seventeen hundred and seventy-five dollars in specie, from Fairfield to Burlington; for traveling and personal expenses in negotiating and collecting various treasury drafts, and conducting the proceeds to Iowa City for the use of the legislative assembly.

Approved, 14th February, 1843.

RESOLUTION No. 7.

WILSON & KESUCKER.

JOINT RESOLUTION, allowing Wilson and Keesucker additional compensation for printing the Journals of the House of Representatives, of last session.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

That Wilson and Keesucker, publishers of the Miners Express, be allowed the further sum of one hundred dollars for printing the journals of the house of representatives of the last session of the legislature, and that the secretary of the territory be required to pay the same to Wilson and Keesucker, out of any monies not otherwise appropriated.

Approved, 14th February, 1843.

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[98] RESOLUTION No. 8.

WILLIAM CRUM.

JOINT RESOLUTION authorizing William Crum to print 1440 copies of the valuation law, and the act concerning costs and fees, in pamphlet form.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

That William Crum, editor of the Iowa Standard, be employed to print fourteen hundred and forty copies of the valuation law, and fourteen hundred and forty copies of the act concerning costs and fees, in pamphlet form, and have the same ready by the sixteenth instant, for the use of the members of this legislature.

Approved, 16th February, 1843.

RESOLUTION No. 9.

JAMES M. HAWKINS.

JOINT RESOLUTION for the relief of the estate of James M. Hawkins, deceased.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

That the administrators of the estate of James M. Hawkins, deceased, be allowed the sum of forty-five dollars, being a balance due him for postage of session 1841 and 1842, and that the treasurer of said territory be authorized to pay the above amount out of any money in the treasury, not otherwise appropriated.

Approved, 16th February, 1843.

RESOLUTION No. 10.

REVISED STATUTES.

JOINT RESOLUTION relative to the preparation, indexing and distributing of the revised statutes of the Territory.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

That the secretary of the territory is hereby authorized to [99] employ a good and competent person to assist him in the preparation, indexing and supervising the printing of all the statutes of Iowa, revised or ordered to be reprinted at the present session, and that the said secretary be authorized, and he is hereby instructed, to pay the person thus employed, the sum of two hundred and fifty dollars, as a compensation for his labor.

And be it further resolved, that the secretary of the territory, is hereby required to cause to be distributed through all the counties of the territory, copies of the said revised statutes, according to their respective quotas, as prescribed by law, and that he be authorized to pay the sum of two hundred dollars for such distribution; provided, nothing in these resolutions shall be so construed as to authorize the payment of any of the expenses incurred by the passage of the above resolutions, out of the territorial treasury.

Approved, 16th February, 1843.

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PASSED AT THE SESSION OF

THE LEGISLATIVE ASSEMBLY

WHICH COMMENCED ON THE 4TH OF DECEMBER, 1843

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

PUBLISHED BY AUTHORITY

BURLINGTON
JAMES CLARKE, PRINTER

1844

SECRETARY'S OFFICE, BURLINGTON,

April, 1844.

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

S. J. BURR,
Secretary of Iowa Territory.

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LAWS OF IOWA

[1] CHAPTER 1.

COUNTY AND TERRITORIAL REVENUE.

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

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

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

Approved, 3d January, 1844.

CHAPTER 2.

GENERAL ELECTIONS.

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

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

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

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

Approved, 29th January, 1844.

CHAPTER 3.

CONSTABLES.

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

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

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

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

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

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

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

Approved, 5th February, 1844.

CHAPTER 4.

NEW COUNTIES.

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

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

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

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

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

Approved, 5th February, 1844.

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[4] CHAPTER 5.

RELIGIOUS SOCIETIES.

AN ACT relative to religious societies.

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

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

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

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

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

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

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

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

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

Approved, 7th February, 1844.

CHAPTER 6.

SUPREME COURT.

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

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

OF THE JURISDICTION OF THE SUPREME COURT.

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

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

OF WRITS OF ERROR.

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

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

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

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

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

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

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

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

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

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

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

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

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

OF SUPERSEDING THE JUDGMENT.

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

SEC. 17. **Effect of recognizance.** Such recognizance shall have the effect of a judgment con-[8]-fessed for the amount of the penalty, and shall be a lien upon the real estate of the recognizees in the county where the same is executed and filed, as other ordinary judgments.

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

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

OF APPEALS IN CHANCERY.

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

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

PRACTICE IN SUPREME COURT.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

MEETING AND ADJOURNMENT OF COURT.

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

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

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

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

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

OF THE OPINIONS OF THE JUDGES.

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

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

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

OF THE DUTIES OF THE CLERK.

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

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

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

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

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

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

Approved, 8th February, 1844.

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[11] CHAPTER 7.

SHEEP.

AN ACT for the improvement of sheep.

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

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

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

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

Approved, 8th February, 1844.

[12] CHAPTER 8.

WOLVES.

AN ACT to encourage the destruction of wolves.

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

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

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

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

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

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

Approved, 9th February, 1844.

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[13] CHAPTER 9.

CONVENTION.

AN ACT to provide for the expression of the opinion of the people of the territory of Iowa upon the subject of the formation of a state constitution for the state of Iowa.

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

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

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

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

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

SEC. 4. **Election for delegates, when held; notice of, when and how given.** That if a majority of the votes polled at the election provided for in this act shall be for a convention, then there shall be another election held for the election of delegates to a convention to form a constitution for the state of Iowa at the next general election; and the notice for said election for delegates shall be given at least twenty days before the holding thereof; and the manner of giving said notice, and all other proceedings connected with said election, shall be in accordance with the provisions of the law providing for the election of members of the council and house of representatives in this territory, so far as the same may be applicable.

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

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

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

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

SEC. 6. **Returns by whom certified, to whom sent, by whom opened; result of election for delegates how declared; in case of tie new election; when held and how conducted.** That the judges of election in the several townships and precincts shall certify the votes for delegates in the same manner as is provided by law for the election of members of the council and house of representatives, and shall send returns of said election so certified to the clerk of the board of county commissioners, who shall open said returns and certify the election of delegates in the same manner as is now provided by law for the election of members of the council and house of representatives; and in case of a tie vote between any of the candidates for delegates it shall be the duty of the clerk of the board of county commissioners to order a new election, to be held within twenty days after said first election, and to be conducted in the same manner as said first election.

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

SEC. 8. **Publication of constitution; to be submitted for adoption at the next April election; qualification of electors, how election to be conducted, returns made, and result declared.** That when a constitution and form of state government shall have been adopted by said convention, they shall cause the same to be published in all the newspapers printed in the territory; and at the township election in April succeeding the formation of a constitution and state government by said convention, the electors of said territory, who are qualified to vote for members of the legislature at said general election, shall be and they are hereby authorized to vote for the constitution or against the constitution. The vote for and against the constitution shall be counted and returned to the clerk of the board of county commissioners, [who shall] in the same manner transmit returns of said votes for and against the constitution to the secretary of the territory who shall open and count the same as soon as they are all received from the several counties in this territory, in the presence of the governor, who shall issue his proclamation declaring the result.

SEC. 9. **Electors to vote in the county where they reside, for delegates, but may vote in any county for or against constitution.** That all electors qualified as aforesaid may vote for or against a constitution in any county of this territory, whether residents of such county or not; but in the election of delegates to the convention the said electors shall not vote out of the counties wherein they have their residence.

SEC. 10. **Elections to be governed by general law.** That the several elections provided for in this act shall in all respects be conducted in accordance with the provisions of an act regulating general elections in this territory, so far as the same is applicable, and except as is herein specially provided for.

SEC. 11. **This act to be published immediately after approval. Notice of first election, when, by whom, and how given.** That it shall be the duty of the secretary of the territory to cause this act to be published in the several newspapers of this territory as soon as the same may be approved by the governor; and it shall be the duty of the clerk of the board of county commissioners in the several counties of this territory to give notice that a poll will be opened for the purposes specified in the first section of this act to the sheriff of his proper county, who is hereby required to post up notices in accordance with law at least twenty days before the first Monday in April next.

[16] SEC. 12. **Secretary to procure room for convention; furniture, etc.** That it shall be the duty of the secretary of the territory to procure a suitable room for the meeting of the convention; also, to provide the same with furniture, stationery, and all other things necessary for the comfort and convenience of the convention.

SEC. 13. **Compensation of delegates.** That the members of said convention shall be entitled to such compensation as the convention may direct, not exceeding three dollars per diem, and three dollars for every twenty miles travel to and from the place of holding said convention.

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

Approved, 12th February, 1844.

CHAPTER 10.

DISTRICT COURTS.

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

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

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

FIRST JUDICIAL DISTRICT.

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

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

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

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

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

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

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

Second Judicial District.

SECOND JUDICIAL DISTRICT.

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

Third Judicial District.

THIRD JUDICIAL DISTRICT.

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

SEC. 2. **Change in time of holding courts not to interfere with any proceeding now pending.** No suits, writs, indictments, recognizances, informations, declarations, pleas or other process or proceedings, returnable at, or pending in the said district court, for any of the counties above named, shall abate, be made void, or in any wise affected, in consequence of any change in the time of holding said court, by the provisions of this act; but when the same may have been issued, or may have been returnable, at any day in accordance with the time heretofore fixed for holding said court, they shall be considered returnable to the term of the courts respectively named in this act; and all jurors, witnesses, and other persons bound in any way, or summoned to appear before the courts mentioned above, at the next term thereof, shall be bound to appear at the time specified by this act, as the time for holding said courts.

SEC. 3. **Repealing clause.** An act entitled, "An act to amend an act fixing the terms of the supreme and district courts of the territory of Iowa, and for other purposes," approved January seventeenth, one thousand eight hundred and forty; an act entitled "An act to change the time of [18] holding the district courts in the second and third judicial districts," approved July twenty-second, one thousand eight hundred and forty; an act entitled, "An act supplemental to an act fixing the terms of the district court," approved January seventh, one thousand eight hundred and forty-one, and an act entitled "An act to change the time of holding the district courts in the second judicial district," approved 10th January, 1843, be and the same are hereby repealed.

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

Approved, 12th February, 1844.

CHAPTER 11.

JUSTICES AND CONSTABLES.

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

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

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

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

Approved, 12th February, 1844.

CHAPTER 12.

POOR.

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

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

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

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

Approved, 12th February, 1844.

CHAPTER 13.

DEEDS.

AN ACT to legalize deeds and other instruments of writing.

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

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

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

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

Approved, 13th February, 1844.

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[20] CHAPTER 14.

ELECTION DISTRICTS.

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

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

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

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

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

Approved, 13th January, 1844.

CHAPTER 15.

JUSTICES OF THE PEACE.

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

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

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

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

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

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

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

Approved, 15th February, 1844.

CHAPTER 16.

LAWFUL FENCES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved, 14th February, 1844.

CHAPTER 17.

DAMS.

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

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

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

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

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

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

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

Approved, 14th February, 1844.

CHAPTER 18.

PUBLIC ROADS.

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

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

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

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

Approved, 14th February, 1844.

CHAPTER 19.

ROAD TAX.

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

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

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

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

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

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

Approved, 14th February, 1844.

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[26] CHAPTER 20.

IMPRISONMENT FOR DEBT.

AN ACT to abolish Imprisonment for debt.

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

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

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

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

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

Approved, 14th February, 1844.

CHAPTER 21.

REVENUE LAW.

AN ACT to provide for assessing and collecting public revenue.

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

OF THE ASSESSOR, HIS ELECTION, DUTIES AND POWERS.

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

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

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

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

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

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

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

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

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

OF PROPERTY SUBJECT TO TAXATION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 20. **Assessment, when to commence; property how valued.** The assessor shall, on the first day of May, or within three days thereafter, proceed to assess all the real and personal property within his township or precinct, subject to taxation, which assessment shall be made at the cash value thereof at the time of assessment, taking into consideration the fertility and quality of the soil, the vicinity to roads, towns, villages, and navigable waters, water privileges on the same, and all other local advantages.

SEC. 21. **Real estate, how described.** In assessing real estate it shall only be necessary to describe it briefly by its number, or the name the property is usually known by, in the neighborhood or township.

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

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

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

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

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

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

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

OF THE DUTIES OF COUNTY COMMISSIONERS IN RELATION TO TAXES.

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

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

OF ABATEMENT OF ASSESSMENT.

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

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

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

OF COUNTY TREASURERS, THEIR POWERS, AND DUTIES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"TERRITORY OF IOWA
vs.
John Doe et al. } Suit for Taxes."

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

"TERRITORY OF IOWA,
——— County } Sct.

"Whereas A. B., treasurer of said county, returned to the district court of said county, on the day of the following tracts and parts of tracts of land and town lots, as having been assessed for taxes by the assessor of said county for the year , and that the taxes thereon remain due and unpaid on the day of the date of the said treasurer's return, and that the respective owner or owners have no goods and chattels within his county on which the said treasurer can levy for the taxes, interest and costs, due and unpaid on the following described lands and town lots, to wit:
And whereas, due notice has been given of the intended application for a judgment against said lands and town lots, and no owner hath appeared to make defense or show cause why judgment should not be entered against the said lands and town lots, for the taxes, interest and costs, due and unpaid thereon, for the year herein set forth; therefore it is considered by the court that judgment be and is hereby entered against the aforesaid tract or tracts of land, or parts of tracts and town lots (as the case may be,) in the name of the territory of Iowa, for the sum annexed to each tract or parcel of land or town lot, being the amount of taxes, interest and costs, due severally thereon; and it is ordered by the court, that the said several tracts of land and town lots, or so much thereof as shall be sufficient of each of them to satisfy the amount of taxes, interest and costs, annexed to them severally, be sold as the law directs."

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

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

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

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

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

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

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

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

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

TERRITORIAL TAXES.

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

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

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

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

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

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

Approved, 15th February, 1844.

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[40] CHAPTER 22.

JUSTICES OF THE PEACE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved, 14th February, 1844.

[43] CHAPTER 23.

VALUATION LAW.

AN ACT amendatory of an act subjecting real and personal estate to execution.

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

SECTION 1. **Officer to select property, how governed; required to take personal property before real estate.** That hereafter, when any writ of execution shall issue against the goods, chattels, lands, tenements, and hereditaments of any person, it shall be the duty of the sheriff, constable, or other officer, to levy said writ of execution upon such of the property of said person subject to execution as the sheriff, constable or other officer, may, in his discretion, think most conducive to the interest of both plaintiff and defendant in execution: provided, that where there is personal property it shall be taken in preference to real estate.

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

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

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

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

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

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

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

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

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

Approved, 15th February, 1844.

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[45] CHAPTER 24.

GRAND AND PETIT JURORS.

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

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

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

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

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

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

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

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

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

Approved, 15th February, 1844.

CHAPTER 25.

PEDLARS.

AN ACT granting license to pedlars.

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

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

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

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

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

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

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

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

Approved, 15th February, 1844.

[48] CHAPTER 26.

CENSUS AND EXTRA SESSION.

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

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

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

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

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

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

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

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

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

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

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

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

Approved, 15th February, 1844.

CHAPTER 27.

CHANCERY.

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

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

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

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

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

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

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

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

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

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

Approved, 15th February, 1844.

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[51] CHAPTER 28.

WRITS OF ERROR.

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

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

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

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

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

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

Approved, 15th February, 1844.

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[52] CHAPTER 29.

TERRITORIAL TAX.

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved, 15th February, 1844.

CHAPTER 30.

CONVEYANCES.

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

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

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

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

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

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

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

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

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

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

Approved, 15th February, 1844.

CHAPTER 31.

MILITIA.

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

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

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

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

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

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

Approved, 15th February, 1844.

CHAPTER 32.

SHERIFFS' DEEDS.

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

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

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

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

SEC. 3. **Sheriffs and coroners required to make deeds in certain cases.** The sheriffs and coroners, as the case may be of the several counties in this territory, be and they are hereby authorized and required to make and execute good and sufficient deeds to the purchasers of any real estate at sheriff's or coroner's sale, under the law [56] subjecting real and personal estate to execution now in force in this territory.

SEC. 4. **Time of taking effect.** This act shall be in force from and after its passage.

Approved, 15th February, 1844.

CHAPTER 33.

SHERIFFS.

AN ACT amendatory of the several acts regulating the election and duties of sheriffs.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Time of election.** That an election for sheriff shall take place on the first Monday in August next, and on the same day every second year thereafter.

SEC. 2. **Limitation of terms.** That from and after the passage of this act no person shall be eligible to the office of sheriff for more than two successive terms in six years.

SEC. 3. **Vacancy, how filled.** That if a vacancy shall happen in the office of sheriff between general elections, by death, resignation or otherwise, such vacancy shall be filled by special election; and the clerk of the county commissioners' court, on being informed of such vacancy, shall order an election and give notice of the same as in case of special elections.

SEC. 4. **Repealing clause.** That so much of the acts to which this is an amendment as is inconsistent with the provisions of this act are hereby repealed.

SEC. 5. **Time of taking effect.** This act shall take effect from and after its passage.

Approved, 15th February, 1844.

CHAPTER 34.

MILITIA.

AN ACT to amend the militia law so as to form a fourth division.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Certain counties to form fourth division.** That the counties of Davis, Appanoose, [57] Wapello, Kiskekosh, Keokuk, Mahaska, and Poweshiek, shall form the fourth division of the militia of this territory.

SEC. 2. **Counties forming first and second brigades.** That said division shall be divided into brigades as follows, to wit: the counties of Davis, Appanoose, Wapello and Kiskekosh shall form the first brigade, and the counties of Keokuk, Mahaska and Poweshiek, shall form the second brigade.

SEC. 3. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 15th February, 1844.

CHAPTER 35.

CORONERS.

AN ACT to amend an act entitled, "An act relative to coroners and their duties," approved December 23, 1839.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **In case of absence or disability of coroner to serve process, clerk to appoint some suitable person.** That whenever there shall be a vacancy in the office of coroner, in any county in this territory, or whenever any coroner shall be absent, or from any cause unable to serve process, properly directed to him, it shall be lawful for the clerk of the proper district to appoint same suitable person to serve the same, in like manner as he is authorized to do by the provisions of the fourth section of the act to which this is an amendment, in all cases where there is no coroner.

Approved, 15th February, 1844.

CHAPTER 36.

REPEALING LAW.

AN ACT to repeal certain acts herein named.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Repeals certain acts.** That an act entitled, "An act to amend an act entitled An act to allow and regulate the action of right and the action of ejectment," approved 16th February, 1843; an act entitled, [58] "An act to prevent damage by the firing of prairies," approved February 16th, 1843; an act entitled "An act regulating the issuing of writs of *ne exeat* and injunctions" approved January 25th, 1839, and "An act confirming grants of property made for the encouragement of education, and for other purposes," approved January 15th, 1839, be and the same are hereby repealed.

SEC. 2. **Not to interfere with rights accrued or proceedings now pending.** The repeal of the foregoing acts shall not affect any act done, or right accrued, or any proceeding, suit or prosecution, had or commenced previous to the passage hereof; but every such right shall be as valid, and every such suit, prosecution or proceedings, prosecuted, adjudged and determined, as though this act had not passed.

SEC. 3. **Time of taking effect.** This act shall take effect and be in force from and after its passage.

Approved, 15th February, 1844.

CHAPTER 37.

ORGANIZATION OF THE LEGISLATURE.

AN ACT to amend an act entitled, "An act to provide for the annual organization of the Council and House of Representatives of the territory of Iowa," approved 6th January, 1840.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **The first and sixth sections of the act approved 6th January 1840, repealed.** That the first and sixth sections of the above named act be and the same is [are] hereby repealed.

SEC. 2. **Some member of the respective houses to call to order and appoint a presiding officer and clerk.** That it shall be the duty of some one of the members present at the time and place of the annual meetings of the legislature, at 12 o'clock, meridian, to call to order their respective houses, and to appoint a presiding officer, and chief clerk or secretary, (as the case may be,) for the time being, who shall proceed to organize in all other respects as is provided for in the act to which this is an amendment.

Approved, 15th February, 1844.

[59] CHAPTER 38.

TOWN PLATS.

AN ACT to authorize the boards of county commissioners to vacate town plats.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **County commissioners to have power to vacate town plats, upon petition of owners; not to interfere with the rights of third persons—copy of order of vacation to be certified and recorded; when and by whom.** That the several boards of county commissioners be and they are hereby empowered to vacate the plat of the survey of any town lots, or out lots, in their respective counties, upon the petition of the owner or owners thereof: provided, that the vested rights of third persons shall not be thereby impaired, unless their consent shall be obtained thereto: and provided further, that a certified copy of the order of such board of county commissioners, vacating said town lots or out lots, shall be recorded in the recorder's office of the proper county within thirty days after the same shall have been made.

Approved, 15th February, 1844.

CHAPTER 39.

PUBLIC PRINTING.

AN ACT to amend an act entitled "An act establishing the prices of public printing," approved February 2, 1843.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **The sixth section of the act of February 2d, 1843, repealed.** That the sixth section of the above named act be and the same is hereby repealed.

SEC. 2. **Time of taking effect.** This act shall take effect and be in force from and after the 15th of June next.

Approved, 15th February, 1844.

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[60] CHAPTER 40.

COSTS AND FEES.

AN ACT to amend an act entitled "An act concerning costs and fees."

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Repeal of 17th section of the act concerning costs and fees.** That the seventeenth section of an act entitled "An act concerning costs and fees" be and the same is hereby repealed.

SEC. 2. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 15th February, 1844.

CHAPTER 41.

APPROPRIATION BILL.

AN ACT to provide for the compensation of members and officers of both houses of the present session, and for other purposes.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

[61] SECTION 1. **Pay and mileage of members of council.** That the following sums be and they are hereby appropriated, out of any moneys in the hands of the secretary of the territory of Iowa, for the following purposes, viz: for pay and mileage of the members of the council, three thousand two hundred and thirteen dollars and ninety cents.

SEC. 2. **Officers of council, pay of.** For pay of the officers of the council eleven hundred and thirteen dollars.

SEC. 3. **Pay and mileage of members of the house of representatives; pay to officers of H. R.** For pay and mileage of the members of the house of representatives, six thousand four hundred and eleven dollars and seventy-five cents; for pay of the officers of the house of representatives, eleven hundred and ten dollars.

SEC. 4. **Extra to president of council.** For extra pay to the president of the council one hundred and eleven dollars.

SEC. 5. **Extra to president of council pro tem.** For extra pay to the president *pro tem.* of the council, one hundred and fourteen dollars.

SEC. 6. **Extra pay to the speaker of house of representatives.** For extra pay to the speaker of the house of representatives, two hundred and twenty-five dollars.

SEC. 7. **Postage for house of representatives.** To S. C. Trowbridge, for postage on letters, papers, documents, etc., for the house of representatives, the sum of three hundred and sixty-six dollars and sixty-seven and three-fourths cents.

SEC. 8. **Postage for council.** For postage on letters, papers, documents, etc., for the council, the sum of one hundred and ninety-one dollars and twenty-three cents.

SEC. 9. **Hughes & Williams, for printing for house of representatives.** To Hughes & Williams, for printing, as per bill rendered, the sum of eight hundred and ninety-four dollars and twenty cents, for the house of representatives.

SEC. 10. **Hughes & Williams, for printing for council.** To Hughes & Williams, printing, as per bill rendered, for the council.

SEC. 11. **William Crum, for printing for council.** To William Crum, for printing as per bill rendered, for the council, seven hundred and forty-eight dollars and fifty cents.

SEC. 12. **William Crum, for printing for house of representatives.** To William Crum, for printing, as per bill rendered, for the house of representatives, thirty-six dollars.

SEC. 13. **Allowance to Jones & Powell, for articles furnished secretary of territory.** To Jones and Powell, for articles furnished S. J. Burr, secretary of the territory, for the legislative assembly of Iowa territory, four hundred and seven dollars and thirty cents.

SEC. 14. **Allowance to Bridgman Brothers.** To Bridgman & Brothers, for articles furnished the legislative assembly, as per bill rendered, two hundred and forty-three dollars and twenty-five cents.

SEC. 15. **Allowance to William Sheets.** To William Sheets, for articles furnished the legislative assembly, as per bill rendered, three hundred and thirty dollars and fifty cents.

SEC. 16. **Allowance to J. G. Edwards, for newspapers.** To James G. Edwards, editor of the Hawkeye, for newspapers furnished, as per bill rendered, thirteen dollars.

SEC. 17. **Allowance to James Clarke, for newspapers.** To James Clarke, editor of the Territorial Gazette, for newspapers furnished, as per bill rendered, seventeen dollars.

SEC. 18. **Allowance to Alfred Sanders, for newspapers.** To Alfred Sanders, editor of the Davenport Gazette, for newspapers furnished, as per bill rendered, eight dollars.

SEC. 19. **Allowance to Shepard & Mitchell, for newspapers.** To Shepard & Mitchell, editors of the Iowa Democrat, for newspapers furnished, as per bill rendered, seven dollars.

[62] SEC. 20. **Allowance to R. W. Albright for newspapers.** To R. W. Albright, editor of the Lee County Democrat, for newspapers furnished, as per bill rendered, twelve dollars.

SEC. 21. **Allowance to Houghton & Wharton, for newspapers.** To Houghton & Wharton, editors of the DuBuque Transcript, for newspapers furnished, as per bill rendered, six dollars.

SEC. 22. **Wilson & Keesecker, for newspapers.** To Wilson & Keesecker, editors of the Miners' Express, for newspapers furnished, as per bill rendered, the sum of nineteen dollars.

SEC. 23. **J. B. Russell, for newspapers.** To John B. Russell, editor of the Bloomington Herald, for newspapers furnished, as per bill rendered, the sum of sixteen dollars.

SEC. 24. **W. L. Gilbert, for administering oath to members of house of representatives.** To William L. Gilbert, (notary public,) for administering official oaths to the several members of the house of representatives, the sum of three dollars.

SEC. 25. **J. G. McDonald, sergeant-at-arms, pro tem.** To John G. McDonald, for services rendered as sergeant-at-arms, *pro tem.*, three days, the sum of nine dollars, as per resolution.

SEC. 26. **John Lorton, messenger pro tem.** To John Lorton, for services as messenger for three days, nine dollars, as per resolution.

SEC. 27. **Peter Conboy, for cutting wood.** To Peter Conboy, for cutting wood and making fires, the sum of twelve dollars, as per resolution.

SEC. 28. **S. E. McArthur.** To S. E. McArthur, for two cords of wood for library, as per bill rendered, four dollars.

SEC. 29. **Extra to S. C. Trowbridge, for postage.** To extra pay to S. C. Trowbridge, for postage paid for session of 1842-3, the sum of four dollars and eighty cents.

SEC. 30. **N. H. White, for paste.** To N. H. White, for paste furnished the house of representatives, the sum of one dollar.

SEC. 31. **To secretary of territory, for trip to St. Louis for specie.** To the secretary of the territory for going to St. Louis, and expenses in transporting specie from there to this city, eighty-five dollars; and for team hire for that purpose, fifty-nine dollars and fifty cents.

SEC. 32. **B. F. Wallace & Joseph T. Fales, for superintendence of printing of journals.** To B. F. Wallace and Joseph T. Fales, each, the sum of three hundred dollars, for indexing, superintending the printing of the journal of the council of the present session and distributing the same.

SEC. 33. **To S. J. Burr for superintending, indexing and distributing, the laws of 1843-4.** To S. J. Burr, secretary of the territory, the sum of five hundred dollars, for supervising, indexing and distributing, the laws of the session of 1843 and 1844.

Approved, 16th February, 1844.

CHAPTER 42.

NEW JUDICIAL DISTRICT.

AN ACT to form a fourth judicial district.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **District to be created if congress pass a law to appoint additional judge; counties to compose 4th judicial district.** That if congress should pass a law grant- [63] ing to this territory an additional judge or justice of the supreme court of said territory, then, and in that case, the counties of Jefferson, Davis, Wapello, Keokuk and Mahaska, shall constitute the fourth judicial district of this territory.

SEC. 2. **Time of taking effect.** This act shall take effect and be in force from and after its passage.

Approved, 14th February, 1844.

CHAPTER 43.

IMMORAL PRACTICES.

AN ACT for the prevention of certain immoral practices.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Fine for engaging in common labor, fishing, shooting, etc. on the Sabbath day.** That if any person of the age of fourteen years or upwards, shall be found on the first day of the week, commonly called Sunday, rioting, quarreling, fishing, shooting, or at common labor, (works of necessity and charity only excepted,) he or they shall be fined in any sum not exceeding five dollars: provided, nothing herein contained shall be so construed as to extend to those who conscientiously do observe the seventh day of the week as the Sabbath, nor to prevent persons from traveling, watermen from landing their passengers or freight, or ferrymen from conveying any person over the waters on such day.

SEC. 2. **Fine for selling intoxicating liquors on the Sabbath, except to be used as a medicine.** That if any grocery keeper or other person shall sell or barter any spirituous liquors on the first day of the week, commonly called Sunday, (except prescribed by physicians, or if such grocery keeper or other

person shall know that such spirituous liquors are wanted to be used as medicine,) such grocery keeper, or other person so offending shall be fined in any sum not exceeding five dollars.

SEC. 3. **Fine for swearing within hearing of any religious assemblage.** That if any person of the age of fourteen years and upwards shall profanely curse or damn, or profanely swear by the name of God, Jesus Christ, or the Holy Ghost, in any court of justice, or within hearing of any religious assemblage, each and every person so offending shall be fined in any sum not exceeding one dollar, nor less than twenty-five cents for each offense.

SEC. 4. **Fines, how collected and to what applied; limitation of suits, etc.** That all fines accruing under the provisions of this act, shall be collected in the name of the United States, as in other cases of a breach of the peace, and be paid into the township treasury for the use of common schools in the township in which the offense shall have been committed, (excepting in such counties as have not been organized into townships;) in which case the fine aforesaid shall be paid over to [64] the county treasurer for the use aforesaid, within thirty days after collected; and if any officer fail to pay over such fine by him collected, agreeably to the provisions of this act, such officer shall, for any such neglect, forfeit and pay into the treasury aforesaid double the amount of any such fine or fines by him collected, to be collected in a summary way before any justice of the peace having cognizance of the same, at the suit of the township or county treasurer, as the case may be: provided, that all prosecutions under the provisions of this act shall be commenced within ten days after the offense is committed, except prosecutions against justices of the peace for not paying over any fine or fines as aforesaid.

Approved 10th February, 1843.

[The foregoing entitled act is reprinted by order of the legislative assembly, per joint resolution number 16 of session 1843-4.

CHAPTER 44.

ASPEN GROVE CEMETERY.

AN ACT to incorporate the Aspen Grove Cemetery Association.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Organization of, name and style of, general powers of, limitation of real estate, object of incorporation.** That Abiathar White, Arthur Bridgman, George Temple, John Johnson, Levi Hager, and their associates, be and they are hereby created and declared a body corporate and politic, with perpetual succession, by the name and style of "The Aspen Grove Cemetery Association;" and by that name may sue and be sued in any court of law or equity in this territory; may hold, enjoy and convey, real estate, not exceeding fifty acres, and make, ordain and establish, such by-laws, rules and regulations, for the conveyance and disposition of their real estate, interment of the dead, and for the embelishing and adornment of the grounds and lots belonging to said association, as a majority of the stockholders, at their first meeting, and from time to time may deem fit.

SEC. 2. **First meeting, when held; acceptance of charter, when and how determined.** That it shall be the duty of the persons, or a majority of them, above named, to call a meeting of the stockholders within sixty days from

the passage of this act; at which meeting, it shall be determined by a vote, and entered upon the minutes of said association, whether or not they will accept this charter.

SEC. 3. **Description of land to be filed with recorder of Desmoines Co.; when and by whom.** That if this charter is accepted by said association, it [65] shall be their duty to file with the recorder of Des Moines county, within thirty days, after such acceptance, a description of the land selected by said association for burial purposes; which said land, when so selected and conveyed to said association, and all real estate, owned or used, or to be owned or used, and all personal property used or to be used by said association for burial purposes, and all real estate conveyed by said association, or under and by their direction, to any individual stockholder for the purposes aforesaid, shall be and hereby is declared forever exempt and free from all taxation by any person or body politic, and exempt from attachment, levy and sale, upon any execution at the suit of any person or persons whatever.

SEC. 4. **Property held or conveyed for burial purposes, to be free from taxation and all judicial process; plat to be filed with recorder, when; how grants of burial lots to be construed; exemption as aforesaid.** That as soon as may be after a burial ground shall have been selected by said association, it shall be their duty to file and enter for record, with the recorder of said county, a plat of the ground and lots as surveyed; and all burial lots included in said grounds, conveyed by any person having the title thereto, to any stockholder in said association, shall be deemed and taken to be within this act, and shall be forever free from taxation, attachment, levy and sale, as aforesaid.

Approved, 18th December, 1843.

CHAPTER 45.

ROAD.

AN ACT to locate a territorial road, from Farmington, in Van Buren county, to Autumwa, in Wapello county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Commissioners, appointment of; road to commence at Farmington, Van Buren county; route of.** That John Godard and Jesse Wright, of Van Buren county, and Van Caldwell, of Wapello county, be and they are hereby appointed commissioners to locate and mark a territorial road, commencing at Farmington, in Van Buren county; thence, via Hartford and Green's mill, in said county, Woods' mill, in Davis county, to Autumwa, in Wapello county.

SEC. 2. **Commissioners, when and where to meet.** Said commissioners, or a majority of them, shall meet at Farmington, in Van Buren county, on the first Tuesday in April next, or at some convenient time within three months thereafter, and proceed to locate and mark said road as above designated.

SEC. 3. **Commissioners, how to proceed; commissioners and others, how paid.** Said commissioners shall, in locating said road, take into consideration the interests of the citizens on said road, as well as the general good of the public, in locating said road; and for their services, together with the hands employed in locating said road, the compensation [66] allowed by law for their services, to be allowed and paid out of the county treasury of each county through which said road passes, in proportion to the length of said road.

Approved, 19th December, 1843.

CHAPTER 46.

FERRY.

AN ACT to authorize Daniel C. Davis, his heirs and assigns, to establish and keep a ferry across the Mississippi river, at the town of Montrose, in Lee county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Ferry to be kept at Montrose; duration of term, place of landing, when to be put in operation, duty of company; not to interfere with rights of others.** That Daniel C. Davis, his heirs and assigns, of the county of Lee, be and they are hereby authorized to establish and keep a ferry across the Mississippi river, at the town of Montrose, for the term of ten years, with exclusive privileges, for one mile and a half above and one mile and a half below the mouth of the slough at Rogers' brick yard, on said river: provided, the said Daniel C. Davis, his heirs and assigns, shall, within twelve months from the passage of this act, procure a good and sufficient horse boat to be propelled by either four or six horses, with a sufficient number of hands to work the same, for the safe transportation of all persons and their property across said river when practicable without delay: provided, that the said ferry, when so established, shall not interfere with the rights and privileges of any person or persons, or the property of the United States.

SEC. 2. **Flat boat to be kept where.** That it shall be the duty of the said Daniel C. Davis, his heirs and assigns, until said horse boat shall be procured, to keep constantly on hand a sufficient number of flat boats for the purposes specified in the first section of this act.

SEC. 3. **Ferry, how regulated, rates of toll.** That said ferry, when so established, shall be subject to the same rules and regulations as other ferries are or may be by law, fixing the rates of toll and prescribing the manner in which licensed ferries shall be kept and regulated.

SEC. 4. **Repealing power reserved; time of taking effect.** This act may be altered or amended by any future legislature, and shall take effect and be in force from and after its passage.

Approved, 4th January, 1844.

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[67] CHAPTER 47.

ISAAC PARSONS, CORONER.

AN ACT to legalize the acts of Isaac Parsons, coroner of Louisa county, and also an acting justice of the peace of Jefferson township, in said county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **His acts as coroner and justice declared valid; exempt from the effect of the tenth section of the act of Feb. 9th, 1843.** That the official acts and proceedings of Isaac Parsons, coroner of Louisa county, and also an acting justice of the peace in and for the township of Jefferson, in said county, are hereby declared to be legal and valid; and the 10th section of the act to provide for the election of justices of the peace, to prescribe their powers and duties, and to regulate their proceedings, approved February 9th, 1843, shall not extend or apply to him during the term for which he has been elected to

either of said offices; but all his official acts and proceedings, both as coroner and justice of the peace, shall be as legal and valid, during the term for which he has been elected to either of said offices, as if the 10th section of said act had not become a law: provided, always, that nothing in this act shall be so construed as to legalize any act or acts of said Isaac Parsons, which would have been illegal had the aforesaid section not been enacted.

SEC. 2. **Time of taking effect.** This act to take effect from and after its passage.

Approved, 4th January, 1844.

CHAPTER 48.

FERRY CHARTER.

AN ACT to amend an act entitled "An act to authorize Thomas McCraney and James Churchman to keep a ferry across the Mississippi river at or near the upper end of the city of Dubuque," approved February 13, 1843.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Part of act of February 13th, 1843, repealed and time extended.** That so much of the above named act as requires Thomas McCraney and James Churchman to put said ferry into operation by the first day of April, 1843, is hereby repealed; and that said Thomas McCraney and James Churchman be and they are hereby authorized and required to comply with the requisitions of said act by the first day of June next.

[68] SEC. 2. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 5th January, 1844.

CHAPTER 49.

ROAD.

AN ACT to establish and locate a road from the lower end of Water street, in the city of Burlington, to David B. Anderson's mill.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Commissioners, appointment of, route of road.** That John Moore, George Spear and Martin Brown, of the county of Des Moines, be and they are hereby appointed commissioners to locate and establish a road, commencing at the lower end of the city of Burlington, in Des Moines county, and running thence on the nearest and best route to David B. Anderson's steam mill, on the Mississippi river.

SEC. 2. **Commissioners, where and when to meet, duty of.** That the said commissioners, or a majority of them, shall meet at the steam grist mill of David B. Anderson, on the first Monday of March next, or as soon thereafter as convenient, and proceed to lay out and establish said road, according to the provisions of an act to establish territorial roads.

SEC. 3. **Commissioners, how paid.** That the commissioners, chain carriers and other hands employed to locate said road, as herein prescribed, shall receive such compensation for their services as may be allowed by the board of county commissioners of Des Moines county.

SEC. 4. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 17th January, 1844.

CHAPTER 50.

AARON STREET, ADMINISTRATOR.

AN ACT to authorize Aaron Street, Jr., as administrator of Peter Boyer, deceased, to make a title to certain real estate in and near Salem, in Henry county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

[69] SECTION 1. **As administrator to make certain deeds, under direction of the judge of probate—not to make deed when right to property disputed.** That Aaron Street, jr. administrator of the estate of Peter Boyer, deceased, of the town of Salem, in Henry county, is hereby empowered to make and execute good and sufficient deeds in fee simple, for such town lots in the town of Salem aforesaid, and such other tract or tracts of land in the vicinity of Salem, as was sold by said Peter Boyer before his decease, without his making deeds therefor to the respective persons now entitled to the same, under the order and direction of the judge of probate of said county: provided, that this act shall not extend to cases where there is any dispute about the rights of different persons to the title of said lots or tracts of land.

SEC. 2. **Time of taking effect.** This act to be in force from and after its passage.

Approved, 17th January, 1844.

CHAPTER 51.

RACHAEL HAMILTON.

AN ACT to authorize Rachael Hamilton, administratrix of the estate of James Hamilton, deceased, to sell and convey certain real property therein named.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Authorized as administratrix to sell and convey real estate.** That Rachael Hamilton, administratrix of James Hamilton, deceased, is hereby authorized, either at private or public sale, to sell and convey the following described real property, of which James Hamilton, deceased, late of Lee county, died seized, to wit: The west half of the southeast quarter of section four, the north half of the west half of the northeast quarter of section seventeen, the southeast quarter of the southwest quarter of section eight, and the south half of the west half of the southeast quarter of section eight, all in township sixty-nine north of range five west, containing two hundred acres.

SEC. 2. **To execute a deed to convey the rights of the heirs of James Hamilton.** That upon the sale of the property aforesaid, said Rachael Hamilton shall make and execute to the purchaser or purchasers a good and sufficient deed in fee simple for the said property, which said deed shall convey all the interest, right and title, of the heirs of said James Hamilton to the said property, to the purchaser or purchasers.

SEC. 3. **Proceeds of sale to be accounted for to the judge of probate within 20 days.** That the proceeds of the sale of the property aforesaid shall be accounted for to the judge of probate of the proper county by the said Rachael Hamilton, as assets of said estate, within twenty days after said sale.

[70] SEC. 4. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 17th January, 1844.

CHAPTER 52.

FERRY.

AN ACT to authorize David B. Anderson and Henry C. Anderson to keep a ferry across the Mississippi river, opposite the lower end of Burlington.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Privilege of ferriage within certain limits. Duration of term 10 years; not to interfere with any existing rights enacted by the act approved 19th January, 1838.** That David B. Anderson and Henry C. Anderson, their heirs and assigns, be and they are hereby authorized to establish and keep a ferry across the Mississippi river, opposite the lower end of Burlington, departing from the west bank of said river at any point below Washington street not exceeding one mile, to the east bank of the Mississippi river, in the state of Illinois, with the exclusive privilege within the above limits, for the term of ten years from and after the passage of this act: provided, that the said ferry, when so established, shall be subject to the same rules and regulations, and under the same restrictions, as other ferries are or may hereafter be by the laws of this territory fixing the rates of ferriage, and prescribing the manner in which licensed ferries shall be kept and regulated: provided further, that nothing herein contained shall be so construed as to impair, interfere with, or in any way affect, any right or rights now existing by virtue of an act entitled "An act to establish ferries across the Mississippi river, opposite the town of Burlington, in Des Moines county," approved January 19th, 1838.

SEC. 2. **Right of purchase at appraisement reserved to city of Burlington; appraisers, how selected.** If, at any time after the passage of this act, the corporation of the city of Burlington desires to procure, own and control, franchises and rights hereby conferred and granted, they shall select one appraiser, the said David B. Anderson and Henry C. Anderson, their heirs and assigns, another, and those two another appraiser, who shall appraise the value of any boats, tackle, or other machinery, which may be used and required for propelling said boat at their true cash value at the time of appraisement; and upon the payment of such appraisement to David B. Anderson and Henry C. Anderson, their heirs and assigns, all the rights, privileges and franchises, granted by this act, together with the boat or boats, tackle and apparatus aforesaid, shall vest absolutely in the city of Burlington; and said ferry and fer-[71]-ry privilege and franchise shall ever after be owned and controlled by said city of Burlington.

SEC. 3. **Upon failure of Anderson to select, city may select all.** If the said David B. Anderson and Henry C. Anderson, their heirs and assigns, shall fail to select an appraiser as aforesaid, when notified so to do, the said city shall select all of said appraisers.

SEC. 4. **Ferry to go into operation within 9 months.** That the said David B. Anderson and Henry C. Anderson, their heirs and assigns, shall, on or before the expiration of nine months from and after the passage of this act, procure and constantly keep for said ferry a good and sufficient horse boat, or other sufficient water craft, with a suitable number of hands, to carry all persons and their property across said river, when passable, without delay.

SEC. 5. This act to take effect and be in force from and after its passage.

Approved, 19th January, 1844.

CHAPTER 53.

W. B. PECK AND A. M. PECK.

AN ACT to change the name of William B. Peck and Ann M. Peck.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **William B. Peck changed to William F. Telford, change not to affect right or liabilities.** That the name of William B. Peck, of Lee county, in said territory, be and the same is hereby changed to William Frederick Telford, and that he shall hereafter be known and called by the name of William Frederick Telford: provided, that such change of name shall in no way affect the collection of debts owing to, or due from, the said William B. Peck, or in any way affect his legal rights or liabilities.

SEC. 2. **A. M. P. changed to A. M. Telford.** That the name of Ann M. Peck, wife of the said William B. Peck, be and the same is hereby changed to Ann M. Telford, and that she shall hereafter be known and called by the name of Ann M. Telford, which shall be her lawful name.

SEC. 3. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 19th January, 1844.

[72] CHAPTER 54.

MECHANICS' INSTITUTE.

AN ACT to incorporate the Burlington Mechanics' Institute.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Organization of, name and style of; general powers of.** That George Temple, James McKell, Silas A. Hudson, Anthony W. Carpenter, Morgan Evans, John L. Crose, Jacob K. Field, and their associates and successors, be and they are hereby declared to be a body politic and corporate, by the name and style of "The Burlington Mechanics' Institute," and by that name may sue and be sued, may have a common seal, shall have contin-

ual succession, and may purchase, take by gift or devise, hold, enjoy, dispose of, sell and convey, any estate, real, personal or mixed, for the use and benefit of said institute.

SEC. 2. **Objects of.** The objects of said institute are declared to be to improve the members thereof in literature, the sciences, arts and morals; for the establishment of a library, reading room, cabinets of geological, mineralogical, botanical, and other specimens; to endow and support a school for the education of the children of indigent mechanics and others, and to advance the social, intellectual and moral condition, of its members generally.

SEC. 3. **Certain articles of property exempt from taxation and execution.** The library and books, maps, instruments, models, scientific apparatus, museums, cabinets and furniture of said institute, shall be forever free from taxation by any law of this territory; nor shall the same be taken upon execution or held liable for the debt of any individual member of said institute.

SEC. 4. **To be governed by their own rules and by-laws.** The institute shall be governed by the constitution, by-laws and regulations, already established, but shall have power to alter and amend the same as provided for in its constitution, not incompatible with the laws of the United States and of this territory.

SEC. 5. **How company to be proceeded against for violation of charter; charter, when forfeited.** Whenever any person shall feel himself aggrieved by any violation of this charter by the corporators, he may file his complaint setting out such violation with the clerk of the district court of Des Moines county, who shall forthwith issue a *scira facias* against such corporation, returnable to the next term of the court thereafter, which process shall be served as is process in other suits against corporations; and if, upon the hearing of said complaint, a violation of this charter shall be found, the court shall adjudge and decree it to be forfeited.

SEC. 6. **Suit by whom prosecuted and at whose expense.** In case of such complaint or information being filed, it shall be prosecuted by the district attorney of said county, and at the expense of the county if a forfeiture shall be declared; but if the [73] court is satisfied that the complaint was wantonly or maliciously filed, the complainant shall be declared to pay all costs.

SEC. 7. **Time of taking effect.** This act shall take effect and be in force from and after its passage.

Approved, 25th January, 1844.

CHAPTER 55.

THOMAS SUMMERLIN.

AN ACT for the relief of Thomas Summerlin, collector for Van Buren county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Board commissioners to allow him further time to make return of tax list for 1843; limitation.** That the board of county commissioners of Van Buren county be and they are hereby authorized to allow Thomas Summerlin, of said county of Van Buren, such time as they may deem reasonable for said collector to make a return of the tax list of said county, placed in his hands for collection, for the year 1843: provided, that said time shall not be extended beyond the first day of January, 1845.

SEC. 2. **Board may postpone sale of lands on delinquent list of 1843; limitation.** That said board of commissioners may, in their discretion, postpone the sales of any lands or town lots in said county, which, under the existing laws of this territory, may be subject to sale for delinquent taxes accruing for the year 1843, to such time as they may deem proper, provided such postponement does not extend beyond the first Monday of December, 1844.

SEC. 3. **Not to release collector from obligation of bond.** That nothing herein contained shall be so construed as to release the said collector, or his securities, from the obligation of the bond filed by him for the faithful performance of his duties as such collector.

SEC. 4. **If time extended collector may distrain for taxes of 1843; limitation.** That said collector, provided said board of commissioners extend the time for collecting the taxes of said county as herein allowed, shall have full power to collect, by distress or otherwise, the amount of all unpaid taxes for the year 1843, up to the time allowed him by the said board of commissioners: provided, the time so allowed does not extend beyond the first day of January, 1845, as aforesaid.

SEC. 5. **Board to fix day of tax sale, notice to be given by collector, sale and effect of.** That the board of commissioners of said county shall fix a day for the sale of all lands and town lots on which the taxes for the year 1843 may remain due and unpaid; and the said collector shall give the same notice for the sale thereof, and conduct the sale of the same in the [74] same manner that is now required by law; and the sale so made shall be as legal and valid as though the same had been held on the day provided by the existing law.

SEC. 6. **Time of taking effect.** This act to be in force from and after its passage.

Approved, 25th January, 1844.

CHAPTER 56.

LEGALIZING ACT.

AN ACT to legalize the acts of John A. Drake and Samuel B. Ayres, acting justices of the peace.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Appointment of Drake and Ayres, and their acts as justices of the peace declared valid.** That the appointment of John A. Drake and Samuel B. Ayres, to the office of justice of the peace in the county of Lee, in Fort Madison and West Point townships, by the board of county commissioners of said county, is hereby made good and valid; and that all acts had and done by the said John A. Drake and Samuel B. Ayres, as justices of the peace, by reason of said appointment, as if they had been elected and duly qualified as provided for by law providing for the election of justices of the peace.

SEC. 2. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 25th January, 1844.

CHAPTER 57.

ROAD.

AN ACT to locate a territorial road from Wapello, in Louisa county, to Augusta, in Des Moines county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Commissioners to locate road; where to commence and route of.** That Thomas Stoddard and Merit Jamison, of Louisa county, and James Bridges, of Des Moines county, be and they are hereby appointed commissioners to locate and mark a terri- [75] torial road, commencing at Wapello, in Louisa county; thence running in a south direction to the N. E. corner of N. W. quarter of section 32, township 73 N., range 3 west; thence to Buffalo Springs; thence on the east side of Linn Grove, via Archer's Point, to Augusta, in Des Moines county.

SEC. 2. **Commissioners where and when to meet; how to proceed in discharge of duties, counties of Louisa and Des Moines not bear any part of expenses.** That said commissioners, or a majority of them, shall meet at Wapello on the second Monday of April next, or as soon thereafter as convenient, and shall proceed to locate said road according to the provisions of an act to provide for laying out and opening territorial roads, approved December 29th, 1838: provided, that the counties of Louisa and Des Moines shall not be charged with any of the expenses for locating and marking the road aforesaid.

Approved, 27th January, 1844.

CHAPTER 58.

BURLINGTON UNIVERSITY.

AN ACT to incorporate the Burlington University.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **To be located at Yellow Springs; object of, name and style of.** That there be erected and established at Yellow Springs, in the county of Des Moines, a college for the purpose of educating youth, to be called and known by the name of "Burlington University," which shall be under the government and regulation of a body politic and corporate as hereafter in this act is provided.

SEC. 2. **Board of regents, number of; first board.** That the corporate powers shall be and are hereby vested in a board of regents, to consist of a number not less than five nor more than seven, and that the president of the college shall *ex-officio* be a member and chairman of said board, which board shall have power from time to time to fill all vacancies in their bodies; and that E. Carter Hutchinson, John Withers, Edward Berry, George W. Sill and John A. Harrison, shall be the first members of said board.

SEC. 3. **General powers of, how used and exercised; quorum.** That the said board of regents, and their successors forever, shall have full power and authority to appoint all such officers and servants as they shall judge convenient and useful, to displace the same, and to declare the tenures, duties

and emoluments, of their respective offices; to remove a regent for any cause which a majority of the whole number may deem sufficient; to define the qualifications of a regent; to enact and enforce by reasonable penalties or otherwise all such statutes and ordinances as they shall deem expedient, as well for [76] the better management of the revenues and proprietory interests of the college, as for the advancement of science, learning and piety, so that the same be not repugnant to the laws of the land; to establish different departments; to confer degrees and distinguish merit by such literary honors and rewards as they may judge proper, and generally to possess and enjoy all those powers, rights and privileges, usually exercised by universities: provided, that no corporate business shall be transacted at any meeting unless three members are present, which number shall be a quorum.

SEC. 4. **Seal, contracts how made.** That said corporation shall have a common seal, with some distinctive device and inscription; and all deeds or other instruments signed and delivered by the president of the college, and sealed with said common seal, by order of the board, shall be in law the act of said corporation. Said corporation may contract and be contracted with, and may sue and be sued by said corporate name, in all actions, real, personal or mixed; may receive and hold by gift, grant, devise or otherwise, any lands, tenements and hereditaments, money, rents, goods, chattels and effects, which are given, granted, or devised to, or purchased by said regents, for the use of said college; and may sell, mortgage, lease, or dispose of the same, in such manner as may be judged most expedient for the promotion of the interest of said college.

SEC. 5. **Funds of, how and for what purpose applied.** That the property and funds of said institution shall be appropriated by the board to the endowment and support of said college, in such manner as shall most effectually promote sound learning, virtue and piety: provided, that no property or funds, given for a specific purpose, shall be appropriated in behalf of any objects other than those intended by the donor.

SEC. 6. **First meeting by whom called, notice how given.** That the person first named in this corporation be and he is hereby authorized to fix the time and place for holding the first meeting of the said corporation, of which he shall give notice in writing to each of the regents at least ten days previous thereto.

SEC. 7. **Time of taking effect.** This act shall take effect and be in force from and after its passage.

Approved, 29th January, 1844.

CHAPTER 59.

COMMON SCHOOL ASSOCIATION.

AN ACT to incorporate the Henry county Common School Association.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Name and style of school; may sue and be sued; may hold and sell property—amount limited.** That John B. Crawford, George W. Carson, Wm. C. Johnson, R. M. Clark, John Pencil, Wilkinson Grant, Linus [77] Fairchild, Thomas Grant, and their associates, together with such as may associate with them, be and they are hereby created a body corporate and politic,

with perpetual succession, by the name and style of the "Henry County Common School Association;" and by that name they may sue and be sued, plead and be impleaded, in all courts of law and equity. They shall be capable of holding real or personal estate by gift, grant or devise, and may sell and convey the same, provided the value thereof shall not exceed one thousand dollars; and the same shall be devoted exclusively to the object of promoting common school education, and the title of said lands may be vested either in trustees appointed by said corporation or in the whole corporation, and may be conveyed by the president and secretary, or such other officers as the corporation at a meeting may appoint for that purpose.

SEC. 2. **Power to make by-laws to regulate affairs of; may alter the same.** They shall have power to adopt rules and regulations for the government of said corporation, the management and regulation of its fiscal concerns, the admission of its members and election of its officers, together with all power necessary for carrying into effect the object of the corporation; and may provide in said rules the kind of officers, and their powers and duties, and may alter the same at pleasure at an annual meeting: provided, that said rules and regulations shall not contravene the laws of the United States or this territory or future state.

SEC. 3. **Time of taking effect.** This act to be in force from and after its passage.

Approved, 29th January, 1844.

CHAPTER 60.

SCOTT COUNTY.

AN ACT to district the county of Scott for the election of county commissioners.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **To be divided into three commissioners' districts before 1st of August, 1844; districts, how numbered.** That the board of commissioners of the county of Scott be and they are hereby authorized and required to lay off said county into county commissioners' districts, prior to the first day of August, A. D. 1844, which districts shall be numbered first, second and third.

SEC. 2. **Where commissioners to be elected at first election to reside; subsequent elections, how to be conducted.** That the commissioner to be elected at the next election shall not be a resident of the district in which either of the commissioners whose term of office does not expire until after the year 1844 shall reside, and alternately thereafter there shall be elected from each district one county commissioner annually, in accordance with the provisions of an act organizing a board of commissioners in each county, ap-[78]-proved February 15th, 1843, in like manner as though the county had been divided under the provisions of said act.

SEC. 3. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 29th January, 1844.

CHAPTER 61.

FERRY AT KEOKUK.

AN ACT to authorize John O'Hara, his heirs and assigns, to establish and keep a ferry across the Mississippi river at the town of Keokuk, in the county of Lee.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Ferry, where established; extent of privilege, duration of term.** That John O'Hara, of the county of Lee, his heirs and assigns, be and they are hereby authorized to establish and keep a ferry across the Mississippi river, at the town of Keokuk, in said county, with exclusive privilege from the lower part of Marine street, below Field's wharf, up to the foot of the lower chain or last descent of the rapids, for the term of ten years: provided, said ferry, when so established, shall be subject to the same rules and regulations as other licensed ferries are or may hereafter be by law fixing the rate of toll, etc.

SEC. 2. **Kind of boat to be procured, and within when; until procured ferry to be kept with flat boats.** It shall be the duty of the said John O'Hara, his heirs and assigns, to procure a good and sufficient horse or steam boat, within eighteen months from the passage of this act, for the use of said ferry; and until said horse or steam boat shall be procured, it shall be the duty of the said John O'Hara, his heirs and assigns, to keep constantly on hand a sufficient number of flat boats, or other water craft, and hands to work the same, for the purpose of transporting all persons and their property across said river, when practicable, without delay.

SEC. 3. **Power to repeal reserved.** That any future legislature may repeal, alter or amend, this act.

SEC. 4. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 29th January, 1844.

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[79] CHAPTER 62.

MUTUAL AID ASSOCIATION.

AN ACT donating certain property in Iowa City to the Mechanics' Mutual Aid Association of Iowa City.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Part of school reserve donated to.** That the north half of the west half of block No. sixty in Iowa City, being a portion of the school reserve in said city, be and the same is hereby donated to the Mechanics' Mutual Aid Association of Iowa City, for literary purposes.

SEC. 2. **Deed, by whom to be made; contents of, for what purpose property to be used, where to revert.** That it shall be the duty of the secretary of the territory to make out and deliver to said association a deed of conveyance of the premises aforesaid, which deed shall be executed in the same manner as other deeds for lots sold in Iowa City, and be of equal force and validity: provided, that said deed shall contain a clause that said premises shall be occupied and used for literary purposes alone; and that the said deed shall

be void, and said premises revert back to the territory of Iowa, whenever said premises shall be occupied or used by said association, or their successors or assigns, in any other way or manner than that of literary purposes.

SEC. 3. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 29th January, 1844.

CHAPTER 63.

FARMINGTON ACADEMY.

AN ACT to incorporate the Farmington Academy and high school.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Where established, name and style of, general powers of.** That there shall be established in the town of Farmington, in Van Buren county, an institution of learning to be known and designated as the "Farmington Academy and High School," and by that name may sue and be sued, contract and be contracted [80] with, use a common seal, purchase, receive by gift or devise, hold, control, enjoy, sell and convey, any property, real, personal or mixed, for the use and benefit of said institution.

SEC. 2. **Object of incorporation.** The design of the institution hereby created is declared to be for the instruction of youth in the arts and sciences, and to advance learning and sound morals, by the establishment of good schools, procuring competent teachers, a library, scientific instruments and apparatus, and the collection of cabinets of mineral, plants, etc.

SEC. 3. **Trustees of, quorum, their powers and duties.** Festus Dunning, Russell Smith, Jonas Houghton, O. Town and H. G. Stewart, are constituted trustees of said academy and high school, a majority of whom shall be a quorum, open books, and receive subscriptions to the stock of said institution, elect their successors, and make and ordain all needful by-laws, rules and regulations.

SEC. 4. **Stock, how divided; shares $5 each.** The trustees may divide the capital stock into as many shares as they deem fit, setting out the ownership of each share upon the books of the trustees and stockholders, each share being five dollars.

SEC. 5. **Certain articles of property exempt from taxation.** All books, maps, medals, scientific apparatus, cabinets of minerals, plants and curiosities, belonging to said corporation, shall be forever free and exempt from taxation by the laws of this territory.

SEC. 6. **Repeal power reserved.** That any future legislature may amend, alter or repeal, this act.

SEC. 7. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 29th January, 1844.

CHAPTER 64.

HALF BREED LAND COMPANY.

AN ACT to amend an act entitled, "An act to incorporate the Farmers' Half Breed Land Company, in the county of Lee."

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **16th section of original charter repealed; restriction upon banking.** That the 16th section of an act entitled, "An act to incorporate the Farmers' Half Breed Land Company, in the county of Lee," be and the same is hereby repealed: provided, that nothing herein contained, or the act to which this is amendatory, shall be so construed as to allow the said corporation any banking privileges.

SEC. 2. **Time of taking effect.** This act shall take effect and be in force from and after its passage.

Approved, 29th January, 1844.

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[81] CHAPTER 65.

ROAD.

AN ACT to locate a territorial road from Fairfield, in Jefferson county, to the Indian boundary, in the direction of the Indian Agency, at the Raccoon Fork of the Des Moines river.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Appointment of commissioners; road to commence at Fairfield, in Jefferson; route of.** That Samuel Harrow and Abraham Fleener, of Jefferson county, and Silas Martin, of Mahaska county, be and they are hereby appointed commissioners to locate and mark a road, commencing at Fairfield, in Jefferson county; thence to Bennet's Point, in Keokuk county; thence to the county seat of Mahaska county; thence to the Indian boundary, in the direction of the Indian agency, at the Raccoon Fork of the Des Moines river.

SEC. 2. **Commissioners, when and where to meet; their duty.** Said commissioners shall meet at the town of Fairfield, on the first Monday in June next, or as soon thereafter as a majority of them may agree, and proceed to locate and mark said road, agreeably to an act entitled "An act to provide for laying out and opening territorial roads," approved December 29th, 1838.

SEC. 3. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 29th January, 1844.

CHAPTER 66.

CHAUNCEY SWAN.

AN ACT for the relief of Chauncey Swan.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Territorial agent to refund $100, with interest, to Chauncey Swan.** That the territorial agent is hereby authorized and required to refund to Chauncey Swan the sum of one hundred dollars, the same having been

paid by said Swan while holding the office of acting commissioner of public buildings, at Iowa City, to one William Skeen, a workman on the state house, and not charged by him in his account, together with interest on the same from the time the said Swan went out of office as acting commissioner aforesaid.

SEC. 2. **Time of taking effect.** This act to take effect from and after its passage.

Approved, 29th January, 1844.

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[82] CHAPTER 67.

FIRE INSURANCE COMPANY.

AN ACT to incorporate the Du Buque, Clayton, Delaware and Jackson Mutual Fire Insurance Company.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Organization of company; name and style; object of; in what cases company to be liable; powers of.** That John Gammel, E. G. Potter, Ansel Briggs, Patrick Maloney, Thomas Wright, R. B. Wykoff, James McCabe, Thomas McCraney, James Langworthy, William Myers, Lyman Dillon, J. M. Emerson, Caleb H. Booth, Robert Waller, and David Moreland, and all other persons who may hereafter become members of said company in the manner herein prescribed, be and are hereby incorporated and made a body politic and corporate, by the name and style of "The Du Buque and Jackson Mutual Fire Insurance Company," for the purpose of insuring their respective dwelling houses, stores, shops, and other buildings, household furniture and merchandise, against loss or damage by fire, whether the same shall happen by accident, lightning, or by any other means, except that of design in the assured or by the invasion of an enemy or insurrection of the citizens of this territory, or of any other of the United States; and by that name they may sue and be sued, plead and be impleaded, appear, prosecute and defend, in any court of record or other place whatever; may have and use a common seal, and alter the same at pleasure; may purchase and hold such real and personal estate as may be necessary to effect the objects of their association, and the same may sell and convey at pleasure; may make, establish and put in execution, such [83] by-laws, ordinances and resolutions, not being incompatible to the constitution and laws of the United States, or the laws of this territory, as may seem necessary or convenient for their regulation and government, and for the management of their affairs, and do and execute all such acts and things as may be necessary to carry into full effect the purposes intended by this grant.

SEC. 2. **First meeting of commissioners, when and where to be held; president and secretary when to be elected, who to be members and how long.** That the above named commissioners, or a majority of them, shall meet on the first Saturday after the first Monday in August next, in the city of Du Buque, at the house of Emerson, Shields & Co., or at such other place as to them may seem fit, and proceed to elect from their number a president and secretary, who shall act as such agreeable to the rules and by-laws of the association; and all and every person and persons who shall at any time become interested in said company, by insuring therein, and also their respective heirs, executors, administrators and assigns, continuing to be insured therein

as hereinafter provided, shall be deemed and taken to be members thereof, for and during the time of their respective policies and no longer, and shall at all times be concluded and bound by the provisions of this act.

SEC. 3. **Annual meeting where and when held, notice and particulars of, by whom given, how given; to choose directors; number of, their term of office; vacancies in how filled; quorum, special meetings.** That there shall be a meeting of said company annually, at such time and place in the county of Du Buque, as shall be determined by the directors, or on such other day as the said company may hereafter determine, notice of which shall be given by the secretary, or on his failure by the president or either of the directors, stating the time, place, and design of said meeting, by publication four weeks successively in a newspaper printed in the county of Du Buque, the last of which publications shall be at least eight days previous to the time of holding said meeting, at which meeting there shall be chosen by a major vote of the members present a board of directors, consisting of not more than thirteen nor less than nine members, who shall continue in office until others shall have been chosen and qualified. All vacancies happening in said board may be filled by the remaining members thereof until the next annual meeting, and a majority of the whole number of said board shall constitute a quorum for the transaction of business; special meetings of the company may be called by order of the directors, or in such manner as the by-laws thereof may prescribe.

SEC. 4. **Premium notes, when to be executed; extent of liability of the assured thereon.** That every person who shall become a member of said company by effecting insurance therein, shall, before he receives his policy, deposit his promissory note for such a sum of money as shall be determined by the directors, which shall not exceed six per cent. of which said note shall be immediately paid for the purpose of discharging the incidental expenses of the institution, and the remainder of said deposit note shall be payable in part, or the whole, at any time when the directors shall deem the same requisite for the payment of losses or other expenses; and at the expiration of the term of insurance, the said note, or such part of the same as shall remain unpaid after deducting all losses and expenses occurring during said term, shall be relinquished and given up to the signer thereof.

SEC. 5. **Each member obliged to pay his proportion of the general loss; lien on his property to secure same.** That every member of said company shall be and hereby [84] is bound and obliged to pay his portion of all losses and expenses happening or accruing in and to said company; and all buildings insured by and with said company, together with the right, title and interest of the assured, to the lands on which they stand, shall be pledged to said company; and the said company shall have a lien thereon against the assured during the continuance of his, her, or their policies.

SEC. 6. **In case any person insured sustain loss, notice of loss how and to whom given; amount of damage, how ascertained and recovered; proceedings in district court, judgment, effect of, execution on, when to issue against company.** That in case of any loss or damage happening by fire to any member of the association upon property insured in and with said company, the said member shall give notice thereof in writing to the directors or some one of them, or to the secretary of said company, within thirty days from the time such loss or damage may have happened; and the directors, upon a view of the same, or in such other way as they may deem proper, shall ascertain and determine the amount of said loss or damage, and if the party suffering is not satisfied with the determination of the directors, the question may be submitted to referees, or the said party may bring an action against said company for loss or damage at the next court, to be holden in the county of Du Buque, unless said court shall be holden within thirty days after said

determination; but if holden within that time then at the next court to be holden in said county thereafter; and if, upon trial of said action, a greater sum shall be recovered than the amount determined upon by the directors, the party suffering shall have judgment therefor against said company, with interest thereon from the time the loss or damage happened, and costs of suit; but if no more shall be recovered than the amount aforesaid, the party shall suffer a non-suit, and the said company shall recover their costs: provided, however, that the judgment last mentioned shall in nowise affect the claim of the said suffering party to the amount of loss or damage as determined by the directors aforesaid: and provided also, that execution shall not issue on any judgment against said company until the expiration of sixty days from the rendition thereof.

SEC. 7. **When any loss is ascertained directors to fix the amount to be paid by each member on deposit note; application of money when collected.** That the directors, after receiving notice of any loss or damage by fire sustained by any member, and ascertaining the same, or after the rendition of any judgment as aforesaid against said company, for said loss or damage, settle and determine the sums to be paid by the several members thereof, as their respective proportion of such loss, and publish the same in such a manner as they shall see fit, or as the by-laws shall have prescribed; and the sums to be paid by each member shall always be in proportion to the original amount of his deposit note, and shall be paid to the treasurer within thirty days after publication of said notice. And if any member shall, after the space of thirty days from the publication of said notice, neglect or refuse to pay the sum assessed upon him, her or them, as his, her, or their proportion of any loss as aforesaid, in such case the directors may sue for and recover the whole amount of his, her or their deposit note or notes, with costs of suit; and the money thus collected shall remain in the treasury of said company, subject to the payment of such losses and expenses as have or may hereafter accrue, and the balance, if any remain, shall be returned to the party of whom it was collected, on demand after thirty days from the expiration of the term for which the assurance was made.

[85] SEC. 8. **Not to insure for a longer term than seven years; policy, how executed; effect of in cases where assured has a clear title in fee simple to the property; in cases where he has a less title or one incumbered.** That the said company may make insurance for any term not exceeding seven years; and the policy of insurance issued by said company, signed by the president and countersigned by the secretary, shall be deemed valid and binding on said company, in all cases when the assured has a title in fee simple unincumbered to the building or buildings insured, and to the land covered by them; but if the assured have a less estate therein, or if the premises be incumbered, the policy shall be void unless the true title of the assured and the incumbrance of the premises be expressed therein, and in the application therefor.

SEC. 9. **Where loss sustained on leased lands, premium notes may be retained until the expiration of insurance.** That in case any building upon leased lands, and insured by said company, be destroyed by fire, in such cases the directors may retain the amount of the premium note given for insurance thereof until the time for which insurance was made shall have expired, and at the expiration thereof the assured shall have a right to demand and receive such part of said retained sum or sums as has not been expended in losses or assurances.

SEC. 10. **Double insurance, consent of directors necessary to create liability.** That if insurance on any house or building shall be and subsist in said company and in any other office, or from any other person or persons at the same time, the insurance made in and by said company shall be deemed and become

void, unless such double insurance subsist with the consent of the directors, signified by endorsement on the back of the policy, signed by the president and secretary.

SEC. 11. **Repeal power reserved; time of taking effect.** That it shall be in the power of the legislative assembly of this territory, or the future state of Iowa, at any time, to annul, vacate, and make void, this charter. This act to take effect from and after the first day of August next.

Approved, 5th February, 1844.

CHAPTER 68.

NEW COUNTIES.

AN ACT to organize the counties of Keokuk and Mahaska.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

[86] SECTION 1. **Organization of from 1st of March next, rights of citizens, to be part of 2d judicial district.** That the counties of Keokuk and Mahaska be, and they are hereby, organized, from and after the first day of March next; and the inhabitants of said counties shall be entitled to all the rights and privileges to which by law the inhabitants of other organized counties of this territory are entitled to; and the said counties shall constitute a part of the second judicial district of this territory.

SEC. 2. **First election in, by whom ordered, number of officers to be elected for each, when election to be held, place and judges of election, by whom appointed; notice of, how given.** That for the purpose of organizing said counties, it is hereby made the duty of the clerk of the district court of each of said counties, and in case there should be no such clerk appointed and qualified, or for any cause, said offices or either of them should become vacant on or before the tenth day of March next, then it shall be the duty of the sheriff of such county, to proceed immediately after the tenth day of March next to order a special election in their respective counties, for the purpose of electing three county commissioners, one judge of probate, one county treasurer, one clerk of the board of county commissioners, one county surveyor, one county assessor, one sheriff, one coroner, one recorder of deeds, and such number of justices of the peace and constables for each of said counties as may be directed by the officer ordering said elections, (the said officer having due regard to the convenience of the people,) which special election shall be on the first Monday in the month of April next; and that the officer ordering such elections shall appoint as many places of holding elections in said counties as the convenience of the people may require, and shall appoint three judges of election for each place of holding election in said counties, and issue certificates to said judges of their appointment; and the officers ordering such election shall give at least ten days previous notice of the time and place of holding such election, by at least three written or printed advertisements, which shall be posted up at three or more of the most public places in the neighborhood where each of the polls shall be opened as aforesaid.

SEC. 3. **To whom returns to be made; by whom certificates of election granted; duty of clerk of board of commissioners, by whom discharged and how long.** That the officer ordering each of the elections aforesaid shall receive and canvass the polls, and grant certificates to the persons elected to fill the several offices mentioned in this act; and in all cases not provided for by this act, the officer ordering each of said elections shall discharge the duties

of a clerk of the board of county commissioners until there shall be a clerk of the board of county commissioners elected and qualified for each of said counties, under the provisions of this act.

SEC. 4. **How election to be conducted.** Said election shall in all cases not provided for by this act [87] be conducted according to the laws of this territory regulating general elections.

SEC. 5. **Persons elected, term of office of.** The officers elected under the provisions of this act shall hold their offices until the next general election, and until their successors are elected and qualified.

SEC. 6. **Books and papers, to whom returned.** The officer ordering the election in each of said counties shall return all the books and papers which may come into their hands by virtue of this act to the clerk of the board of commissioners of their respective counties, forthwith, after such clerks shall have been elected and qualified.

SEC. 7. **Appointment of sheriffs in; oath; bond, how approved; duties.** That Harvey Stevens be and he is hereby appointed to discharge the duties and functions of the office of sheriff for the county of Keokuk, and William Edmonson be and he is hereby appointed to discharge the duties and functions of the office of sheriff for the county of Mahaska, who shall exercise the duties and functions of said office until the first Monday in the month of April next, and until there shall be a sheriff elected and qualified for each of their respective counties; and the said Harvey Stevens and William Edmonson shall give bond and security, and shall take the same oath of office that is required to be taken by sheriffs, which bond shall be approved and the necessary oath of office administered by the clerk of the district court of their respective counties; and in case there should be no such clerk of the district court for said counties, or any one of them, on the first day of March next, then it shall be the duty of the clerk of the district court of Washington county to approve the bond and administer the oath required by this act.

SEC. 8. **Clerks of district court in, how appointed, when to commence duties.** That clerks of the district court for each of the said counties of Keokuk and Mahaska may be appointed by the court, and qualified at any time after the passage of this act, but shall not enter upon the discharge of the duties of their respective offices prior to the first day of March next.

SEC. 9. **Not to affect actions pending in the district court of Washington county.** That all actions at law in the district court for the county of Washington, commenced prior to the organization of the said counties of Keokuk and Mahaska, where the parties or either of them reside in either of the aforesaid counties of Keokuk and Mahaska, shall be prosecuted to final judgment, order or decree, as fully and effectually as if this act had not been passed.

SEC. 10. **Books and papers of justices, to whom returned; not to interfere with unfinished business.** That it shall be the duty of all justices of the peace residing within said counties to return all books and papers in their hands, pertaining to said office, to the next nearest justice of the peace which may be elected and qualified for their respective counties, under the provisions of this act; and all suits at law, or other official business which may be in the hands of such justices of the peace and unfinished, shall be completed or prosecuted to final judgment by the justices of the peace to whom such business or papers may have been returned as aforesaid.

SEC. 11. **Assessors in, their duty.** That the county assessors elected under the provisions of this act for the counties of Keokuk and Mahaska, shall assess their respective counties in the manner and be under the same obligations and liabilities as is now or may hereafter be provided by law in relation to township assessors.

[88] SEC. 12. **County seat of Keokuk, commissioners to locate; time and place of meeting.** That John Stuart and George H. Stone, of Washington county, and Samuel Shuffleton, of Jefferson county, be and they are hereby appointed commissioners to locate and establish the seat of justice of the county of Keokuk. Said commissioners, or any two of them, shall meet at the house of William Grimsley, in said county, on the first Monday in the month of May next, or at such other time within the month of May next as a majority of said commissioners shall agree, in pursuance of their duties under this act.

SEC. 13. **County seat of Mahaska, commissioners to locate; time and place of meeting.** That Jesse Williams, of Johnson county, Ebenezer Perkins of Washington county, and Thomas Henderson, of Keokuk county, be and they are hereby appointed commissioners to locate and establish the seat of justice of the county of Mahaska. Said commissioners, or any two of them, shall meet at the house of Mathew D. Springer, in said county, on the first Monday in the month of May next, or at such other time within the month of May next as a majority of said commissioners shall agree, in pursuance of their duties under this act.

SEC. 14. **Oath of commissioners, by whom administered, how certified, when filed, and by whom recorded.** Said commissioners shall first take and subscribe the following oath, to wit: "We do solemnly swear (or affirm) that we have no personal interest directly or indirectly in the location of the seat of justice of the county of Keokuk, (or Mahaska, as the case may be,) and that we will faithfully and impartially locate the same according to the best interest of said county, taking into consideration the future as well as the present population of the said county;" which oath shall be administered by the clerk of the district court, notary public, or some justice of the peace in the county for whose seat of justice said commissioners are appointed to locate; and the officer administering the same shall certify and file the same in the office of the clerk of the board of county commissioners of such county, whose duty it shall be to record the same.

SEC. 15. **Commissioners, duty of; certificate of location with whom filed, by whom recorded and preserved.** Said commissioners, when met and qualified under the provisions of this act, shall proceed to locate the seat of justice of the respective counties for which they have been appointed, and as soon as they shall have come to a determination, the same shall be committed to writing, signed by the said commissioners, and filed with the clerk of the board of county commissioners of the county in which such seat of justice is situated, whose duty it shall be to record the same and forever keep it on file in his office; and the place thus designated shall be the seat of justice of such county.

SEC. 16. **Commissioners' compensation, by whom paid.** Said commissioners shall each receive the sum of two dollars per day while necessarily employed in the duties enjoined upon them by this act, which shall be paid by the county for which such location shall be made out of the funds arising from the sales of town lots in such seat of justice.

SEC. 17. **Territory attached to Mahaska.** That the territory of country west of the county of Mahaska, be and the same is hereby attached to said county for election, revenue and judicial purposes.

SEC. 18. **County of Poweshiek and territory west attached to Mahaska.** That the county of Poweshiek and the territory west of said county, be and the same is hereby attached to the county of Mahaska, for election, revenue and judicial purposes.

[89] SEC. 19. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 5th February, 1844.

CHAPTER 69.

DAM.

AN ACT to incorporate the subscribers for erecting a dam across the Muscatine slough.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Persons associated; style of company, object of incorporation, general powers.** That John Vanater, Samuel Holliday, Err Thompton, Geo. W. Fitch, Henry Judy, Abraham Smalley, Robert Davis and S. C. Hastings, with such other persons as shall become associated with them by subscription, be and they are hereby created a body corporate and politic, by the name and style of "The subscribers for erecting a Dam across the Muscatine Slough;" and as such shall be capable of electing a clerk and other officers, and of exercising the usual and necessary powers of a corporate body for the purposes specified.

SEC. 2. **Power to make by-laws and elect officers.** Said association may make all proper and necessary by-laws consistent with the laws of the land, and may provide therein for the election of such officers as they may deem expedient.

SEC. 3. **Dam, place of erection; authority to construct.** The said subscribers are hereby authorized to construct and keep in repair a dam across the Muscatine Slough, at or near its head, within the limits of township seventy-six, north of range two west, of such dimensions as they may deem the exigencies of the case may require.

SEC. 4. **Time of taking effect.** This act shall take effect from and after its passage.

Approved, 5th February, 1844.

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[90] CHAPTER 70.

BOTANIC MEDICAL SOCIETY.

AN ACT to incorporate the Iowa Botanic Medical Society.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Persons composing same; style of corporation, may sue and be sued, to hold and transfer real estate, or personal property; amount limited.** That James Robinson, J. M. Margrove, J. Mallet, E. Metcalf, G. Webber, J. L. Frost, J. Heberson, S. H. Bonham, J. M. Price, J. A. Miller, B. S. Holmes, Wm. Patterson, J. N. Balls, E. K. Hart, D. Switzer, T. Snyder, T. Fry, N. Fellows, J. Barlow, J. Walters, Alexander Evans, B. W. Patterson, John Haggard, R. P. Campbell, John T. Stephens, Jacob L. Myers, John Parsons and their associates, together with such as may associate with them, be and they are hereby created a body corporate and politic, with perpetual succession, by the name and style of the "Iowa Botanic Medical Society;" and by that name they may sue and be sued, plead and be impleaded, in all courts of law and equity; may have a common seal, and may change the same at pleasure. They shall be capable of holding real or personal estate, by gift, grant or de-

vise, and may sell and convey the same, provided the value thereof shall not exceed twenty thousand dollars, and the same shall be devoted exclusively to the object of promoting and elevating the cause of medical science and its collateral branches.

SEC. 2. **Power to adopt constitution and by-laws; to grant diplomas.** That they shall have power to form and ratify a constitution, and adopt by-laws for the government of such corporation, the management and regulation of its fiscal concerns, the admission of its members, and election of its officers; to grant diplomas, together with all powers necessary for corporate existence, and the efficient management of its concerns: provided, that none of its by-laws or regulations shall contravene the laws of this territory or of the United States.

SEC. 3. **Time of taking effect.** This act to be in force from and after its passage.

SEC. 4. **Power of repeal reserved.** That any future legislature may alter, amend, or repeal this act.

Approved, 5th February, 1844.

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[91] CHAPTER 71.

ROAD.

AN ACT to extend the territorial road from Mount Pleasant, via Fairfield, to the Indian boundary line, commencing at Marks' and Bushe's mill, on Cedar, in Jefferson county, and leading to Lake Prairie, opposite the mouth of White Breast, in Mahaska county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Commissioners, appointment of; road, where to commence, route of.** That John Shields, of Jefferson county, R. R. Jones, of Wapello county, John Rose, of Mahaska, be and they are hereby appointed commissioners to lay out and establish a territorial road, commencing at Marks' and Bushe's mill, on Cedar, in Jefferson county; from thence to Agency City, in Wapello county; thence to Autumwa, in said county; thence the nearest and best route to Eddysville; thence to Harrisburg, in Mahaska county; thence up the Des Moines river to Lake Prairie, opposite the mouth of White Breast, in said county of Mahaska.

SEC. 2. **Commissioners, where and when to meet; surveyor and hands, oath of commissioners and others; commissioners how to proceed.** That said commissioners, or a majority of them, shall meet at Marks' and Bushes' mill, in Jefferson county, on the first Monday in June next, or within two months thereafter, and proceed to locate and establish said road by taking to their assistance a competent surveyor, two chain men and one marker, who, together with the commissioners, shall take an oath for the faithful performance of their respective duties.

SEC. 3. **Commissioners and others how paid.** Said commissioners shall locate said road according to the provisions of, and be governed by, "An act to provide for laying out and opening territorial roads," approved Dec. 29th, 1838; and shall, together with the surveyor, and chainmen and marker, be paid in the manner pointed out in the act approved February 1st, 1843.

SEC. 4. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 5th February, 1844.

[92] CHAPTER 72.

ROAD.

AN ACT to establish a territorial road from Iowaville, on the Des Moines river, to the Missouri line at the point where the Mormon trace crosses said line.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Commissioners, appointment of, road to commence at Iowaville, on Des Moines River, route of.** That Robert Merchant, Levine N. English, of Davis county, and James Jordan, of Van Buren county, be and they are hereby appointed commissioners to locate a territorial road from Iowaville on the Des Moines, via the residences of Wm. Wooden and L. N. English, to the point on the line of the state of Missouri where the Mormon trace crosses said line.

SEC. 2. **Commissioners where and when to meet.** That said commissioners, or a majority of them, shall meet at Iowaville on the first Monday of May, 1844, or at some convenient period within three months thereafter, and proceed to locate said road according to law, from said town of Iowaville to its termination, as specified in the first section of this act.

SEC. 3. **Compensation of commissioners and others, and by whom paid.** Said commissioners and other persons necessarily employed in locating said road shall be allowed such compensation for their services as the county commissioners of the counties through which said road shall pass may think right and just.

SEC. 4. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 5th February, 1844.

CHAPTER 73.

ROAD.

AN ACT to locate a territorial road from Davenport to Iowa City.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Appointment of commissioners; road, where to commence, route of.** That Richard Randall, of Muscatine county, John Boydston, of Cedar county, and Peter H. Patterson, of Johnson [93] county, be and they are hereby appointed commissioners to lay out and establish a territorial road, from Davenport, in Scott county, by way of Centre Grove, in Muscatine county, and Rochester, in Cedar county, to Iowa City, in Johnson county.

SEC. 2. **Commissioners where and when to meet, oath of; how to proceed in location, compensation for, how paid.** That said commissioners shall meet at the town of Davenport, on the first Monday in June next, or on any day thereafter in said month upon which said commissioners may agree, and proceed to locate said road, with the assistance of a competent surveyor, two chainmen and one marker, who, together with the commissioners, shall take an oath for the faithful and impartial performance of their respective duties. Said commissioners shall locate said road according to the provisions of and be

governed by "An act to provide for laying out and opening territorial roads," approved December 29th, 1838; and shall, together with the surveyor, chainmen and marker, be paid in the manner pointed out in said act.

SEC. 3. **Amount of compensation to commissioners and others.** That the commissioners, surveyor, chainmen and marker, shall receive for their services the following compensation: the commissioners two dollars each, per day; the surveyor two dollars per day; the chainmen one dollar and fifty cents each, per day; and the marker one dollar and fifty cents per day, for every day that they may be necessarily employed in performing the duties enjoined upon them by this act.

SEC. 4. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 5th February, 1844.

CHAPTER 74.

CHANGE OF NAME.

AN ACT to allow Avery Thomas to change his name.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **May take name of Lewis Ashton Thomas, instead of Avery Thomas.** That Avery Thomas, of Dubuque county, in said territory, may take the name of Lewis Ashton Thomas, instead of his present name of Avery Thomas.

SEC. 2. **Not to affect contracts or liabilities.** That this act shall in no way affect or impair any contract heretofore made or entered into by said Thomas, or in any manner affect any debt or liability now resting upon him.

Approved, 5th February, 1844.

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[94] CHAPTER 75.

FERRY.

AN ACT to authorize Guy Wells and James Wilson to keep a ferry across the Mississippi river at Fort Madison.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Authority to keep ferry, when to be established, nature of privilege, duration of term, restriction.** That Guy Wells and James Wilson, their heirs and assigns, be and they are hereby authorized to establish and keep a ferry across the Mississippi river, at the town of Fort Madison, in Lee county, within the following limits: commencing at the west side of Cedar street, and extending down said river so far as said town of Fort Madison is bounded by the same below said street; and that the said Guy Wells and James Wilson, their heirs and assigns, have the exclusive privilege of ferrying within the above limits for the term of fifteen years from and after the passage of this act: provided, that said ferry shall be subject to the same regulations and re-

strictions as other ferries are or may hereafter be by law in this territory fixing the rates of toll, and prescribing the manner in which licensed ferries shall be kept.

SEC. 2. **Duty of company.** That the said Guy Wells and James Wilson, their heirs and assigns, shall keep or cause to be kept, at the place aforesaid, a good steam or horse ferry boat, with a sufficient number of hands to work the same, for the transportation of all persons and their property across said river when passable without delay.

SEC. 3. **Not to interfere with rights of others.** Provided also, that nothing in this act shall be so construed as to interfere with the right that any individual may have to the lands on either side of said river.

SEC. 4. **Power to repeal reserved.** That any future legislature may have a right to alter, amend, or repeal this charter.

SEC. 5. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 6th February, 1844.

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[95] CHAPTER 76.

FERRY.

AN ACT to amend an act entitled, "An act to authorize R. M. G. Patterson to establish and keep a ferry across the Mississippi river, at the mouth of Nassau slough."

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Act of January 28th, 1844, so amended as to restrain court and commissioners.** That the act entitled "An act to authorize Robert M. G. Patterson to establish and keep a ferry across the Mississippi river, at the mouth of Nassua Slough," approved January 28th, 1844, be so amended that no court or board of county commissioners shall authorize any person or persons to keep a ferry at any point between the mouth of said slough and the lower end of the Nassua Island.

SEC. 2. **Power of repeal reserved.** That any future legislature shall have power to repeal, alter, or amend this charter.

Approved, 6th February, 1844.

CHAPTER 77.

LITERARY SOCIETY.

AN ACT to incorporate the Grandview Literary and Philosophical Society of Louisa county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Organization of, name and style of, duration of term, general powers, limitation of capital, restriction, may have common seal.** That Alexander McCall, Lewis Kinsey, Robert Childers, Spencer Wilson and Abraham McCleary, and their associates, be and they are hereby created a body poli-

tic and corporate, for the term of thirty years, by the name and style of the "Grandview Literary and Philosophical Society of Grandview, Louisa county;" and by that name may sue and be sued, plead and be impleaded, answer [96] and be answered, and defend suits of whatever nature, in any court having competent jurisdiction in this territory or elsewhere; may acquire and hold property by purchase, gift or devise, either real or personal, not exceeding five thousand dollars; may sell and convey the same in accordance with the provisions of the general laws of this territory, and may have a common seal which they may alter at pleasure.

SEC. 2. **Number of officers, how elected; term of office.** The officers of the society shall be a president, vice president, treasurer, librarian and secretary, and an executive committee to consist of five persons, who shall be elected separately by ballot, and take precedence in the order in which they are elected; all which officers shall hold their offices for one year and until their successors are chosen.

SEC. 3. **Executive committee to levy taxes for certain purposes.** The executive committee shall have power to levy a tax not exceeding five dollars in any one year upon each member, for the purchase of books, maps, charts and philosophical apparatus, for the use of the society; and may also levy a tax upon the members sufficient to defray the expenses of the society, and to appoint such agents as may be necessary to advance the interests of the society.

SEC. 4. **Meeting of society, for what purpose and when held.** The society shall hold annual meetings for the election of officers, on the first Saturday of February in each year, and such other meetings as may be prescribed in the by-laws and ordinances hereinafter provided for.

SEC. 5. **Society to make rules and by-laws for government of; to lay and collect fines, how much and how appropriated.** The society may, from time to time, enact such by-laws and ordinances for its government as may be necessary and proper, not inconsistent with the constitution and laws of the United States and of this territory, or with the provisions of this act; and may assess such fines and penalties against its members for any violation of the provisions of this act, or the by-laws or ordinances under them, not exceeding one dollar, which fines and penalties shall be paid into the general fund of the society.

SEC. 6. **Executive committee to prescribe mode of taxation and make annual financial report; power of superintendence.** The executive committee shall prescribe the mode of levying taxes, superintend the affairs of the society generally; shall annually report to the society the state of the funds and property, and shall perform such other duties as may be prescribed by the by-laws.

SEC. 7. **Fines and taxes, how collected.** All taxes, fines, and other liabilities, assessed or levied upon the members of the society, may be sued for and collected in conformity with the general laws of this territory applicable to the collection of debts in ordinary cases.

SEC. 8. **Power of repeal reserved; saving clause.** Any future legislature may alter, amend, or repeal this act: provided, such alteration, amendment or repeal, shall not affect the title to any property acquired or conveyed under its provisions.

Approved, 7th February, 1844.

[97] CHAPTER 78.

JEFFERSON ACADEMY.

AN ACT to incorporate the Jefferson Academy, in Des Moines county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Academy, where to be established; object of, name and style, organization of.** That there shall be established in Yellow Spring township, in Des Moines county, a seminary of learning for the instruction of young persons of both sexes, in science and literature, to be called and known as the "Jefferson Academy;" and that Frederick Heizer, James Bruce, Levi Anderson, Thomas Blair, A. L. Leonard, Joshua Heizer, James Hukill, John Anderson and P. B. Bell, and their associates and successors, are hereby declared a body politic and corporate in law, by the name and style of the "Jefferson Academy," as aforesaid.

SEC. 2. **General powers of.** The corporation before named shall have perpetual succession, and power to acquire, possess and retain, alien and dispose of, property, real, personal and mixed; and they shall have power to contract, sue and plead, in all courts of law and equity, and to have and use a common seal with power to alter it at pleasure.

SEC. 3. **Stock divided in shares of $10 each; personal property, and how transferable; restricted to purposes of education.** The stock of said academy shall consist of shares of ten dollars each, which shall be deemed personal property, and shall be transferable on the books of said corporation, in such manner as may be prescribed by the board of trustees: provided, that the funds, privileges and immunities, shall be used for no other purpose than that of education.

SEC. 4. **Trustees, quorum of, how and when elected; term of office; president, how elected; vacancies how filled, notice of elections when and how given.** The corporate concerns of said academy shall be managed and conducted by a board of trustees, consisting of nine members, five of whom shall constitute a quorum for the transaction of business. They shall be elected by the stockholders on the second Monday of April annually, and shall hold their offices until their successors shall be duly elected. The election of trustees shall be by ballot, and each stockholder shall be entitled to one vote, which vote may be given in person or by proxy. Said trustees shall elect one of their number president of their board, and shall have power to fill vacancies in said board. If any election shall not be held on the day designated by this act, such election may be held on any other day: provided, a notice of the time and place of holding such election shall be signed by three of [98] the stockholders, and posted up in three public places in the township, at least twenty days before such election.

SEC. 5. **Trustees to appoint agents and subordinate officers, teachers, etc.; make by-laws for government of.** The board of trustees shall have power to appoint subordinate officers and agents; to make, ordain [and] establish such ordinances, rules and regulations, as they may deem fit and necessary for the good government of said academy, its officers, teachers, and pupils, and for the management of the property and affairs of said corporation: provided, that they shall not contravene the laws of the United States or of this territory.

SEC. 6. **Persons named to be first board of trustees.** The persons named in the first section of this act shall be trustees of said academy until the said second day of April next, and until their successors are elected under the provisions of this act.

SEC. 7. **Deeds and other instruments how executed.** All deeds and other instruments of conveyance shall be made by order of the trustees, sealed with the corporate seal, signed by the president, and be by him acknowledged in his official capacity.

SEC. 8. **Time of taking effect.** This act take effect and be in force from and after its passage.

Approved, 7th February, 1844.

CHAPTER 79.

MANUFACTURING COMPANY.

AN ACT to incorporate the Toolesborough Manufacturing Company.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Organization, name and style of, general powers of, limitation of capital.** That William Shepherd, Daniel West, H. D. Smith, Ezra F. Dennison, Jonathan Parsons and William L. Toole, and such other persons as may associate themselves with them, be and they are hereby created a body politic and corporate, to be known by the name and style of the "Toolesborough Manufacturing Company;" and by that name shall have perpetual succession, may sue and be sued in all courts of law or equity, and shall be capable in law of purchasing, holding, selling, leasing and conveying, estate, real, personal or mixed, so far as may be necessary for the purposes herein named, and for all other purposes necessary to consummate the objects of this corporation; and shall have power to erect mills and buildings for manufacturing purposes: provided, the value of said corporation shall not exceed forty thousand dollars.

[99] SEC. 2. **Right to take water from Iowa river; place specified; right to cut race; not to interfere with rights of others.** That the said company shall have the power to take from the Iowa river sufficient water for their purposes at a point on said river nearly opposite Iowa town, in the county of Louisa, in said territory, and convey the same over or through any suitable ground by means of a canal, race or water way, of such capacity as may be deemed sufficient, to any point which may be selected by said company at or near Toolesborough, in said county: provided, that said company shall not enter upon any lands not owned by the said company for the purpose of making a canal, race, or water way, or for any other purpose, without the consent of the owner of said land.

SEC. 3. **Trespass upon property of, how redressed; penalty for.** That if any person shall in any wise destroy or injure any of the works belonging to said company, such person shall be deemed to have committed a trespass, and shall be liable accordingly; and any person who shall wilfully and maliciously destroy or injure any of the works of said company shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined treble the amount of damages the owners may have sustained, and be imprisoned at the discretion of the court.

SEC. 4. **Capital stock divided into shares of $100. each.** That the capital stock of said company shall be divided into shares of one hundred dollars

each; and as many such shares may be created as the said company may direct, provided they do not in the aggregate exceed the sum of forty thousand dollars.

SEC. 5. **First meeting of company, how called and organized; its powers and capacities.** That any member of said company may, at any time within one year from the passage of this act, by giving at least thirty days previous notice, call a meeting of its members; and said company, when convened, shall call one of their members to preside, and may proceed to enact such by-laws, rules and regulations, for its government, and such arrangements for the management and conduct of its business, as a majority of them may deem right and proper, not inconsistent with the laws of the land.

SEC. 6. **Duration of charter.** That the charter hereby granted shall continue for the term of twenty years.

SEC. 7. **Time of taking effect.** That this act shall take effect from and after its passage.

Approved, 7th February, 1844.

CHAPTER 80.

ROAD.

AN ACT to locate a territorial road from the old boundary line, in Des Moines township, in Jefferson county, via Agency City, to the seat of justice of Mahaska county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Appointment of commissioners, commencement of road, route of.** That John Spurlock, William B. Street [100] and E. Fish, be and are hereby appointed commissioners to locate and establish a territorial road, from a point on the old Indian boundary line, in the Des Moines township, in Jefferson county, where a territorial road from Fort Madison, in the county of Lee, passing through the counties of Van Buren and Jefferson counties, terminates on said boundary line, on the nearest and best route to Agency City, in the county of Wapello; thence to Dahlonega, in said county, and from thence to the county seat of Mahaska county.

SEC. 2. **Commissioners where and when to meet.** The said commissioners, or a majority of them, shall meet at the place of the commencement of said road, on the second Monday of the month of June next, or as soon thereafter as a majority of said commissioners may agree, and proceed to locate said road agreeably to the provisions of the laws of this territory, and make their returns to the counties through which said road passes, on or before the first day of October next.

SEC. 3. **Commissioners, surveyor and others, how paid.** That said commissioners, surveyor, and the hands employed in locating said road, shall receive for their services the compensation allowed by law, to be paid by the respective counties through which the said road passes, in proportion to the length of road in each county.

SEC. 4. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 7th February, 1844.

CHAPTER 81.

ROAD.

AN ACT to locate and establish a territorial road from Brighton, in Washington county, to the county seat of Mahaska county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Appointment of commissioners to locate road; to commence at Brighton, in Washington co., route of.** That George Holliday, of Washington county, Charles E. Woodward, of Keokuk, and Richard Parker, of Mahaska county, be and they are hereby appointed commissioners to locate and establish a territorial road, commencing at Brighton, in Washington county; from thence the nearest and best route to Richland, in said county, and from thence the nearest and best route to the county seat of Mahaska county; thence to intersect and terminate on the territorial road leading from Fairfield, in Jefferson county, to the Indian Agency, at the Raccoon Fork of the Des Moines river.

SEC. 2. **Commissioners, where and when to meet; how to proceed in discharge of duties.** Said commissioners shall meet at the town of Brighton on the second Monday in June next, or as soon thereafter as a majority of them may agree, and then proceed to locate and establish said road [101] agreeable to an act entitled, "An act to provide for laying out and opening territorial roads," approved December the 29th, 1838.

SEC. 3. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 7th February, 1844.

CHAPTER 82.

ROAD.

AN ACT to locate and establish a territorial road from Iowaville, in Van Buren county, to Autumwa, in Wapello county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Appointment of commissioners; road to commence at Iowaville, in Van Buren, route of; commissioners where and when to meet.** That James Hall, of Van Buren county, William Ingersoll, of Jefferson county, and Jacob Marshall, of Wapello county, be and they are hereby appointed commissioners to locate a territorial road from Iowaville, in Van Buren county, up the Des Moines river, to the town of Autumwa, in Wapello county, to intersect a territorial road leading from Fairfield, in Jefferson county, to Red Rock on the boundary line on the Des Moines river. Said commissioners shall meet at Iowaville on the first Monday in May next, or within three months thereafter, and proceed to locate and establish said road.

SEC. 2. **Commissioners, surveyors and others, how paid.** The said commissioners, surveyor, chain-carriers and marker, shall receive such compensa-

tion as the boards of county commissioners of Van Buren and Wapello counties may allow, in proportion to the distance said road runs through each county.

SEC. 3. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 7th February, 1844.

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[102] CHAPTER 83.

MALCOLM MURRAY.

AN ACT for the relief of Malcolm Murray, late of the firm of Murray & Sanxay.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Agent to pay Murray six per cent. on certificate, as interest.** That the territorial agent be and he is hereby authorized to allow and pay to Malcolm Murray, late partner of the firm of Murray & Sanxay, interest at the rate of six per centum per annum, on a certificate of indebtedness issued by the said agent to the said firm of Murray & Sanxay on the 19th day of August, A. D. 1843, for the sum of one thousand three hundred and sixty-five dollars.

SEC. 2. **Agent to renew certificate.** The territorial agent is hereby further authorized and required, on the application of the holder of the said certificate, to renew the same, to bear interest at the rate above specified from the date of the said certificate of indebtedness until paid.

SEC. 3. **Arrearages of interest to be paid.** Be it further enacted, that the sum of one hundred and eighty dollars be allowed to Malcolm Murray, late partner of the firm of Murray & Sanxay, for arrearages of interest on scrip held by the said firm in 1842 and 1843; and the territorial agent is hereby authorized to pay the same in Iowa City lots: provided, however, that the money by this act allowed and appropriated shall be paid only from the territorial fund for the erection of public buildings at Iowa City, without any pledge of the general faith of the territory.

SEC. 4. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 7th February, 1844.

CHAPTER 84.

LEGALIZING ACT.

AN ACT to legalize the acts of James T. Harden, deputy recorder of Jefferson county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Acts of deputy valid.** That all the records made by James T. Harden, as deputy recorder for Evan T. Butler, county recorder in [103] and for the county of Jefferson, from the 26th day of August, 1842, until the first day of April, 1843, be and the same are hereby made legal and valid, to all intents and purposes, as fully and effectually as if the same had been made by a county recorder legally elected and qualified for said county.

SEC. 2. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 7th February, 1844.

CHAPTER 85.

CHARTER OF MOUNT PLEASANT.

AN ACT to amend an act entitled "An act to amend an act entitled an act for the incorporation of the town of Mount Pleasant, in Henry county" approved 3d February, 1843; also, an act entitled "An act for the incorporation of the town of Mount Pleasant, in Henry county," approved January 25, 1842.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Election for officers, when to be held; vacancy, how filled, notice how and when given.** That hereafter the election of the officers of said corporation shall be held on the first Mondays in March of each year, except in cases of vacancy, in which case it shall be the duty of the president, recorder, or a majority of the councilmen, to call an election to fill such vacancy, by giving ten days notice thereof by posting up three written notices thereof, at three of the most public places in said corporation.

SEC. 2. **Grocery and other license, how granted; proceeds how appropriated, limitation of amount.** That the president and councilmen shall be authorized to grant or withhold, at their discretion, all licenses for the retailing of ardent spirits within the limits of said corporation, and to grant licenses and to regulate or prohibit all shows and public exhibitions, and to appropriate the proceeds of all such licenses for the benefit of said corporation: provided, that in no case shall the amount charged for said licenses exceed the amount established by the general law regulating licenses.

SEC. 3. **Streets and alleys to be public highways, and one mile each way from court house to be one road district; supervisor how appointed, his powers and duties; not to interfere with other road districts.** That the streets, lanes and alleys, of said town, including the several roads and highways for the distance of one mile from the court house, in said town, shall constitute one road district. The president and councilmen shall appoint one overseer of the same, who shall hold his office for one year. That said overseer shall supervise and direct the road labor of all persons residing within the limits of said corporation. That nothing in this section contained shall prohibit [104] other road districts from extending to the limits of said corporation, or other overseers from working all roads adjacent to said corporation.

SEC. 4. **Repealing clause.** That the tenth and eleventh sections of the act to which this is amendatory, approved January 25th, 1842, and all other parts of the acts to which this is amendatory which come in conflict with the provisions of this act, are hereby repealed.

SEC. 5. **Time of taking effect.** This act shall take effect and be in force from and after its passage.

Approved, 8th February, 1844.

CHAPTER 86.

WILLIAM PARVIN.

AN ACT for the relief of William Parvin, collector of Muscatine county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Commissioners to allow further time to make returns.** That the board of county commissioners of Muscatine county be and they are hereby authorized to allow William Parvin, collector of said county of Mus-

catine, such time as they may deem reasonable for said collector to make a return of the tax list of said county placed in his hands for collection for the year 1843: provided, that said time shall not be extended beyond the first day of August, A. D. 1844.

SEC. 2. **Commissioners may postpone tax sale.** That said board of commissioners may, in their discretion, postpone the sales of any lands or town lots in said county, which under the existing laws of this territory, may be subject to sale for delinquent taxes accruing for the year 1843, to such times as they may deem proper: provided, such postponement does not extend beyond the first Monday in July, 1844.

SEC. 3. **Collector not to be released from obligation of bond.** That nothing herein contained shall be so construed as to release the collector or his securities from the obligation of the bond filed by him for the faithful performance of his duties as such collector.

SEC. 4. **Collector may distrain.** That said collector, provided said board of commissioners extend the time for collecting the taxes of said county, as herein allowed, shall have full power to collect, by distress or otherwise the amount of all unpaid taxes for the year 1843, up to the time allowed him by the said board of commissioners.

SEC. 5. **Commissioners to fix the day of sale, and collector to give notice.** The board of commissioners of said county shall fix a day for the sale of all lands and town lots on which the taxes for the year 1843 may remain due and unpaid; and the said collector shall give the [105] same notice for the sale thereof, and conduct the sale of the same in the same manner, that is now required by law, and the sales so made shall be as legal and valid as though the same had been held on the day provided by the existing laws.

SEC. 6. **Time of taking effect.** This act to be in force from and after its passage.

Approved, 8th February, 1844.

CHAPTER 87.

DELAWARE COUNTY.

AN ACT to organize the county of Delaware, and to provide for holding court in the same.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Organization of; to be part of 3d judicial district; court to be held at Delhi; time of holding same.** That the county of Delaware be and the same is hereby organized, and the inhabitants of said county are entitled to all the rights and privileges to which by law the inhibitants of other organized counties of this territory are entitled; and the said county shall be a part of the third judicial district, and the district court shall be held at Delhi, the county seat of said county, on the first Monday after the fourth Monday in September in each year.

SEC. 2. **Buchanan and Blackhawk attached.** That the counties of Buchanan and Blackhawk, be and they are hereby attached to the county of Delaware.

SEC. 3. **Repealing clause.** That all acts and parts of acts contravening the provisions of this act be and they are hereby repealed.

SEC. 4. **Time of taking effect.** That this act take effect and be in force from and after its passage.

Approved, 8th February, 1844.

CHAPTER 88.

REV. ISAAC SEARLES.

AN ACT for the relief of the Rev. Isaac Searles, minister of the gospel.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Released from liability.** That Rev. Isaac Searles, a minister of the gospel on the Cedar Rapids circuit, in the counties of Linn and Johnson, be and he is hereby released from all liability that he may have [106] incurred from the time of his appointment on said circuit up to the present time, by reason of his having celebrated the bonds of matrimony without having first obtained from the clerk of the district court a license authorizing him to solemnize marriages within this territory, and without having had the same recorded in other counties.

SEC. 2. **Time of taking effect.** This act shall take effect and be in force from and after its passage.

Approved, 8th February, 1844.

CHAPTER 89.

ROAD.

AN ACT to locate a territorial road from a certain point in Muscatine county therein named, to the rapids on Cedar river, in Linn county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Commissioners, appointment of; commencement of road, route of.** That Robert Gower and Ebenezer A. Gray, of Cedar county, and Allen C. Sutliff, of Johnson county, be and they are hereby appointed commissioners to lay out and establish a territorial road, from the point on the territorial road leading from Bloomington to Iowa City west of Cedar river, and at or near where the old Indian trail leading from Cedarville, in Muscatine county, to Washington ferry, in Cedar county, crosses the road; thence running with said trail as near as the ground will admit to Jonathan Kingsberry's mill, in Cedar county; thence on the nearest and best ground for the public convenience to the Rapids on Cedar River, in Linn county.

SEC. 2. **Commissioners, when and where to meet; power to employ hands.** That the commissioners appointed as aforesaid shall meet at Washington ferry, in Cedar county, on the second Monday in June next, or as soon thereafter within one year from the passage of this act as they may deem most convenient, and proceed to locate said road, taking to their assistance necessary chainmen and markers; and the said Robert Gower is hereby authorized to discharge the duties of surveyor on said road.

SEC. 3. **Commissioners, how governed; the counties through which road runs not to pay any part of expense.** That said commissioners, in laying out said road, shall be governed by the general laws of this territory, except as herein otherwise provided: provided always, that no part of the expense of locating said road, shall be paid from the treasury of either county through which it passes.

Approved, 9th February, 1844.

[107] CHAPTER 90.

ROAD.

AN ACT to establish and locate a road from the lower end of John Scott's farm, at the lower end of Nassau Island, in Lee county, on the nearest and best route, to intersect the road leading from Farmington to Keokuk.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Appointment of commissioners; road to commence at Nassau Island, in Lee county, route of.** That John Philips, Phineas Hunt and A. Kerr, of the county of Lee, be and they are hereby appointed commissioners to locate and establish a road, commencing at the lower end of John Scott's farm, at the lower end of Nassau island, in Lee county, and running to the upper end of said island; thence across Nassau slough, on the nearest and best route, to the northwest corner of William Aldridge's field, to intersect the road leading from Keokuk to Farmington at or near the residence of Phineas Hunt, by way of Joseph Roberts'.

SEC. 2. **Commissioners, where and when to meet.** That said commissioners, or a majority of them, shall meet at the house of R. M. G. Patterson on or before the 10th day of March next, or as soon thereafter as convenient, and proceed to lay out and establish said road, according to the provisions of an act to establish territorial roads, approved December 29th, 1838.

SEC. 3. **Commissioners, chain carriers and others, how paid.** That the commissioners, chain carriers, surveyor, and other hands employed to locate said road, as herein prescribed, shall receive such compensation for their services as may be allowed by the board of county commissioners of Lee county.

SEC. 4. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 9th February, 1844.

CHAPTER 91.

ROAD.

AN ACT to lay out a territorial road from Bennett's mill, in Buchanan county, to or near William Myers', in Dubuque county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

[108] SECTION 1. **Road commencing at Bennett's mill, in Buchanan county; route of; declared a territorial road.** That the road as laid out by Robert W. Green, Joel Baily and O. A. Olmstead, commencing at Bennett's mill, in Buchanan county; thence via the county seat of Delaware county, to or near Olmstead's mill, in said county, be and the same is hereby declared a territorial road.

SEC. 2. **Road commencing at Olmstead's mill, in Delaware county, route of; declared a territorial road.** That the road now travelled from Olmstead's mill, in Delaware county, to Hogan's farm, in Dubuque county; thence to James McDowell's; thence to George W. Jordan's; thence to Elias McCants',

and thence in an easterly direction until said road intersects the county road north of William Myers', shall, to all intents and purposes, be deemed a territorial road.

SEC. 3. **Appointment of commissioners; may change any part of road described in 2d section; within when and how to proceed.** That Oliver Tunston, Philip B. Hogan and Elias McCants, be and they are hereby appointed commissioners, with full power and authority to change or re-locate any part of said road, as described in section second of this act, at any time within six months from the passage hereof: provided, however, that it shall be legal for either of said commissioners to act as surveyor, chain carrier or marker.

SEC. 4. **Time of taking effect.** This act shall take effect and be in force from and after its passage.

Approved, 12th February, 1844.

CHAPTER 92.

CONGREGATIONAL CHURCH.

AN ACT to incorporate the board of trustees of the Congregational Church and Society of Burlington.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Organization of, name and style of; general powers, limitation of property.** That Abner Leonard, William B. Ewing, Seth S. Ransom, James G. Edwards and Albert S. Shackford, their associates and successors, be and they are hereby created a body politic and corporate, by the name and style of "The Congregational Church and Society of Burlington," and by that name may have succession, and shall be able in law and equity to sue and be sued, and to hold estate, real, personal and mixed, to an amount not exceeding fifteen thousand dollars.

SEC. 2. **First meeting, by whom called; notice of, how given.** It shall be the duty of the above named trustees to call a meeting of said church and society as soon as practicable after the passage of this act, by giving at least ten days notice of such meeting by [109] public proclamation on two successive Sabbaths immediately previous to such meeting, in the congregation, while convened for public worship, stating the precise objects for which such meeting is called; and all future calls for meetings of business shall embrace the objects for which such meeting or meetings are called.

SEC. 3. **May make by-laws for government of; may elect trustees; their term of office, powers and duties; restriction upon alienation of stock, general restriction as to spiritual matters.** The church and society may, at their first meeting, or at the meeting to which they may adjourn, make, ordain and establish, such rules, regulations and by-laws, not inconsistent with the laws of the United States or this territory, for the erection, regulation, sale, disposal and control of the property and buildings belonging to the said church and society, as they may deem fit and proper, and elect five trustees to serve for one year, and until others be elected in a similar manner; which trustees shall have the control and management of the property of said church and society, to sell and convey pews and other property, subject to the ratification of the church and society: provided, that the provisions of this act shall not be construed so as to enable the church and society, nor their trustees, to alienate the

stock of any contributor in the property and buildings, in proportion to the amount of stock contributed: and provided also, that the provisions of this act be not construed to hinder the members of the said Congregational church of Burlington the election of their own spiritual officers, the worship of Almighty God, the exercise of church discipline, the instruction of Sabbath school, etc., etc., according to the practice of churches generally, in the use of said property and buildings, and according to the constitution, confession of faith, and covenant adopted by said church.

SEC. 4. **Who competent to act at first meeting.** The male church members, and the original contributors to the building of the church, shall be the only competent persons to act in forming rules and by-laws at the first meeting contemplated in the charter.

SEC. 5. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 12th February, 1844.

CHAPTER 93.

DAM.

AN ACT to authorize Hugh Boyle and Ralph Bissell to erect a dam across Skunk river.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Dam, when to be constructed; lock, extent of; when to be constructed.** That Hugh Boyle, of the county of Lee, [110] and Ralph Bissell, of the county of Henry, their heirs or assigns, are hereby authorized to construct a dam across Skunk river, in Henry county, in town 70 north, range six west, and at section No. twenty-five of said township, at the seat now owned by said Boyle and Bissell. Said dam shall contain a convenient lock, not less than one hundred and thirty-five feet in length and thirty-five feet wide: provided, that if said Boyle and Bissell shall construct a good and sufficient slope in said dam, that will admit the passage of flat boats, rafts and other water crafts, at all times with safety, when the river is in a good stage for safe navigation, they shall have four years from the first day of February, 1844, to construct said lock.

SEC. 2. **Not to obstruct navigation; if obstructed amount of penalty.** It shall be the duty of the persons hereby authorized to build said dam to keep said lock or slope in good repair, so that persons navigating said river may be passed without toll or unnecessary delay. Any person who shall be unnecessarily detained, shall be entitled to recover of said owners double the amount of damages they shall prove to have sustained by reason of such detention.

SEC. 3. **Injury to, how redressed, amount of penalty.** Any person who shall destroy, or in anywise injure, either said dam or lock, shall be deemed to have committed a trespass, and shall be liable accordingly; and any person or persons who shall wilfully or maliciously destroy or injure said lock or dam, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined treble the amount of damages the owner or owners may have sustained, or be imprisoned at the discretion of the court.

SEC. 4. **Not to interfere with rights of others.** Nothing herein contained shall authorize the individuals named in this act, their heirs or assigns, to enter upon and flow the lands, or otherwise interfere with the rights and priv-

ileges of any person, without the consent of such person; and they shall remove all such nuisances as may be occasioned by the erection of said dam, which may endanger the health of the vicinity.

SEC. 5. **Power of repeal reserved.** The legislature of the territory (or state) may at any time alter or amend this act, so as to provide for the navigation of said river.

Approved, 12th February, 1844.

CHAPTER 94.

ROAD.

AN ACT to lay out and establish a territorial road, from Cedar Rapids, in Linn county, to the rapids on the Wabesipinicon river, in Buchanan county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Commissioners, appointment of; road to commence at Cedar Rapids, Linn co., route of.** That John L. Shearer, Perry Oliphant and [111] A. L. Higgins, be and they are hereby appointed commissioners to lay out and establish a territorial road from Cedar Rapids, in Linn county, to Bartimus Megonegil's, and thence to the rapids on the Wabesipinicon river in Buchanan county.

SEC. 2. **Commissioners, where and when to meet, and how to proceed.** Said commissioners, or a majority of them, shall meet at the Cedar rapids, in Linn county, on the second Monday in April next, or on some subsequent day, and proceed to lay out and establish said road in accordance with the provisions of an act entitled "An act to provide for laying out and establishing territorial roads," approved December 29th, 1838.

SEC. 3. **Commissioners, surveyor and others, compensation of.** That the commissioners, surveyor and chain-carriers, shall receive compensation for their services as follows: commissioners two dollars per day; surveyor two dollars and fifty cents per day; chain-carriers one dollar and fifty cents per day, for each day they shall be necessarily employed in the discharge of their duties.

Approved, 12th February, 1844.

CHAPTER 95.

DEED.

AN ACT to authorize the administrators of John Jones, deceased, to make a title to certain real estate in Grandview, Louisa county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Deeds, by whom to be made; description of property; to be made to the trustees of the Grandview Seminary.** That Thomas J. Jamison and Edward Jones, administrators of the estate of John Jones, deceased, of Grandview, Louisa county, are hereby authorized and empowered to make and execute good and sufficient deeds, in fee simple, for two lots of ground

in said town of Grandview, known and numbered on the town plat of said town as lots number one and two, in block number four, to the trustees of the "Grandview Seminary," and their successors in office; said lots having been donated by said John Jones to said seminary before his decease, without his making deeds therefor to said trustees.

Approved, 12th February, 1844.

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[112] CHAPTER 96.

ROAD.

AN ACT to legalize the location of a territorial road from Davenport to Bellview.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Road commencing at Davenport, in Scott co. route of; authorized by act of 27th Nov., 1840; appointment of commissioners declared as legal as if made by legislature; declared public highway.** That the acts of the commissioners who located a territorial road from Davenport, in Scott county, via Parkhurst, Camanche, Lyons and Charleston, to Bellview, in Jackson county, which was authorized to be located by an act of the legislative assembly entitled "An act to locate a territorial road from Davenport to Bellview," approved November 27th, 1840, be and the same are hereby declared as legal and valid as if the said commissioners had been appointed by the legislative assembly; and that said road be and the same is hereby declared a public highway.

SEC. 2. **Commissioners, surveyor and hands, how paid for services.** That the said commissioners, and the surveyor and the laboring hands employed in locating said road, shall have such compensation, and be paid in the manner provided for in the said act authorizing the location of said road.

SEC. 3. **Time of taking effect.** This act to be in force from and after its passage.

Approved, 12th February, 1844.

CHAPTER 97.

EXPENSES OF LAYING OUT ROAD.

AN ACT to authorize the payment of the expenses of laying out a certain territorial road.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Road located under act Feb. 1st, 1843, counties through which it runs to pay viewers, surveyor and others; compensation to be regulated by general law on the subject of territorial roads.** That the county commissioners of the counties through which a certain territorial road passes, located by authority of an act entitled "An act to establish a certain territorial road," approved February 1st, 1843, are hereby authorized and required to pay the demands of the viewers, chain carriers and surveyor, who were [113] engaged in laying out and establishing said road, according to the provisions of the general law providing for laying out and establishing territorial roads.

Approved, 12th February, 1844.

CHAPTER 98.

TOWN OF FARMINGTON.

AN ACT to amend an act entitled "An act for the incorporation of the town of Farmington," etc., approved January 11th, 1841.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Electors of Farmington to vote at annual election on the subject of licensing groceries; corporate power to license grocers to depend on result of such election.** That the electors of the incorporated town of Farmington, at every annual election, shall deposit with the judges of said election a ballot for or against the licensing of groceries; and if a majority of votes be found in favor of licensing such groceries, then the incorporated authorities of said town shall grant licenses as is now required by law; but if a majority of votes should be found against the granting of licenses, then there shall be no license granted by the incorporated authorities of said town to any person to retail ardent spirits for one year from said election.

SEC. 2. **Notice of election upon the subject of grocery license; how, by whom and when given.** It shall be the duty of the recorder of said town, at the time he gives notice of the annual election as is required by the third section of the act to which this is amendatory, to specify in said notice that a poll will be opened at said election for the reception of votes for and against the licensing of groceries.

Approved, 12th February, 1844.

CHAPTER 99.

ROAD.

AN ACT to locate a territorial road from the southern line of Davis county to the northern line of Wapello county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

[114] SECTION 1. **Commissioners, appointment of; road where to commence; route of.** That Hugh George and John Kirkpatrick, of Wapello county, and Leoyd Nelson, of Davis county, be and they are hereby appointed commissioners to locate a territorial road, from the southern boundary of Davis county, to the northern boundary of Wapello county.

SEC. 2. **Commissioners, where and when to meet, and how to proceed.** Said commissioners shall meet at the county seat of Wapello county, as soon as the county seats of the aforesaid counties are established, or within one year thereafter, and proceed to locate said road according to law; and shall make the county seats in said counties points in said road; and shall have regard, as far as practicable, to a central line through said counties.

SEC. 3. **Counties through which road runs not to pay any part of expense.** Said commissioners, or any other persons engaged in viewing, surveying, marking or locating said road, shall not make any charge to the counties through which said road passes, for services rendered in locating said road.

SEC. 4. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 12th February, 1844.

CHAPTER 100.

WAPELLO COUNTY.

AN ACT to organize the county of Wapello.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Organization of, rights of inhabitants, part of 1st judicial district.** That the county of Wapello be and the same is hereby organized, from and after the first day of March next; and [115] the inhabitants of said county shall be entitled to all the privileges to which, by law, the inhabitants of other organized counties of this territory are entitled; and the said county shall constitute a part of the first judicial district of this territory.

SEC. 2. **First election, by whom ordered, number of officers to be chosen, when election to be held, notice of where to be held, judges how appointed.** That for the purpose of organizing said county it is hereby made the duty of the clerk of the district court of said county, and in case there should be no such clerk appointed and qualified, or for any cause said office should become vacant, on or before the tenth day of March next, then it shall be the duty of the sheriff of said county, to proceed immediately after the tenth day of March, to order a special election in said county, for the purpose of electing three county commissioners, one judge of probate, one county treasurer, one clerk of the board of county commissioners, one county surveyor, one county assessor, one sheriff, one coroner, one county recorder, and such number of justices of the peace and constables as may be directed by the officer ordering said election, the officer having due regard to the convenience of the people; which special election shall be on the first Monday in the month of April next; and that the officer ordering said election shall appoint as many places of holding elections in said county as the convenience of the people may require, and shall appoint three judges of election for each place of holding election in said county, and issue certificates to said judges of their appointment; and the officer ordering said election shall give at least ten days notice of the time and place of holding such election, by at least three printed or written advertisements, which shall be posted up at three or more of the most public places in the neighborhood where each of the polls shall be opened as aforesaid.

SEC. 3. **Returns to whom made, certificates of election by whom granted; who to be clerk of board of county commissioners.** That the officer ordering each of the elections aforesaid shall receive and canvass the polls, and grant certificates to the persons elected to fill the several offices mentioned in this act; and in all cases not provided for by this act the officer ordering each of said elections shall discharge the duties of a clerk of the board of county commissioners, until there shall be a clerk of the board of county commissioners elected and qualified for said county, under the provisions of this act.

SEC. 4. **Election, how conducted.** Said election shall, in all cases not provided for by this act, be conducted according to the laws of this territory regulating general elections.

SEC. 5. **Term of office.** The officers elected under the provisions of this act shall hold their offices until the next general election, and until their successors are elected and qualified.

SEC. 6. **Books and papers of officer ordering election, to whom and when returned.** The officer ordering the election in said county shall return all

the books and papers which may come into his hands by virtue of this act to the clerk of the board of county commissioners of said county, forthwith, after said clerk shall be elected and qualified.

SEC. 7. **Sheriff appointment of; his oath, bond, duties and fees.** That James M. Peck be and he is hereby appointed to discharge the duties and functions of the office of sheriff of said county, who shall exercise the duties and functions of said office until the first Monday in the month of April next, and until there shall be a sheriff elected and qualified for said county; and the said James M. Peck [116] shall give bond and security, and shall take the same oath of office that is required to be taken by sheriffs, which bond shall be approved and the necessary oath of office administered by the clerk of the district court of said county; and in case there should be no clerk of the district court for said county on the first day of March next, then it shall be the duty of the clerk of the district court of Jefferson county to approve the bond and administer the oath required by this act. And the said sheriff shall be allowed the same fees for services rendered by him, under the provisions of this act, that are allowed by law for similar services performed by the sheriffs in similar cases.

SEC. 8. **Clerk of district court, by whom appointed and when to qualify.** That the clerk of the district court for said county of Wapello, may be appointed by the judge of said district, and qualified at any time after the passage of this act; but shall not enter upon the discharge of the duties of said office prior to the first day of March.

SEC. 9. **Suits in the district court of Jefferson county not affected.** That all actions at law in the district court for the county of Jefferson, commenced prior to the organization of said county of Wapello, where the parties or either of them reside in said county of Wapello, shall be prosecuted to final judgment, order or decree, as fully and effectually as if this act had not been passed.

SEC. 10. **Justices of the peace, to whom to return books and papers; not to affect suits pending before justices.** That it shall be the duty of all justices of the peace residing within said county, to return all books and papers in their hands appertaining to said office, to the next nearest justice of the peace which may be elected and qualified for said county under the provisions of this act; and all suits at law, or other official business which may be in the hands of such justices of the peace, and unfinished, shall be completed or prosecuted to final judgment by the justices of the peace to whom such business or papers may have been returned as aforesaid.

SEC. 11. **County assessors, their powers and duties.** That the county assessors elected under the provisions of this act for said county shall assess the said county in the same manner, and be under the same obligations and liabilities, as is now or may hereafter be provided by law in relation to township assessors.

SEC. 12. **Commissioners to locate county seat; when and where to meet.** That Joseph B. Davis, of Washington county, John H. Randolph, of the county of Henry, and Solomon Jackson, of the county of Lee, be and they are hereby appointed commissioners to locate and establish the seat of justice of said county of Wapello. Said commissioners, or any two of them, shall meet at the house of George Wilson, Esq., near the old Indian agency, in said county, on the first Monday in May next, or at such other time within the month of May as a majority of said commissioners shall agree upon, in pursuance of their duties under this act.

SEC. 13. **Their oath, contents of; by whom administered, when filed and recorded.** Said commissioners shall first take and subscribe the following oath, to-wit: "We do solemnly swear (or affirm) that we (or either of us)

have no personal interest either directly or indirectly in the location of the seat of justice for Wapello county, and that we will faithfully and impartially examine the situation of said county, taking into consideration the future as well as the present population of said county; also, to pay strict regard to the geographical centre of said county, and locate the seat of justice as near the centre as an eligible situation can be obtained;" which oath shall be administered by the [117] clerk of the district court, or justice of the peace of said county of Wapello; and the officer administering the same shall certify and file the same in the office of the clerk of the board of county commissioners of said county, whose duty it shall be to record the same.

SEC. 14. **Duty of commissioners; to commit their decision to writing and sign it; where filed, recorded, and kept; the place there designated to be county seat.** Said commissioners, when met and qualified under the provisions of this act, shall proceed to locate the seat of justice of said county, and as soon as they shall have come to a determination, they shall commit to writing the place so selected, with a particular description thereof, signed by the said commissioners, and filed with the clerk of the board of county commissioners in which such seat of justice is located; whose duty it shall be to record the same, and forever keep it on file in his office; and the place thus designated shall be the seat of justice of said county.

SEC. 15. **Commissioners, compensation of; how paid.** Said commissioners shall each receive the sum of two dollars per day while necessarily employed in the duties enjoined upon them by this act, which shall be paid by the county out of the first funds arising from the sales of town lots in said seat of justice.

SEC. 16. **Kishkekosh and country west to be attached.** That the county of Kishkekosh, and the territory west of said county, be and the same is hereby attached to the county of Wapello, for election, revenue and judicial purposes.

SEC. 17. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 13th February, 1844.

CHAPTER 101.

DUBUQUE MINING COMPANY.

AN ACT to incorporate the Dubuque Mining Company.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Organization of company; name, style and general powers of.** That Timothy Fanning, George W. Cummins, William B. Smith, and their associates and successors, be and they are hereby created a body politic and corporate, under the [118] name of the "Dubuque Mining Company;" and by that name shall have perpetual succession, and shall have power to contract and be contracted with, sue and be sued, plead and be impleaded, answer and be answered, in all courts of competent jurisdiction; may have and use a common seal, and be vested with all the powers and privileges necessary to the object of their incorporation, not contrary to law and the rights of other individuals.

SEC. 2. **Right to hold and sell property; limitation of amount.** That said company shall have power and be capable of holding, purchasing, improving, selling, leasing, renting and conveying estate, real, personal and mixed, for

the use of said incorporation: provided, that the real estate owned by said company shall not at any one time exceed thirty thousand dollars in value.

SEC. 3. **Shares $50 each.** That the capital stock of said company shall be divided into shares of fifty dollars each.

SEC. 4. **First meeting within one year; majority may adopt rules for government of; restriction; first election when and how conducted; election to take place annually—Directors elected, one of their number to be president; electors how to vote; other officers how appointed; property and concerns of how managed.** That the members of said company shall meet at any time a majority of them may agree upon, within one year from the passage of this act, and when so convened may proceed to enact such rules, regulations and by-laws, for the government and conduct of said company, and adopt such method and arrangement for receiving subscriptions to the capital stock thereof, as a majority of them may deem right and proper: provided, they do not conflict with the laws of the United States, of this territory, or of the future state of Iowa; and shall at the same time, and annually thereafter, elect by ballot five directors, in electing which each share of the capital stock shall be entitled to one vote; and the person receiving the highest number of votes shall be declared duly elected, to hold the office for one year and till his successor be chosen. The directors shall choose one of their number president of the company, and appoint such other officers and agents as a majority of them may think necessary for the management of the business of said company; and by said directors the property, stock and concerns of said institution, shall be managed, subject to the regulations and instructions of a majority of the stockholders. They shall have full power and authority to put into operation and execute all the designs and instructions of the stockholders, and all contemplated in this charter.

SEC. 5. **Conveyances, how executed, etc.; how acknowledged, effect of.** That all conveyances of real estate shall be signed by the president of the company, and by him acknowledged in his official capacity, and the seal of the company shall be thereto affixed; which conveyance, so executed and acknowledged, shall be binding on the company, according to the tenor and meaning of the same.

SEC. 6. **Stock personal property, how transferred; restriction of indebtedness on transfers.** That the stock of said company shall be deemed personal property, and assignable and transferable on the books of the company; but no subscriber indebted to said incorporation shall be permitted to make a transfer of stock until such indebtedness be adjusted to the satisfaction of the directors.

SEC. 7. **Power to sink shaft and erect machinery in Dubuque county.** That said corporation be and is hereby authorized to sink a shaft or shafts, for the purpose of discovering lead ore, in the mining district of the county of Dubuque, and put thereon machinery sufficient to work the same.

SEC. 8. **Company becoming insolvent stockholders to be personally liable.** That if said incorporation should become insolvent, and [119] fail thereby to meet any obligation against them, the stockholders thereof shall be personally liable therefor.

SEC. 9. **Repealing power reserved.** That this act may be amended or repealed by any subsequent legislature of this territory or state of Iowa.

SEC. 10. **Time of taking effect.** That this act shall take effect and be in force from and after its passage

Approved, 13th February, 1844.

CHAPTER 102.

ROAD.

AN ACT to locate a territorial road from Iowa City to the seat of justice of Mahaska county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Commissioners, appointment of; road to commence at Iowa City, route of.** That James Walters, Daniel McFarland and William Grimsley, be and they are hereby appointed commissioners to locate and establish a territorial road from Iowa City, thence to Wasson and Walters' mill, on English river, in Washington county; thence to the seat of justice of Keokuk county; thence to the seat of justice of Mahaska county.

SEC. 2. **Commissioners, when and where to meet.** Said commissioners, or a majority of them, shall meet at Iowa City on the second Monday in the month of June next, or such other time as a majority of them may agree within six months thereafter, for the discharge of their duties.

SEC. 3. **Commissioners, surveyor and others, compensation of, and how paid.** Said commissioners shall each be allowed the sum of two dollars per day for their services, and the chain-carriers and markers shall each receive the sum of one dollar and fifty cents per day for their services, and the surveyor the same fees as are prescribed in the act regulating costs and fees to county surveyors; which shall be paid in accordance with an act entitled "An act to provide for laying out and establishing territorial roads," approved December 29th, 1838.

SEC. 4. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 13th February, 1844.

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[120] CHAPTER 103.

ROAD.

AN ACT to establish a territorial road from Deeds' mill, in Jefferson county, to Crippen's mill, in Washington county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Commissioners, appointment of; road to commence at Deeds' mill in Jefferson county; route of.** That John Rupe and Harvey Benson, of Henry county, and Isaac Whiteman, of Washington county, be and they are hereby appointed commissioners to lay out and locate a territorial road from Deeds' mill, in Jefferson county, on the nearest and best route to the old trading house, on Crooked Creek, in Henry county; thence to Crippen's mill, in Washington county.

SEC. 2. **Commissioners and others, how paid.** Said commissioners shall take to their assistance a surveyor, two chainmen and a marker, and shall receive for their compensation two dollars per day to each of the commissioners, one dollar and fifty cents per day to each of the chainmen and marker; the surveyor to be allowed such fees as he is entitled to in the act regulating surveyor's fees.

SEC. 3. **Commissioners, when and where to meet, and how to be governed.** Said commissioners shall meet at Deeds' mill on the first Monday in May, or at some convenient time within sixty days thereafter, and proceed to locate said road as hereinbefore directed; and they shall be regulated and governed by the provisions of an act entitled "An act for laying out and establishing territorial roads," approved December the 29th, 1838.

SEC. 4. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 13th February, 1844.

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[121] CHAPTER 104.

DAM.

AN ACT to allow John Godden, Samuel Clark, John Groom, Archibald McDonald and P. M. Janney, of Van Buren county, further time to construct a dam and lock across the river Des Moines, at Pittsburg, in the above named county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Two years additional time allowed to construct a dam.** That John Godden, Samuel Clark, John Groom, Archibald McDonald and P. M. Janney, be and are hereby allowed two years additional time to complete a dam and lock, as above specified, and as required in the sixth section of an act entitled, "An act to authorize John Godden, his heirs or assigns, to build a dam across the river Des Moines."

SEC. 2. **The 8th section so amended as to make persons incorporated tenants in common.** That the eighth section of the above named act to which this act is amendatory, is hereby amended so as to constitute the said John Godden, Samuel Clark, John Groom, Archibald McDonald and P. M. Janney, tenants in common, and vest in the said tenants in common, their heirs and assigns, an equal undivided interest in said dam, and the privilege thereto appertaining.

SEC. 3. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 13th February, 1844.

CHAPTER 105.

ROAD.

AN ACT to lay out a Territorial road from Delhi, in Delaware county, to Cascade, in Dubuque county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Commissioners, appointment of; road to commence at Delhi; route of.** That William H. Whiteside, Joel Bailey and Lucius Kilby, of Delaware county, Lyman Dillon and Arthur Thomas, of Dubuque county, be and they are hereby appointed commissioners to mark and lay out a territorial road, commencing at Delhi; thence the nearest and best way to Cascade, Dubuque county, having [122] in view the accommodation of the citizens on said route and the public in general.

SEC. 2. **Commissioners, when and where to meet.** The commissioners, or a majority of them, shall meet at Delhi on the first Monday of April next, or at any time within six months thereafter, and proceed to the discharge of their duties under this act.

SEC. 3. No part of the expense of laying out said road shall be paid by either of the counties through which the same shall pass.

SEC. 4. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 13th February, 1844.

CHAPTER 106.

ROAD.

AN ACT to legalize the location of a Territorial road from Bellview to Iowa City.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Road from Bellview to Iowa City, established by Cowles and Kirkpatrick, under act of Jan. 13, 1841; their acts declared valid.** That the acts of Anson Cowles, of Linn county, and James L. Kirkpatrick, of Jackson county, commissioners who located a territorial road from Bellview to Iowa City, authorized by an act of the legislative assembly entitled, "An act to lay out and establish a road from Bellview to Iowa City," approved January 13th, 1841, be and the same is hereby declared as legal and valid as if said James L. Kirkpatrick had been appointed by the legislative assembly; and that said road located by said Anson Cowles and James L. Kirkpatrick be and the same is hereby declared a public highway.

SEC. 2. **Commissioners and others who located said road, how paid.** That the commissioners, surveyor, and other hands employed in locating said road, shall have such compensation as was provided in the act authorizing the location of said road.

SEC. 3. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 13th February, 1844.

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[123] CHAPTER 107.

TOWN OF SOLON.

AN ACT to vacate a part of the town of Solon, in Johnson county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **A part of town vacated.** That that part of the town of Solon which is located on the east half of the south-west quarter of section twenty-four, in township eighty-one north of range number six west of the fifth principal meridian, in Johnson county, be and the same is hereby vacated.

SEC. 2. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 13th February, 1844.

CHAPTER 108.

ALLOWANCE FOR DIETING PRISONERS.

AN ACT for the relief of George W. Cummins.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Dieting prisoners, compensation for; by whom allowed and paid; limitation.** That the county commissioners of Dubuque county are hereby authorized to allow George W. Cummins, for dieting prisoners heretofore and hereafter, such sum as they shall deem just and reasonable, not to exceed in value twenty-five cents a day in cash for each prisoner.

SEC. 2. **Time of taking effect.** This act shall take effect from its passage, and be in force until January next.

Approved, 13th February, 1844.

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[124] CHAPTER 109.

IOWA CITY MANUFACTURING COMPANY.

AN ACT to incorporate the Iowa City Manufacturing Company.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Name and style of incorporation; general powers conferred.** That the persons now associated together in the county of Johnson, in this territory, and doing business under and by virtue of certain articles of association or agreement under the style and firm of the "Iowa City Manufacturing Company," and all other persons who shall hereafter become stockholders, agreeably to the provisions of this act, be and they are hereby created a body corporate and politic, by the name and style of "The Iowa City Manufacturing Company," and by that name may have perpetual succession, may sue and be sued, plead and be impleaded, answer and be answered unto, in all courts of law or equity; may purchase, hold and convey, real, personal and mixed estates, so far as may be necessary for carrying into effect the legitimate objects for which said company is incorporated, or securing the payment of debts which may be due to or from said company.

SEC. 2. **May use common seal and make by-laws.** Said company may have and use a common seal, which may be altered at pleasure, and make such by-laws (not inconsistent with the laws of the United States or of this territory) as may be necessary for the transaction of the business, and management of the affairs of said company.

SEC. 3. **Capital stock personal property, $200,000.** The capital stock of said company shall not exceed two hundred thousand dollars, which shall be considered personal property, and shall be divided into shares of twenty-five dollars each.

SEC. 4. **President and directors, how and when elected; how stockholders to vote in making by-laws; majority of votes to govern.** The business of said company shall be conducted by five directors, who shall be elected by ballot from amongst the stockholders on the first Monday in the month of March next, and on the first Monday in the month of March annually thereafter—

one of which [125] said directors shall be chosen in like manner as president of said board of directors; and it is hereby made the duty of the present secretary of said company to give at least two weeks' notice, by publication in some newspaper published at Iowa City, of the time and place when and where the first election will be held by virtue of this act. In making the by-laws of said company, each stockholder holding from one to five shares shall be entitled to one vote for each share, and one vote for every two shares over five: provided, that no stockholder shall be entitled to more than ten votes; and any stockholder may vote at any election by a legally authorized proxy; and all stockholders who are minors, and under the age of twenty-one years, shall be represented at all elections, as well as in the transaction of other business, by their properly constituted guardian. In all elections held by virtue of this act, a majority of the votes given shall determine the election.

SEC. 5. **Oath of directors; to appoint a secretary, his duty.** The said directors, after having been duly elected, shall each, before entering upon the discharge of their duties, take and subscribe an oath, well and faithfully to discharge and execute all of the duties incumbent upon them as directors of said company, without partiality, favor or affection; and as soon as the directors shall have been thus qualified, it shall be their duty to choose from among the stockholders a suitable person to act as secretary of said company, whose duty it shall be carefully to preserve all books and papers of every kind and description appertaining to the business of said company, and also to keep a faithful record of all the proceedings of the said board of directors, together with all the books of account necessary to be kept in the transaction of the business of said company. The said secretary shall also receive and pay out all of the moneys and funds of said company: provided, however, that the secretary shall not in any case pay out any money or funds of the said company until the same shall have been specifically appropriated by the board of directors; and no money or other funds shall be paid out otherwise than upon a certificate signed by the president and countersigned by the secretary, showing the date at which the indebtedness accrued, and the amount due and payable thereon; and all such certificates, when duly paid by the secretary, shall be by him cancelled with some established and durable mark, and carefully preserved as a voucher for such payments.

SEC. 6. **Directors to appoint agents and fix their compensation; secretary to make financial report every three months for publication.** The said directors shall have power to employ all agents necessary for transacting the business of said company, who, together with the secretary, may be required to enter into bond with such security and in such penalty as the board of directors may deem necessary. The compensation of the said secretary, and all other agents doing business for and on behalf of said company, shall be fixed by the board of directors; and all such agents of the said company shall be at all times accountable to the board of directors for the manner in which they shall discharge their several duties; and it shall be the duty of the secretary to report to the board of directors, at the expiration of every three months, the condition and situation of the financial department of said company, which said report shall be published in some newspaper printed at Iowa City.

SEC. 7. **Agents to take subscriptions; their appointment and duties.** The board of directors may, at any time after they shall [126] have organized under this act, appoint such persons as they may deem proper, with full power and authority to receive subscriptions to the capital stock of said company; and each subscriber, at the time of subscribing, shall pay to the persons so appointed five dollars on each share of stock by him subscribed; and all moneys so received shall be paid to the secretary as soon thereafter as practicable, and his receipt taken therefor.

SEC. 8. **Contracts and covenants, how made and executed by said company.** All contracts, covenants and promises, made by and with said company, shall, on the part of said company, be made in the name of the president and directors of the Iowa City Manufacturing Company; and all instruments in writing, signed by the president and countersigned by the secretary, shall be sufficient to bind said company.

SEC. 9. **Company to have power to cut a race to Iowa City; to lease or sell water privileges; to erect mills and machinery; restrictions as to the rights of others; to be subject to the law regulating mills and millers; to grind for toll.** Said company shall have power to convey the water of the Iowa river over or through any suitable ground, by means of a canal of such capacity as shall be deemed sufficient, from and out of the dam in the Iowa river known as the Iowa City Manufacturing Company's dam, (near the residence of the late Walter Butler,) to or through Iowa City, for manufacturing purposes; and also shall have power to erect buildings and establish and carry on any branch of manufacturing at any point on the line of said canal; and to dispose of any water privilege or power, either by sale of any part or the whole of their interests therein, or by lease of the same, in the same manner as individuals could or might dispose of their private property: provided, that no lands shall be appropriated by said company as sites for permanent buildings or machinery, or for the purpose of constructing any canal or canals, without first obtaining the title thereto by contract or agreement with the owner thereof: and provided further, that all grist mills erected and carried on by said company shall be subject to and governed by the general laws of this territory relative to mills and millers: and provided further, that the said company shall at all times, when there is sufficiency of water, grind for customers for toll, according to the rates fixed by the law regulating mills and millers.

SEC. 10. **Contracts heretofore made to be binding on corporation, and rights acquired by company to vest in corporation.** All covenants, contracts, agreements, promises and undertakings, heretofore made by and with the directors and trustees of the Iowa City Manufacturing Company, shall hereafter be held good and valid by and against the president and directors of said company; and all real, personal and mixed estates, heretofore acquired and held in the name of the directors and trustees of the Iowa City Manufacturing Company, shall, by virtue of this act, vest in the corporation hereby created; and all subscriptions heretofore taken to the capital stock of the Iowa City Manufacturing Company, shall be held and governed by the same rules and regulations as though the same had been taken after the organization of said company, under and by virtue of this act: provided, however, that the president and board of directors may, at their discretion, at any time hereafter, declare all subscriptions heretofore taken to the capital stock of said company, upon which nothing shall have been paid, forfeited and of no effect.

SEC. 11. **Conditions of forfeiture.** The said company shall complete the said canal, together [127] with the necessary locks, or construct a suitable lock at the present dam, within five years from the taking effect of this act; and in default thereof, all the privileges herein granted shall be forfeited by said company: provided, that if the said company construct the said lock at the said dam within the time limited by this act, then and in that case they shall complete the said canal, together with the necessary locks, within ten years from the taking effect of this act; and in default thereof, the said company shall forfeit all privileges herein granted.

SEC. 12. **Penalty for committing trespass upon the property of company.** Any person who shall destroy, or in anywise injure said dam, or the said canal or lock, or any other works belonging to said company, shall be deemed

to have committed a trespass, and shall be liable accordingly; and any person who shall wilfully and maliciously destroy or injure said dam, lock or other works, belonging to said company, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined treble the amount of damages the said company may have sustained, and be imprisoned, at the discretion of the court.

SEC. 13. **Duration of term.** The charter hereby granted shall continue for the term of forty years.

SEC. 14. **Time of taking effect.** This act shall take effect and be in force from and after its passage.

Approved, 14th February, 1844.

CHAPTER 110.

LYCEUM.

AN ACT to incorporate the Washington Lyceum of Jackson county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Organization of; name and style of company; general powers and limitation of capital; power to make by-laws for government of; restriction; number of officers, how and when appointed; term of office; quorum how constituted; deeds how made.** That E. Ellsworth, Nathan Hixon, David J. Osborn, William P. Johnson, Arnold Smith, Samuel Durant, Allen Hinchman, George F. Gordon, and such other persons as from time to time shall become members of said corporation, shall be and are hereby constituted and declared to be a body politic and corporate, in fact, deed and name, by the name and style of the "Washington Lyceum;" and by that name they and their successors shall have succession, and shall be persons in law capable of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended, in all courts and places whatsoever, and in all manner [128] of actions, suits and complaints, matters and cases whatsoever; and that they and their successors shall have a common seal, and may change and alter the same at their pleasure; and they and their successors, by the same name, shall be persons in law capable to purchase, acquire and hold, by gift, grant or devise, and to them enjoy to their successors, any real estate in fee simple, or for a term of life or lives, or otherwise; and any goods, chattels, or any personal property, for the purposes of enabling them the better to carry into execution, encourage and promote, such measures as may tend to the advancement of science and literature, the promotion of education, the advancement of knowledge, and the development of worth in the sciences: provided, that the clear yearly value of such personal and real estate shall not exceed the sum of ten thousand dollars; and that they and their successors shall have full power and authority to give, grant, sell, lease or dispose of, said real and personal estate, or any part thereof, at their will and pleasure; and that they and their successors shall have power, from time to time, to make, constitute and establish, such by-laws, ordinances and regulations, as they shall judge proper for the election of their officers, the admission of new members, or fixing the time and place of the meetings of said corporation, and for regulating all its affairs generally: provided, such by-laws shall not be incompatible with the constitution and laws of the United States and the laws of this territory. And

for the better carrying on of the affairs of said corporation, there shall be a president, vice president, recording secretary, and such other officers as they may see fit, who shall hold their offices from the time of their appointment or election until the first Monday in March in each and every year, or until others shall have been chosen in their stead; and that E. Ellsworth shall act as president; N. Hixon, vice president; David J. Osborn, recording secretary; R. B. Wyckoff, corresponding secretary; Arnold Smith, treasurer, and Samuel Durant, librarian, until the first Monday of March next; and that said officers shall forever thereafter be chosen by the members of said corporation, in such manner and at such time and places as shall be directed by the by-laws of said corporation, to be made for that purpose; and that the president or vice president, and any four members of said corporation, shall constitute a quorum for the transaction of business; and all deeds or other instruments of conveyance shall be made by order of the lyceum, and signed and acknowledged by the president and recording secretary, and sealed with the common seal of the lyceum, in order to insure their validity.

SEC. 2. **Certain articles of property exempt from taxation.** That the books, scientific apparatus, minerals, fossils and plants, and such other specimens as said lyceum have or may hereafter collect and acquire for their cabinet, shall be exempt from county and territorial taxation.

SEC. 3. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 14th February, 1844.

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[129] CHAPTER 111.

COLLECTION OF TAXES IN LOUISA COUNTY.

AN ACT to perfect the collection of taxes in Louisa county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Acts of sheriff valid.** That the proceedings of the sheriff of Louisa county, in the collection of taxes on the tax duplicate for the year one thousand eight hundred and forty-three, be and are hereby declared legal and valid, so far as he has proceeded in the collection of the taxes on said duplicate.

SEC. 2. **Sheriff to pay over in 20 days from passage of act.** The said sheriff shall pay over to the county treasurer of Louisa county, within twenty days from the passage of this act, all money by him collected on said tax duplicate, after deducting his per centum for the collection of the same, and which he has not already paid, and take the treasurer's receipt for the same.

SEC. 3. **To return tax duplicate to the clerk and take receipt.** Said sheriff shall also forthwith, after paying over said money to the treasurer, return the tax duplicate to the clerk of the board of county commissioners, after specifying in said tax duplicate the property on which the taxes have been paid; and the clerk of the board of county commissioners, after calculating the amount of taxes remaining unpaid in said tax duplicate, shall give to the said sheriff his receipt for said tax duplicate, stating in said receipt the amount of taxes remaining unpaid on said tax duplicate.

SEC. 4. **To settle with the board of commissioners.** Said sheriff shall settle with the board of county commissioners of said county at the next regular session; and if the amount of the county treasurer's receipt, together with the balance due and uncollected on the tax duplicate, as specified in the receipt of the clerk of the board of county commissioners, will balance the charges on the books of the county commissioners, they shall give him a receipt for the amount of said tax duplicate; but if, on said settlement, there should be a balance due from said sheriff, the commissioners, if said sheriff should refuse to pay over the same, shall proceed to collect the said balance from said sheriff according to law.

SEC. 5. **Clerk to direct duplicate to collector; collector's duty.** The clerk of the board of county commissioners shall, immediately after receiving the tax duplicate from the sheriff, under the seal of said board, and in the name of the territory, direct the same to the county collector of said county, commanding him to collect the taxes unpaid in said duplicate; and said collector shall collect all the taxes remaining unpaid in said tax duplicate, agreeably to the provisions of "An act to provide for the assessing and collecting county and terri- [130] torial revenue," approved on the 13th February, 1843: provided, that in collecting the said unpaid taxes, the said collector shall pay no regard to the time prescribed in the eighteenth section of the aforesaid act of the thirteenth of February, 1843, for demanding payment of taxes; but that the said collector shall proceed to collect the unpaid taxes charged in said duplicate, by first demanding, as soon as may be after the said duplicate shall come into his hands, payment of the persons therein charged, at their most usual place of residence, or in any other place where they may be found.

SEC. 6. **Commissioners may give further time.** The county commissioners of said county may give such further time to said collector for the collection of said taxes, as they may deem necessary: provided, such time shall not extend further than the first Monday of July next.

SEC. 7. **Commissioners may appoint the day of sale.** Said commissioners may appoint a day when said collector shall sell real estate for the payment of said taxes, and said collector shall proceed to advertise and sell said real estate in accordance with the act to provide for the assessing and collecting county and territorial revenue, approved on the 13th of February, 1843; and said sale of real estate, by such collector, shall be as legal and valid as if such sale had been made on the first Monday in January.

SEC. 8. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 14th February, 1844.

CHAPTER 112.

MOUNT PLEASANT LYCEUM.

AN ACT to incorporate the Mount Pleasant Lyceum.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Organization of, name and style; general powers.** That Norton Munger, John P. Grantham, Samuel Nelson, Nelson Lathrop, J. D. Payne, John Craig, J. C. Hall, James Wamsley, Alvin Saunders, and their associates and successors, are hereby created a body corporate, by the name and style of "The Mount Pleasant Lyceum," with perpetual succession, with power

to acquire and possess property, real, personal and mixed, and to manage and dispose of the same at pleasure; and such corporation shall have power to contract and be contracted with, to sue and be sued, to have and use a common seal, and to alter the same at pleasure.

SEC. 2. **Object of and how pursued.** The object of the above corporation shall be the establishment of a library and scientific apparatus, the cultivation of the arts and sciences, and the diffusion of useful knowledge; which object [131] shall be pursued by such means, and in such manner, as may from time to time be prescribed in the by-laws of the corporation, provided the same are not inconsistent with the laws of the land.

SEC. 3. **Number of officers; tenure of office.** The officers of the lyceum shall be a president, vice president, treasurer and secretary, with the powers and duties usually incident to those offices, together with such other officers and with such tenure of office as shall be prescribed in the by-laws.

SEC. 4. **Time and place of meeting.** Such corporators, or a majority of them, may meet and organize, by electing their officers, at such time and place as may suit their convenience, and may proceed to enact such by-laws as may be deemed expedient; and may change, repeal, alter or amend the same, in accordance with the by-laws, rules and regulations, of said corporation.

SEC. 5. **Quorum.** In all cases five of the corporators shall constitute a quorum to transact business, unless otherwise provided by the by-laws.

SEC. 6. **Deeds how made.** All deeds and other instruments of conveyance shall be sealed with the seal of the corporation, signed by the president, and by him acknowledged in his official capacity.

SEC. 7. **Time of taking effect.** This act shall take effect and be in force from and after its passage.

Approved, 14th February, 1844.

CHAPTER 113.

FERRY.

AN ACT to amend an act entitled, "An act to establish a ferry across the Mississippi river, in this territory," approved January 18th, 1838.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **John Wilson, authority of to keep swing boat, provided county commissioners are satisfied with its safety and sufficiency; result of examination to be entered on books of board of comm'rs.** That John Wilson, in lieu of a boat or boats to be propelled by horse or steam power, to be kept at the said ferry, as required by the proviso of the second section of the act to which this is amendatory, be and he is hereby authorized and permitted to keep a good and sufficient boat, to be propelled by the force of the current of said river, (by attaching one end of a line or cable to the said boat, and the other end thereof to Rock Island,) commonly called a swing ferry boat: provided, that upon the completion of said boat, the board of county commissioners of Scott county, upon examination of the operation thereof, shall be satisfied that the said swing ferry boat furnishes a sufficient and safe conveyance of passengers, horses, cattle, hogs and other property, across said Mississippi

river, without [132] unreasonable delay; the result of which examination said commissioners shall cause to be entered in the books of said board.

SEC. 2. **Time of taking effect.** This act to be in force from and after its passage.

Approved, 14th February, 1844.

CHAPTER 114.

ROAD.

AN ACT declaring a certain road therein named a public highway, and the establishment and continuation of the same through the counties of Jackson, Clinton and Cedar.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Road commencing at David G. Bates', route of; declared a territorial road; board of commissioners of Jackson county may re-locate part of.** That the road as now traveled, from the ferry of David G. Bates, on the west bank of the Mississippi river, by the way of the towns of Bellview, Andrews, (the seat of justice of Jackson county,) and thence to Springfield post office, in said county, be and the same is hereby declared a territorial road: provided, that so much of said road as lies between Bellview and Andrew may hereafter be re-located by the board of commissioners of said county, if they think fit.

SEC. 2. **Appointment of commissioners to locate territorial road, commencing at John E. Goodenow's, route of; commissioners how to proceed in discharge of duties; where and when to meet; counties through which road runs not to pay expense.** That William Phillips, William H. Efner, of Jackson county, and A. Cowles, of Clinton county, be and they are hereby appointed commissioners to lay out and establish a territorial road, beginning at the house of John E. Goodenow, the Springfield post office; thence on the most eligible route to or as near as may be thought the most practicable, to cross the Wabesipinicon river, at or near the place where Thorn and Anderson are about erecting a mill on said stream, and thence on the most proper route to intersect the territorial road from Camanche to Tipton, in Cedar county, having due reference to the accomodation of the present and future inhabitants of the country through which said road passes, as well as the public generally. The said commissioners, or a majority of them, shall meet at Springfield on the first Monday of June eighteen hundred and forty-four, or at such other time during the year as they may agree upon, and then proceed to the discharge of their duties: provided, that nothing herein contained shall be so construed as to allow said commissioners any compensation to be drawn from the treasury of either of the above counties.

SEC. 3. **Commissioners to take an oath, nature of.** That each of said commissioners shall, before he enters [133] upon the duties required of him by the provisions of this act, take and subscribe, before some justice of the peace or other officer authorized to administer oaths, the following affidavit: "I do solemnly swear (or affirm, as the case may be,) that I will faithfully and impartially, without prejudice or favor, perform the duties of commissioner in strict accordance with the provisions of this act."

Approved, 14th February, 1844.

CHAPTER 115.

ROAD.

AN ACT to locate a Territorial road from Keosauqua, in Van Buren county, to the western line of Appanoose county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Commissioners, appointment of; road to commence at Keosauqua; route of.** That Samuel Morton, St. Clair Griffin and John Arrowsmith, of Van Buren county, be and they are hereby appointed commissioners to locate a territorial road, from Keosauqua, in Van Buren county, to the county seat of Davis county; thence to the county seat of Appanoose county, or as as near the centre of said county as practicable, if the county seat of said county is not located when said commissioners shall proceed to locate said road; thence to the western line of said county.

SEC. 2. **Commissioners, when and where to meet.** That the commissioners appointed as aforesaid shall meet at the house of Solomon Richardson, on the first Monday in June next, or at some convenient period within six months thereafter, and proceed to locate said road according to law, from said Solomon Richardson's to its termination as specified in the first section of this act.

SEC. 3. **Part of road from Keosauqua via Ely's ford, to be adopted as part of; plat and survey of, where to be recorded.** That so much of the county road leading from Keosauqua, via Ely's ford, on the Des Moines river, to the western line of Van Buren county, as lies between Keosauqua and said Richardson's, be recognized as a portion of said territorial road, without any further action on the part of said commissioners than to make out the plat and survey of said portion of said county road, as found on record in Van Buren county.

SEC. 4. **Commissioners and others, how paid for services.** Said commissioners and other persons necessarily employed in locating said road, shall be allowed such compensation for their services as the county commissioners of the counties through which the road shall pass may think just and right.

SEC. 5. **Time of taking effect.** This act to be in force from and after its passage.

Approved, 14th February, 1844.

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[134] CHAPTER 116.

ROAD.

AN ACT to locate and establish a Territorial road, from Brighton, in Washington county, to intersect the road from Mount Pleasant to Washington, in Washington county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Appointment of commissioners to locate road; to commence at Brighton, in Washington county; route of.** That Sexton Mount, of Jefferson county, and Joseph Walker, of the county of Henry, and John Garnet, of the county of Washington, be and they are hereby appointed commissioners to

locate and establish a territorial road, commencing at Brighton, in Washington county; thence on the nearest and best route on which a convenient ford can be found on Skunk river, to intersect the territorial road running from Mount Pleasant to Washington, in Washington county, at or near the house of Rufus M. Pickle, in Henry county.

SEC. 2. **Commissioners, how to be governed.** Said commissioners shall, in all respects, be governed by the provisions of the act to provide for laying out and opening territorial roads, approved December the 29th, 1838.

SEC. 3. **Commissioners, where and when to meet.** Said commissioners shall meet at Brighton, on the second Monday of April next, or at some future time to be agreed on by them within sixty days thereafter, and proceed to locate said road as hereinbefore directed.

SEC. 4. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 14th February, 1844.

CHAPTER 117.

VACATION OF STREET.

AN ACT to authorize the county commissioners of the county of Henry to vacate a part of Webster street, in the town of Mount Pleasant, in said county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Webster street, part of to be vacated by county commissioners; to enlarge burial ground.** That for the purpose of enlarging and improving the burying ground in the town of Mount Pleasant, the county [135] commissioners of the county of Henry are hereby authorized to vacate that portion of Webster street, in said town, lying between the public burying ground and block No. nine, in the commissioners first addition to Mount Pleasant.

SEC. 2. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 14th February, 1844.

CHAPTER 118.

TOWN OF FREDONIA.

AN ACT relative to the town plat of Fredonia, in Louisa county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Alvin Clark required to have plat made out within 90 days.** That Alvin Clark, of the county of Louisa, in said territory, be and he is hereby authorized to cause a complete and legal plat of the town of Fredonia, in said county, to be made out according to the survey of the same by John Gilliland, Esqr. in the year 1840, and to have the same duly recorded within ninety days from the passage of this act.

SEC. 2. **Deeds and mortgages made by Clark declared valid.** That all deeds, mortgages, and other contracts in writing, in relation to any of the lots of said town of Fredonia, executed by the said Clark, are hereby declared to be as legal and valid, to all intents and purposes, as if a complete and legal plat of said town had been made out and duly recorded prior to the execution of any such deed, mortgage, or other contract in writing.

SEC. 3. **Time of taking effect.** This act to take effect from and after its passage.

Approved, 14th February, 1844.

CHAPTER 119.

ROAD.

AN ACT to revive an act entitled, "An act to review and establish a part of a territorial road leading from Fort Madison, in Lee county, to Iowaville, in Van Buren county," approved 13th February, 1843.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Time given for location of extended.** That the time given in the act aforesaid for [136] the relocation of said road, be and the same is hereby extended until the first Monday in August next.

SEC. 2. **Appointment of commissioners to re-locate.** That Benjamin Saylor and Joel Avery are hereby appointed to act as commissioners in re-locating said road, in the place of E. A. Boyer and John Saylor.

Approved, 14th February, 1844.

CHAPTER 120.

BAPTIST CHURCH.

AN ACT for an act donating to the Baptist church of Iowa City a certain lot of ground therein named.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Church reserve in block 51 donated.** That there be donated unto the Baptist church of Iowa City, the church reserve in block numbered fifty-one (51) in Iowa City, as designated on the plat of said town.

SEC. 2. **Secretary required to make deed to trustees; effect of deed.** That the secretary of this territory be and he is hereby directed, on application, to execute and deliver a deed for the above parcel of ground so donated, to George S. Hampton, Elijah Walker and Alonzo Dennison, trustees of the Baptist church of Iowa City, and their successors in office, conveying the said piece of ground to them for the use of the said Baptist church: provided, the said deed shall be executed in all respects and in the same manner, and shall have the same legal effect, as other deeds for lots in Iowa City to purchasers, as are now directed by law.

SEC. 3. **Trustees authorized to sell and convey; proceeds of sale, how applied in the purchase of another lot.** That the said trustees, or their successors in office, by the direction of the said Baptist church, are hereby

authorized, at any time after the passage of this act, to sell and dispose of all or a part of the said piece of ground so donated by this act to any person or persons, and to execute a deed or deeds to the purchaser or purchasers for the same; and the said trustees are hereby directed and required to invest the proceeds thereof in the purchase of a lot of ground in Iowa City, and the balance, if any, to be applied to the erection of a house of public worship for the use and benefit of the said Baptist church.

SEC. 4. **Lot so purchased to be forever held for religious and literary purposes.** The lot of ground so purchased shall be forever thereafter used for religious and literary purposes, agreeably to the forms and customs of said Baptist church.

SEC. 5. **Time of taking effect.** This act to be in force from and after the passage thereof.

Approved, 14th February, 1844.

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[137] CHAPTER 121.

ROAD.

AN ACT to change a part of a territorial road running from Burlington to the mouth of the Des Moines river.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Part of road running from Burlington to mouth of the Des Moines river located on section line.** That all that part of a territorial road running from Burlington to the mouth of the Des Moines river, lying between James McMurry's and section twenty-three and fourteen, shall be considered and established on the section line.

SEC. 2. **Time of taking effect.** This act shall take effect and be in force from and after its passage.

Approved, 14th February, 1844.

CHAPTER 122.

DAVIS COUNTY.

AN ACT to organize the county of Davis and to provide for the location of the seat of justice thereof.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **County, organization of; part of the first judicial district.** That the county of Davis be and the same is hereby organized, from and after the first day of March, 1844; and the inhabitants of said county shall be entitled to all the rights and privileges to which, by law, the inhabitants of other organized counties of this territory are entitled to, and that said county shall constitute a part of the first judicial district of this territory.

[138] SEC. 2. **Clerk to designate the precincts, give notice of elections, and appoint judges.** That the clerk of the district court of said county, shall, and in case there should be no such clerk appointed and qualified, or

for any cause said office should become vacant, on or before the tenth day of March, 1844, then it shall be the duty of the clerk of the board of commissioners of Van Buren county, to proceed to establish, temporarily, six election precincts in said county, for the purpose of holding the first election in said county as hereinafter provided; and also give notice for the holding such election on the first Monday of April, 1844, by posting up, or causing to be posted up, three written or printed notices of said election in each of the election precincts so established, at least ten days previous to holding said election; also to appoint three judges of said election for each precinct in said county, and issue certificates to said judges of their appointment.

SEC. 3. **Number of officers and how qualified; returns to be made to the clerk; votes how canvassed.** It shall be legal for the inhabitants of said county, at such special election, to elect the following officers, who shall hold their offices until the next general election thereafter, to wit: three county commissioners, one judge of probate, one county treasurer, one clerk of the board of county commissioners, one county recorder, one county surveyor, one county assessor, one sheriff, one coroner, and one sealer of weights and measures; also, for each election precinct, two justices of the peace, and two constables; which officers when so elected, will enter into the same bonds and be qualified in the same manner as is now required by law. That the returns of said election shall be made to the person ordering the same, within ten days after holding such election, in the same manner as is now provided for by law; and at the expiration of said time, or sooner, if the returns from all the precincts are received, he shall call to his assistance two justices of the peace from either of the counties of Davis or Van Buren, and proceed to canvass the votes given at said election, and grant certificates of election to the persons entitled thereto.

SEC. 4. **Election, how conducted.** Said election shall in all cases not provided for by this act be conducted according to the laws of this territory regulating general elections.

SEC. 5. **Officer ordering election to return books and papers to clerk.** That the officer ordering said election shall return all the books and papers which may come into his possession by virtue of this act, to the clerk of the board of commissioners of said county of Davis, as soon as practicable after such clerk shall have been elected and qualified.

SEC. 6. **Clerk of district court of Davis county when appointed; when to enter upon duties.** That the clerk of the district court for said county of Davis may be appointed and qualified at any time after the passage of this act, but shall not enter upon the discharge of his duties prior to the first day of March, 1844.

SEC. 7. **Not to interfere with suits pending.** That all actions at law or equity in the district court, for the county of Van Buren, commenced prior to the first day of March, 1844, where the parties, or either of them, reside in the county of Davis, shall be prosecuted to final judgment, order or decree, in said court as fully and effectually as if that [this] act had not been passed.

SEC. 8. **County assessor, his duty.** That the county assessor elected under the provisions of this act, for the county of Davis, shall assess said county in the same manner and be under the same obligations and liabilities, as is now [139] or may hereafter be provided by law, in relation to township assessors.

SEC. 9. **Commissioners to locate county seat; how to proceed.** That Charles H. Price, of Van Buren county, Thomas Wright, of Henry county, and John Brown, of Lee county, be and they are hereby appointed commissioners to

locate and establish the seat of justice of said county of Davis. Said commissioners, or any two of them, shall meet at the house of Noble C. Barron, in said county of Davis, on the first Monday of April, 1844, or on such other day during the said month of April as they or a majority of them may agree, and proceed to locate and establish the seat of justice of said county as near the geographical centre of said county as said commissioners may deem proper, paying due regard to the present as well as future population of said county; and as soon as they have come to a determination, the same shall be committed to writing, signed by the said commissioners or a majority of them, and filed in the office of the clerk of the board of commissioners of said county of Davis, who shall record the same and forever keep it on file in his office; and the place so selected shall be the seat of justice of Davis county.

SEC. 10. **Oath of commissioners.** Said commissioners shall, previous to entering upon their duties as aforesaid, take and subscribe before some magistrate or other person authorized to administer oaths, the following oath or affirmation to-wit: "We do solemnly swear (or affirm) that we have no personal interest, directly or indirectly, in the location of the seat of justice of the county of Davis, and that we will faithfully and impartially locate the same according to the best interests of said county, taking into consideration the future as well as the present population of said county;" and the person so administering such oath shall certify and file the same in the office of the clerk of the board of county commissioners of said county of Davis, whose duty it shall be to record and keep the same on file in his office.

SEC. 11. **Davis county, boundaries of; a part of the act 17th February, 1843, repealed.** That said county of Davis shall be bounded as follows, to wit: beginning at the north-east corner of township seventy north, range twelve west; thence west on the township line dividing townships 70 and 71, to range sixteen west; thence south on said range line to the Missouri state line, thence east on said state line to the south-west corner of Van Buren county; thence north with the west line of said county of Van Buren, to the place of beginning; and that so much of the first section of an act entitled "An act to establish new counties and define their boundaries," etc., approved 17th February, 1843, as conflicts with this section, be and is hereby repealed.

SEC. 12. **Compensation to commissioners to be paid by Davis county.** That the commissioners to locate said seat of justice shall each receive the sum of two dollars per day while necessarily employed in the duties enjoined upon them by this act, to be paid by said county of Davis.

SEC. 13. **County of Appanoose attached to Davis.** That the county of Appanoose, and the territory west of said county, be and the same is hereby attached to the county of Davis, for election, revenue and judicial purposes.

SEC. 14. **Time of taking effect.** This act to be in force from and after its passage.

Approved, 15th February, 1844.

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[140] CHAPTER 123.

WABESIPINICON BRIDGE COMPANY.

AN ACT to incorporate the Wabesipinicon Bridge Company.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Incorporation of; name, style, and general powers.** That Daniel M. Peet and Caleb C. Walworth, with their associates, successors and assigns, are hereby created a corporation, by the name of the "Wabesipini-

con Bridge Company," and by that name may sue and be sued, have and use a common seal; and shall be capable in law of purchasing, holding, selling, leasing and conveying estate, real or personal, and shall have power to do all other acts necessary to the consummation of the objects of this incorporation.

SEC. 2. **Right to construct a bridge; where to be located.** The said Daniel M. Peet and Caleb C. Walworth be and they are hereby authorized to construct a bridge across the Wabesipinicon river, at or near the place where the military road crosses said river, in Jones county.

SEC. 3. **How bridge to be constructed.** Said bridge shall be constructed of good materials, of sufficient height from the water, and of convenient width for the passage of teams, carriages and passengers.

SEC. 4. **First meeting, how called; may enact by-laws, etc.** That any member of said company may, at any time within one year from the passage of this act, by giving ten days notice, call a meeting of its members, and may proceed to enact such rules, by-laws and regulations for its government, and for the management and conduct of its business, as a majority of them may deem right and proper: provided, the same do not conflict with the laws of the United States and of this territory.

SEC. 5. **Capital stock and shares.** The capital stock of said company may be divided into shares of one hundred dollars each, and as many such shares may be created as the company may direct: provided, they do not, in the aggregate, exceed the sum of three thousand dollars. Each share shall be entitled to one vote in the government and direction of the affairs and business of said company.

SEC. 6. **Subsequent meetings of company how called, notice of how given.** Any two persons may, from time to time, call meetings of said company, by posting up notices of the time, place and purpose of said meetings, in two of the most public places in the township where [141] said bridge is to be erected, at least ten days before the time of said meeting.

SEC. 7. **Rates of toll allowed to company.** A toll is hereby granted and established for the benefit of said corporation, not to exceed the rates following, to wit: for each horse and rider, eighteen and three-quarter cents; for each sleigh, sled, cart, wagon, or other vehicle drawn by one beast, the sum of twenty-five cents; for each sleigh, sled, cart, wagon or other vehicle drawn by two beasts, the sum of thirty-seven and a half cents; for each additional beast of burden beyond two, in any sleigh, sled, cart, wagon or other vehicle, the sum of twelve and a half cents; for each foot passenger, the sum of six and a quarter cents; for droves of neat cattle, mules, horses and asses, the sum of six and a quarter cents each; for sheep and swine, two cents each: provided, said corporation may permit persons who may contribute to the building of said bridge to cross free of toll.

SEC. 8. **Rates of toll to be exhibited at bridge to public view.** At the place of collecting tolls, said corporation shall keep exposed to view a board or sign, upon which shall be plainly printed or marked the rates of toll aforesaid; and said toll shall commence on the day when said bridge is first opened for passengers.

SEC. 9. **Company to keep an account of cost of; when company fully reimbursed, bridge to become free.** Said corporation shall keep, or cause to be kept, a correct account of all moneys expended, labor performed and materials furnished, in the erection of said bridge; and the cost of such bridge, thus ascertained, shall be recorded in a book, in which book shall also be recorded a correct account of all tolls received by said company; and when said tolls shall amount to a sum sufficient to refund to said company an amount equal to the amount expended in erecting said bridge, together

with interest thereon, after deducting from such tolls so received one-half, as a compensation to said company for tending and keeping in repair said bridge, then said bridge shall become the property of the public, and shall forever remain a free bridge, and shall be open to the passage of all persons free of toll.

SEC. 10. **Toll gatherer to take oath.** Said corporation shall cause such person as they may employ as a toll gatherer, to take and subscribe an oath before some justice of the peace in the township where said bridge shall be situated, to keep a correct account of all moneys and tolls received by him, and to record the same in the proper book kept for that purpose.

SEC. 11. **Injury to, how redressed; penalty for.** That if any person shall wilfully or maliciously destroy or injure said bridge, such person shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined treble the amount of damages the owners may have sustained, and be imprisoned at the discretion of the court, not less than six months nor more than ten years.

SEC. 12. **To be completed in two years.** Said bridge shall be completed within two years from the date of the passage of this act, and a failure of its completion shall be deemed a violation of this incorporation.

SEC. 13. **Power of repeal reserved.** Any future legislature may alter, amend, or repeal this act, in case the corporation shall abuse or misuse its privileges: provided, such alteration, amendment or repeal, shall not impair the title of said bridge, nor change the tolls by this act established.

Approved, 15th February, 1844.

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[142] CHAPTER 124.

MADISON COUNTY.

AN ACT for the formation of the county of Madison.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Boundaries and name of.** That all that part of the county of Lee known as the Half Breed Tract, bounded as follows, to wit: Beginning in the middle of the main channel of the Mississippi river at the lower mouth of the Des Moines river; thence north along the middle of the main channel of the said Mississippi river to a point where the northern line now known as the boundary of the said Half Breed Tract intersects the Mississippi river below the town of Fort Madison; thence west along said line to where the same intersects the Des Moines river; thence to the middle of the main channel of the said river Des Moines; thence down the middle of the main channel of the river Des Moines, to the mouth thereof; thence east to the middle of the main channel of the Mississippi river, to the place of beginning, shall constitute a new county, to be called Madison.

SEC. 2. **First election in, where and when held, by whom and how conducted, number of officers, how elected, term of office, powers and duties.** There shall be an election held at the different places of voting for justices of the peace and constables in the limits of said county of Madison, the first Monday of August next. The election shall be conducted by the present judges of election in said county, who have been appointed by the county of Lee according to the law regulating general elections in this territory. The legal voters of the county of Madison shall elect all

county officers for the county, who shall hold and be qualified and commissioned as similar officers are in other counties of this territory. Said officers, so elected and qualified, shall hold their offices until the next general election, and shall have the same [143] jurisdiction, and discharge all the duties, in the limits of the county of Madison, that are required by law of similar officers in other counties of this territory.

SEC. 3. **Returns of election, when and to whom made; where, when, and by whom opened.** Within ten days after said election, the judges of election at the different places of voting shall return the poll books of said election to A. Kerr, Joseph A. Clarke and Johnson Meeks, three acting justices of the peace. The said justices shall meet in the town of Nashville within ten days after said election, and proceed to open said election returns, and to do and perform all the duties in relation to said returns that are required by law of the clerks of the board of county commissioners in relation to similar returns.

SEC. 4. **On notice of organization judge to appoint clerk; district court, when and where held; to be part of first district.** As soon as the county officers shall have been elected and qualified, the said county of Madison shall be considered as organized, and the clerk of the board of commissioners shall give notice to the judge of the first judicial district, who shall appoint a clerk of the court, and shall hold court at the town of Nashville at such time next fall as he may think proper, in the said county of Madison, and such other times as may suit his convenience, until the county seat of the said county of Madison shall be permanently located. The said county of Madison shall form a part of the first judicial district until otherwise ordered by law.

SEC. 5. **Suits pending in Lee county not affected.** Suits and indictments that have been commenced in the district court of the county of Lee by any of the citizens living in the limits of the county of Madison, before the organization thereof, shall not be affected by this act; but all suits so commenced shall be decided in the district court in the county where they were commenced.

SEC. 6. **Justices residing in new county to retain their offices.** All justices of the peace and constables elected in the county of Lee, who reside in the limits of the county of Madison, shall hold their offices, and have jurisdiction in said county of Madison, as though they had been originally elected in the said county.

SEC. 7. **First election for county seat, where and when held, how conducted—if two places voted for, then a second election; where and when held, and how conducted; majority to determine county seat.** After the organization of the county of Madison, it shall be the duty of the clerk of the board of county commissioners, within thirty days, to issue writs of election to the judges of election in the several townships in said county, to hold an election on the first Monday in April, 1845, to be conducted in all respects by the law regulating general elections, to locate the seat of justice of the county of Madison. The place receiving a majority of all the legal votes polled shall be the permanent seat of justice of the county of Madison; but if more than one place shall have been voted for, and no one place having received a majority of all the votes polled, the clerk aforesaid shall issue writs of election as in the first case for a second election, to be held on the first Monday in August, eighteen hundred and forty-five; but if no place or places shall be voted for but the two, the one having a majority of all the legal votes polled at the said second election shall be and remain the county seat of Madison county.

SEC. 8. **First electoral district to be composed of Lee and Madison; representation in legislature and convention.** The counties of Lee and Madison

shall form the first electoral district, and shall be entitled to two members of the council, and three members of the house of representatives, and also eight members of the convention to form a constitution and state government: provided, the people vote in favor of said convention, as provided by law.

[144] SEC. 9. **Election on the division of Lee county, when and where held, how conducted; returns when made, by whom opened and canvassed; effect of act to depend on result of election.** It shall be the duty of the judges of election in the different townships in the county of Lee, at the April election for the year 1844, to open a poll in each township for "division" or "no division," at which election all the qualified voters of Lee county may write on their ticket "division" or "no division;" and the judges of election shall make return of said tickets, together with the result of the votes in each township, sealed up, within five days after said election to the clerk of the board of county commissioners for Lee county; and said clerk shall proceed, on the 6th day after said election, in the presence of two justices of the peace for said county, to open and canvass said returns; and it shall be the duty of the clerk to carefully preserve the same. If it shall appear by such returns that a majority of the votes cast are in favor of division, then this act to be in full force and virtue; but if it shall appear by such returns that a majority of the votes cast are opposed to division, then this act to be void and of no effect.

SEC. 10. **Failure of judges of election or clerk of board of commissioners to perform duties required, penalty for, how recovered and applied; disqualification of persons convicted.** If any of the judges of election of the different townships of the county of Lee, or the clerk of the board of commissioners of said county, shall wilfully fail to perform any of the duties required of them by the provisions of the 9th section of this act, or shall knowingly receive the vote of any person not qualified as an elector by the laws regulating elections in this territory, he shall be deemed guilty of a misdemeanor, and liable to a fine not exceeding five hundred dollars, at the suit of any person feeling himself aggrieved, one half for the use of the person suing, and the balance for the use of the county; and the persons so convicted shall forever thereafter be disqualified from holding any office of honor, profit or trust, in this territory.

SEC. 11. **At division election names of electors to be written on back of ticket; election, how contested.** It shall be the duty of the judges of the different towships in Lee county to write on the back of each ticket presented for "division" or "no division," the name of the person voting said ticket; and the result of said election may be contested in the same manner that elections of county officers may be contested under the provisions of the law regulating general elections; and for that purpose those persons contesting said election shall have the use of all the tickets voted at said election.

SEC. 12. **Court house at Madison not to be sold for 18 months.** The court house at Fort Madison shall not be sold by the county commissioners of said county, nor by their authority, for the space of eighteen months from and after the date thereof.

Approved, 15th February, 1844.

[145] CHAPTER 125.

CLINTON ACADEMY AT DEWITT.

AN ACT to establish a seminary of learning at the town of Dewitt, Clinton county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Object of incorporation, name and style of.** That there shall be established a seminary of learning at the town of Dewitt, in the county of Clinton, for the instruction of young persons of both sexes, in science and literature, to be called "The Clinton Academy at Dewitt;" and that George W. H. Turner, John Snow, James W. Kirtley, Joseph L. Turner, Thomas W. Clark, Jonathan Shinn, Spooner P. Burton, James D. Bourne, George W. Turner, Robert R. Bedford, Oliver Emerson, Alvin G. Harrison, David H. Brown, Alexander Work, Absalom Dennis, Wm. Horan, J. L. Bellows, John C. Turner, R. C. Bourne, and Loring Wheeler, and their associates and successors, are hereby declared a body politic and corporate, in law, by the name of "The Clinton Academy at Dewitt."

SEC. 2. **Power to hold and sell property; to sue and be sued; to use common seal.** And the corporation before named shall have perpetual succession, and to acquire, possess, and retain, and enjoy, property, real and personal, and mixed, and the same to sell, grant, convey, rent or otherwise dispose of at pleasure; and they shall have power to contract and be contracted with, to sue and be sued, plead and be impleaded, in all courts of justice; and they shall have and use a common seal, with power to alter it at pleasure.

SEC. 3. **Stock divided in shares of five dollars, and transferable on books; income not to exceed two thousand dollars.** The stock of said academy shall consist of shares of five dollars each, which shall be deemed personal property, and shall be transferable on the books of said corporation in such manner as may be prescribed by the board of trustees: provided, that the annual income of said corporation, not including tuition, shall not exceed two thousand dollars; and its funds, privileges and immunities, shall be for no other purpose than that of education.

SEC. 4. **Number of trustees, and how and when elected; vacancies how filled.** The corporation concerns of said academy shall be managed by a board of trustees, consisting of five members, three of whom shall constitute a quorum for the transaction of business. They shall be elected by the stockholders on the first Monday in March, annually, and shall hold their office for the term of one year, and until their successors are duly elected. Election of trustees shall be by ballot, [146] and each stockholder shall be entitled to one vote for every share owned by him to the amount of ten shares, and then one vote for every five shares over and above that amount. Any stockholder may vote in person or by proxy. Said trustees shall elect one of their number to be president of their board, and they shall have power to fill any vacancies in their own body. If any election shall not be made on the day designated in this act, such election may be held on any other day, provided notice of the time and place of holding such election, signed by three or more of the stockholders, and to be affixed to the door of the most public house in Dewitt, at least ten days before the election.

SEC. 5. **Power to make by-laws; appoint officers and agents.** The board of trustees shall have power to appoint subordinate officers and agents; to make, ordain and establish such by-laws and ordinances, rules and regulations, as they may deem necessary for the good government of said academy,

its officers, teacher and pupils; and for the management of property and officers of said corporation to the best advantage: provided, that they shall not contravene the laws of the United States or of this territory.

SEC. 6. **Instruments of writing, how made.** That all deeds and other instruments of writing shall be made by the order of the board of trustees, sealed with the seal of the corporation, signed by the president, and by him acknowledged in his official capacity.

SEC. 7. **Repealing power reserved.** Any future legislature may repeal, alter, or amend this act.

SEC. 8. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 15th February, 1844.

CHAPTER 126.

JUDGE OF PROBATE OF LINN COUNTY.

AN ACT to authorize the judge of probate of Linn county to make a record of the proceedings of said court.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Isaac M. Preston to make record of all the proceedings of the probate court of Linn county.** That Isaac M. Preston, the present judge of probate of Linn county, be and he is hereby authorized and required to make a record of all the proceedings of said court of probate in and for Linn county, from the organization of said county up to the present time, so far as it can be done from the papers now on file in said court of probate.

[147] SEC. 2. **To be submitted to the board of commissioners of Linn county for inspection; if approved to be valid.** That when said record shall be made it shall be submitted to the board of commissioners of said county for their approval, and when approved by them it shall have all the force and effect, and be as good and valid, as if said record had been regularly kept as required and provided for by law.

SEC. 3. **Compensation for, by whom allowed and paid.** That the board of commissioners of said county, when said record is so approved by them, shall allow and pay said judge of probate such compensation as they may deem fair and reasonable for such service.

SEC. 4. **Time of taking effect.** This act shall take effect and be in force from and after its passage.

Approved, 15th February, 1844.

CHAPTER 127.

WABESIPINICON MILL COMPANY.

AN ACT to incorporate the Wabesipinicon Mill Company.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Organization of company; style and general powers of; limitation of capital.** That George W. Thom and Joseph Anderson, and such other persons as may associate themselves with them, be and they are here-

by created a body politic and corporate, to be known by the name and style of "The Wabesipinicon Mill Company," and by that name shall have perpetual succession; may sue and be sued, in all courts of law or equity, and shall be capable in law of purchasing, holding, selling, leasing and conveying, estate, real, personal or mixed, so far as may be necessary for the purpose of carrying out the object of this incorporation: provided, the capital stock of said corporation shall not exceed the sum of fifty thousand dollars.

SEC. 2. **To construct dam, place designated; erect mills, sluice to be 40 feet wide; be completed in 4 years.** That the said George M. Thom and Joseph Anderson, their associates and successors, be and they are hereby authorized and empowered to construct a dam across the Wabesipinicon river, in Clinton county, on section seventeen in township eighty-two (82) north, of range No. one (1) east, of the fifth principal meridian, with the privilege of erecting mills for milling and manufacturing purposes; which dam shall contain a convenient sluiceway at least forty feet wide for the passage of all water crafts on said river. Said dam and sluice shall be completed within four years from the passage of this act, and [148] shall after completed, be kept in good repair for the passage of all water crafts without delay, and free of charge.

SEC. 3. **Injury to how redressed, and penalty.** That if any person shall in anywise destroy or injure said dam or sluice, or any property belonging to said company, he shall be deemed to have committed a trespass, and shall be liable accordingly; and any person who shall wilfully and maliciously destroy or injure said dam or sluice, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined treble the amount of damages the owners may have sustained, and be imprisoned at the discretion of the court.

SEC. 4. **Restrictions as to rights of others.** That nothing in this act contained shall authorize said company to enter upon or flow the land of any person without the consent of such person.

SEC. 5. **Shares of stock $100 each.** That the capital stock of said company shall be divided into shares of one hundred dollars each, and as many such shares may be created as the company may direct: provided, they do not, in the aggregate, exceed the sum of fifty thousand dollars.

SEC. 6. **First meeting of company, how notice given, and how to proceed; restriction.** That any member of said company may, at any time within one year from the passage of this act, by giving at least thirty days previous notice, call a meeting of its members; and said company, when convened, shall call one of their members to preside, and may proceed to enact such by-laws, rules and regulations for its government, and such arrangements for the management and conduct of its business, as a majority of them may deem right and proper: provided, the same do not conflict with the laws of the land.

SEC. 7. **Repeal power reserved.** Any future legislature may amend or repeal this act.

SEC. 8. **Time of taking effect.** This act shall take effect and be in force from and after its passage.

Approved, 15th February, 1844.

CHAPTER 128.

TOWN OF BELLVIEW.

AN ACT to authorize the president and trustees of the town of Bellview, in Jackson county, to license merchants and grocers.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **President and trustees of, authorized to grant license to pedlars; amount to be paid therefor.** That any person hereafter wishing to obtain a license to sell any dry goods, wares or merchandise, of any descrip- [149] tion whatever, such person shall apply to the board of trustees of the said town of Bellview, who are authorized and empowered to grant a license to such applicant, by his paying the treasurer of said corporation such sum as said trustees think proper to charge, not less than five nor more than thirty dollars.

SEC. 2. **Application for grocery license, to whom to be made; warrant of trustees; treasurer's receipt; term of license; bond of applicant to whom given, penalty of and conditions; required to keep an orderly house; penalty on failure, how recovered and applied.** That any person wishing to obtain a license to keep a grocery shall first apply to the board of trustees of said town, who shall issue their warrant directing the person so applying to pay into the treasury of said corporation such sum as said trustees think proper to charge, not to exceed one hundred nor less than five dollars, as the case may be, in the discretion of the board, and obtain the treasurer's receipt for the same; and upon presentation of such receipt the board shall grant to such applicant a license to keep a grocery in said town for the term of one year, by the said applicant executing a sufficient bond to the said board in the penalty of two hundred dollars, with one or more sufficient securities, conditioned that he will keep an orderly house, and that he will not permit any unlawful gaming or riotous conduct in or about his house; and upon a violation of the requisitions herein contained the person so offending shall pay a fine not less than ten nor more than fifty dollars, for the use of the corporation, to be recovered in the name of the board of trustees in any court having jurisdiction within the limits of said county of Jackson, and moreover shall forfeit his license for one year thereafter.

SEC. 3. **Penalty for selling liquor in less quantities than a gallon without license, amount of; how recovered and applied.** That if any person hereafter shall sell or retail any spirituous or vinous liquors, in less quantity or quantities than one gallon, without first having obtained a license agreeable to this act, he shall, upon conviction thereof, be fined in any sum not exceeding one hundred dollars nor less than fifty dollars, for the use of the corporation, to be recovered by motion in any court of justice having cognizance thereof in said county of Jackson.

SEC. 4. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 15th February, 1844.

CHAPTER 129.

TOWN OF DAVENPORT.

AN ACT to amend an act entitled, "An act to incorporate the town of Davenport."

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Warrant first process, nature of punishment, limitation of imprisonment.** That the first process for the recovery of fines for violations of any by-law or ordinance passed by the mayor [150] and aldermen of said town, may be a warrant returnable forthwith; and on conviction of any offender for any such violation, the punishment may be fine or imprisonment of such offender, at the discretion of the court or justice trying the same: provided, such imprisonment shall not exceed seventy-five days for any one offense.

SEC. 2. **Tax, how and by whom laid, how applied.** That the mayor and aldermen of said town are hereby authorized to lay a tax on all the lots situated on any street in said town, for the improvement of such street, or of the side walks thereof, upon the petition of the owners of two-thirds of the lots on such street.

Approved, 15th February, 1844.

CHAPTER 130

MOUNT PLEASANT COLLEGIATE INSTITUTE.

AN ACT to incorporate the Mount Pleasant Collegiate Institute.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Organization of; name and style; general powers.** That Palmer C. Tiffany, John P. Grantham, Nelson Lathrop, Samuel Nelson, Jonathan C. Hall, Ephraim Killpatrick, and their associates, are hereby declared a body corporate, by the name of the "Mount Pleasant Collegiate Institute," with power of perpetual succession, to sue and be sued, to implead and be impleaded, in any of the courts of this territory, and do all acts necessary to carry out the objects of their incorporation.

SEC. 2. **Object of incorporation.** That the objects and purposes of said incorporation shall be wholly confined to the acquiring of sufficient real estate, erecting suitable buildings, endowing professorships, establishing a library, and sustaining an institution of learning, designed and kept open for the education of all denominations of white citizens.

SEC. 3. **Specific powers; to make by-laws, elect officers, etc.; validity of, restriction.** That said incorporators, and their associates, shall have power to organize in such manner as they may see proper, appoint such officers as they may deem fit, and make such rules, by-laws and regulations, to govern themselves, and dispose of their property, as they may deem advisable; and after they shall have adopted such rules, by-laws and regulations, the same shall be valid and binding, and shall be received and enforced in the several courts of this territory: provided, no rules, by-laws or regulations, adopted by said incorporation, shall have any effect, except over the members of said [151] incorporation; and in no case shall they be made to inflict any penalty on any member thereof, or contravene the laws of this territory.

SEC. 4. **Legal process, how served.** Legal process may be served upon any officer of said incorporation, and in case there are no officers, then upon any member thereof.

SEC. 5. **Institution, where to be situated.** That said institution shall be situated within five miles of the town of Mount Pleasant, in Henry county.

SEC. 6. **Power to authorize any member to sell or convey real estate of incorporation; effect of such conveyance.** That said incorporators and their associates may make rules by which any one or more of their number can sell and convey, or mortgage, any real estate, of which said incorporation may become possessed; and all conveyances so made, shall be valid in law and equity.

SEC. 7. **Power to receive conveyance of the real estate and effects of the Mount Pleasant Collegiate Institute.** The present association, known as the "Mount Pleasant Collegiate Institute," are hereby authorized to transfer to the said incorporation, such real and personal property as has been vested in them for the purposes of establishing said institution of learning; and said property shall, when so transferred, be wholly vested in said incorporation.

SEC. 8. **Repeal power reserved.** Any future legislature may repeal, alter, or amend this charter.

SEC. 9. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 15th February, 1844.

CHAPTER 131.

ROAD.

AN ACT to locate and establish a territorial road from Wilson's mills, in Henry county, to Glasgow, in Jefferson county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Commissioners, appointment of; road to commence at Wilson's mill, in Henry county.** That Samuel D. Woodworth and Henry Hackett, of Henry county, and Daniel Seares, of Jefferson county, be and they are hereby appointed commissioners, to view, mark, locate and establish, a territorial road, from Wilson's mills in Henry county, to Glasgow, in Jefferson county.

SEC. 2. **Commissioners, when and where to meet; power to employ surveyor and other hands; route of road.** Said commissioners, or a majority of them, shall meet at Wilson's mills on the third Monday in March next, or within three months thereafter, and take to their assistance one surveyor and two [152] chain carriers, and one marker, and proceed to locate and establish said road on the nearest and best route to Watson's mills, on Big Cedar, from thence the nearest and best route to Glasgow, in Jefferson county, and there to intersect and terminate on the road leading from Fort Madison to Fairfield, in said county.

SEC. 3. **Commissioners and others, how paid.** Said commissioners, chain carriers and marker, shall receive the compensation allowed by law; and the said Woodworth shall perform the duties of surveyor, and shall receive a compensation for his services as such (and not as commissioner,) to be audited and paid by each of said counties in proportion to the length of the road in each county.

SEC. 4. **Commissioners, how governed.** Said commissioners, surveyor, chain carriers and marker, shall be governed in all respects by the provisions of an act entitled "An act for laying out and establishing territorial roads in this territory," approved December the twenty-ninth, one thousand eight hundred and thirty-eight.

SEC. 5. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 15th February, 1844.

CHAPTER 132.

FORT MADISON.

AN ACT to amend the several acts incorporating the town of Fort Madison.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Mayor and aldermen hereafter not to receive pay for services.** That after the expiration of the term for which the present mayor and aldermen of the town of Fort Madison were elected shall have expired, said officers thereafter elected, shall not receive any remuneration from said town for their services, nor shall they have the power to make appropriations for the benefit of any or either of said officers.

SEC. 2. **Not to lay a greater tax than $1000 in any one year.** That said mayor and aldermen shall not in any one year levy a tax, after deducting the expense of collecting the same, of more than one thousand dollars, unless a majority of the legal voters of said town shall, at the annual election for officers of said town, vote in favor of levying and collecting a greater amount of taxes.

SEC. 3. **May levy enough the present year to pay debts.** Nothing in this act shall be so construed as to prevent the said mayor and aldermen from levying and collecting for the present year a sufficient amount of revenue to pay the existing debts of said town.

SEC. 4. **Time of taking effect and repealing clause.** This act to take effect and be in force from and after its [153] passage; and all acts and parts of acts which contravene the provisions of this act are hereby repealed.

Approved, 15th February, 1844.

CHAPTER 133.

ROAD.

AN ACT to lay out and establish a territorial road from Rome, in Jones county, to the rapids on the Wabesipinicon river, in Buchanan county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Commissioners, appointment of; road to commence at Rome, in Jones county.** That Joshua Shearman, Benjamin Chaplin and Joseph H. Merritt, of Jones county, be and they are hereby appointed commissioners to lay out and establish a territorial road, from Rome, in Jones county, to the rapids of the Wabesipinicon river, in Buchanan county.

SEC. 2. **Commissioners, when and where to meet; route of road.** Said commissioners, or a majority of them, shall meet at Rome on the first Monday in April, or some subsequent day, and proceed to lay out and establish said road, from Rome, in Jones county, to Shearman's ford, on the Wabesipinicon river; thence to the nearest and best route to or near Walworth's mills; and thence to the rapids on the Wabesipinicon river in Buchanan county.

SEC. 3 **Commissioners how to be governed.** Said commissioners shall in all respects be governed by the general law providing for laying out and establishing territorial roads.

SEC. 4. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 15th February, 1844.

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[154] CHAPTER 134.

ROAD.

AN ACT to locate a territorial road from Musquito creek, in Muscatine county, to Hector Sterrett's, in Cedar county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Commissioners appointment of; road, commencement of; route; commissioners, when and where to meet.** That Matthew White and Charles Henderson, of Muscatine county, and Walter Freeman, of Cedar county, be and they are hereby appointed commissioners, to locate and mark a territorial road, commencing where the territorial road from Bloomington to Marion crosses Musquito creek, in Muscatine county; thence by Moscow, in said county, to intersect said road near Hector Sterrett's, in Cedar county. Said commissioners, or a majority of them, shall meet at Musquito creek, in said county of Muscatine, on the first Monday of March next, or as soon thereafter as convenient, and proceed to locate and mark said road as before described.

SEC. 2. **Time of taking effect.** This act to take effect from and after its passage.

Approved, 15th February, 1844.

CHAPTER 135.

GEORGE ANDREWS.

AN ACT for the relief of George Andrews.

Whereas it appears to the satisfaction of the legislative assembly of the territory of Iowa, that George Andrews, of Iowa City, did on the fourth day of May, one thousand eight hundred and forty-two, at the public sale of lots in said city, purchase lots No. six, seven, and eight, and that said Andrews was induced to believe, from a map in the office of the territorial agent, that the mineral spring adjacent to said lots was public property, and that in consequence of this impression said Andrews gave ninety dollars more than the appraised value of said lots, and more than

said lots will actually sell for to any person when it is known that said spring is private property; which is the fact: therefore,

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Territorial agent to make deed to, for certain lots; additional amount to be paid therefor.** That the territorial agent is hereby author-[155] ized to take from the list of forfeited lots, lots Nos. six, seven, and eight, in block No. four, and make to George Andrews a deed of said lots, on the payment, within six months, by said Andrews, of a sum sufficient, together with his former payments on said lots, to amount to the original appraised value of said lots.

SEC. 2. **Time of taking effect.** That this act take effect and be in force from and after its passage.

Approved, 15th February, 1844.

CHAPTER 136.

SEMINARY OF LEARNING.

AN ACT to amend an act entitled "An act to establish a seminary of learning in Louisa county."

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Charter amended so as to make shares $5 instead of $10; each stockholder to have one vote only.** That the act entitled "An act to establish a seminary of learning at Grandview, in Louisa county," approved 24th January, 1843, be so amended as to make the stock consist of shares of five dollars instead of ten, as is provided in the 3d section of the act to which this is amendatory; and also that each share holder shall be entitled to one vote only, instead of one vote for each share, as is provided for in the 4th section of the act to which this is amendatory.

SEC. 2. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 15th February, 1844.

CHAPTER 137.

LEGALIZING ACT.

AN ACT to legalize the act of John Peterson, an acting justice of the peace.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Appointment and acts of John Peterson, as justice of the peace, declared valid.** That the appointment of John Peterson to the office of justice of the peace in and for the county of Jackson, by the board of county commissioners of said county, be and the same is here-[156]-by made valid; and that all acts had and done by the said John Peterson as justice

of the peace, by reason of said appointment, be and the same are hereby legalized, to all intents and purposes, as if he had been elected and duly qualified as provided for by law providing for the election of justices of the peace.

SEC. 2. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 15th February, 1844.

CHAPTER 138.

INCORPORATION OF IOWA CITY.

AN ACT to revive a certain act herein named.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Charter revived.** That an act entitled "An act to incorporate Iowa City," approved January 15th, 1841, be and the same is hereby revived and declared to be in full force and effect.

SEC. 2. **First election to determine acceptance of, when held.** The first election to determine whether or not said act of incorporation shall be adopted shall be held on the second Monday of March next.

SEC. 3. **If accepted first election of officers to take place on 1st Monday of April thereafter.** If a majority of the voters shall determine to adopt said act of incorporation, the election of officers under the same shall be held on the first Monday in April thereafter.

SEC. 4. **Time of taking effect.** This act shall take effect and be in force from and after its passage.

Approved, 15th February, 1844.

[157] CHAPTER 139.

ROAD.

AN ACT to lay out a territorial road from J. H. Jenkins', in Linn county, in a direction to the city of Dubuque.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Commissioners, appointment of; road to commence at J. H. Jenkins', Linn county; route of.** That H. W. Gray, of Linn county, Leroy Jackson, John Keeler, and O. A. Olmstead, of Delaware county, be and they are hereby appointed commissioners to mark and lay out a territorial road, commencing at J. H. Jenkins', in Linn county; thence the nearest and best way to or near Henry A. Carter's, in Delaware county; thence to intersect the territorial road leading from Delhi to Dubuque, at some proper point.

SEC. 2. **Commissioners, when and where to meet.** Said commissioners, or a majority of them, shall meet at J. H. Jenkins', in Linn county, on the first Monday in April next, or at some convenient time thereafter, and proceed to the discharge of their duties under this act.

SEC. 3. **No part of expense to be paid by counties through which road runs.** No part of the expense of laying out said road shall be paid by either of the counties through which the same shall pass.

SEC. 4. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 15th February, 1844.

CHAPTER 140.

ROAD.

AN ACT to legalize a road from Denson's Ferry in Cedar county, to the southern boundary of said county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Road laid out by Preston J. Friend and others declared public highway.** That the road laid out by Preston J. Friend, Washington A. Rigby and William H. Bolton, as viewers, and Thomas, as surveyor, from Denson's ferry, in Cedar county, to the southern boundary of said county, be and the same is hereby declared a public highway.

[158] SEC. 2. **Commissioners of Cedar county to record the plat of the same; to be deemed a county road.** That the commissioners of said Cedar county be and they are hereby required to file and record the survey of said road, according to the provisions of the act regulating the laying out and recording county roads; and the same shall hereafter be considered a county road, in all respects, as though the same had been accepted and recorded by the commissioners of said county.

SEC. 3. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 15th February, 1844.

CHAPTER 141.

IOWA CITY PLAT.

AN ACT declaring the streets and alleys on the plat of Iowa City public highways, and for other purposes.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Streets and alleys declared highways.** That all the streets and alleys on the Iowa City plat, and additions thereto, are hereby declared public highways.

SEC. 2. **Commissioners to lay off city plat into road districts, and appoint supervisors.** It shall be and is hereby made the duty of the county commissioners to lay off the said city plat, and all additions thereto, into a suitable number of road districts, and to appoint supervisors for the same, whose duty it shall be to open and keep in repair all the streets in their respective districts which are now established by law as public highways, and such others as the public convenience may require to be opened.

SEC. 3. **Repealing clause, and time of taking effect.** All laws contravening the provisions of this are hereby repealed. This act to take effect from and after its passage.

Approved, 15th February, 1844.

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[159] CHAPTER 142.

GEORGE H. JENNISON.

AN ACT for the relief of George H. Jennison, of the county of Jefferson, and to legalize his acts as Justice of the Peace.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **His acts declared valid.** That the official acts of George H. Jennison, as acting justice of the peace in and for the county of Jefferson, in said territory be and the same are hereby legalized and made valid, to all intents and purposes, as fully as if the said Jennison had been a resident within the purview and meaning of the statute regulating and prescribing the qualifications of justices of the peace.

SEC. 2. **Time of taking effect.** This act to take effect from and after its passage.

Approved, 15th February, 1844.

CHAPTER 143.

ROAD.

AN ACT to re-locate a part of the territorial road running from Fort Madison to Iowaville, on the Des Moines river.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Appointment of commissioners, duty of; to review part of road leading from Fort Madison to Iowaville; commissioners, where and when to meet.** That George Wolf, William G. Pitman and H. H. Ritchey, are hereby appointed commissioners to re-locate so much of the territorial road running from Fort Madison to Iowaville, on the Des Moines river, as lies between Lewis Pitman's and Alexander Stewart's. Said commissioners shall meet at the house of Lewis Pitman on the first Monday of March next, or as soon thereafter as convenient, and proceed to re-locate so much of said road as above described.

SEC. 2. **Time of taking effect.** This act to take effect from and after its passage.

Approved, 15th February, 1844.

[160] CHAPTER 144.

TOWN OF HARTFORD.

AN ACT to change the name of the town of Hartford, in Van Buren county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Name changed to Fleming.** That the name of the town of Hartford, in Van Buren county, be and the same is hereby changed to Fleming.

SEC. 2. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 15th February, 1844.

JOINT RESOLUTIONS

NO. 1.

JOINT RESOLUTIONS in testimony of respect to the late Lewis F. Linn, of Missouri.

Resolved, by the Council and House of Representatives of the Territory of Iowa,

That each member of the respective houses be requested to wear crepe on the left arm for the space of thirty days, as a testimony of respect to the memory of the Hon. Lewis F. Linn, late senator in congress from the state of Missouri.

Resolved, that we respectfully tender to the bereaved and afflicted family of the distinguished statesman the assurance of our sympathy and condolence; and that a copy of these resolutions be forwarded to the widow of the deceased, by the speaker of the house of representatives, and the president of the council.

Approved, 3rd January, 1844.

NO. 2.

JOINT RESOLUTION authorizing the auditor of public accounts to audit the account of the warden of the penitentiary.

Resolved, by the Council and House of Representatives of the Territory of Iowa,

That the auditor of the territory be, and he is, hereby, authorized and directed to audit the sum of one thousand three hundred and eighty-seven dollars and twenty-two cents, it being the sum expended on the penitentiary by Edwin Guthrie, warden of the Iowa penitentiary: provided, said warden produce satisfactory vouchers to the auditor of the correctness of his claim.

Approved, 17th January, 1844.

[162] NO. 3.

A JOINT RESOLUTION asking congress for an appropriation to defray the expenses of a treaty with the Pottowatomie Indians; also, asking the removal of the Missouri, Sac and Fox, and Iowa Indians.

Resolved, by the Council and House of Representatives of the Territory of Iowa,

That our delegate in congress be requested to use his exertions to procure an appropriation to defray the expenses of a treaty with the Pottowatomie Indians for the purchase of all their lands east of the Missouri river; also, to urge the necessity of taking immediately the necessary steps for the re-

moval of the Missouri, Sac and Fox, and Iowa Indians, from that portion of country lying east of the Missouri river, south of the country now occupied by the Sioux Indians, and north of the state of Missouri.

Resolved, that the governor be requested to forward a copy of the above resolution to our delegate in congress.

Approved, 29th January, 1844.

NO. 4.

JOINT RESOLUTION providing for the payment of Doolittle and Munson, for certain seals.

Resolved, by the Council and House of Representatives of the Territory of Iowa,

That Messrs. Doolittle and Munson be allowed the sum of forty dollars, for engraving three seals for Delaware county, and one for Clinton county; and that the auditor of public accounts be hereby authorized and required to issue his warrant, in favor of said Doolittle and Munson to the territorial treasurer, for the above sum of forty dollars.

Approved, 29th January, 1844.

NO. 5.

JOINT RESOLUTION authorizing the Auditor to audit certain warrants.

Resolved by the Council and House of Representatives of the Territory of Iowa:

That the auditor of the territory be and he is hereby authorized and required to audit all warrants issued by the late superintendent of the penitentiary, up to the fourth of July, eighteen hundred and forty-three: provided, the said superintendent produce satisfactory vouchers for the same.

Approved, 29th January, 1844.

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[163] NO. 6.

A JOINT RESOLUTION asking congress for the establishment of a post route from Nauvoo to Montrose.

Resolved, by the Council and House of Representatives of the Territory of Iowa,

That our delegate in congress be instructed to use his influence to have a mail route established across the Mississippi river, from the city of Nauvoo, in the state of Illinois, to Montrose, in the county of Lee, and territory of Iowa; also, to have a post office established at the town of Nashville, in said county.

Resolved, that his excellency the governor be requested to forward copies of this resolution to the Hon. A. C. Dodge, our delegate in congress, and to the post master general.

Approved, 5th February, 1844.

NO. 7.

PREAMBLE AND RESOLUTIONS on the subject of procuring from congress a compensation to the citizens of the United States, residing in Iowa, for their services and expenses in defending the southern border of the territory.

Whereas, in the fall and winter of 1839, an unjust claim was made by the governor of Missouri to a portion of the territory of the United States lying within the limits of Iowa:

And whereas, the marshal of Iowa, acting under the authority of the United States, and in pursuance of advice by the governor and district attorney of Iowa, and governed by a high sense of duty to the government of the United States, called for an armed posse to preserve the peace, and to resist the unlawful exercise of authority by the officers and citizens of an adjoining state, within the well known limits of Iowa:

And whereas, an armed posse, to the number of several hundred of the citizens of the United States, residing within the territory of Iowa, being prompted to obey a high sense of patriotic duty, and of their allegiance to the government of the United States, and in obedience to a call of the marshal of Iowa, marched in an inclement season, surmounting many difficulties, and at much personal inconvenience, to a distant border:

And whereas, an account of this service, and of some of those expenses, were taken in the summer of 1840, by Lieut. Ruggles, an officer of the United States, and by authority of the government thereof:

And whereas, the congress of the United States have hitherto made no appropriation for the payment of said services and expenses: therefore,

[164] *Resolved by the Council and House of Representatives of the Territory of Iowa.*

That the Hon. A. C. Dodge, our delegate in congress for the territory, be respectfully requested earnestly to press upon the consideration of congress the justice of the claims of the citizens of the United States residing in this territory, for said services and expenses; and to ask an appropriation in money from the treasury, for the payment thereof, with interest.

Resolved, that the Hon. Augustus C. Dodge, be respectfully requested to urge upon the consideration of congress, an appropriation of money from the treasury, to pay the then marshal of Iowa his just account for his services and expenses in preserving the peace, and protecting the southern border of Iowa in the fall and winter of 1839.

Resolved, that his excellency, the governor of Iowa, be respectfully requested to address a copy of this preamble and these resolutions to our delegate in congress.

Approved, 6th February, 1844.

NO. 8.

JOINT RESOLUTION for the establishment of certain Post Routes.

Resolved, by the Council and House of Representatives of the Territory of Iowa,

That the Hon. A. C. Dodge, our delegate in congress, be and he is hereby requested to use his best exertions to obtain the establishment of the following weekly mail routes in this territory, to wit: from Washington, in Washington county, to Keokuk court house; thence to Mahaska court house: also, from Brighton, in Washington county, to Richland, in Keokuk county; thence

to Mahaska court house: also, from Fox post office, in Van Buren county; thence to Davis court house; thence to the centre of Appanoose county; also, from Fairfield, in Jefferson county; thence to Agency City; thence to Autumwa; thence to Eddyville, in Wapello county; thence through the six mile prairie, in Mahaska county: also, from Fairfield, in Jefferson county, to Mahaska court house; from Bloomington, in Muscatine county, via Moscow, in said county; thence to Tipton, Cedar county; thence to Franklin, in Linn county; thence to Marion, in said Linn county.

Resolved, that his excellency, the governor, is hereby respectfully requested to forward a copy of these resolutions to the Hon. A. C. Dodge, our delegate in congress.

Approved, 7th February, 1844.

[165] NO. 9.

JOINT RESOLUTIONS relative to Mail Routes.

Resolved, by the Council and House of Representatives of the Territory of Iowa,

That our delegate in congress be requested to use his best exertions to cause the mail to be carried once a week, as provided for by act of congress, on mail route No. 4228, leading from Dixon, in the state of Illinois, via Sterling, Union Grove, Fulton City, Lyons, Independent Grove, and Washington Ferry, to Iowa City, in Iowa territory; and that he will use his exertions to cause the mail to be transported on said route via Dewitt, the county seat of Clinton county, instead of via Independent Grove.

Resolved, that he be requested to use his exertions to procure an alteration of mail route No. 4506, so that the mail may pass Dewitt, Clinton county; thence to Davenport, via Kirtley's ferry, instead of passing Point Pleasant.

Resolved, that the governor be requested to forward one copy of these resolutions to the post master general, and one to our delegate in congress.

Approved, 13th February, 1844.

NO. 10.

JOINT RESOLUTION for the relief of F. M. Irish.

Resolved, by the Council and House of Representatives of the Territory of Iowa,

That the sum of two hundred dollars be and the same is hereby allowed, out of any money in the hands of the secretary of the territory not otherwise appropriated, to F. M. Irish, for services rendered and losses sustained in April last, in the transportation of specie from Dubuque to Burlington, under the employment of O. H. W. Stull, late secretary of the territory: provided, that the said sum of two hundred dollars shall in no event be regarded as a debt due either from the territory or state of Iowa.

Approved, 14th February, 1844.

NO. 11.

JOINT RESOLUTION authorizing Iowa City Fire Company No. 1, to occupy room in basement of Capitol.

Resolved, by the Council and House of Representatives of the Territory of Iowa,

That the territorial agent, or such person as may have charge [166] of the state house in Iowa City, be and is hereby authorized to let the Iowa City fire company No. 1, have the use of one of the rooms in the basement story of said state house, rent free, until otherwise ordered by the legislature.

Approved, 15th February, 1844.

NO. 12.

JOINT RESOLUTION relative to the distribution of the Laws of the present session.

Resolved, by the Council and House of Representatives of the Territory of Iowa,

That the laws of the present session shall be distributed as follows, to wit: to the counties of Des Moines, Van Buren, Dubuque, Henry and Jefferson, each, one hundred and fifty copies; to the counties of Washington, Louisa, Johnson, Scott, Muscatine, Jackson and Linn, each, one hundred copies; to the county of Cedar, eighty copies; to the counties of Clinton, Jones, Clayton, Delaware, Buchanan, Fayette, Davis, Wapello, Mahaska and Keokuk, each, seventy-five copies, to be deposited with the clerks of the board of county commissioners of each county herein named.

Resolved, that in the distribution of said laws, the clerks of the several boards of county commissioners shall be governed by the act relative to the distribution of laws, approved 16th February, A. D. 1843.

Approved, 15th February, 1844.

NO. 13.

JOINT RESOLUTION relative to certain mail routes.

Resolved, by the Council and House of Representatives of the Territory of Iowa,

That the Hon. A. C. Dodge, our delegate in congress, be requested to use his influence to establish a mail route from Dubuque to Iowa City, via Cascade, Fairview, Springville, Marion, Franklin, and Solon, to Iowa City; and to have the mail now carried on route No. 4505 carried on the same once a week in two or four horse coaches; and extend route No. 4228, from Fulton City, Illinois, to Tipton, through to Iowa City, a distance of twenty-five miles.

That his excellency, the governor of the territory be requested to forward a copy of this memorial to our delegate in congress.

Approved, 15th February, 1844.

[167] NO. 14.

PREAMBLE AND RESOLUTIONS relative to the university lands of Iowa territory.

Whereas, the congress of the United States, by an act approved July 20th, 1840, granted to the territory of Iowa two entire townships of land for a university:

And whereas, said lands were, under the provisions of the act aforesaid, to be selected under the authority of the secretary of the treasury;

And whereas, the said secretary did appoint, under the provisions of said act, William W. Dodge, of Scott county, territory of Iowa, who, proceeding under the authority of said appointment, selected only one section of land, a return of which was made to the land office at Dubuque, and then left the said territory:

And whereas, it is deemed highly important to the interests of the territory that the residue of said lands should be selected as early as practicable: therefore,

Resolved, by the Council and House of Representatives of the Territory of Iowa,

That the Hon. Augustus C. Dodge, our delegate in congress, be requested to present the foregoing facts relative to the aforesaid university lands, to the secretary of the treasury, and request him to appoint two suitable persons residing within said territory, to select said lands at as early a day as practicable.

Resolved, that we recommend L. Brown, of Dubuque county, and Uriah Biggs, of Van Buren county, Iowa territory, as suitable persons to act as subagents in the selection of said lands.

Resolved, that our delegate in congress be requested to use his influence to have a law passed, to allow the secretary of the treasury to select the following tract of government land for the benefit of the said university to-wit: the south-west quarter of section 25; east half and south-west quarter of the south-east quarter, of section 26; north half of section 35; and the north-west quarter of section 36, all in township 72, north of range 13 west, of the fifth principal meridian, and in the cession made to the United States by the treaty made the 11th day of October, 1842, by the Sac and Fox Indians, within which tract of 640 acres the "Pattern Farm," near the old agency, cultivated for the benefit of the Indians, is included.

Resolved, that his excellency the governor of Iowa, be respectfully requested to address a copy of this preamble and these resolutions to our delegate in congress.

Approved, 15h February, 1844.

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[168] NO. 15.

JOINT RESOLUTION authorizing the secretary of the territory to contract for the printing of the laws of the present session.

Resolved, by the Council and House of Representatives of the Territory of Iowa,

That the secretary of the territory be and he is hereby authorized to contract with Hughes and Williams, James Clarke, John B. Russell, William Crum,

R. W. Albright, or any other editor in this territory, for the printing of twenty-five hundred copies of the laws of the present session, for which he is authorized to pay the prices established by law.

Approved, 15th February, 1844.

NO. 16.

JOINT RESOLUTION relative to the re-publication of a certain act.

Whereas, in the publication of an act entitled "An act for the prevention of certain immoral practices," approved February 10th, 1843, there appears in the first section of said publication, as compared with the enrolled bill in the office of the secretary of the territory, the following error, to wit: in the clause "he or they shall be fined in any sum not exceeding five years," the word "years" is erroneously printed instead of the word "dollars:" therefore,

Resolved, by the Council and House of Representatives of the Territory of Iowa,

That the said secretary of the territory be and he is hereby requested to cause the said act to be correctly published.

Approved, 15th February, 1844.

NO. 17.

JOINT RESOLUTION to provide for the payments of the reports of the supreme court, furnished under the resolution of the last session of the legislature.

Resolved, by the Council and House of Representatives of the Territory of Iowa,

That the secretary of the territory be, and he is hereby authorized and directed, to pay to William J. A. Bradford four hundred dollars, out of the appropriation for the current year, or out of any moneys that may be in his hands, for furnishing and printing the reports of the decisions of the supreme court for the year 1840, under the resolution of February, 1843.

Approved, 16th February, 1844.

[169] NO. 18.

JOINT RESOLUTIONS relative to the indexing, printing and distributing the laws and journals.

Resolved, by the Council and House of Representatives of the Territory of Iowa,

That the secretary of the territory be and he is hereby allowed five hundred dollars, for superintending, indexing and distributing, the laws of the present session of the legislature, out of any money in his hands not otherwise appropriated: provided, always, that he actually copy and perform the duties required of him in the foregoing resolution.

Resolved, further, that the secretary of the council, and chief clerk of the house of representatives, be and they are hereby allowed the sum of three hundred dollars, each, for indexing, superintending the printing, and distributing the journals of the present session of their respective houses.

Approved, 16th February, 1844.

NO. 19.

JOINT RESOLUTION requesting our delegate in congress to use his influence to obtain an appropriation to defray the expenses of an extra session.

Resolved, by the Council and House of Representatives of the Territory of Iowa,

That the Hon. A. C. Dodge, our delegate in congress, be and he is hereby requested to use his influence to obtain an appropriation of five thousand dollars, to defray the expenses of an extra session of the legislative assembly of this territory, to be begun and holden on the sixteenth day of June, A. D. 1844, for the purpose of making an apportionment of members of the council and house of representatives among the several counties of this territory; giving to each section of the territory an equal representation, as near as may be, according to the ratio of population, Indians excepted.

Resolved, that his excellency the governor be and he is hereby requested to forward a copy of the above resolution to the Hon. A. C. Dodge, our delegate in congress.

Approved, 16th February, 1844.

[170] NO. 20.

JOINT RESOLUTION providing for the payment of the binding of the laws of 1842-3.

Resolved, by the Council and House of Representatives of the Territory of Iowa,

That the secretary of the territory is hereby authorized to pay, out of any money in his hands not otherwise appropriated, to James McIntosh, for binding twenty-five hundred copies of the revised statutes of 1842-'43, the sum of fifteen hundred and sixty-two dollars and fifty cents: provided, that Hughes and Williams, the printers of the laws, shall hereafter bring no charge against this territory or future state of Iowa, for said binding.

Approved, 16th February, 1844.

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LAWS OF IOWA

PASSED AT THE EXTRA SESSION OF

THE LEGISLATIVE ASSEMBLY

WHICH COMMENCED ON THE 17TH DAY OF JUNE, 1844

JOHN CHAMBERS, Governor
SAMUEL J. BURR, Secretary of the Territory
FRANCIS GEHON, President of the Council
JOHN FOLEY, Speaker of the House of Representatives

ALSO,---THE LAWS OF THE REGULAR SESSION

WHICH COMMENCED ON THE 5TH DAY OF MAY, 1845

PUBLISHED BY AUTHORITY

IOWA CITY:
WILLIAMS & PALMER, PRINTERS
1845

SECRETARY'S OFFICE, IOWA CITY,
JUNE 25th, 1845.

This is to Certify, That the Acts and Resolutions herein contained, both of the Extra Session of the Legislative Assembly, in June, 1844, and of the regular Session, which commenced on the 5th day of May, 1845, are true and correct copies from the originals now on file in this office.

S. J. BURR,
Secretary of Iowa Territory.

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LAWS OF IOWA

[1] CHAPTER 1.

ELECTION AND PAYMENT OF LEGISLATIVE DEBTS.

AN ACT to postpone the next annual election of members of the legislature, and to provide for the payment of legislative debts.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Election postponed until April, 1845.** That the time of holding the election for the members of the legislative assembly for the ensuing year, shall be changed from the first Monday in August next, to the first Monday in April next.

SEC. 2. **Election entirely suspended in case congress change appropriation so as to pay arrearages—duty of secretary in such case.** That, if before the fourth day of March next, congress shall transfer the appropriation made for defraying the expenses of the legislature for the ensuing year, so that it may be applied to the payment of the debts incurred by past legislatures for legislative expenses, and the overplus, if any, to the payment of the expenses of the convention to form a constitution of the future state of Iowa, the annual election of members of the legislature, for the ensuing year shall be entirely suspended; and it shall be the duty of the secretary to apply said appropriation as aforesaid as soon as congress shall authorize the same.

SEC. 3. **If no change is made, election to be held in April—how conducted—twenty days notice sufficient.** If congress shall not transfer said appropriation as aforesaid, it shall be the duty of the proper officer to give the same notice of the said election to be holden on the first Monday in April next, as is already required by law in case of elections for members of the legis- [2] lative assembly. And the said election shall be conducted, in all respects, as far as practicable, as is now prescribed by law: provided, that twenty days notice of said election shall be deemed sufficient.

SEC. 4. **Legislature to convene in May, 1845.** That should the transfer of said appropriation not be made by congress as aforesaid, the legislative assembly shall convene and hold an annual session on the first Monday in May next.

SEC. 5. **When to take effect.** This act to take effect and be in force from and after its passage.

Approved, 19th June, 1844.

CHAPTER 2.

ELECTORAL DISTRICTS.

AN ACT to amend "An act to district the territory of Iowa into electoral districts, and to apportion the representatives of each," approved July 30, 1840.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Certain counties annexed to sixth electoral district.** That the counties of Keokuk, Mahaska, and the country thereto attached, shall be annexed to the county of Washington, and constitute a part of the sixth electoral district, for the purpose of participating with Washington in the election of a member of the house of representatives; and, with Washington and Louisa in the election of a member of the Council and delegate to congress.

SEC. 2. **Fifth electoral district enlarged.** And that the county of Wapello and the country thereto attached, shall be annexed to the county of Jefferson—shall constitute a part of the fifth electoral district, for the purpose of participating in the election of a member of the house of representatives, a member of the council and delegate to congress.

SEC. 3. **Second district enlarged.** That the county of Davis and the country thereto attached, shall be annexed to the county of Van Buren, shall constitute a part of the second electoral district for the purpose of participating in the election of members of the legislative assembly and delegate to congress.

SEC. 4. **Time of taking effect.** This act shall take effect from and after its passage.

Approved, 19th June, 1844.

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[3] CHAPTER 3.

QUALIFICATIONS OF ELECTORS.

AN ACT declaring the qualifications of electors.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Every white male citizen allowed to vote for delegates to convention who resides in territory on 20th June, 1844, and is 21 years of age.** That every white male citizen of the United States and of this territory of the age of twenty-one years and upwards, who may be a resident of the territory on the twentieth day of June, A. D. 1844, shall be entitled to the elective franchise and permitted to vote for delegates to form a state constitution, and for all officers to be elected in the county where he may reside on the first Monday in August next: provided, that such citizen shall have continued to reside in the territory from the said twentieth day of June, up to the time of holding said August election.

Approved, 19th June, 1844.

CHAPTER 4.

TERRITORIAL AGENT.

AN ACT fixing the compensation of the Territorial Agent.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Salary $300, after January 1, 1845.** That from and after the first day of January, A. D. 1845, the territorial agent, shall receive for his services the sum of three hundred dollars per annum only.

SEC. 2. **Laws contravening this, repealed.** That all laws heretofore passed coming within the purview of this act, be and the same are hereby repealed.

SEC. 3. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 19th June, 1844.

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[4] CHAPTER 5.

MARRIAGE.

AN ACT to amend an act entitled, "An act regulating marriages."

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Ministers showing credentials, allowed to marry.** That any minister of the gospel, upon producing to the clerk of the district court of any county in this territory in which he officiates, credentials of his being a regular licensed minister or preacher of any religious society and shall otherwise comply with the provisions of the act to which this is amendatory, shall be authorized to solemnize marriages in like manner as if he had been ordained.

SEC. 2. **Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 19th June, 1844.

CHAPTER 6.

TAX COLLECTORS.

AN ACT to authorize the collectors of taxes to make deeds in certain cases.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Tax collectors to make deeds to purchasers of real estate at any tax sales heretofore held.** That the collectors of taxes in each and every county of this territory now in office, or who may hereafter be in office, be and he is [they are] hereby fully authorized and empowered to make, execute and

deliver to the purchaser of real estate at any tax sale heretofore held, a conveyance and deed or deeds thereof; which said conveyance shall be as good, and as effectually pass the title to such real estate, as if the law under which such real estate was sold and sale held, had not been repealed, or as if the collector or sheriff who made such sale was now in office: provided however, that no such deed or deeds, conveyance or conveyances shall be made except upon the presentation of proper legal vouchers.

Approved, 19th June, 1844.

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[5] CHAPTER 7.

HUGHES AND WILLIAMS.

AN ACT supplementary to "An act to provide for the compensation of members and officers of both houses of the present session, and for other purposes," approved February 16th, 1844.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Appropriation $215 to Hughes and Williams.** That the tenth section of the act aforesaid be and the same is hereby so altered and amended as to allow to Hughes and Williams, for printing as per bill rendered for the council, the sum of two hundred and fifteen dollars, to be paid by the secretary of the territory out of any funds now on hand.

Approved, 19th June, 1844.

CHAPTER 8.

CONVENTION TO FORM CONSTITUTION.

AN ACT to amend an act entitled "An act to provide for the expression of the opinion of the people of the territory of Iowa, upon the subject of the formation of a state constitution for the state of Iowa."

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Davis, Wapello and Mahaska counties to have two members, each.** That the fifth section of the act to which this act is amendatory, be so amended as to read that said convention shall consist of seventy-three members, and that the counties of Davis, Wapello, and Mahaska shall each be entitled to two members of said convention.

SEC. 2. **Conflicting portions of the act amended, repealed.** That so much of said act as conflicts with the provisions of this act, be, and the same is, hereby repealed.

Approved, 19th June, 1844.

[6] CHAPTER 9.

TRESPASSING UPON LANDS.

AN ACT to prevent trespass upon the lands belonging to the territory of Iowa.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Settling on territorial lands, trespass, fine, treble damages.** That any person who shall hereafter (without special permission from the proper authorities) enter or settle upon any lands granted by the congress of the United States to the territory or future state of Iowa, shall be deemed guilty of trespass, and fined in treble the amount of the damages that shall be assessed against them:—And any person who shall cut down, or in any other manner destroy any timber growing upon such lands, or shall remove therefrom any timber, stone, stone coal, mineral or in any manner injure the value of said lands, shall, upon conviction thereof before any court of competent jurisdiction, be fined in any sum not exceeding fifty dollars, and not less than ten dollars for each offence. And the judgment of the court shall be, that the defendant stand committed until the fine and costs be paid.

SEC. 2. **Duty of county to protect lands.** Each board of county commissioners in the several counties in the territory, is hereby constituted a board of trustees for the territory of Iowa, whose duty it shall be to protect all such lands from injury and waste.

SEC. 3. **Suit how brought, in whose name—fines to be paid to territorial treasurer.** All suits commenced under and by virtue of this act, shall be instituted in the name of the board of county commissioners of the county in which such trespass shall have been committed, for the use of the territory of Iowa; and all fines and damages so collected, shall be paid by the said commissioners to the territorial treasurer and become a part of the territorial revenue.

SEC. 4. **Jurisdiction in district courts and justices.** The district courts and justices of the peace in any county in which such trespass shall be committed, shall have jurisdiction in all suits which may be instituted under and by virtue of this act.

SEC. 5. **Takes effect after passage.** This act to take effect and be in force from and after its passage.

Approved, 19th June, 1844.

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[7] CHAPTER 10.

ESTATE SUBJECT TO EXECUTION.

AN ACT to revive certain acts, respecting the subjecting of real and personal estate to execution.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Acts subjecting real and personal estate to execution prior to February, 1843, revived.** That the acts respecting the subjecting of real and personal estate to execution, in force in this territory prior to the 20th

day of February, 1843, be, and the same are hereby revived, so far as they relate to judgments heretofore or hereafter obtained on contract made prior to that time.

SEC. 2. **Takes effect after passage.** This act shall take effect from and after its passage.

Approved, 19th June, 1844.

CHAPTER 11.

ROADS AND HIGHWAYS.

AN ACT amendatory of an act entitled "An act for opening and regulating roads and highways," approved February 1, 1843.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Board of county commissioners to be satisfied that road is required, before appointing viewers.** That hereafter, upon all applications to the board of county commissioners for laying out county roads, in addition to the requirements of the act to which this is amendatory, said boards of county commissioners shall be first satisfied that the road applied for is necessary, and that public convenience requires the same, before they shall appoint viewers in accordance with the prayer of the petition.

Approved, 19th June, 1844.

[8] CHAPTER 12.

CONSTABLES AND COUNTY COMMISSIONERS.

AN ACT to legalize the acts of certain officers therein named, and for other purposes.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Constables elected prior to April, 1844.** That all constables who were elected at the April election 1844 in this territory, and who filed their bonds and oaths of office in the office of the clerk of the board of commissioners of their respective counties in pursuance of "An act for the election of constables and defining their duties;" approved January 24, 1839, and who were in other respects qualified according to law shall be deemed legal constables of their respective townships, and duly authorized to act as such for the term for which they may have been elected, and all their official acts performed during such term shall be as valid as though they had filed bonds to the acceptance of the trustees, with the clerks of their respective townships, in pursuance of an act for that purpose; approved 5th February, 1844; and that the bonds filed with the clerks of the board of commissioners as aforesaid, be valid according to the true intent and meaning thereof.

SEC. 2. **Appointment of jurors.** That the clerks of the boards of commissioners of any counties in this territory, who may not have caused the proportion of jurors to be ascertained from the number of white male inhabit-

ants of the age of twenty-one years, in the respective townships or precincts of their respective counties on the first Monday of April, 1844, in pursuance of an act to amend an act entitled "An act concerning grand and petit jurors;" approved January 4, 1839, which was approved 15th of Feb. 1844, shall be authorized to ascertain the same and make the statement in writing required by said act, of the number of jurors apportioned to each township or precinct, and deliver the same to the sheriff at any time previous to the twentieth day of July, in the year 1844, who shall proceed forthwith to notify the several boards of township trustees, by service on the township clerk, instead of publication as now required by law. And jurors selected in pursuance of such apportionment, at the next ensuing annual election, and in other respects in pursuance of law, shall be deemed legally and duly selected, and qualified as though such apportionment had been made on the first Monday of April, aforesaid.

[9] SEC. 3. **Appointment of jurors deemed valid.** All elections and apportionments of jurors heretofore made in any of the counties of this territory, shall be deemed and taken and are hereby declared to be valid and effectual.

SEC. 4. This act to take effect from and after its passage.

Approved, 19th June, 1844.

CHAPTER 13.

TERRITORIAL ROADS.

AN ACT to establish certain territorial roads, and for other purposes.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Road authorized from Cascade, in Du Buque county, to Blue Banks, in Cedar county.** That L. A. Styles, of Cascade, Du Buque county, C. C. Walworth, of Jones county, and Edward Crow, of Linn county, be and they are hereby appointed commissioners to lay out and establish a territorial road from Cascade, in Du Buque county, to the Blue Banks on Cedar river.

SEC. 2. **When and where to meet—route of road.** That said commissioners or a majority of them, shall meet at Cascade, in Du Buque county, on the first Monday in July next, or at some subsequent time, and proceed to lay out and establish a territorial road from Cascade in said county, on the nearest and best route to Green and Datton's ford, on the south fork of the Makoqueta river, and thence on the nearest and best route to Edward Crow's on the Buffalo fork of the Wabesapinican river—thence on the nearest and best route to the ford on the Cedar river, at the Blue Banks on said river.

SEC. 3. **Road authorized from Eddyville, in Wapello county to county seat of Mahaska county.** That William McIlvain, William Black and William R. Ross, be and they are hereby appointed commissioners to lay out and establish a territorial road from Eddyville, in Wapello county, to the county seat of Mahaska county.

SEC. 4. **When and where to meet—route of road.** Said commissioners or a majority of them shall meet at Eddyville in Wapello county, on the first Monday in July next, or some subsequent time, and proceed to lay out a

territorial road from Eddy- [10] ville in Wapello county, on the nearest and best route, to the county seat of Mahaska county.

SEC. 5. **Commissioners to employ assistants.** The commissioners appointed by the first and third sections of this act, shall, for each road, take to their assistance, two chainmen, one surveyor, and one marker; and shall lay out and establish said roads according to the provisions of "An act to provide for laying out and opening territorial roads;" approved December 29, 1838.

SEC. 6. **Pay of commissioners and assistants.** The commissioners, surveyors, chain-carriers and markers shall each receive as a compensation for the time they shall be necessarily employed in the discharge of their duties, the following sums per day—each commissioner two dollars; each surveyor two dollars; each chain-man and marker, one dollar and fifty cents.

SEC. 7. **Part of a certain road act repealed.** That so much of the act to locate a territorial road from Wapello in Louisa county, to Augusta, in Des Moines county; approved 27th February, 1844, as makes the north east corner of the north west quarter of section thirty-two, township seventy-three north, range three west, a point in said road, be and the same is hereby repealed.

SEC. 8. **Time extended to September 1, 1844.** That the time for viewing, locating and surveying all territorial roads that were authorized by the late session of the legislative assembly, be and the same is hereby extended until the first day of September, 1844.

SEC. 9. **Takes effect after passage.** This act to take effect and be in force from and after its passage.

Approved, 19th June, 1844.

CHAPTER 14.

PROBATE JUDGE OF LEE COUNTY.

AN ACT to authorize the judge of probate of Lee county to make a record of the proceedings of said court.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Judge to make record from organization of county.** That John A. Drake, present judge of probate of Lee county, be, and he is hereby authorized and required to make a record of all the proceedings of said court of probate for Lee county, from the organization of said county up to the time said Drake became [11] possessed of said office, so far as it can be done from the papers now on file in said court of probate.

SEC. 2. **Record to be submitted to the board of county commissioners for approval—when approved to be valid.** That when said record shall be made, it shall be submitted to the board of commissioners of said county for their approval, and when approved by them it shall have all the force and effect, and be as good and valid as if said record had been regularly kept, as required by law.

SEC. 3. **Board to pay judge fair compensation.** That the board of commissioners of said county, when said record is so approved by them, shall allow and pay said judge of probate, such compensation as they may deem fair and reasonable for such service.

SEC. 4. **Takes effect after passage.** This act shall take effect and be in force from and after its passage.

Approved, 19th June, 1844.

CHAPTER 15.

TERRITORIAL ROAD.

AN ACT to re-locate a part of the territorial road from Parkhurst, in Scott county, to Tipton, in Cedar county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Commissioners appointed to relocate road from Parkhurst to Tipton.** That James McCosh, Samuel Hedges, and J. A. Burchard, Junior, of the county of Scott, be, and they are hereby appointed commissioners to relocate that part of the territorial road from Parkhurst to Cedar county, that lies east of the house of Dennis Barnes, in Scott county.

SEC. 2. **When and where to meet.** That said commissioners shall, on the first Monday in August next, or on any other day within one week thereafter, take to their assistance a surveyor and such other hands as they may think proper and proceed to discharge the duties of their office, as provided in this act.

SEC. 3. **Compensation.** That said commissioners, surveyor and other hands necessarily employed, shall receive such compensation as is usually allowed for like services.

Approved, 19th June, 1844.

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[12] CHAPTER 16.

CONGREGATIONAL CHURCH OF BURLINGTON.

AN ACT to amend an act entitled "An act to incorporate the board of trustees of the Congregational Church and Society of Burlington," approved 12th February, 1844.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Trustees authorized to make by-laws and sell property.** That the Congregational church and society of Burlington be, and they are hereby authorized and empowered, to make, ordain and establish, at any time, such rules, regulations, and by-laws for their government, the transaction of their business and for the sale and transfer of their property, as a majority of said church and society may deem fit, not inconsistent with the object of their incorporation, nor with the laws of this territory.

SEC. 2. **Transfers already made, declared good.** The transfers and conveyances that have been made to, and from the Congregational church and society aforesaid, shall be deemed and taken to be good and valid, and effectually to pass the estate therein attempted to be conveyed.

Approved, 19th June, 1844.

CHAPTER 17.

COMMISSIONERS OF DES MOINES COUNTY.

AN ACT to legalize an act of the board of county commissioners of Des Moines county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Act of board extending time for collecting taxes, legalized.** That the act and order of the board of county commissioners of the county of Des Moines, entered on the third day of April, 1844, extending the time of John H. McKenny, collector of taxes for said county, for the collection of county and territorial taxes due said county and territory, be confirmed and legalized, and the said [13] collector is as fully authorized and empowered to collect said taxes as if said order had been authorized by law.

SEC. 2. **Takes effect after passage.** This act to take effect and be in force from and after its passage.

Approved, 19th June, 1844.

CHAPTER 18.

COLLECTION OF TAXES IN LOUISA COUNTY.

AN ACT to amend an act to perfect the collection of taxes in Louisa county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Time of collecting extended.** That the proviso in the sixth section of the act to perfect the collection of taxes in Louisa county, approved 14th February, 1844, be, and the same is hereby repealed; and the board of commissioners of said county are hereby empowered to give the collector of taxes in said county such further time to complete the collection of taxes therein, as they may deem necessary.

SEC. 2. **Takes effect after passage.** This act to take effect from and after its passage.

Approved, 19th June, 1844.

JOINT RESOLUTIONS

NO. 1.

A JOINT RESOLUTION allowing to the counties of Davis, Wapello, Keokuk and Mahaska, copies of the revised statutes.

Resolved, by the Council and House of Representatives of the Territory of Iowa.

That the secretary of the territory be, and he is hereby authorized to furnish the counties of Davis, Wapello, Keokuk and Mahaska, each with fifty copies of the laws passed at the session of the legislature in 1842-3, that are not otherwise appropriated.

Approved, 19th June, 1844.

NO. 2.

A JOINT RESOLUTION for the preservation of the census returns.

Resolved, by the Council and House of Representatives of the Territory of Iowa.

That it shall be the duty of the secretary of the territory to preserve the abstracts of the census of the several counties of this territory in his office until the meeting of the convention in October next, to form a state constitution for the state of Iowa, at which time he shall return them to said convention.

Approved, 19th June, 1844.

LAWS OF IOWA

PASSED AT THE SESSION OF

THE LEGISLATIVE ASSEMBLY

WHICH COMMENCED ON THE 5TH DAY OF MAY, 1845

JOHN CHAMBERS, Governor
S. J. BURR, Secretary of the Territory
S. C. HASTINGS, President of the Council
J. M. MORGAN, Speaker of the House of Representatives

PUBLISHED BY AUTHORITY

IOWA CITY:
WILLIAMS & PALMER, PRINTERS
1845

LAWS OF IOWA

[19] CHAPTER 1.

DISTRICT COURT.

AN ACT to provide for holding an additional term of the district court, in and for the county of Lee.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Additional term second Monday in August.** That an additional term of the district court shall be holden in and for the county of Lee, on the second Monday of August, in each year.

SEC. 2. **Act to take effect after passage.** This act shall take effect and be in force from and after its passage.

Approved, 26th May, 1845.

CHAPTER 2.

DISTRICT COURTS.

AN ACT amendatory of an act entitled "An act to establish the time of holding the district courts in the several judicial districts," approved 12th February, 1844.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **So much of amended act as calls for court in Henry county, 4th Monday in June, repealed.** That so much of the act to which this is amen- [20] datory, as relates to holding a term of the district court for the county of Henry on the fourth Monday in June of each year, is hereby repealed.

SEC. 2. **No process to abate in consequence of a change.** That no writ, count or proceeding entitled of or returnable to said term, shall abate in consequence of said change; but shall stand as entitled of, and returnable to the next term of said court.

SEC. 3. **Act to take effect after passage.** This act shall take effect and be in force from and after its passage.

Approved, 26th May, 1845.

CHAPTER 3.

PRACTICE IN DISTRICT COURTS.

AN ACT to amend an act entitled "An act regulating practice in the district courts in the Territory of Iowa," approved February 10, 1843.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Authorizes judgment containing attachment clause to be served on garnishee.** That any person having obtained a judgment before any court of record within this territory against any defendant, the plaintiff, upon filing an affidavit setting forth that deponent verily believes that the defendant has not in his possession within the knowledge of any such affiant any visible property or effects sufficient to satisfy said judgment and costs, and that the said affiant believes that the defendant in the judgment has property, rights or credits. (as the case may be, stating the particulars of the case,) in the hands of A. B. (naming him) an execution upon such judgment may issue containing an attachment clause, which shall be served upon such garnishee, requiring him to appear at the next term of the court and answer to such interrogatories touching his indebtedness to the said defendant in execution, at or subsequent to the time of the service of such attachment.

SEC. 2. **Repeals 48th section of the act amended.** That the forty-eighth section of the act to which this is an amendment be, and the same is hereby repealed: provided, that it does not interfere or affect any suit or process that may have been instituted or issued previous to the enactment of this law.

SEC. 3. **Act to take effect after passage.** This act to take effect and be in force from and after its passage.

Approved, 28th May, 1845.

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[21] CHAPTER 4.

TO PRESERVE ADVERTISEMENTS, ETC.

AN ACT to prevent the destruction of notices, advertisements, etc.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Injuring public notices punishable by fine of ten dollars and 24 hours imprisonment.** That if any person shall intentionally deface, obliterate, tear down or destroy, in whole or in part, any copy or transcript of, or extract from, any law of the United States or of this territory or any advertisement or notification whatsoever, set up in any public place within this territory for the public information of any citizen or citizens; such person shall on conviction thereof, before any court having jurisdiction of the same, be fined in any sum not exceeding ten dollars, and may be committed to jail for a time not exceeding twenty-four hours at the discretion of the court.

SEC. 2. **Takes effect after July 4th—proviso—allows destruction of notices after certain time expires.** This act to take effect and be in force from and after the 4th day of July next: provided, that nothing in this act con-

tained shall be so construed as to prevent the destruction of notices after the expiration of the time for which the same have been given.

Approved, 28th May, 1845.

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[22] CHAPTER 5.

PUBLIC REVENUE.

AN ACT to amend an act entitled "An act to provide for assessing and collecting public revenue," approved February 15, 1844.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **One assessor to be elected in each county, on first Monday of August—to hold office one year.** That there shall be elected on the first Monday of August in each year, by the qualified voters in each county in this territory, one county assessor who shall hold his office for the term of one year from the day of his election, and until his successor is duly elected and qualified, and shall perform all the duties that are or may hereafter be required of him by law.

SEC. 2. **To give bond to county commissioners in $300.** Such assessor, before entering upon the duties of his office shall give bond, with two or more securities, to the acceptance of the board of county commissioners, in the penal sum of three hundred dollars, payable to said commissioners, for the use of the county, and conditioned for the faithful and impartial performance of his duties according to law, which bond shall be deposited with the clerk of the board of county commissioners and by him preserved.

SEC. 3. **Office vacant if he does not give bond in twenty days after election.** If any assessor shall not give bond and security as required in the preceding section, within twenty days after his election, his office shall be considered vacant.

SEC. 4. **In case of vacancy, county commissioners to appoint.** In all cases where the office of assessor shall become vacant by death, removal from the county, resignation, failure to give bond, or from any other cause, and the interest of the county requires that such vacancy shall be filled before the next annual election, the county commissioners shall forthwith appoint some suitable person in the county to fill the vacancy.

SEC. 5. **Person appointed to give bond.** The person so appointed shall give bond as required in the second section, and hold his office until the next annual election, and until his successor is elected and qualified.

[23]SEC. 6. **To begin to assess property in May.** The assessor shall, on the first day of May, or within three days thereafter, proceed to assess all the real and personal property within his county, subject to taxation, according to the provisions of the act to which this is amendatory.

SEC. 7. **May appoint deputy if necessary—deputy to be approved by commissioners.** That whenever any assessor elected or appointed as aforesaid, shall deem it necessary, he may appoint a deputy assessor, to be approved of by the board of county commissioners, who shall take an oath before the clerk of such board, for the faithful performance of his duties, and for whose acts the assessor shall be responsible.

SEC. 8. **County treasurer to collect county tax that has been omitted by assessor.** It shall be the duty of the treasurer of each county to assess a tax for county purposes at the rate established by the board of county com-

missioners on all real and personal estate that has been omitted by the assessor, whenever he shall ascertain that any property has been so omitted, and at the time he makes settlement with the board of county commissioners, he shall make and verify by affidavit, a list of property by him so assessed, and the taxes collected thereon.

SEC. 9. **Certain sections of the act amended, repealed.** The first, second, third, fourth, fifth and twentieth sections of the act to which this is amendatory, be, and the same are, hereby repealed.

Approved, 28th May, 1845.

CHAPTER 6.

PARTITION OF REAL PROPERTY.

AN ACT to amend an act entitled "An act to provide for the partition of real property."

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Ninth section of said act amended so as to require notice to be printed for six weeks—proviso requires six months notice in half breed lands.** That the ninth section of an act entitled "An act to provide for the partition of real property;" approved January 4th, 1839, be so amended as to read as follows:—"the publication of such notice in each week for six weeks successively, in some newspaper printed most conveniently to the place where the court is held, shall be considered in all respects equivalent to a personal service aforesaid: provided, that in case there shall hereafter be a re-partition of the Half Breed tract of lands in the county of Lee, the parties petitioning for [24] the same shall, and are hereby required, to give six months notice of such petition for partition of said lands, in some newspaper published in the county."

SEC. 2. **Repeals contravening portions of said ninth section.** That so much of the ninth section aforesaid as contravenes the provisions of this act, be, and the same is hereby repealed.

SEC. 3. **This act to take effect after passage.** This act to take effect and be in force from and after its passage.

Approved, 29th May, 1845.

CHAPTER 7.

TERRITORIAL AGENT.

AN ACT to abolish the office of Territorial Agent.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Office abolished—duties devolve upon territorial treasurer.** That the office of territorial agent be, and the same is, hereby, abolished; and that the territorial treasurer be, and he is, hereby, required to exercise all powers, and discharge all duties now required by law, of the territorial agent.

SEC. 2. **Agent to deliver over books, &c., immediately.** That the territorial agent shall immediately after the taking effect of this law, deliver over to the territorial treasurer all books, papers, moneys and effects of whatsoever nature, belonging to, or in any wise appertaining to said office of territorial agent.

SEC. 3. **Salary to treasurer for performing duties of agent, $125—to be paid by territory.** And be it further enacted, that the territorial treasurer, for the duties required under this act, shall receive the sum of one hundred and twenty-five dollars, as a compensation for his services: provided, that such annual compensation by this act allowed, shall be paid only from the territorial fund for the erection of public buildings at Iowa City, without any pledge of the general faith of the territory.

SEC. 4. **Takes effect after passage.** This act shall take effect and be in force from and after its passage.

Approved, 29th May, 1845.

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[25] CHAPTER 8.

PAYMENT OF EXPENSES OF CONVENTION.

AN ACT to provide for the payment of the expenses of the convention which assembled in Iowa City on the first Monday of October, A. D. 1844, to frame a constitution for the future state of Iowa.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Auditor to audit, and issue warrants for all just accounts of convention.** That the auditor of public accounts be, and he is hereby authorized and required to audit, allow and issue warrants upon the treasury of this territory, for the payment of all just accounts that may be presented regularly certified by the president and secretary of the convention convened in Iowa City, on the first Monday of October, A. D. 1844, for the formation of a constitution for the future state of Iowa.

SEC. 2. **Takes effect after passage.** This act to take effect and be in force from and after its passage.

Approved, 3d June, 1845.

CHAPTER 9.

SUPREME COURT PRACTICE.

AN ACT to amend an act entitled "An act defining the jurisdiction of the supreme court, and regulating the practice therein," approved 8th February, 1844.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **No writ of error issued to order of district court pending trial, shall stay proceedings.** That no writ of error issued to any order of the district court, wherein such order shall be made during the progress of any

trial at law or in equity, shall stay the proceedings therein to a final judgment or decree; and the district court shall proceed to render a final judgment or decree in the same manner as if such writ of error had not issued.

[26] SEC. 2. **Rights of plaintiff in error not injured by decree of district court.** The proceedings to final judgment or decree after a writ of error shall have issued upon any order of the district court, shall not prejudice the rights of the plaintiff in error; provided, there was error in the district court in making such order.

SEC. 3. **Plaintiff in error to file bond to indemnify co-plaintiffs.** That any one of two or more persons entitled to a writ of error, may sue out a writ of error as of course, in the name of the plaintiff in error; provided, such plaintiff in error shall have first filed a bond with the clerk of the district court, where the judgment or decree was rendered in such sum as the clerk shall require, with sufficient sureties to indemnify his co-plaintiff against all damages and costs on account of suing out such writ of error.

SEC. 4. **Eighth section of an act amended, repealed.** That the eighth section of the act to which this is amendatory is hereby repealed.

SEC. 5. **Takes effect after passage.** This act to take effect from and after its passage.

Approved, 3d June, 1845.

CHAPTER 10.

DESTRUCTION OF WOLVES.

AN ACT to amend an act entitled, "An act to encourage the destruction of wolves," approved January 7, 1844.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Discretionary with commissioners of Clayton, Mahaska, Keokuk, Davis, Wapello and Benton counties to pay bounty on wolf scalps.** That from and after the passage of this act, it shall be discretionary with the boards of county commissioners of the counties of Clayton, Mahaska, Keokuk, Davis, Wapello and Benton, to pay any person for killing wolves in said counties.

SEC. 2. **All acts conflicting with the above, repealed.** That all acts and parts of acts that come in conflict with the provisions of this act, be, and the same are hereby repealed.

SEC. 3. **Takes effect after passage.** That this act shall take effect and be in force from and after its passage.

Approved, 4th June, 1845.

[27] CHAPTER 11.

TOWNSHIP ORGANIZATION.

AN ACT to amend an act entitled "An act for the organization of townships."

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Electors to meet 1st Monday in April after organization—eight can act—choose chairman—arrest disorderly persons—constable must obey electors—three judges of, elected by ballot—judges appoint clerks.** That the electors of each township shall, on the first Monday in April, after the organization of the same, assemble at some place in the township, between the hours of eight and ten a. m., and when eight or more electors shall have assembled, they shall elect from their number a chairman whose duty it shall be to preside over the meeting, and to direct any constable present to remove or arrest any disorderly person or persons, and if necessary to confine him or them until after the close of the meeting; and it is hereby made the duty of such constable to obey such orders. Said electors shall then proceed to elect by ballot three persons having the qualifications of electors as judges of the election, who shall appoint the necessary clerks and take an oath or affirmation faithfully to discharge the duties of their respective offices.

SEC. 2. **Subsequent meeting, trustees to be judges—they and clerks to fill vacancies—to receive no compensation.** That at all subsequent meetings for the election of township officers, the trustees of townships shall be judges of the election. The township clerk, with such other person as the trustees or judges of election shall appoint, shall act as clerks of the election; and should either of the trustees be absent, refuse to serve, or, from any other cause there should be a vacancy in the board of trustees at the time and place [28] of holding elections, the judges and clerks shall be appointed in the manner prescribed in the act regulating general and special elections: provided, that the judges and clerks of elections for the election of township officers shall receive no compensation for their services as such out of the county treasury; that the twenty-sixth section of an act to which this is amendatory be, and the same is, hereby repealed.

SEC. 3. **When polls to be opened and closed.** That polls shall be opened at such township meetings between the hours of eight and ten a. m., and closed at six p. m., and the trustees shall have power to order any constable present to remove or arrest any disorderly person or persons; and if necessary confine him or them until the close of the meeting.

SEC. 4. **Trustees to be overseers of poor and fence-viewers.** That the township trustees, by virtue of their office, shall be overseers of the poor and fence-viewers, for their respective townships.

SEC. 5. **Clerks to record township roads.** That it shall be the duty of the township clerks to record all township roads (in a book to be prepared by them and kept for that purpose) which shall be established by the trustees of the township.

SEC. 6. **Trustees to establish township roads—proviso, requires consent of owners.** That the trustees of townships shall have power, and it is hereby made their duty to establish township roads of width not to exceed forty feet nor less than twenty feet, as in their judgment shall be deemed convenient: provided, that such trustees shall not locate any township road on any other than section and quarter section lines, without the consent of the owner or owners of the land through which said road is to pass.

SEC. 7. **Applications for roads to be by petition of at least six freeholders, within two miles of road—petitioners to give bond for expenses of viewing and surveying road.** That all applications for laying out any township road shall be by petition to the board of trustees, signed by at least six freeholders of the township residing within two miles of where said township road is proposed to be laid out; and said petition shall specify the place of beginning, intermediate ponts, if any, and place of termination of said road; and one or more of the signers of said petition shall enter into bonds with sufficient security, payable to the treasurer of said township, conditioned for the payment of all costs and expenses arising from the view and survey of said township road.

SEC. 8. **Three notices to be posted previous to petition and 30 days before meeting of trustees—trustees to appoint 3 viewers and 1 surveyor to lay out road, who report at next meeting—if no remonstrance of six freeholders is on file, the report shall be filed on record, and owners directed to open road—if any owner fail, supervisor to open road.** That previous to the presentation of any petition for such township road, notice thereof shall be given by posting up three written notices, one in the vicinity of the proposed road, and the two others in two of the most public places in the township, at least thirty days before the regular sitting of the board of trustees at which such petition shall be presented, and said board being satisfied that notice has been given as aforesaid, shall appoint three disinterested freeholders of said township as viewers of said road, and a surveyor, if required by the [29] petitioners, and shall issue an order directing the viewers, after they shall have been duly sworn, to proceed, on a day named in said order, or within five days thereafter, to view and lay out; or, if a surveyor be appointed, to lay out and survey said road and make a report in writing to the board of trustees of said township at their next meeting; and if no remonstrance, signed by at least six freeholders living within two miles of said road, shall be filed with said board or presented the day on which said viewers make their report; and, if said viewers shall report in favor of establishing said road, then the same shall be recorded in said township records as a township road, which record shall be a bar to any application for damages; and the said trustees shall issue their order to the owner or owners of the land through which said road may be established, directing him or them, within such time as the said trustees shall deem proper, to open said road: provided, that if such owner or owners shall fail to open said road within the time specified, then the trustees shall direct the supervisors of the district in which said road shall be laid out, to cause said road to be opened; and it is hereby made the duty of said supervisors to obey such orders, and also, it shall be the duty of the supervisors of roads to cause a certain part, (so much as shall be directed by the trustees,) of the road tax to be worked upon the township roads.

SEC. 9. **Any owner feeling injured may remonstrate—trustees to appoint three persons to review road and assess damages—petitioners to pay damages assessed.** That if any person or persons, through whose land any such township road may be laid out, feel injured thereby, and, remonstrance having been made as prescribed for in the preceding section, shall make application to the said trustees at their first session after the view of said township road, it shall be the duty of the trustees to appoint three disinterested freeholders of said township, whose duty it shall be, after being duly sworn, to proceed to review that part of said road through the premises of said complainant or complainants, and assess the damages, if any, and make a report in writing to said board of trustees; and if said re-viewers shall report that the advantages of said township road are not equal to the dam-

ages occasioned thereby to the premises of the complainant, and shall therein report the amount of damages, the petitioners shall be required to pay the damages assessed and until they do so, said trustees shall refuse to establish said road, and all other expenses of the re-viewers and surveyor if any, both at view and re-view, shall be paid by the petitioners for said road, and if they shall neglect or refuse to do so, it is hereby made the duty of the township treasurer to commence suit on the bond and prosecute the same to final judgment and execution: provided, that if no damages shall be allowed, any one asking to re-view, shall [30] enter into bonds with sufficient security, payable to the treasurer of the township, conditioned for the payment of all costs arising from such re-view, which shall be proceeded with in like manner as with the petitioners bond.

SEC. 10. **Conflicting parts of amended act, repealed.** That so much of the act entitled an act for the organization of townships, as conflicts with the provisions of this act, be, and the same is, hereby repealed.

SEC. 11. **Takes effect after passage.** This act to take effect and be in force from and after its passage.

Approved, 5th June, 1845.

CHAPTER 12.

SHERIFFS AND CONSTABLES FEES.

AN ACT to regulate fees of sheriffs and constables in attendance on district courts.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **No sheriff or constable to be paid by territory, who has been paid by the United States for same service.** That no sheriff, deputy sheriff or constable shall be paid out of the county treasury for attendance on the district court in any county in this territory for any day or days for which he may have received, or may be entitled to receive, pay from the United States.

SEC. 2. **Acts and parts of acts conflicting repealed.** That so much of the fifteenth section of an act entitled "An act concerning costs and fees," approved 11th February, 1843, and all other acts or parts of acts that conflict with the provisions of this act, be, and the same are, hereby repealed.

SEC. 3. **Take effect after passage.** This act to take effect and be in force from and after its passage.

Approved, 5th June, 1845.

[31] CHAPTER 13.

CONSTITUTION RE-SUBMITTED TO THE PEOPLE.

AN ACT to submit to the people the draft of a constitution formed by the late convention.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Constitution submitted to the people first Monday of August next.** That the constitution as it came from the hands of the late conven-

tion, be and the same is hereby submitted to the people for their ratification or rejection; and for said election a poll shall be opened in each election precinct in this territory, at the places of holding the general election, upon the first Monday of August next: provided, that where counties are not organized into townships, polls shall be opened at the places of voting for members of the legislature.

SEC. 2. **Judges of elections to interrogate voters for or against constitution.** That it shall be the duty of the judges of the election, to interrogate the qualified electors when they approach the polls to vote, whether they are in favor of, or against the constitution; to which interrogatory the elector shall answer simply, "constitution," or "no constitution;" and the clerk of said election shall thereupon write down his name in a column headed, "constitution," or "no constitution," in accordance with the vote of said elector.

SEC. 3. **Peturns to be made as ordered in February, 1844, governor to proclaim result.** The returns of said election shall be made in all respects as the returns made under the act of the 12th February, A. D. 1844, for and against a convention; and, thereupon, the governor shall issue his proclamation declaring the number of votes given for and against the constitution.

SEC. 4. **If carried secretary to send certified copy to delegate, with abstract of votes.** That, if the constitution shall receive a majority of the votes cast at said election, the secretary of the territory shall forward a certified copy of the constitution to the delegate in congress from this territory, together with a certified abstract of the votes cast at said election.

[32] SEC. 5. **How election shall be conducted.** That the election provided for in this act, shall, in all respects, be conducted in accordance with the provisions of an act regulating general elections, so far as applicable, except as is herein specially provided for.

SEC. 6. **Secretary to cause this act to be published—county commissioners to give notice of poll—sheriff to post the same 20 days before election.** That it shall be the duty of the secretary of the territory to cause this act to be published in all the newspapers of the territory, as soon as the same shall become a law; and it shall be the duty of the clerk of the board of county commissioners, in the several counties of this territory, to give notice, that a poll will be opened for the purpose specified in the first section of this act, to the sheriff of his proper county, who is hereby required to post up notices according to law at least twenty days before the next August election.

SEC. 7. **Every white male citizen 21 years of age, a resident July 1, 1845, entitled to vote.** That every white male citizen of the United States who shall have attained the age of twenty-one years, and who may have been a resident of this territory on the first day of July, A. D. 1845, shall be entitled to vote for or against the constitution at said election: provided, that said citizen shall continue to reside in the territory from the said first day of July up to the time of holding said election.

SEC. 8. **No election for state officers to be held until Iowa is admitted as a state—proviso, ratification of constitution not to be considered as an acceptance of congressional boundaries—admission incomplete until future conditions of congress are complied with.** And be it further enacted, that no election of state officers shall be held under said constitution, if ratified at said election, until after the admission of the state of Iowa is complete: provided, that the ratification of the constitution, as aforesaid, shall not be construed as an acceptance of the boundaries fixed by congress in the late act of admission, and the admission shall not be deemed complete until whatever condition may be imposed by congress shall be ratified by the people.

SEC. 9. **Takes effect after passage.** This act shall take effect and be in force from and after its passage.

Secretary's Office, Iowa City,
June 10, 1845.

This bill having been returned to the legislative council (in which house it originated) by the governor, with his objections to its passage, was duly passed by a majority of two-thirds; and subsequently passed, by a similar majority, in the house of representatives. By the organic law, said act thereby became a law, and I hereby so declare it.

S. J. BURR,
Secretary of Iowa Territory.

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[33] CHAPTER 14.

TIME OF HOLDING DISTRICT COURTS.

AN ACT to amend an act entitled "An act to establish the time of holding the district courts in the several judicial districts in this Territory," approved 12th February, 1844.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Additional term for Linn county on sixth Mondays after first Mondays in March and September.** That, in addition to the second Mondays after the first Mondays in March and September, the district court shall meet in the county of Linn on the sixth Mondays after the first Mondays in March and September.

SEC. 2. **For Mahaska tenth Mondays after first Mondays of March and September.** That, the district court shall meet in the county of Mahaska, on the tenth Mondays after the first Mondays in March and September; and, in the county of Keokuk on the eleventh Mondays after the first Mondays in March and September.

SEC. 3. **All laws and parts, conflicting herewith, repealed.** That all laws and parts of laws coming in conflict with this act, be, and the same are hereby repealed.

SEC. 4. **Takes effect after first day of August next.** This act to take effect and be in force from and after the first day of August next.

Approved, June 7th, 1845.

CHAPTER 15.

MILITIA ORGANIZATION.

AN ACT to organize and discipline the militia of this territory.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Militia acts of January 4, 1839, July 31, 1840, and February 17, 1842, revived.** That an act entitled "An act to organize, discipline and govern the militia of this territory," approved, January 4, 1839, and an act entitled "An act to organize, discipline and govern the [34] militia of this

territory," approved, July 31, 1840, and and act entitled "An act to amend the militia law," approved February 17, 1842, are hereby revived, re-enacted and declared to be in force as though the same had not been repealed.

SEC. 2. **Each battalion to rendezvous once a year.** For the purpose of keeping up the organization of the militia of this territory, and to enable the officers to make full returns of the strength of the militia, each company and regiment or battalion shall rendezvous once in each year in the month of September, at such a time and place as their respective commandments may direct; but no regiment, battalion or company shall be required to rendezvous more than once in each year, anything in the aforesaid acts to the contrary notwithstanding.

SEC. 3. **Militia act of fifteenth February, 1844, repealed.** That an act entitled "An act amendatory of an act to organize, discipline and govern the militia of this territory, approved, July 31, 1840," approved 15th February, 1844, be, and the same is, hereby reqealed.

SEC. 4. **Takes effect after passage.** This act to take effect and be in force from and after its passage.

Approved, June 7th, 1845.

CHAPTER 16.

ELECTION OF MEMBERS POSTPONED.

AN ACT to postpone the election of the members of the house of representatives of the territory of Iowa, from August until April.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Postpones election to first Monday of April, 1846.** That the annual election of members of the house of representatives of the territory of Iowa, shall be, and the same is, hereby postponed until the first Monday of April next.

SEC. 2. **Repeals conflicting acts.** That all acts and parts of acts that conflict with the provisions of this act, be, and the same are. hereby repealed.

SEC. 3. **Takes effect after passage.** This act to take effect and be in force from and after its passage.

Approved, June 7th, 1845.

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[35] CHAPTER 17.

WRITS OF ATTACHMENT.

AN ACT to amend an act entitled "An act allowing and regulating writs of attachment."

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Writ of attachment granted in certain cases.** That when a writ of attachment has been issued by a justice of the peace of any county in said territory and the same be returned for want of personal property upon which to levy, it shall then be lawful for the plaintiff, his agent or

attorney, to file with the said justice an affidavit in writing, setting forth that the defendant is a non-resident of the territory or has absconded, or concealed himself, or so absented himself from his usual place of abode, that the ordinary process of law cannot be served upon him, and has no personal property upon which to levy, and that he has real estate in the county where such suit is brought; it shall then be the duty of the justice to make out and deliver to the plaintiff a transcript of his proceedings; and on the filing of such transcript in the office of the clerk of the district court of the proper county, a writ of attachment shall be issued by said clerk and such proceedings shall be had thereon, as is provided by the act to which this is amendatory.

SEC. 2. **Declaration to be filed ten days before return day of writ.** That the nineteenth section of said act be so amended as to authorize the plaintiff in attachment to file his declaration ten days before the return day of said writ.

SEC. 3. **Twenty-sixth section of amended act, altered.** That the twenty-sixth section of said act be so amended as to read as follows: "If the sum thus realized, together with that obtained from garnishees in the manner hereinafter provided, shall be insufficient to satisfy the judgment, the plaintiff may at any time within five years thereafter sue out execution to satisfy the same."

SEC. 4. **Takes effect after August 1, 1845.** This act shall be in force and take effect from and after the first day of August next.

Approved, June 7th, 1845.

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[36] CHAPTER 18.

MINERS' BANK OF DU BUQUE.

AN ACT to provide for the payment of the debt due to the Miners' Bank of Du Buque.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Treasurer to give notice of sale of lots first Monday of May next.** That the territorial treasurer be, and he is hereby, required to give notice that a sale of lots belonging to the territory will take place at the front door of the capitol on the first Monday of May next.

SEC. 2. **Notice to be published three months before sale.** And be it further enacted, that said notice shall be published in two of the newspapers of this territory, and in some one paper in the city of St. Louis and Cincinnati, at least three months before the day of sale aforesaid.

SEC. 3. **Treasurer to sell on above day, on six and twelve months credit, sufficient number of lots to pay debt due the bank.** And be it further enacted, that upon the said first Monday of May next, the territorial treasurer shall offer at public sale, on a credit of six and twelve months, to the highest bidder, a sufficient number of lots to pay the debt due the Miners' Bank of Du Buque; and upon all sales thus made, the purchaser or purchasers shall execute to the territorial treasurer, for the use of the territory, his or their bond with sufficient sureties for the payment of the same at maturity; and upon the payment as aforesaid, the said treasurer shall make, execute and deliver, to the purchaser or purchasers of said lots, a good and sufficient title in fee simple.

SEC. 4. **Treasurer with proceeds to pay debt and interest to bank.** And be it further enacted, that at the maturity of said bonds, the territorial treasurer shall proceed to collect the same as soon as possible and apply the proceeds of the same to the payment of the debt, principal and interest due to the Miners' Bank of Du Buque contracted under the provisions of the act of 15th January, 1841.

SEC. 5. **Treasurer to re-sell forfeited lots sold prior to 28th June, 1841—to apply proceeds to pay any debt for erection of capitol.** And be it further enacted, that if any lot or lots sold prior to the 28th day of June, 1841, have been forfeited to the territory in consequence of non-payment for the same, it shall be the duty of the territorial treasurer to re-sell the same at the time, with the notice and upon the conditions aforesaid, collect the proceeds of the sale as [37] aforesaid, and apply the proceeds of the same to the payment of any debt or debts contracted by the territorial agent for the erection of the capitol at Iowa city, exclusive of the debt now due to the Miners' Bank of Du Buque.

SEC. 6. **Repeals acts and parts of acts contravening the intent hereof.** And be it further enacted, that all acts and parts of acts contravening the provisions of this act, be, and the same are hereby, repealed.

SEC. 7. This act to take effect and be in force from and after its passage.

Approved, June 10th, 1845.

CHAPTER 19.

COUNTY COMMISSIONERS.

AN ACT to amend an act entitled "An act organizing a board of county commissioners in each county," approved, February 15, 1843.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Spring term of commissioners to be held 2d Monday in April.** That so much of the fifth section of said act as makes it the duty of the county commissioners to hold their spring term on the first Monday in April in each year, be, and the same is hereby repealed; and that the said spring term shall be holden hereafter on the second Monday in April in each and every year.

SEC. 2. **This act takes effect after passage.** This act to take effect and be in force from and after its passage.

Approved, June 10th, 1845.

[38] CHAPTER 20.

CHANGING VENUE.

AN ACT amendatory of an act to provide for changing the venue in civil and criminal cases, approved 13th February, 1843.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Clerk to transmit copy of record to proper court.** That when any order shall be made by the court or judge thereof, in vacation, award-

ing a change of venue, the clerk of such court shall immediately make out and transmit to the proper court a copy of the order, petition and affidavit, and a full transcript of the record and proceedings in such cause, with certified copies of such original papers filed therein and comprising a part of the record; and said certified copies of such original papers shall have the same force, and be as valid in the court to which they shall have been transmitted, as the original papers; but said original papers shall remain in the office of the clerk of the court where such suit was instituted.

SEC. 2. **The affidavit of the criminal to be verified by two witnesses under oath.** That when a change of venue is prayed for in criminal cases, the truth of the affidavit of the party wishing the same, shall be verified by the affidavit of at least two respectable disinterested persons, before such change is allowed by the judges.

SEC. 3. **Sections 8 and 9 of amended act, and all conflicting parts, repealed.** That sections eight and nine, and all other parts of the act to which this is amendatory which conflict with the provisions of this act, be, and the same are, hereby repealed.

SEC. 4. **15th section of said act changed so as to require county where the crime was committed, to pay costs, etc.** That the 15th section of said act be so amended as to require the costs and fees of prosecution, and the costs incident to the change of venue, to be taxed to, and paid by the county where the same was committed.

SEC. 5. **Takes effect after 1st July next.** This act to take effect from and after the first day of July next.

Approved, June 10th, 1845.

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[39] CHAPTER 21.

PROBATE COURTS, ETC.

AN ACT to amend "An act relative to the probate of wills, executors, administrators, guardians, trustees of minors and probate courts, and for defining their duties." Approved, February 13, 1843.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Claimant to serve written notice on administrator, who, if satisfied, shall approve and allow.** That any person may exhibit his demand against any estate of a less sum than twenty-five dollars, by serving on the executor or administrator a notice in writing, stating the nature and amount of his claim, with a copy of the instrument of writing or account upon which the claim is founded; and if the executors or administrators shall be satisfied that the claim thus exhibited against the estate of his testator or intestate, is just, he shall endorse thereon his approval and allowance of the same and the time it was exhibited.

SEC. 2. **List to be kept and bills paid once a year.** All executors and administrators shall keep a list of all demands legally exhibited against the estate of his testator or intestate, and class the same and make returns of such list to the court of probate, once in every year, or oftener if the judge of probate shall direct, which demands shall be paid as provided for by the act to which this is an amendment.

SEC. 3. **Claimant to make oath as to what payments have been made.** Before any executor or administrator shall allow or pay any debt demanded as due from the deceased, founded on any judgment, decree, bond, note, bill or bills or [of] account, the person claiming such debt shall make affidavit that nothing has been paid or delivered towards the satisfaction of the same, except what is mentioned or credited, and that the sum demanded is justly due, which affidavit shall be attached to and filed with the instrument of writing or account, (upon which the claim is founded,) in the probate office.

SEC. 4. **If refused, claimant to apply to probate court, giving 10 days notice—if court rejects claim, claimant to pay costs.** If any executor or administrator shall refuse to allow any claim or demand against the deceased after the same may have been [40] exhibited to him, in accordance with the provisions of this act, such claimant may present his claim to the court of probate for allowance, giving the executor or administrator ten days notice of such application to the court: provided, that if said court should also reject such claim, then and in that case, the said claimant shall pay all the cost of such appeal.

SEC. 5. **Executors to administer oaths.** The executor or administrator is hereby authorized to administer oaths to witnesses or creditors and examine them touching the validity of any claim presented to him against the estate of his testator or intestate.

SEC. 6. **Widows dower secured.** The dower of widows shall be and remain as fixed by the common law.

SEC. 7. **Vacancy in office of probate judge, county commissioners to appoint one for the remainder of the term.** That when any vacancy shall happen in the office of judge of probate by death, resignation, removal from the county or otherwise, it shall be the duty of the clerk of the county commissioners court to immediately inform the county commissioners of such vacancy, who shall appoint some suitable person to discharge the duties of said office until the next annual election.

SEC. 8. **No claims less than $25 to be presented to judge until administrator refuses to allow.** No demands for a less sum than twenty-five dollars shall be presented to the court of probate for allowance, until after the executor or administrator shall have refused to allow and class the same; and in all such cases, if the claimant be allowed his claim by the court, he shall be entitled to his costs.

SEC. 9. **Conflicting portions of amended act, repealed.** That all of the seventh chapter of an act to which this is amendatory, except the first section; and all other parts of said act that conflict with the provisions of this act, be, and the same are, hereby repealed.

Approved, June 10th, 1845.

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[41] CHAPTER 22.

TITLES TO HALF BREED LANDS.

AN ACT to provide for the better settling and adjudicating of the several titles set up to the Half Breed Lands in the county of Lee.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

Whereas, the public tranquility in Lee county, requires that the fee simple title to the tract of land in said county, commonly known as the Sac and

Fox half breed reservation should be ascertained and settled as speedily as possible: and whereas, it would necessarily lead to greater excitement, as well as work manifest injustice to the settlers on said lands that either of the several claims of title to said lands should be competent, in a judicial proceeding, to dispossess or eject said settlers from their improvements and premises, unless fully and fairly established, whereby the settlers, when a judgment is rendered against them on any action brought for the recovery of said lands, may ascertain, with certainty, in whom a good title is vested, and make purchase of the same in case the owner is inclined to sell; therefore,

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Plaintiff, if a half breed or claiming under one, in any real action to recover land, must show the partition of lands under which he claims —if he claims under judicial proceeding, must show that he complies with all necessary forms.** That in any real or possessory action brought for the recovery of said lands, or any portion thereof, the following particulars shall be complied with by the plaintiff, to enable him to make out a *prima facie* case: first, if the plaintiff be a half breed etc. claiming title in right of himself, or being any other person claming by, through or under right acquired of a half breed etc., he shall be required to show there has been made a partition of said reservation or lands, of which he, or those under whom he claims, was admitted a party therein; and that all the provisions of the general laws of partition regulating judicial proceedings in relation thereto, commencing with the bill or petition and continuing until, and with, the decree or deed of partition, have been substantially complied with: second, that the plaintiff, if he derive title by, through, under or by virtue of any judicial proceedings otherwise than by partition as aforesaid, shall [42] be required to show that such proceedings, commencing with the publication or original process, and including all the other records in the case, have, if such proceedings were based on the provisions of a public act or acts, substantially complied with the provisions of said act or acts, or if based on a private act or acts, has fairly and strictly complied with the directions thereof: third, if the plaintiff claim under and by virtue of a tax title, he shall show that the provisions of the general act in relation to tax, assessments, delinquencies, and sales, has been substantially complied with.

SEC. 2. **Defendants allowed to show titles outstanding superior to that of plaintiff.** The defendant or defendants in any such action or actions, whatever may be the nature of his or her interest in said lands, or whether they are merely occupants without any interest therein except their possessory rights, shall be permitted to show in evidence for the defeat of the plaintiff's claim that there are still superior titles outstanding to that under which the plaintiff claims, and every matter of defense which the holder of any such outstanding claims or titles might himself be permitted to prove, for the contravention of the plaintiff's title, may be relied upon by the defendant who claims no other than a possessory right in said lands.

SEC. 3. **Court to give such construction to this act, as will prove real ownership.** It shall be the duty of the court to give this act such liberal construction as will most tend to the ascertainment of the real or valid title to said reservation or lands.

SEC. 4. **Act to take effect after passage.** This act shall take effect and be in force from and after its passage.

Secretary's office, Iowa City,
June 11, 1845.

This act having been returned by the governor, with his objections to its passage, to the legislative council (in which house it originated) was duly passed by a majority of two thirds—sent to the house of representatives, and there passed by a similar vote. By the organic law said act thereby became a law, and I hereby so declare it.

S. J. BURR,
Secretary of Iowa Territory.

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[43] CHAPTER 23.

STEAM BOATS.

AN ACT to prevent and punish the owners and masters of steam boats committing trespass upon the property of persons living in this territory, and for other purposes.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Master taking wood, etc., to leave written notice on the spot.** That it shall be the duty of every master or owner of any steamboat navigating any river within or bordering upon this territory, whenever he or they shall take any wood or other property belonging to any citizen or citizens of this territory without the consent of such owner or owners, or in his or their absence, to make out or cause to be made out, a card or notice specifying the number of cords of wood and the amount and description of such other property with the day and date when the same was taken by said master or owner, and leave such card or notice in some conspicuous place where such wood or other property was taken, and where the same may be found by such owner or owners.

SEC. 2. **Failure to comply with first section, guilty of misdemeanor—fine not over $100, nor less than $10—imprisonment not exceeding 30 days.** If any master or owner of any steam boat, as aforesaid, shall neglect to comply with the provisions of the first section of this act, or shall fail to pay for said wood or other property when called upon to do so by such owner or owners thereof, every captain or owner of such steam boat shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding one hundred dollars, nor less than ten dollars, and shall moreover be liable to the party injured for the value of said wood or other property, also be imprisoned not exceeding thirty days at the discretion of the court.

SEC. 3. **Suit before justice, if damages exceed his jurisdiction, recoverable by presentment in district court.** Suit may be instituted before any justice of the peace of the proper county, for any violation of the first section of this act; and should the amount of the damages exceed the jurisdiction of the justice of the peace, the same shall be recovered by presentment or indictment in the district court.

[44] SEC. 4. **Master taking any water craft, liable to double damages.** If the master or owner of any steam boat, as aforesaid, shall at any time hereafter take or cause to be taken, any flat, keel-boat or other water craft from any person in this territory, for the purpose of aiding or assisting them in lighting said boat, or in any way conveying freight from, or to, said boat, or lighting the freight of said boat over either the upper or lower rapids of the Mississippi river or any bar or shoal or other place on said river, or any river of this territory, without the consent of the owner or owners, or

in his or their absence, and shall refuse to pay a reasonable compensation for the use of said flat, keel-boat or other craft; he or they shall forfeit and pay to the owner or owners thereof, double the amount of what may be considered by the court or jury, a fair compensation for the use of such craft, to be recovered by action of debt before any court having competent jurisdiction thereof.

SEC. 5. **Master liable for all damages.** If any master or owner of any steam boat as aforesaid, shall obtain any craft, as aforesaid, either with or without the consent of the owner or owners thereof, and shall lose, injure or destroy the same, or lose or misplace any apparatus belonging to the same, he or they shall be liable for all such damages to the owner or owners thereof.

SEC. 6. **Action by warrant or attachment—master held to bail—proviso, action to be brought within two years.** All actions brought under the provisions of this act, shall be by warrant or attachment, and the master or owner of said boat shall be held to bail in such sum as the court before which the suit is instituted shall require, until all damages shall be paid, together with costs of suit: provided, all such steam boats, as aforesaid, shall be held liable and responsible for all debts and damages arising under the provisions of this act, for a period of time not exceeding two years, and the same shall be a lien on said boat for that length of time, whether said boat shall be sold and transferred, or remain in possession of the original owner or owners.

SEC. 7. **Master leaving wharf after process served, liable for double damages.** If the master or owner of any steam boat, as aforesaid, after process is served on him or them by any constable, sheriff or other officer, as aforesaid, shall, with intent to avoid the payment or without securing such demand, leave the landing or wharf where such process is served, with his boat, he shall be liable for double the amount of the demand.

SEC. 8. **Master carrying off officer deemed guilty of misdemeanor—fine $500.** Should any master or owner of any such steam boat, as aforesaid, take or carry off any constable, sheriff or other officer, forcibly and against his will, who may hereafter go on board of such steam boat to serve any process as provided for in this act, he or they shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined [45] in any sum not exceeding five hundred dollars, nor less than one hundred dollars.

SEC. 9. **Takes effect after July 4th, 1845.** This act to take effect and be in force from and after the fourth day of July next.

Approved, June 10th, 1845.

CHAPTER 24.

BAIL.

AN ACT to amend an act entitled "An act concerning bail," approved January 25, 1839.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **When bond is forfeited defendant not allowed to enter new bond.** That, hereafter, when any bail bond or recognizance is required by the court of any defendant or defendants in pursuance of an act (to which this is amendatory,) approved, January 25th, 1839, and the said bail bond or recognizance becomes forfeited in consequence of the defendant or defendants

not complying with the conditions of the same, the said defendant or defendants shall not be permitted to enter into any further bail bond or recognizance.

SEC. 2. **Forfeited bond to be prosecuted.** That when the said recognizance or bail bond shall become forfeited, the same shall be prosecuted to final judgment; any provisions in the act to which this is amendatory to the contrary notwithstanding.

SEC. 3. **All acts and parts, conflicting herewith, repealed.** All acts and parts of acts that come in conflict with the provisions of this act, be and the same are, hereby repealed.

SEC. 4. **This act to take effect after 1st of August next.** This act to take effect and be in force from and after the first day of August next.

Approved, June 10th, 1845.

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[46] CHAPTER 25.

TRESPASSING UPON LANDS.

AN ACT to punish persons trespassing upon lands.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Persons removing property to pay double the value and costs.** That, hereafter, if any person knowingly enter on the lands belonging to another person, fall, box, bore, or carry away any timber, stone or stone coal or minerals of any description; the person so offending shall forfeit and pay double the value of such timber, stone, stone coal or minerals, to be recovered, together with costs of suit, by the person injured before any justice of the peace or any court having jurisdiction thereof.

SEC. 2. **Failing to pay, to be imprisoned not over 30 days.** And hereafter when any person shall be found guilty of trespass according to the provisions of the preceding section, and shall on the rendition of judgment, neglect or refuse to pay said damages and costs of suit, or to give security for the payment of the same, it shall be the duty of the court before whom such judgment was rendered, to imprison said defendant in the county jail, if any in such county, and if not, then in the jail nearest said county, until said defendant shall pay or cause to be paid the aforesaid damages and costs: provided, said imprisonment shall not extend beyond the period of thirty days.

SEC. 3. **Conflicting acts and parts of acts, repealed.** All acts and parts of acts contravening the provisions of this act, be, and the same are, hereby repealed.

SEC. 4. **Takes effect after August 10th, 1845.** This act to take effect and be in force from and after the first day of August next.

Approved, June 10th, 1845.

[47] CHAPTER 26.

ROAD TAX, ETC.

AN ACT to amend an act to provide for levying a tax on real and personal property, for road purposes, approved, February 16, 1842.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Supervisor to make list of those who have not paid or worked road—treasurer, when no personal property can be had, to sell real estate to lowest bidder.** That, in case any road tax is not paid or worked out by either resident or non-resident, on or before the first day of November in each year, then the supervisor shall make out a list of delinquents, attach his certificate thereto, and deliver the same to the treasurer of the county; and the said treasurer, provided no personal property can be found out of which to make such road tax, shall proceed to sell the real estate of such delinquent upon which such road tax shall have been levied, by publishing, in the nearest newspaper, and by posting upon the court house door of the county in which such real estate shall be situated, a notice containing a description of such real estate, four weeks successively, that said real estate will be sold for the road tax levied thereon at the court house door, and that said real estate will be sold on the day to be therein specified, between the hours of 10 o'clock, a. m., and 4 o'clock, p. m., to the purchaser who will bid for the least quantity to be taken off of the northeast corner of the land so sold, for the said tax and expenses of sale.

SEC. 2. **Treasurer to deed property.** That said treasurer is hereby authorized and required to make to such purchaser, in his name as treasurer of his proper county, a deed conveying the real estate so sold in fee simple.

SEC. 3. **Redeemable in two years, with 50 per centum interest.** That the owner of said real estate may redeem the said estate so sold, by paying to such purchaser, or the treasurer of the county, for the purchaser or his assigns, the sum bid for said land, with fifty per centum per annum, at any time within two years after such sale.

[48] SEC. 4. **Such deed prima facie evidence.** That the deed so executed shall be *prima facie* evidence of the regularity of the proceedings.

SEC. 5. **Title not to be questioned unless an offer of principal and above interest be first made.** No person shall ever question the title of the purchaser to the real estate so purchased, in any court of law or equity, either as plaintiff or defendant, or complainant or defendant, unless he shall have paid or offered to the purchaser of said real estate, or his assigns, the sum so paid for said real estate, with fifty per centum per annum, from the date of such sale and the costs of such sale and deed.

SEC. 6. **Certified allowance for over work.** That it shall be the duty of the road supervisor to issue a certificate to any person for the number of days such person may have labored on the roads in his district, exceeding the number of days for which such person was taxed.

SEC. 7. **Certificate to be applied to any road tax unpaid by holder.** That the treasurer of the county shall receive such certificate as money, in payment of the road tax of the person holding the same, for any lands in his county owned by such person, unpaid.

SEC. 8. **Moneys collected under this act to be appropriated by county on roads and bridges in road districts where paid.** That the moneys collected on such sale shall be appropriated by the board of commissioners for the improvement of roads, and the erection of bridges within the road district where said land is situated.

SEC. 9. **Act to take effect after passage.** This act shall take effect from and after its passage.

Approved, June 10th, 1845.

CHAPTER 27.

OBSTRUCTION OF ROADS PUNISHED.

AN ACT to prevent and punish the obstruction of public roads and highways.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Injuring road, fine of $10—imprisonment, if not paid.** That if any person shall obstruct any public road or highway in this territory by felling any tree or trees across the same, or by encroaching upon, or fencing, or ploughing up the same, or by placing any other obstruction thereon, or who shall destroy or injure any bridge or causeway, or remove any plank or timber therefrom without being legally authorized so to do, [*] nor less than ten dollars, and shall be imprisoned in the county jail until the fine and costs are paid.

[49] SEC. 2. **Sheriff to order person committing injury, to repair.** That in every case where a highway shall have been laid out, and the same has been, or shall be, obstructed as aforesaid, the sheriff of the proper county, shall, on being notified thereof, order such obstruction to be removed, which order shall be reduced to writing and signed by the sheriff, and a copy thereof served upon the person charged with having made or caused the same.

SEC. 3. **If not done in six days, sheriff to do it, and the guilty person to pay costs.** That if such removal shall not be made in accordance with such order, within six days after the service of the same, it shall then be the duty of the sheriff to take with him such assistance as may be necessary, and proceed without delay, to remove such obstruction; and the person guilty of making the same, shall pay all costs and expenses of said removal.

SEC. 4. **Fees of sheriff for his duties.** That the sheriff, for rendering the services required by this act, shall be entitled to receive the following fees, to-wit: for making out order of removal, one dollar; for serving same on each defendant, fifty cents, and mileage as now established by law; for superintending removal, two dollars per day, and for each person employed to assist him, one dollar per day.

SEC. 5. **Conflicting acts repealed.** That all the acts and parts of acts which conflict with this act, be, and the same are, hereby repealed.

SEC. 6. **Takes effect September 1st, 1845.** This act to take effect and be in force from and after the first day of September next.

Approved, June 11th, 1845.

*(Omission in the original enrolled act.)

CHAPTER 28.

SUITS BY FOREIGN EXECUTORS, ETC.

AN ACT to amend an act entitled "An Act to regulate the institution of suits by foreign executors, administrators, and guardians, within this territory.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Foreign administrator to prosecute, by giving bond with resident securities.** That, when any letters testamentary or of administration may have been or shall be granted on the estate of any deceased person who may have been a resident in any one of the United States or territories thereof, except this territory, any person [50] or persons to whom either of said letters may have been or shall be granted, shall be enabled to prosecute suits in any court in this territory, in the same manner as if such letters had been granted to such person or persons by any court in this territory; and such person or persons to whom either of said letters may have been or shall be granted, shall, before entering on the discharge of his or their duty, make out a good and sufficient bond, such as is now required by law for administrators with two or more good and sufficient securities, resident within the county where the estate of any deceased person may be, and shall file the same in the office of the judge of probate of said county.

SEC. 2. **Probate judge to require letters to be filed in his office.** That it shall be the duty of the judge of probate of the county to require all foreign executors, administrators and guardians, before entering on the discharge of his or their duty, to file in the office of said court his or their letters testamentary, or of administration, or an attested copy thereof.

SEC. 3. **Acts and parts conflicting, repealed.** That all acts and parts of acts that conflict with the provisions of this act, be, and the same are hereby repealed.

SEC. 4. **Act to take effect after passage.** This act to take effect and be in force from and after its passage.

Approved, June 11th, 1845.

CHAPTER 29.

SAC AND FOX INDIAN COUNTRY.

AN ACT to attach the country ceded to the United States by the Sac and Fox Indians, 1842, to the adjacent counties.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Country ceded in 1842, attached to organized counties adjacent, after 10th October next.** That from and after the tenth day of October next, all of that part of the country ceded to the United States by the Sac and Fox Indians, by the treaty of October, A. D. 1842, which lies west of the present Indian boundary line, or of a line drawn north and south through the Red Rock on the Des Moines river, extending from the Missouri river to the

neutral ground, be, and the same is, hereby attached to the organized counties adjacent to said country, and lying along said Indian boundary line for judicial and other purposes.

[51] SEC. 2. **This act to take effect after passage.** That this act to take effect and be in force from and after its passage.

Approved, June 11th, 1845.

CHAPTER 30.

APPROPRIATION ACT.

AN ACT providing for the compensation of members and officers of both houses of the present session and for other purposes.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Appropriates for members council, seventeen hundred and eighty-four dollars.** That the following sums be, and they are, hereby appropriated out of any moneys in the hands of the secretary of the territory of Iowa, for the following purposes, viz:

For pay and mileage of the members of the council, seventeen hundred and eighty-four dollars.

[52] SEC. 2. **Officers of council, five hundred and forty dollars.** For pay of the officers of the council, five hundred and forty dollars.

SEC. 3. **Members house, three thousand six hundred ninety-seven dollars.** For pay and mileage of the members of the house of representatives three thousand six hundred and ninety-seven dollars.

SEC. 4. **Officers of house, five hundred and fifty-two dollars.** For pay of the officers of the house of representatives, five hundred and fifty-two dollars.

SEC. 5. **John Lorton, Peter Conboy, G. W. Jeffries and John Johnson, six dollars each.** To John Lorton, for services as sergeant-at-arms for two days, six dollars; to Peter Conboy, as fireman for two days, six dollars; to George W. Jeffries, as assistant clerk two days, six dollars as per resolution; and that John Johnson be allowed six dollars for two days' services as speaker pro tem. of the house of representatives.

SEC. 6. **President of council, one hundred and eight dollars.** For extra pay to the president of the council, one hundred and eight dollars.

SEC. 7. **Speaker of house, one hundred and eight dollars.** For extra pay to the speaker of the house of representatives, one hundred and eight dollars.

SEC. 8. **For postage of house, one hundred and seventy-five dollars and ninety-two cents.** To S. C. Trowbridge for postage on letters, papers, documents, etc., for the house of representatives, the sum of one hundred and seventy-five dollars and ninty-two cents.

SEC. 9. **Postage of council, one hundred and fourteen dollars and fifty-two cents.** To S. C. Trowbridge for letters, papers, documents, etc., for the council the sum of one hundred and fourteen dollars and fifty-two cents as per bill.

SEC. 10. **House incidental printing, three hundred and seventy-seven dollars and forty-six cents.** To Williams and Palmer for printing, as per bill rendered for the house of representatives, the sum of three hundred and seventy-seven dollars and forty-six cents.

SEC. 11. **Council incidental printing, two hundred and sixty-eight dollars and fifty-four cents.** To Williams and Palmer for printing for the council, as per bill rendered, the sum of two hundred and sixty-eight dollars and fifty-four cents.

SEC. 12. **Cleaning basement, twenty dollars.** To Peter Conboy, for work in basement of Capitol, twenty dollars.

SEC. 13. **Balance for binding laws, one hundred dollars.** To William Green (a balance) for stitching and pressing the session laws of 1843 and 4, one hundred dollars, as per resolution.

SEC. 14. **To James Trimble, six dollars.** To James Trimble, (justice of the peace,) for administering official oaths to the several members of the house of representatives, the sum of three dollars;—and to James Trimble, for administering official oaths to the members of the Council, three dollars.

SEC. 15. **James Clarke, seven dollars.** To James Clarke, editor of the Territorial Gazette, for papers furnished members of the house of representatives, the sum of seven dollars.

SEC. 16. **Jonathan Reed, fifteen dollars—J. F. Kinny, two hundred and fifty dollars.** To Jonathan Reed, for two and one-half dozen bottles ink, fifteen dollars; to J. F. Kinny, secretary of the council, two hundred [53] and fifty dollars for superintending, indexing, and distributing the journals of the council, for the present session.

SEC. 17. **Thomas Snyder, four dollars.** To Thomas Snyder, for work on desks, four dollars.

SEC. 18. **A. P. Wood, eighty-four dollars.** To A. P. Wood, for papers furnished the members of the house of representatives, as per bill rendered, the sum of eighty-four dollars.

SEC. 19. **A. P. Wood, forty-four dollars.** To A. P. Wood, for papers furnished the members of the council, as per bill rendered, forty-four dollars.

SEC. 20. **Wm. Thompson, two hundred and seventy-five dollars.** To William Thompson, for indexing and superintending the printing of the journals of the house of representatives for the present session and distributing the same, the sum of two hundred and seventy-five dollars.

SEC. 21. **John Larue, ninety-six dollars and thirty-seven cents.** To John Larue, for wood furnished the legislature, as per contract in December, 1844, eighty-nine dollars thirty-seven cents; to drawing goods from Bloomington, as per secretary's receipt, seven dollars.

SEC. 22. **Henry Felkner, eighty-one dollars and twenty-five cents.** To Henry Felkner for wood furnished the legislature, as per contract under date of March 17, 1844, eighty-one dollars and twenty-five cents.

SEC. 23. **S. J. Burr, fifty-eight dollars and twenty-five cents.** To S. J. Burr, for amount paid Bridgman and Brothers for articles furnished the legislative assembly, fifty-eight dollars and twenty-five cents.

SEC. 24. **Wesley Jones, twenty-four dollars and fifty-nine cents.** To Wesley Jones, for articles furnished the legislature, as per bill rendered, bearing date June the 2nd, 1845, twenty-four dollars and fifty-nine cents.

SEC. 25. **Samuel Isaacks, one hundred and eighty-five dollars and fifty cents.** To Samuel Isaacks, of New York, for stationery furnished the legislature for the present session, as per agreement with the secretary of the territory, one hundred and eighty-five dollars and fifty cents.

SEC. 26. **J. S. Kimball, forty-two dollars and fifty cents.** To J. S. Kimball, for stationery furnished the legislature for the present session, the sum of forty-two dollars and fifty cents.

SEC. 27. **James G. Edwards, three dollars.** To James G. Edwards, for papers furnished the house of representatives, the sum of three dollars.

SEC. 28. **Jones & Powell, twenty-nine dollars and forty-six cents.** To Jones and Powell, for articles furnished the legislature, the sum of twenty-nine dollars and forty-six cents.

SEC. 29. **Hepburn and Shoup, eighteen dollars.** That Hepburn and Shoup be allowed the sum of eighteen dollars.

SEC. 30. **William Crum, eighty-six dollars.** To William Crum, for eighty-six tokens press work, at $1 per token, eighty-six dollars.

SEC. 31. **S. J. Burr, two hundred and fifty dollars.** To S. J. Burr, for indexing and superintending the prin- [54] ting of the laws of the present session, and laws of the extra session in June last, the sum of two hundred and fifty dollars.

SEC. 32. **F. M. Irish, one hundred and fifty dollars.** To F. M. Irish, for distributing the laws passed at the present session, the sum of one hundred and fifty dollars.

SEC. 33. **James MacIntosh, twelve dollars.** To James Macintosh, for framing and varnishing maps, twelve dollars.

SEC. 34. **Hughes & Waters, one dollar.** To Messrs. Hughes and Waters, for newspapers, one dollar.

SEC. 35. **Pro tem. officers of the council forty-five dollars.** To pro tem. officers of the council, as follows: to Shepherd Lefler, president pro tem., nine dollars; to James W. Woods, secretary, and Alexander D. Anderson, assistant secretary, nine dollars each; to James R. Hartsock, sergeant-at-arms, Robert Secrest, door keeper, and Charles W. Anderson, fireman, nine dollars each.

Approved, June 11th, 1845.

CHAPTER 31.

MINERS' BANK OF DU BUQUE.

AN ACT to repeal the charter of the Miners' Bank of Du Buque, and to provide for winding up the affairs of the same.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Repeals the charter.** That the act entitled "An act to incorporate the stockholders of the Miners' Bank of Du Buque," approved November 30th, 1836, is hereby repealed.

SEC. 2. **Judge to appoint trustees, who are to settle concerns.** It shall be the duty of the judge of the third judicial district, and he is hereby authorized to appoint two trustees who shall have full power to settle the affairs of the said bank, to sell and convey the personal and real estate thereof, and to collect and pay the debts of the same. The said trustees shall have authority to sue for and recover the debt, and property of the said Bank by the name of "The Trustees of said Bank;" and shall divide among the stockholders, the money and other property that shall remain after the payment of debts and necessary expenses.

SEC. 3. **How they shall settle.** The said trustees shall receive in payment of all debts [55] due to said bank, the bills of the same, at the value expressed on their face; and the real estate belonging to said bank shall be sold on a credit of four, eight and twelve months, and the amount of purchase money divided into three equal payments as above. The purchaser or purchasers shall give bond and security, to be approved by said trustees, together with a mortgage on the property purchased, to secure the payment of the money. If any purchaser shall fail to comply with the above requirements within two days after sale, the property shall be again

offered for sale, by giving twenty days previous notice; and the purchaser so failing, as aforesaid, shall be compelled to pay any deficiency that may arise by reason of such second sale, and pay the costs arising therefrom.

SEC. 4. **Trustees to give bond.** The said trustees, before entering on the discharge of their duties, shall give a bond to the clerk of the district court for Du Buque county, for the use of all persons in interest in such sum and with such securities as shall be approved by the said judge of the third judicial district, and shall be jointly and severally responsible to the creditors and stockholders of said bank to the extent of the property and effects of the said bank that shall come into their hands.

SEC. 5. **No pending suit affected hereby.** No suit pending in any court in the territory, in which the said bank is a party, shall be discontinued, or in any way affected by the repeal of the charter of said bank; but such suit may be prosecuted to a final termination by the said trustees.

SEC. 6. **Trustees to inventory property—allowed two years—judge can extend their time—to report whenever required by him—compensation.** The said trustees on receiving their appointment, shall take possession of the property and effects of said bank—shall make a complete schedule on the same, a copy of which shall be filed in the office of the clerk of the district court of DuBuque county, and shall close the affairs of the same within a reasonable time, not to exceed two years, unless, for good cause shown, the said judge shall extend the time. And they shall make a final report to said judge of their doings, and shall also report from time to time, the condition of their trust, whenever required by him. And they shall receive such compensation for their services as shall, by said judge, be deemed just and reasonable.

SEC. 7. **Takes effect 20 days after passage.** This act shall take effect and be in force from and after twenty days from its passage.

Secretary's Office, Iowa City, May 21, 1845.

This act was presented to the governor, for his approval on the 15th instant, and having been retained by him three days, was returned to [56] the committee from which it was received, without his signature. By the organic law said act became a law, and I hereby so declare it.

S. J. BURR,
Secretary of Iowa Territory.

CHAPTER 32.

MUSCATINE COMPANY.

AN ACT to amend an act entitled "An Act to incorporate the subscribers for erecting a dam across the Muscatine Slough," approved, 5th February, 1844.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Changes the name to "Muscatine Company."** That the name of the subscribers for erecting a dam across the Muscatine slough, be changed to the name and style of the "Muscatine Company," and shall ever hereafter be known under such name and style, and by such name and style transact all business pertaining to the business of their association: provided, that this act shall not revive said association, should the same have hitherto been forfeited.

SEC. 2. **Takes effect after passage.** This act to take effect and be in force from and after its passage.

Approved, May 26th, 1845.

CHAPTER 33.

TAX ON PROPERTY IN DU BUQUE COUNTY.

AN ACT to authorize the Board of Commissioners of the county of Du Buque, to levy a tax on all real estate and personal estate now subject to taxation in said county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Board of commissioners to levy tax not to exceed one per cent.** That the board of commissioners of the county of Du Buque, be, and they are, hereby authorized to levy a tax for [57] county purposes, not to exceed one per centum, on all real and personal estate now subject to taxation in said county, for the term of two years from and after the passage of this act.

SEC. 2. **This act takes effect after passage.** This act shall take effect and be in force from and after its passage.

Approved, May 26th, 1845.

CHAPTER 34.

NAME OF LOUISVILLE, CHANGED.

AN ACT to change the name of the town of Louisville, in the county of Wapello.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Change to Ottumwa.** That the name of the town of Louisville in the county of Wapello, be changed to that of Ottumwa.

SEC. 2. **Takes effect after passage.** This act to be in force from and after its passage.

Approved, May 26th, 1845.

CHAPTER 35.

NAME OF SALEM CHANGED.

AN ACT to change the name of the village of Salem, in the county of Muscatine.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Name changed to Fairport.** That the name of the village of Salem, in the county of Muscatine, be changed to that of Fairport.

SEC. 2. **Takes effect after passage.** This act shall take effect and be in force from and after its passage.

Approved, May 26th, 1845.

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[58] CHAPTER 36.

VACATING PART OF PORT ALLEN.

AN ACT to amend an act entitled "An Act to vacate a part of the town plat of Port Allen, and to legalize the re-location of a part of a territorial road," approved, 13th February, 1843.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Repeal part of an act of 1843.** That so much of the act entitled "An act to vacate a part of a town plat of Port Allen, and to legalize the relocation of a part of a territorial road;" approved 13th Feb., 1843, as vacates that portion of Water streets in front of the present town plat of said town on the Iowa and Cedar rivers, be, and the same is hereby repealed.

SEC. 2. **Water streets highways.** That said Water streets, fronting on the Iowa and Cedar rivers opposite the present town plat of the town of Port Allen, and within the bounds are hereby declared public highways.

SEC. 3. **When to take effect.** This act to take effect and be in force from and after its passage.

Approved, 28th May, 1845.

CHAPTER 37.

ONE PER CENT. TAX IN LINN AND DELAWARE COUNTIES.

AN ACT to empower the board of commissioners of Delaware and Linn counties to levy a tax not exceeding one per cent. for the period of two years.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Commissioners to levy tax.** That for the purpose of raising a revenue to defray the expenses of Delaware and Linn counties, the board of commissioners of said counties are hereby authorized and required at their discretion to levy a tax not exceeding one per cent. for the period of two years upon all real and personal property subject to taxation within said counties.

[59] SEC. 2. **Act to take effect after July 1st.** This act to take effect and be in force from and after the first day of July next.

Approved, 28th May, 1845.

CHAPTER 38.

CHARLES E. BENSIL.

AN ACT to legalize the acts of Charles E. Bensil, former recorder of deeds in the county of Clayton.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Declares his official acts valid.** That the official acts of Charles E. Bensil, former recorder of deeds, in the county of Clayton, are hereby declared to be legal and valid to all intents and purposes.

SEC. 2. **Present recorder to record deeds, etc.** That it shall be the duty of the present recorder of deeds in said county of Clayton, to procure a good, sufficient and well bound book, such as is now required by law for such purposes, for which he shall be paid out of the treasury of said county, in which he shall record, in a fair and legible hand, all deeds, mortgages, bills of sale, &c., which were not recorded by his predecessor in office, and for that purpose he shall be paid out of the treasury of said county, the same amount that he is now allowed by law for such purposes.

SEC. 3. **This act takes effect after passage.** This act to take effect and be in force from and after its passage.

Approved, 28th May, 1845.

CHAPTER 39.

JOSEPH A. REYNOLDS.

AN ACT to make valid in law the acts of Joseph A. Reynolds, a justice of the peace in and for the county of Buchanan.

Whereas, Joseph A. Reynolds a citizen of the county of Buchanan [60] in the territory of Iowa, was unanimously elected on the twenty-second day of April, 1845, a justice of the peace in and [for] said county: and whereas doubts have arisen as to his eligibility to said office, in consequence of his having been absent from said county on business for about one year, next preceding said election: therefore,

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Official acts legalized.** That the official acts of Joseph A. Reynolds, an acting justice of the peace in the county of Buchanan in said territory, be, and the same are hereby legalized, and made as valid to all intents and purposes, as if the said Reynolds had been a resident of said county, within the meaning and provisions of the statute prescribing the qualifications of justices of the peace.

SEC. 2. **Takes effect from passage.** This act shall take effect and be in force from and after its passage.

Approved, 29th May, 1845.

CHAPTER 40.

TERRITORIAL ROAD.

AN ACT to establish a territorial road from Marion, in Linn county, to the Indian boundary, in a direct line to Fort Atkinson.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Appoints commissioners to lay out road from Marion to Indian boundary.** That Alexander Niven, of Linn county; Malcolm M. Bane, of the county of Buchanan; and S. W. Durham, of the county of Linn, be, and they are hereby appointed commissioners to view, mark, lay out and establish a territorial road commencing at Marion in the county of Linn—from thence, the nearest and best route, to Niven's Grove—thence the nearest and best route to Quasqueton, in the county of Buchanan—then to the centre of said county—thence the nearest and best route, to the boundary line, in a direct route to Fort Atkinson.

SEC. 2. **Commissioners to meet at Marion, June 15, 1845.** Said commissioners or a majority of them, shall meet at Marion, in Linn county, on the fifteenth day of June next, or as soon thereafter as convenient; and shall proceed to locate said road according to the provisions of an act to provide for laying out and opening territorial roads, approved December 29th, 1838.

[61] SEC. 3. **[Compensation to commissioners, surveyor, etc.]** That the commissioners, chain-carriers and other hands employed to locate said road, shall each receive such compensation for their services as is now allowed by law for similar services in laying out county roads: provided, that if the said S. W. Durham shall perform the duties of surveyor of said road in addition to his duties as commissioner, that he shall receive the compensation for surveyor in addition to his compensation as commissioner of said road.

SEC. 4. **This act takes effect after passage.** This act to take effect and be in force from and after its passage.

Approved, 29th May, 1845.

CHAPTER 41.

UNIVERSITY OF IOWA CITY.

AN ACT to incorporate the University of Iowa.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Name of university—under direction of thirty regents.** That a seminary of learning shall be, and the same is, hereby established in Iowa City or vicinity thereof to be known by the name and style of the 'Iowa City University;' which shall be founded and maintained forever on the most liberal principles being equally accessible to students of all religious denominations who shall be freely admitted to equal advantages and privileges of education, and to all the literary honors of said college or university, according to their merit; and said university shall be under the direction of thirty regents (in addition to those who are regents *ex officio*) to-wit: Smylie

H. Bonham, Charles R. Fisk, H. D. Downey, William K. Talbot, James Robinson, Robert Gower, A. H. Davenport, Edward E. Fay, Morgan Reno, Edward Johnson, G. W. Jeffries, A. B. Robbins, James Clark, M. D. Talbot, John McConnell, E. B. Turner, Josiah H. Bonney, Joseph B. Teas, William Patterson, Moses Beers, George S. Hampton, Joseph B. Davis, E. Metcalf, F. Springer, R. F. Shinn, William Abbe, Thomas S. Wilson, John Brophy and G. H. Walworth: provided, that noth- [62] ing herein contained shall be so construed as to grant to said university any interest in or to any lands which have heretofore been granted to the territory or state of Iowa for literary purposes.

SEC. 2. **Regents a body politic, with perpetual succession—they may appoint officers, &c.** That said trustees by the name of the regents of the university of Iowa, shall be a body politic and corporate, and as such forever exist; who, with their successors, shall be regents of said university to hold their office till the first Monday in March, A. D. one thousand, eight hundred and forty-six, and shall hold their first meeting at the capitol on the first Monday in June, A. D. 1845; and they shall have perpetual succession, and power to acquire, possess, retain and enjoy, mixed, personal and real property, and the same to sell, grant, convey, rent or otherwise dispose of at pleasure; and they shall have power to contract and be contracted with, sue and be sued, plead and be impleaded in any court of law or equity; and the said regents and their successors shall have authority to make use of a common seal, and the same to change, alter or renew at pleasure: and shall have power to appoint all subordinate officers, agents, visitors and instructors; ordain and establish such by-laws, ordinances, rules and regulations, as they may deem necessary for the locating and establishment and prosperity of the university: provided, they do not contravene the laws of this territory or of the United States.

SEC. 3. **Election first Monday in March.** The first board of regents of the university chosen by the stockholders to fill the places of those appointed by the legislature, shall be elected on the first Monday in March next, and ever afterwards once in every three years; and every stockholder shall be allowed one vote for each share owned, and any stockholder may vote in person or by proxy appointed by writing, but none but stockholders shall be proxy; and the stock of said university shall consist in shares of twenty-five dollars each, which shall so far be deemed personal property as to be subject to execution in like manner as personal property now is, or hereafter may be by the laws of this territory, and transferable on the books of said corporation in such a manner as may be prescribed by the board of trustees; and yet its funds, privileges and immunities shall be used for no other purposes than that of education. If said corporation shall engage in banking, mercantile or other business transactions, other than the purposes of education, it shall be taken and deemed a forfeiture of its charter, and the stockholders shall be liable in their individual capacity for all debts so created.

SEC. 4. **Governor, ex officio president.** The governor of the territory (or state) of Iowa, shall be *ex officio* president of the board of regents, when present; and he, together with the superintendent of schools in the territory, the presi-[63]-dent, professors and trustees in said university, shall be *ex officio* regents of the university.

SEC. 5. **Regents may establish a law school.** The said board of regents shall have power to connect with this university, a law school, and also a medical school, or either of them in such a manner as will in their view tend to promote the interests of the university and sound learning in those professions in a way which they may deem most expedient to secure the cooperation and influence of gentlemen connected with those professions within the territory.

SEC. 6. **Regents to be sworn—shall appoint a treasurer and secretary—treasurer to give bond.** The regents of this university before entering upon the trust reposed in them, shall severally take the following oath of office, administered to them by any justice of the peace in Iowa territory or state, to-wit: "I ——— do solemnly swear (or affirm) that I will to the best of my ability, faithfully and truly discharge my duty as regent of the university of Iowa, pursuant to the laws of the territory (or state) of Iowa—the constitution of the United States, and the charter granted by the territory of Iowa; so help me God." And said regents shall have power to appoint annually a treasurer and secretary, and the treasurer so appointed shall give bond with such security and in such penalty as the regents shall deem proper, payable to the territory of Iowa, for the use of said university; which bond shall, by the treasurer and his securities, be acknowledged before the clerk of the district court of the United States, in the territory of Iowa, in and for the county of Johnson, and by him certified and recorded in his office, a copy of which shall be evidence against the treasurer and his securities for breach thereof; and it shall be conditioned for a true and faithful discharge of his duty as treasurer of said university, and for the safe keeping of all moneys, lands, notes, deeds, mortgages or other property belonging to the university, which may come into his hands from time to time, which may be renewed whenever the regents may require it. And it shall be the duty of the said treasurer to receive and safely keep all moneys, lands, notes, obligations or conveyances of real, personal or mixed property belonging to said university; and shall pay out no moneys except by order of the regents, signed by the president and countersigned by the secretary; and for any breach of said bond, the treasurer and securities may be proceeded against as upon other official bonds in the proper courts of the territory of Iowa. The treasurer shall furthermore, whenever required by the trustees, render to them an account of all moneys in his hands and all moneys paid out, stating from whom and from what source received, and to whom paid. And in case the treasurer [64] shall fail to perform any of the duties required of him by this act, the regents of said university shall have power to declare his office vacant, and proceed to the election of a treasurer to fill the vacancy. And it shall be the duty of every treasurer on leaving the office by removal, resignation or otherwise, upon the order of the board to pay and deliver all moneys and other property in his hands belonging to said university, into the hands of his successor in office. It shall be the duty of the secretary to keep a fair record of all the proceedings of the board of regents, and at the close of every session read them to the board for their approval, and lay them before the acting president of the board for his signature. All meetings of the board shall be recognized as legal when notice of the same shall be published in some weekly newspaper in the county, six weeks previous to said meetings; and the presence of thirteen shall constitute a quorum for doing business, but a majority of said thirty regents shall be required to make, pass and establish ordinances, rules and by-laws.

SEC. 7. **Regents may admit charity scholars—may receive donations, etc.** That the regents shall have authority, whenever in their opinion the funds of the institution may justify the measure, to admit gratuitously, in whole or in part, as the respective case may require, such person or persons as they may think proper to enjoy the benefits of tuition in said university. And said regents are hereby authorized to receive subscriptions, donations and bequests, either in money, personal, real or mixed property, for the purpose of enabling them to meet the expenditures requisite in establishing and continuing said institution.

SEC. 8. **May confer degrees.** That said regents shall have the usual powers and authority of college trustees, to graduate with literary honors such stu-

dents as shall be recommended by the faculty and board of instructions; and furthermore to confer upon such others as they may deem deserving, any and all the degrees in the arts and in the learned professions, whether honorary or otherwise, in as full and complete a manner as in any similar institution, and to issue testimonials thereof, or diplomas, bearing the seal of said university, and signed by the president of the university. And in conferring said honors, any person entitled to a seat in the council or house of representatives of the territory (or state) of Iowa, shall be entitled to a seat and vote with the board of regents.

SEC. 9. **This act declared a public act.** This act is declared to be a public act and shall be construed liberally for every beneficial use hereby intended; and no gift, grant, conveyance or devise to or for the benefit of said university shall be defeated or prejudiced by any misnomer, misdescription or [65] informality whatever: provided, the intention can be shown or ascertained without a reasonable doubt.

SEC. 10. **May be repealed, etc.** This act may be altered, amended or repealed by any future legislature of the territory (or state) of Iowa, and is to take effect and be in force from and after its passage.

Approved, 2d June, 1845.

CHAPTER 42.

WILLIAM FOSTER.

AN ACT to legalize the acts of William Foster, an acting justice of the peace.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Legalizes his acts.** That all the acts had and done by William Foster as justice of the peace in the county of Iowa, be, and the same are, hereby legalized to all intents and purposes as if he had been elected or appointed and duly qualified a justice of the peace in and for said county.

SEC. 2. **Takes effect on passage.** This act to take effect and be in force from and after its passage.

Approved, 5th June, 1845.

CHAPTER 43.

TERRITORIAL ROAD.

AN ACT to relocate a part of the territorial road running from Burlington, via Fort Madison, to the bridge on Sugar creek, in Lee county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Appoints commissioners to relocate part of road.** That R. Land, G. C. Neally and Anthony W. Carpenter are hereby appointed commissioners to relocate so much of the territorial road running from Burlington via Fort Madison to the bridge on Sugar creek, in Lee county, as lays between Ebenezer Riddle's and Jonathan Donnels, in Burlington township.

Said commiss-[66]-ioners shall meet at the house of said Riddle, on the first Monday of July next, or within five days thereafter and proceed to relocate so much of said road as above described: provided, that no part of the expenses of relocating said road shall be paid out of the county treasury.

SEC. 2. **Act to take effect after passage.** This act to take effect and be in force from and after its passage.

Approved, June 5th, 1845.

CHAPTER 44.

ROAD IN WASHINGTON COUNTY.

AN ACT to declare a certain road in Washington county, a public highway.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. **Declares the road a public highway.** That so much of a road laid out by Sexton Mount of Jefferson county, Joseph Walker of Henry county, and John Garnet of Washington county, from Brighton, to intersect a road leading from Washington to Mount Pleasant, as lies in Washington county, be, and the same is hereby declared a public highway, and shall be opened and kept in repair as other public highways are.

SEC. 2. **This act take effect after its passage.** This act shall take effect and be in force from and after its passage.

Approved, 5th June, 1845.

CHAPTER 45.

WASHINGTON COUNTY EASTERN BOUNDARY.

AN ACT to change the eastern boundary of Washington county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Attaches part of Washington to Johnson.** That all that portion of township number seventy-seven, north, and range number six west, lying on the east [67] side of Iowa river and now composing a part of Washington county be detached from the county of Washington, and the same is, hereby, attached to and make a part of Johnson county, for all purposes whatever.

SEC. 2. **This act takes effect on passage.** This act to take effect and be in force from and after its passage.

Approved, 5th June, 1845.

CHAPTER 46.

SAMUEL PARKER.

AN ACT for the relief of Samuel Parker.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Instructs auditor to audit Parker's accounts.** That the auditor of public accounts be, and he is hereby authorized to audit the accounts of Samuel Parker, for the sum of fifty-nine dollars, as per order of the district court of Henry county, made at the October term of said county, A. D. 1844.

Approved, June 7th, 1845.

CHAPTER 47.

STREET IN MARION VACATED.

AN ACT to vacate a street in the town of Marion, in Linn county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Vacates street in Marion.** That so much of West street in the town of Marion, in Linn county, as lies between Broad street and the north line of said town, be, and the same is hereby declared vacated.

SEC. 2. **Street to be laid off in lots.** That the present commissioners of said county, or, if necessary, their successors in office, are hereby authorized and empowered to divide and lay off the said street into town lots of such dimensions as they may think proper, and sell the same in such way and manner as they have heretofore sold lots in said town.

[68] SEC. 3. **This act takes effect after its passage.** This act to take effect and be in force from and after its passage.

Approved, June 7th, 1845.

CHAPTER 48.

ROAD IN LEE COUNTY.

AN ACT to change a part of territorial road in the county of Lee.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Changes part of road.** That so much of a territorial road leading from Keokuk, in the county of Lee, to the city of Burlington, in the county of Des Moines, as lays between Montrose and Keokuk, be; and so much of the same as lays between Charles McIntosh's and John Appleby's, is hereby so changed as to run on the section lines beginning as follows, to-wit: commencing at or near the house of the aforesaid Charles McIntosh—thence

east along the section line to the northeast corner of section twenty-three—thence south, along the southern line to where the said road crosses the said section line, south of James McMurray's in a direction to John Appleby's.

SEC. 2. **Establishes the change forever.** That the said road as aforesaid, shall forever after the passage of this act be, and remain established on the section line aforesaid.

SEC. 3. **This act takes effect after passage.** This act to take effect from and after its passage.

Approved, June 7th, 1845.

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[69] CHAPTER 49.

TERRITORIAL ROAD.

AN ACT to re-locate a certain territorial road.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Commissioners appointed to relocate the road.** That John Campbell, Dennis Barnes and Isaac Cody, of Scott county, be, and they are, hereby appointed commissioners to examine and relocate, if they think that the public interest requires it—so much of the territorial road leading from Parkhurst, in Scott county, to Tipton, in Cedar county, as lies between Parkhurst and the residence of Dennis Barnes.

SEC. 2. **Power to vacate old road on certain conditions.** That if the commissioners aforesaid or a majority of them, should locate said road down Quarry creek, then and in that case, they shall have power to vacate the old road or legalize the last survey of said road, which runs on the north side of the farm of Theodore P. Litton, as they may, in their judgment, think best.

SEC. 3. **To meet first Monday of July next, at Parkhurst.** That the commissioners aforesaid or a majority of them, shall meet at Parkhurst on the first Monday of July next, or any day thereafter during the year that they may agree upon and proceed to discharge their duties according to an act entitled "An act to provide for laying out and opening territorial roads;" approved, Dec. 29th, 1838.

SEC. 4. **This act takes effect after passage.** This act shall take effect and be in force from and after its passage.

Approved, June 7th, 1845.

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[70] CHAPTER 50.

TERRITORIAL ROAD.

AN ACT to establish a territorial road from Linn Grove of Linn county to the military road in Johnson county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Appoints commissioners to establish road.** That E. Cox, A. B. Mason, and Elias Rogers, of the county of Linn, be, and they are hereby ap-

pointed commissioners to lay out and establish a territorial road as follows: Beginning at or near the first angle post west of the eighth mile post on the territorial road leading from Marion, in said county, to Belvieu, in Jackson county—thence to Andrew Safely's—thence to Elijah D. Waln's—thence to Benjamin Dewitt's—thence to intersect the military road at or near the county line of Johnson county.

SEC. 2. **Commissioners to meet at Isaac Butler's on a day to be agreed upon.** Said commissioners shall meet at the house of Isaac Butler, of said county of Linn, on any day when a majority of said commissioners shall agree, and proceed to lay out and establish said road.

SEC. 3. **Takes effect after passage.** This act to take effect from and after its passage.

Approved, June 7th, 1845.

CHAPTER 51.

TERRITORIAL ROAD.

AN ACT to locate a territorial road from Washington county to Miles B. Friend's in Keokuk county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Appoints commissioners to locate road.** That Joseph R. Edwards and Eli Haworth of Keokuk county, and Francis Thom, of Washington county, be, and they are, hereby appointed commissioners to view, mark and locate a [71] territorial road, commencing at or near the corner of sections twenty-six and twenty-seven, in township seventy-four, north range nine west, in Washington county; and running thence, the nearest and best route, to a bridge three-fourths of a mile east of Eli Haworth's, from thence, the nearest and best way, to Western City, in Keokuk county, and from thence, the nearest and best route, to Miles B. Friend's in said county of Keokuk.

SEC. 2. **Commissioners to meet within two months.** That said commissioners shall meet at a time and place to be agreed on by them, within two months from the passage of this act, and take to themselves the necessary assistance; and proceed to locate said road agreeably to the first section of this act, doing as little damage to private property as possible.

SEC. 3. **Certain portion of a road laid out by Henry Hardy, vacated.** That so much of a road located by Henry Hardy, of Jefferson county, in the year 1842, as lies between the beginning and termination of the road contemplated in this act, be, and the same is hereby vacated.

SEC. 4. **Reasonable compensation to be paid.** Said commissioners shall receive a reasonable compensation, to be paid out of the county treasury of Keokuk and Washington counties, in proportion to the time spent in each.

SEC. 5. **Act takes effect after passage.** This act to be in force from and after its passage.

Approved, June 7th, 1845.

CHAPTER 52.

UNIVERSITY OF IOWA CITY.

AN ACT for a supplement to an act entitled "An Act to incorporate the University of Iowa City," approved, 2d day of June, 1845.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Adds the name of Israel Clark to regents.** That Israel Clark be added to the list of regents of said university.

SEC. 2. **James MacIntosh's name inserted in, and M. D. Talbot's, stricken from list of regents.** That the name of M. D. Talbot be stricken from the list of regents of said university, and that James MacIntosh be appointed to fill his place as one of said regents.

SEC. 3. **Act to take effect after passage.** This act to take effect and be in force from and after its passage.

Approved, June 9th, 1845.

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[72] CHAPTER 53.

TERRITORIAL ROAD.

AN ACT to establish a territorial road from the eastern line of Washington county, to the Widow Fry's, on Old Man's creek.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Appoints commissioners and gives route of road.** That John Clark and Nathaniel McClure, of the county of Washington, and John Fry, of the county of Johnson, be, and they are, hereby appointed commissioners to view, mark and establish a territorial road, commencing in Louisa county, at the most practicable point on the territorial road leading from Burlington to Iowa City, near the farm of John Clark on the Washington and Louisa county line—thence, on the most practicable route, to McClure's Mill, on English river—thence, the nearest and best route to the Widow Fry's on Old Man's Creek, to intersect the territorial road leading from Iowa City to the boundary line.

SEC. 2. **Commissioners to meet 2d Monday in August, at John Clark's.** Said commissioners or a majority of them, shall meet at the house of John Clark, on the second Monday in August next, or on such other day as they may agree upon within one month thereafter, and proceed to the discharge of the duties required of them by the provisions of this act.

SEC. 3. **Commissioners to be governed by general act of 1838.** Said commissioners shall, in all other respects, be governed by the provisions of the act to provide for laying out and opening territorial roads, approved, December 29th, 1838.

SEC. 4. **Takes effect after passage.** This act to take effect and be in force from and after its passage.

Approved, 9th June, 1845.

[73] CHAPTER 54.

BURLINGTON CITY CHARTER.

AN ACT to incorporate and establish the city of Burlington, and for revising and repealing all laws and parts of laws heretofore enacted on that subject.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

[74] SECTION 1. **Boundaries described and contents declared a city—inhabitants a body politic—name, city of Burlington—all corporate powers.** That all that part of the territory included in the following defined limits, to-wit: Beginning on the west bank of the Mississippi river, in the county of Des Moines, at a point where the southern boundary line of the official survey of the town of Burlington, made by authority of the United States, strikes said river; thence with the said southern boundary line to the southwestern corner of said survey; thence with the western boundary of said survey to the northwestern corner of said survey; thence with the northwestern boundary line of said survey to where the same strikes the Mississippi river; thence due east to the middle of the main channel of said river; thence down the middle of the main channel thereof to a point in said main channel due east from the place of beginning, and thence due west to the place of beginning shall be and hereby is declared to be a city, and the inhabitants thereof are created a body corporate and politic with perpetual succession by the name and style of the city of Burlington; and as such by that name shall be capable in law of contracting and being contracted with, of sueing and being sued, pleading and being impleaded, answering and being answered unto, in all courts and places and in all matters whatsoever, and also of purchasing, using, occupying, enjoying and conveying real, personal and mixed estate, and may have and use a corporate seal, and change, alter and renew the same at pleasure, and shall be competent to have, exercise and enjoy all the rights, immunities, powers and privileges, and be subject to all the duties and obligations incumbent upon and appertaining to a municipal corporation, and for the better ordering and governing said city, the exercise of the corporate powers of the same, hereby and herein granted, and the administration of its fiscal, prudential and municipal concerns, with the conduct, direction and government thereof, shall be vested in a mayor and board of aldermen, consisting of two members from each ward, to be denominated the city council, together with such other officers as are hereinafter mentioned and provided for.

[75] SEC. 2. **City invested with all powers, property, etc., as heretofore held—no suit at law to abate by the change.** That the said city of Burlington, shall be, and hereby, is invested as the lawful owner and proprietor with all the real, personal and mixed estate, and all the rights and privileges thereof, together with all the property, funds and revenues, and all moneys, debts, accounts and demands due and owing, or in any wise belonging to said city; or which by, or under the authority of any former act or acts, have been acquired, vested in or is, or may be, owing or belonging to the city of Burlington; and the same are hereby transferred to the corporate body created and established by this act; and all suits pending and judgments recovered by, in favor of, or against said city of Burlington, together with all rights, interests, claims and demands in favor of, or against said city of Burlington together with all rights, interests, claims and demands in favor of, and against the same, may be continued, prosecuted, defended and collected in the same manner as though this act had never been passed.

SEC. 3. **Mayor to be elected annually, 1st Monday, February—he must be a resident of 3 years—each ward to elect 2 aldermen, residents of two years—mayor and aldermen to constitute city council—majority a quorum—council, to be judges of election returns and qualifications of their members, may compel members to attend, under penalty—alderman's term 1 year—shall elect pro tem. president.** That the qualified electors of said city shall on the first Monday in February, annually, elect a mayor who shall have resided in said city, three years; and the qualified electors of each ward in said city, shall at the same time elect two aldermen, who shall have resided in said city two years, and shall be residents and inhabitants of the ward in which they shall be elected; and the mayor and aldermen so elected, when assembled together and duly organized, shall constitute the city council, a majority of the whole number of whom, shall be necessary to constitute a quorum for the transaction of business; they shall be the judges of the election returns, and qualifications of their own members, and shall continue in office for the term of one year, and until their successors shall be chosen and qualified. They shall determine the rules of their proceedings, and keep a journal thereof, which shall be open to the inspection and examination of every citizen; and may compel the attendance of absent members in such manner and under such penalties as they shall think fit to prescribe. And they shall meet in some convenient place, in said city on the second Monday in February, and after taking the oath of office before some officer qualified to administer oaths, they shall elect from their own body, a president *pro tempore*.

SEC. 4. **People to elect treasurer annually, he to exercise lawful powers not specified herein; city marshal to be annually elected, and perform duties not specified herein—recorder to be annually elected, to keep record of, and duties required by, council.** That there shall be elected by the qualified voters of said city, on the first Monday of February, annually, a treasurer who shall hold his office for the term of one year, and until his successor shall be chosen and qualified. He shall perform such duties and exercise such powers not herein and by this act specified, as may be lawfully required of him by the ordinances of said city. There shall also be elected by the qualified voters of said city on the first Monday of February, annually [76] a city marshal, who shall hold his office one year, and until his successor be chosen and qualified; who shall perform such duties and exercise such powers not herein specified as may be lawfully required of him by the ordinances of said city. There shall also be elected by the qualified electors of said city on the first Monday of February, annually, a city recorder, who shall hold his office for one year, and until his successor be chosen and qualified; whose duty it shall be to keep a regular and correct journal of the proceedings of the council, and perform such other duties as may be lawfully required of him by the ordinances of said city.

SEC. 5. **Mayor to give 10 days' notice of election, by proclamation; election from 8 or 10 a. m., to 4 p. m., returns to be made to the mayor within two days, except those for mayor which go to the president pro tem.; mayor and pro tem. president to open returns; persons having most votes elected—if no choice, mayor to order new election; persons elected to be notified by marshal, and qualified in ten days, or office be vacant; council to appoint judges and clerks of election.** That in all elections for city officers, it shall be the duty of the mayor to issue a proclamation to the qualified voters of said city, or to those of the respective wards, as the case may require, setting forth the time of such elections, the place or places where the same shall be held, the officer or officers to be chosen, and cause such proclamation to be posted up in three of the most public places in said city at least ten days previous to such election. And every such election shall be opened between the hours of eight and ten o'clock in the forenoon, and continue open until four o'clock

in the afternoon; and shall in all things be conducted agreeably to the laws regulating township elections for the time being. And it shall be the duty of the judges of such elections in the several wards, within two days thereafter, to make and direct the returns thereof to the mayor of the said city, at his office, in the same manner that election returns are required to be made by the township trustees for the time being: provided, that in all elections for mayor, the returns thereof shall be made and directed to the president, *pro tempore* of the city council. And the mayor and president *pro tempore* of the city council, as the case may be, shall within five days after any such election, open the returns which have been made to him as aforesaid, and shall make an abstract of all the votes, and file the same with the city recorder, who shall make a record thereof in a book to be kept by him for that purpose; and the person or persons having the highest number of votes shall be declared duly elected; but if from any cause, the qualified voters of said city, or of any of the respective wards, as the case may be, should fail to effect any election at the time and in the manner herein provided, the mayor shall forthwith issue his proclamation for a second or other election which in all things shall be notified, conducted, regulated and the returns thereof made, as in and by this act is prescribed; and the person or persons who shall be chosen at any such second or other election, shall hold his or their office until the next stated period for the [77] choice of a successor or successors. And it shall be the duty of the mayor or president *pro tempore* of the city council, immediately to notify such person or persons as may be elected as aforesaid, of his or their election, by causing a written notice thereof to be served upon him or them by the city marshal. And every person so chosen or elected as aforesaid, shall within ten days after his election, cause himself to be qualified to enter upon the duties of his office, and in default thereof, the office to which he shall have been elected, shall be deemed and considered in law to be vacant. And it shall be the duty of the city council to prescribe the time and manner, and provide the place or places of holding all elections in said city, for city officers, and of making the returns thereof, not herein otherwise directed and prescribed. And the said city council shall appoint judges and clerks for all city elections.

SEC. 6. **Inhabitants 21 years of age to vote—suspected or challenged voter to be sworn.** That each and every white male inhabitant above the age of twenty-one years, who shall have been a resident in said city six months immediately preceding any election for the election of city officers, shall be deemed a qualified voter of said city; and shall be entitled to vote in the ward in which he resides, for mayor, aldermen, treasurer, and such other officer or officers as are in and by this act directed to be chosen by the qualified voters of said city, or of the respective wards therein, and all others, which by public ordinance may be required to be chosen or elected. And when any person shall present himself to give his vote, and either of the judges shall suspect that such person does not possess the requisite qualification of an elector, or if his vote shall be challenged by any elector who has previously given his vote at such election, the judges of each election shall tender to such person an oath or affirmation in the following form to-wit: I, (A. B.) do solemnly swear (or affirm, as the case may be,) that I have been a resident of this city six months immediately preceding this election—am a resident of this ward, and to the best of my knowledge and belief, have attained the age of twenty-one years, and that I have not voted at this election.

SEC. 7. **Councilmen not to accept any city office or be interested in any contract during his term.** That no member of the city council shall be eligible to any office within the gift of the city council, during the year for which he may have been elected; nor shall any member of the city council be interested directly or indirectly, in the profit of any contract or job for work or services to be performed for the city.

SEC. 8. **Mayor to put in force the laws, to sign all laws, etc.; see them published, preside in council and have casting vote.** That it shall be the duty of the mayor to be vigilant and active at all times, in causing the laws and ordinances of said city to be put in force and duly executed. He shall keep the seal of said city, and [78] all of the records, papers and official documents thereunto belonging. He shall sign all by-laws and ordinances adopted and passed by the city council; and see that the same are published at least six days before they go into effect. He shall preside, when present, at the meetings of the city council and be denominated president of the same; and, when there is a tie, shall give the casting vote. He shall do and perform such other duties as the city council may prescribe and determine, not inconsistent with the provisions of this charter and the dignity of his office.

SEC. 9. **Officers to take oath and give bond when required.** That the treasurer, marshal, recorder, and all other officers under the government of said city shall, before entering upon the duties of their respective offices, take an oath or affirmation to support the constitution of the United States, and the organic law of this territory, and faithfully and impartially to perform the several duties of the offices to which they may be respectively elected or appointed, and when required shall give such bond to said city with good and sufficient security in such sum or sums, and with such conditions thereto, as the city council may from time to time direct, and in all cases not herein before provided for, shall respectively be allowed and receive such fees and compensation for their services, and be liable to such fines, penalties and forfeitures for negligence, carelessness, misconduct in office, and positive violation of duty, as the said city council shall order and determine.

SEC. 10. **Council to provide places for meeting open to the public.** That the city council shall provide the times and places of holding their meetings not herein otherwise provided for, which shall at all times be open for the public, they shall provide by ordinance for the election by the qualified voters of said city, of such other city officers whose election is not herein otherwise provided for, as shall be necessary for the good government of said city, and the due exercise of its corporate powers, and which shall have been provided for by ordinance, and all city officers whose term of service is not prescribed and whose powers and duties are not defined in and by this act, shall perform such duties, exercise such powers, and continue in office for such term of time, not exceeding one year, as shall be prescribed by ordinance.

SEC. 11. **Council to fill vacancies; president pro tem. to act in mayor's absence.** That whenever the office of mayor, councilmen, treasurer, marshal, recorder or other officer in and by this act specified or provided for, shall become vacant by death, resignation, removal from the city or otherwise, it shall be the duty of the council as soon as may be, to appoint some suitable person having the requisite qualifications, to fill such vacancy, and the person so appointed shall continue in office during the remainder of the term for which his pred-[79]-ecessor was elected or appointed, and in case of sickness or temporary absence of the mayor, the duties of his office, during such sickness or temporary absence, shall be discharged by the president pro tem., who shall be obeyed and respected accordingly.

SEC. 12. **Council to publish ordinances; to punish offences against inhabitants; if contrary to law of territory, void.** That the said city council shall have power, and it is hereby made their duty, to make and publish from time to time all such ordinances as shall be necessary to secure said city, and the inhabitants thereof, against injuries by fire, thieves, robbers, burglars and all other persons violating the public peace, for the supression of riots and gambling, and indecent and disorderly conduct, for the punishment of all lewd and lascivious behavior in the streets, and other public places of said city; they shall have power from time to time, to make and publish all such

laws and ordinances as to them shall seem necessary to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort and convenience of said city, and the inhabitants thereof; to impose fines, forfeitures and penalties on all persons offending against the laws and ordinances of said city, and provide for the prosecution, recovery and collection thereof; and shall have power to regulate by ordinance the keeping and sale of gunpowder within the city: provided, that all laws or ordinances passed by said city council, conflicting in any wise with the statute laws of this territory, shall be null and void, and of no effect.

SEC. 13. **Council to organize fire companies and provide apparatus; to construct landings, fix wharfage, etc.** That the said city council shall have power to establish and organize all fire companies and provide them with proper engines and such other instruments as shall be necessary to extinguish fire, and preserve the property of the inhabitants of said city from conflagration, and they shall have power to establish and construct landing places, wharves, docks and basins in said city, at or on any of the city property, and fix the rates of landing, wharfage, and dockage of all steam boats, boats, rafts and other water crafts and of all goods, wares, merchandise, produce and other articles that may be moored at, landed on or taken from any landing, wharf, dock or basin belonging to said city.

SEC. 14. **On application of three-fourths of owners on any square, council to prescribe manner of building.** That for the purpose of more effectually securing said city from the destructive ravages of fire, the said city council, shall have power and authority, and for such purpose they are hereby empowered and authorized, on the application of three-fourths of the whole number of owners or proprietors of any square or fractional square in said city to prohibit in the most effectual manner, the erection of any building or the addition to any building before erected more than ten feet high in any such square or fractional square, except the outer walls thereof, shall be composed entirely of brick or stone and mortar, and to provide [80] for the most prompt removal of any building or addition to any building which may be erected contrary to the true intent and meaning of this section.

SEC. 15. **Councils to regulate all taverns, exhibitions, etc., etc.; to grant licenses to the same; to revoke licenses if necessary; existing ferries not to be disturbed.** That the city council shall have power, and it is hereby made their duty to regulate by good and wholesome laws and ordinances for that purpose all taverns, ale and porter shops and houses, and places of significant and habitual resorts for tippling and intemperance where spiritous liquors are sold or used by a less quantity than a quart, and all other houses of public entertainment in said city—all theatrical exhibitions, and public shows and all exhibitions of whatever name or nature, to which admission is obtained on the payment of money or any other reward, and all ferries across the Mississippi river, from said city to the opposite shore, and to impose reasonable fines and penalties for the violation of any such laws and ordinances. And the said city council shall have full and exclusive power to grant or refuse license to tavern keepers, inn holders, retailers of spirituous liquors by less quantity than a quart, keepers of ale and porter houses, and shops and all other houses of public entertainment. Showmen, keepers and managers of theatrical exhibitions, and other exhibitions for money or other reward, auctioneers for the sale of horses and other domestic animals at public auction in the streets, lanes, alleys and commons of said city, and keepers of ferries from said city across the Mississippi to the opposite shore; and in granting any such license, it shall be lawful for said city council to exact, demand and receive such sum or sums of money as they shall think fit and expedient; to annex thereto such reasonable terms and conditions in regard to time and place and other circumstances under which such license shall be acted

upon, as in their opinion the peace, quiet and good order of society and said city may require, and for the violation of such reasonable terms and conditions as aforesaid, the city council shall have power to revoke or suspend any such license, whenever the good order and welfare of said city may require it, in such manner as shall be provided for by ordinance: provided, that no power herein granted to the said city council shall be so construed as to impair, interfere with, or in any way affect any right or rights, now existing by virtue of any acts heretofore passed by the legislative authority of this territory, establishing ferries across the Mississippi river, opposite the town of Burlington, in Des Moines county.

SEC. 16. **Council to remove all nuisances; proprietors to fill up lands occasionally overflowed; they failing, council to do so, and assess costs on lot; cost to be collected by sale of lot if necessary—proprietors may redeem in one year.** That the city council shall have power, and they are hereby, authorized to require and compel the abatement and removal of all nuisances within the limits of said city, under such regulations as shall be prescribed by ordinance; to cause all grounds therein where [81] water shall at any time become stagnant to be raised, filled up, or drained, and to cause all putrid substances, whether animal or vegetable to be removed; and to effect these objects, the said city council may from time to time, give order to the proprietor or proprietors or to his or their agents, and to the non-resident proprietors who have no agents therein, notice by publication in one or more of the newspapers printed in said city, for the period of two weeks, of all or any grounds subject at any time to be covered with stagnant waters, to fill up, raise, or drain such grounds at their own expense; and the said city council shall designate how high such grounds shall be filled up and raised, or in what manner they shall be drained, and fix some reasonable time for filling up, raising, or draining the same; and if such proprietor or proprietors, or agents, shall refuse or neglect to fill up, raise, or drain such grounds in such manner and within such time as the said city council shall have designated and fixed, they shall cause the same to be done at the expense of the city, and assess the amount of the expenses thereof on the lot or lots of grounds so filled up, raised, or drained as aforesaid, and place the assessment so made as aforesaid, in the hands of the city collector, who shall proceed to collect the same by the sale of such lot or lots, if not otherwise paid in such manner and under such restrictions and regulations as may be prescribed by ordinance: provided, the proprietor or proprietors shall have the privilege and right to redeem such lot or lots within one year after such sale, by paying to the purchaser or purchasers the amount by them paid, together with ten per cent. interest on the same.

SEC. 17. **Council to appoint supervisors, etc., and collect $1 from each liable person, as road tax: may prohibit animals from running at large; may license carts, etc., and livery stables, brokers and loan offices.** That said city council shall have the exclusive power of appointing supervisors and other officers of the streets and of the highways within the said city, and of collecting in money or labor, any sum not exceeding one dollar annually, as a road tax, from each and every person liable, by law, to pay such tax, or to labor on the highways; they shall have the power whenever the public convenience or safety shall require it, to prohibit hogs, cattle, horses and other description of animals from running at large in the streets, lanes, alleys, commons and other public places in said city; they shall have power to license and regulate all carts, wagons and drays, and every description of two and four wheeled carriages which may be kept in said city for hire; and all livery stables, brokers and loan offices.

SEC. 18. **Money to be placed in treasury, and not paid except by order of council.** That all moneys raised, recovered, received or collected by means

of any tax, license, penalty, fines, forfeiture or otherwise, under the authority of this act, or which may belong to said city, shall be paid into the city treasury, and shall not be drawn therefrom except [82] by order or under the authority of the city council. And it shall be the duty of the city council to liquidate and settle all claims and demands against said city; and to require all officers, agents or other persons entrusted with the disbursement or expenditure of the public money, to account to them therefor, at such time and in such manner as they may direct; and they shall annually publish for the information of the citizens, a particular statement of the receipts and expenditures of all public moneys belonging to said city, and also of all debts due and owing to and from the same. And the said city council shall have power to pass all such laws and ordinances as may be necessary and proper to carry into effect the powers herein, and by this act, granted.

SEC. 19. **Before laws of council are binding they must be approved and published.** That every law or ordinance of said city before it shall be of any force or validity, or in any manner binding on the inhabitants thereof, or others, shall be signed by the mayor and published in one or more newspapers of said city at least six days.

SEC. 20. **Defines the meaning of the term 'owner.'** That for the purpose of opening or improving any street, lane, alley, market space, public landing or common, or other purposes, the term owner or owners used in this act, is hereby declared to mean any person or persons who may own any lease upon lands for any term not less than ninety-nine years, renewable forever, or any freehold estate, either for life or otherwise, upon any ground to be affected by petition; and such tax shall be a lien upon the real estate upon which it may be assessed, from the time of filing such petition, until it shall be fully paid and satisfied.

SEC. 21. **Council to regulate grades.** That said city council shall have exclusive power to establish and regulate the grades of the wharves, streets and banks along the Mississippi river, within the corporate limits of said city.

SEC. 22. **Justices to issue process for corporation, try offenders; may summon jury; convicted persons liable for costs; if cleared, corporation to pay; may commit to Des Moines county jail.** That the justices of the peace in said city shall have full power and authority, and it is hereby made their duty at such times as the same, by the city authorities, shall be required of them, or any of them, to issue all needful process for the apprehension of offenders against the by-laws, ordinances and regulations of said city; and to hold a court for the trial of all offenders within the said city, and the same to fine, imprison or discharge, as the by-laws, ordinances and regulations of said city and the facts of the case may require. And for that purpose, they and each of them are authorized and required to cause to come before them, when necessary, a jury of six citizens of said city who shall be qualified voters of said city. And all such offenders, on conviction, shall be liable for the costs of prosecution, and judgment shall go accordingly; and in case of acquittal, the same shall be paid by the corporation, having first been allowed by the city council. And all process in behalf of said city shall [83] run in the name of the United States for the use and benefit of said city, and shall otherwise conform to the requisitions and provisions that may be made by the mayor and aldermen in common council, and shall be served, executed and returned by the marshal of said city; and until other provisions be made by said city authorities it shall be lawful for said justices or any of them, to commit all offenders against said by-laws, ordinances and regulations, on conviction, to the jail of Des Moines county. And in case where a portion or all the punishment shall be imprisonment, the keeper of said jail is hereby required to receive such persons on the proper warrant of such justices or

justice of the peace, into his custody in said jail, in the same manner as in ordinary cases. And all expenses of such imprisonment, in cases where the same cannot be collected from the persons so convicted and imprisoned, shall be paid out of the treasury of the corporation; the fees of the justices and jurors, in such cases, shall be the same as are allowed by the statutes of this territory.

SEC. 23. **No person to be deprived of liberty or fined more than $20, unless tried by jury.** That all trials for the violation of the by-laws, ordinances and regulations of said city shall be in a summary manner, and that no person shall, for any offense, be deprived of his or her liberty, or fined in any sum greater than twenty dollars, unless convicted by a jury of six citizens of said city, qualified to vote as aforesaid.

SEC. 24. **Council to have charge of all property, but cannot sell without people's consent.** That the said city council shall have the custody, care, superintendence, management and control of all real, personal and mixed estate, and other corporate property belonging to said city; and all the real, personal and mixed estate, money, funds and revenues which from time to time, may be owned by, or of right belong to said city; with full power to purchase, hold, possess use and occupy; and to sell and convey the same, for the use and benefit of said city and the inhabitants thereof: provided, that the city council shall not have power to sell any real estate belonging to the said city of Burlington, unless the qualified voters thereof, in pursuance of ten days previous notice given by order of the city council, published in two or more of the newspapers printed in said city, setting forth the time, place, and purpose of voting, shall by a majority of written or printed ballots given, express their consent thereto.

SEC. 25. **Council to levy taxes on city property not to exceed one quarter per cent; may tax dogs, &c.; open streets and tax for costs of same.** That to defray the current expenses of said city, the city council shall have power to levy and collect taxes on the real and personal property therein: provided, the amount of taxes levied shall not, in any one year, exceed twenty-five cents on each one hundred dollars worth of property taxed. They shall also have power, whenever in their opinion the interest of said city shall require it, to levy and col- [84] lect taxes on dogs or other domestic animals not included in the list of taxable property for territorial and county purposes; which said taxes shall be collected, by the city collector and paid into the treasury in such a manner and under such restrictions and regulations, as may be prescribed by ordinance. The city council shall have power to cause to be opened, paved, repaved or improved, any street, lane, alley, markets, space, or public landing, on petition of not less than two-thirds of the number of owners of any square or parts of a square of said city, bounding or abutting on such street, lane, alley, market space or public landing so to be opened, paved, repaved or improved, and to levy and collect a special tax for defraying the costs and expenses of the same, by an equal assessment on the feet front bounding and abutting as aforesaid.

SEC. 26. **All north of Columbia street to be ward No. 1—south thereof and north of Jefferson, ward No. 2—south thereof, ward No. 3—council may alter boundaries or add other wards.** The said city shall be divided into wards as follows, viz.: all that part of the city north of Columbia street and abutting upon the same, shall constitute one ward, and shall be known and designated as, ward, number one—all that part of the city south of Columbia and north of Jefferson streets, shall constitute one ward, and be known and designated as ward, number two—and all that part of the city south of Jefferson street, and abutting upon the same, shall constitute one ward, and be known and designated as ward, number three, until such boundaries may be altered or the number of wards may be increased by the city council who

are hereby authorized and empowered to make alterations in the boundaries, or to establish additional wards, as the public convenience may require.

SEC. 27. **Council may borrow money if two-thirds of citizens agree.** That whenever in the opinion of the city council, it is expedient to borrow money for any public purpose, the question shall be submitted to the citizens of Burlington—the nature and the object of the loan shall be stated, and a day fixed for the electors of the said city to express their wishes; the like notice shall be given as in cases of an election; the loan shall not be made unless two-thirds of all the votes polled at such election shall be given in the affirmative.

SEC. 28. **Charter to be submitted to the people for adoption.** That before this act shall take effect and be in force, a vote shall be taken upon the adoption of the same, by the qualified voters residing within the limits of said city, at such time and place, and under such regulations as the present mayor and aldermen of said city may prescribe and determine: provided, that a majority of the whole vote cast shall be deemed necessary to adopt and carry into effect this act: provided further, that each and every person authorized to vote for city officers under the charter now in force in said city shall be entitled to vote for or against this charter.

SEC. 29. **Charter declared a public act.** That this act shall be taken and received in all courts and [85] by all judges, magistrates and other public officers, as a public act; and all printed copies of the same which shall be printed by or under the authority of the council and house of representatives, shall be admitted as good evidence thereof, without any other proof whatsoever.

SEC. 30. That the act entitled "An act to incorporate the city of Burlington;" approved January 19th, 1838, and all other laws and parts of laws heretofore passed, and coming within the purview of this act be, and the same are hereby repealed.

Approved, June 10th, 1845.

CHAPTER 55.

IOWA COUNTY.

AN ACT for the organization of the county of Iowa.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Organized county after first of July next—constitutes it the second judicial district.** That the county of Iowa be, and it is, hereby organized, from and after the first day of July next; and the inhabitants of said county shall be entitled to all the rights and privileges to which by law, the inhabitants of other organized counties of this territory are entitled, and the said county shall constitute the second judicial district of this territory.

SEC. 2. **Clerk of district court or sheriff of Johnson county, after 10th July, to order election for county officers—to appoint election judges—ten days notice of election.** That for the purpose of organizing said county, it is hereby made the duty of the clerk of the district court of said county, and in case there should be no such clerk appointed and qualified, or for any other cause such office should become vacant on or before the 10th day of July next, then it shall be the duty of the sheriff of Johnson county, [86]

to proceed immediately after the 10th day of July next, to order a special election in said county, for the purpose of electing three county commissioners, one judge of probate, one county treasurer, one clerk of the board of county commissioners, one county surveyor, one county assessor, one sheriff, one coroner, one recorder of deeds and such number of justices of the peace and constables for said county as may be directed by the officer ordering said elections; the said officer having due regard to the convenience of the people; which special election shall be on the first Monday in the month of August next, and that the officer ordering such election shall appoint as many places of holding elections in said county as the convenience of the people may require, and shall appoint three judges of election for each place of holding election in said county, and issue certificates to said judges of their appointment; and the officer ordering such election shall give at least ten days notice of the time and place of holding such election by at least three written or printed advertisements, which shall be posted up at three of the most public places in the neighborhood where each of the polls shall be opened as aforesaid.

SEC. 3. **Clerk or sheriff to canvass polls and certify to elected.** That the officer ordering the election aforesaid, shall receive and canvass the polls, and grant certificates to the persons elected to fill the several offices mentioned in this act, and in all cases not provided for by this act.

SEC. 4. **Elections as usual.** Said elections shall, in all cases not provided for by this act, be conducted according to the laws of this territory regulating general elections.

SEC. 5. **Officers hold till general election.** The officers elected under the provisions of this act, shall hold their offices until the next general election, and until their successors are elected and qualified.

SEC. 6. **Books and papers to be given to the board of commissioners.** The officer ordering the election in said county, shall return all the books and papers which may come into his hands by virtue of this act to the clerk of the board of county commissioners of said county forthwith, after such clerk shall have been elected and qualified.

SEC. 7. **Sheriff of Johnson, to act in Iowa, until election.** That the sheriff of the county of Johnson be, and he is, hereby required to discharge the duties of sheriff for the county of Iowa, until a sheriff of said county shall be elected and qualified, under the provisions of this act.

SEC. 8. **District court to appoint clerk.** That the clerk of the district court for the said county of Iowa, may be appointed by the district court and qualified at any time after the passage of this act; but shall not enter upon the discharge of the duties of his office prior to the first day of July next.

SEC. 9. **Cases in Johnson not to abate.** That all actions at law in the district court for the county [87] of Johnson, commenced prior to the organization of the said county of Iowa, where the parties or either of them, reside in the aforesaid county of Iowa, shall be prosecuted to final judgment, order or decree, as fully and effectually, as if this act had not been passed.

SEC. 10. **Justices to return books to elected justices—suits commenced may be prosecuted before newly elected justices.** That it shall be the duty of all justices of the peace residing within the said county, to return all books and papers in their hands, pertaining to said office, to the next nearest justice of the peace, who may be elected and qualified for said county under the provisions of this act; and all suits at law and other official business which may be in the hands of such justices of the peace, and unfinished, shall be completed or prosecuted to final judgment by the justice of the peace to whom such business or papers may have been returned as aforesaid.

SEC. 11. **Assessor of Iowa to assess his county.** That the county assessor elected under the provisions of this act for the county of Iowa, shall assess his county in the manner, and be under the same obligations and liabilities as is now, or may hereafter be, provided by law in relation to township or county assessors.

SEC. 12. **Commissioners appointed to locate seat of justice—to meet 2d Monday of July, or any day before 1st September.** Thomas Henderson, of Keokuk county, Luman M. Strong, of Linn county, and Stephen B. Gardner, of Johnson county, be, and they are, hereby appointed commissioners to locate and establish the seat of justice of the county of Iowa. Said commissioners or any two of them, shall meet at the house of James M. Price in said county, on the second Monday in the month of July next, or at such other time within the month of August, as a majority of said commissioners shall agree, in pursuance of their duties under this act.

SEC. 13. **Commissioners' oath.** Said commissioners shall first take and subscribe the following oath, to-wit: "We do solemnly swear (or affirm) that we have no personal interest, directly or indirectly, in the location of the seat of justice of the county of Iowa; and that we will faithfully and impartially locate the same according to the best interest of said county, taking into consideration the future as well as the present population of said county," which oath shall be administered by the clerk of the district court, notary public, or some justice of the peace in the county of Iowa; and the officer administering the same shall certify and file the same in the office of the clerk of the board of county commissioners of said county, whose duty it shall be to record the same.

SEC. 14. **Commissioners to locate seat of justice and clerk to file the report.** Said commissioners, when met and qualified under the provisions of this act, shall proceed to locate the seat of justice of said county for which they have been appointed; and as soon as they shall have come to a determination, the same shall be committed to writing—sign- [88] ed by the said commissioners, and filed with the clerk of the board of county commissioners of said county, whose duty it shall be to record the same, and forever keep it on file in his office; and the place thus designated, shall be the seat of justice of said county.

SEC. 15. **Compensation $2 per day.** Said commissioners shall each receive the sum of two dollars per day while necessarily employed in the duties enjoined upon them by this act, which shall be paid by said county out of the funds arising from the sales of town lots in said seat of justice.

SEC. 16. **Act takes effect after passage.** This act shall take effect and be in force from and after its passage.

Approved, June 10th, 1845.

CHAPTER 56.

LEE COUNTY.

AN ACT to relocate the seat of justice of Lee county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Election for seat of justice 1st Monday of August.** That on the first Monday of August next, the qualified voters of Lee county shall be allowed to vote for the relocation of the seat of justice of said county, subject to the conditions, restrictions and limitations hereinafter provided.

SEC. 2. **Place receiving a majority of all the votes, to be seat of justice.** Every voter may vote for any point as the seat of justice, and if at said election, any one point shall receive a majority of votes over all other points, it shall be declared the seat of justice of said county.

SEC. 3. **If no selection, three highest to be voted for the 1st Monday of September.** And if no one point receive a majority of all the votes cast at said election, then there shall be a second election held on the first [89] Monday of September next, at which second election the three points receiving the highest number of votes at the first election, shall be voted for, and no other; and if at said election, any one point shall receive a majority of votes over all other points, it shall be declared the seat of justice of said county.

SEC. 4. **If no selection, two highest to be voted for 1st Monday of October.** If no one point receives a majority of all the votes cast at said second election, then there shall be a third election held on the first Monday of October next, at which third election, the two points receiving the highest number of votes at the second election and no other, shall be voted for; and the point for which the highest number of votes is cast, shall be declared the seat of justice of said county.

SEC. 5. **Judges and clerks of last general election to act.** That the same persons who officiated as judges and clerks in the several townships of said county at the last general election, shall be judges and clerks of the elections as directed by this act; and in case of failure of any of them to attend at the hour for opening the polls, their places shall be supplied in the manner directed by the law regulating general elections. And the said judges and clerks, before entering upon the discharge of their duties, shall take an oath before some person authorized to administer the same, honestly, faithfully and impartially, to perform the duties required of them by this act. And the person administering said oaths or affirmations, shall cause an entry thereof to be made and subscribed by him and prefixed to the poll book, which shall be returned to the clerk of the district court as hereinafter provided.

SEC. 6. **Judges to challenge electors.** That the said judges or any of them shall have power, and on any person offering to vote being challenged by any elector who has voted at such election or elections, are hereby required to administer an oath to such person offering to vote, true answers to make to such questions touching his qualifications as a voter, as shall be propounded to him; and shall therefore examine such person as to his right to vote, and such judges shall not permit any person to vote at said elections who is not qualified according to the provisions of this act.

SEC. 7. **Poll books to be kept—polls at usual places from 9 or 10 a. m., to 6 p. m.** That the first election shall be conducted as follows, to-wit: That each of the clerks of said election, shall keep a separate poll book or list of votes, and shall enter thereon the name of every person voting in his township, numbering them from one progressively, in the order in which they shall vote, with the proper number set opposite each name. And the judges of said election are hereby required to number the vote or ballot on the back thereof, of each and every voter, with the same number that stands opposite the name of each voter on the clerk's poll book. And the ballot so given and numbered shall be deposited in [90] a box, and shall be safely kept by the judges of said election, until disposed of as hereinafter directed. The polls shall be opened at the usual place of holding elections in each township, between the hours of nine or ten o'clock, a. m., and shall be closed at 6 o'clock, p. m., of the same day; after which the judges shall proceed openly and in the presence of such electors as may choose to attend, to count the ballots so given in. And the clerks shall severally keep a tally of the votes so counted out designating the name of the town or place for which said votes or ballots may have been given; and when they shall all have been counted, they shall

be added up, and the aggregate for each town or place voted for, set down in figures and in words at full length. And the said judges and clerks shall certify that the same is a true statement of the votes polled in such townships, and shall return the said ballots into the box from which they were taken, and seal up said box. And the said judges shall return said box containing the ballots so sealed up, and shall also return one of the poll books of each township to the clerk of the district court of Lee county, by three o'clock, p. m., of the fourth day after said election; at which time the judges of the several townships shall meet at the office of the clerk of said county, and shall, in the presence of each other and of the clerk of said district court, proceed to examine the returns from each township; and if a majority of said judges are satisfied that any one point voted for shall have received a majority of the legal votes polled at said first election, then they shall declare said point the seat of justice of Lee county, and the clerk of the district court shall so enter the same on the minutes of said court.

SEC. 8. **Notices to be posted for second election.** But if on such examination it shall appear that no one point has received a majority of all the votes cast at said first election, it shall be the duty of the clerk of the district court to write three notices for each township in said county, which notices shall set forth the three places receiving the highest number of votes at the first election, and which places are to be voted for at the second election, and also, the day on which said second election is to be held; which notices shall be delivered to the sheriff of said county, and by him posted up in the following manner, to-wit: One notice at the place of voting in each township, and the two others in two of the most public places in each township, at least fifteen days before the time of holding such election.

SEC. 9. **Notices for third election.** But if it shall appear that no one point has received a majority of all the votes cast at said second election, then notices setting forth the two places receiving the highest number of votes at the said [91] second election, shall be made out and posted up in the same manner as provided for in the eighth section of this act.

SEC. 10. **Second and third elections as first.** That the second and third elections shall be conducted, and the results made known, in the same manner as provided for in the seventh section of this act, providing for holding the first election.

SEC. 11. **Ballots to be destroyed after final election.** That the ballots and poll books returned from the several townships, shall be safely kept by the clerk of the district court, in his office for twenty days from the day of holding the final election, at which time he shall destroy said ballots, unless within that time said election shall be contested in the manner hereinafter provided.

SEC. 12. **Five voters may contest election—giving twenty days' notice and bond.** That any five electors who shall have voted at either of said elections, may, within twenty days after the election giving a majority of the votes cast to any one point for the seat of justice of said county notify the clerk of the district court, in writing, that they contest said election. And if they shall, within twenty days, enter into bond with sufficient security, to be approved by said clerk, and to him made payable in the penal sum of three hundred dollars, conditioned to prosecute said contest with effect, or failing therein to pay all such costs as may accrue in the premises; the said clerk shall immediately notify the judge of said district court, that said election is contested. And the said judge on receiving such notice, shall appoint a time and place in Lee county, for inquiring into and deciding said contested election; and notice of such time and place shall be given by said clerk, by written notices, one to be posted up at the place of holding elections in each township fifteen days prior to the time so appointed for said trial; and said

clerk shall issue subpoenas for all such witnesses as said persons contesting said election, may require, returnable to the place and before the time appointed for said trial.

SEC. 13. **Judges to decide contested election.** That the clerk of said district court and the sheriff of Lee county shall attend the judges of said court at the time and place so appointed, and the clerk of said court shall deliver to the judge thereof the ballots and poll books returned to him at the final election as above provided; and said judge shall proceed to enquire into the legality of said election, and may examine said ballots and poll books, and receive the testimony of all such witnesses as may be produced before him, and shall purge the said polls of all illegal votes that may have been received, and shall decide the said contested election in favor of the town or place which may have received the greatest number of legal votes at said election; and the clerk of said district court shall make an entry of the decision of said judge on the minutes of said court as a judgment thereof.

[92] SEC. 14. **Declares seat of justice.** The town or place which shall have received the greatest number of legal votes, shall thenceforth be the seat of justice of Lee county.

SEC. 15. **Fine $20 to $100 for false voting.** That if any person shall vote at either of said elections who is not a citizen of the United States, and who has not been a resident of the county for more than thirty days preceding said election or who is not otherwise duly qualified, or who shall vote more than once at either of said elections or who shall, for the purpose of voting, swear falsely touching his qualifications as a voter; he shall be fined in a sum not less than twenty nor more than one hundred dollars—one half thereof to be applied to the use of the county, and the other half to any one who shall prosecute for the same, and shall be further liable to an indictment; and if proved guilty of swearing falsely, shall suffer all the pains and penalties of wilful and corrupt perjury.

SEC. 16. **Fine $500 to $1000 upon judges or clerks for violating duty.** That if either of the judges or clerks of either of said elections shall be guilty of any wilful violation of any duty required of them by this act, and shall thereof be convicted on indictment; such persons, so convicted, shall be fined in any sum not less than five hundred dollars, nor more than one thousand dollars, or imprisoned not more than twelve months at the discretion of the jury trying the same.

SEC. 17. **Courts to be held at seat of justice when buildings are prepared.** That as soon as there shall be suitable buildings erected or provided at the place getting the permanent seat of justice, the courts shall be held at said place.

Approved, June 10th, 1845.

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[93] CHAPTER 57.

MARION COUNTY.

AN ACT to organize the county of Marion.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Constitutes and describes boundaries of Marion county.** That the following shall constitute and be the boundary of a new county, to be called "Marion," to-wit: Beginning at the northwest corner of Mahaska

county, and running west on the township line, dividing townships seventy-seven and seventy-eight north, to the northwest corner of township seventy-seven, north of range twenty-one west; thence south to the southwest corner of township seventy-four north, of range twenty-one west; thence east along the line dividing townships seventy-three and seventy-four north, to the southwest corner of Mahaska county; thence north along the range line, dividing ranges sixteen and seventeen, to the place of beginning.

SEC. 2. **Organized after 1st Monday in August next.** That the county of Marion be, and the same is hereby organized from and after the first Monday in August next; and the inhabitants of said county shall be entitled to all the privileges to which by law the inhabitants of other organized counties of this territory are entitled.

SEC. 3. **Clerk of district court or sheriff of Mahaska to order special election for county officers.** That for the purpose of organizing said county, it is hereby made the duty of the clerk of the district court of said county, and in case there should be no such clerk appointed and qualified, or for any cause, said office should become vacant, on or before the first Monday in August next; then it shall be the duty of the sheriff of Mahaska county, to proceed immediately after the first Monday in August to order a special election in said county for the purpose of electing three [94] county commissioners, one judge of probate, one county treasurer, one clerk of the board of county commissioners, one county surveyor, one county assessor, one sheriff, one coroner, one county recorder, and such number of justices of the peace and constables as may be directed by the officer ordering the same, he having due regard to the convenience of the people; which special election shall be on the first Monday in September next. And the officer ordering said election shall appoint as many places of election in said county as the convenience of the people may require, and shall appoint three judges of election for each place of holding [elections] in said county, and issue certificates to said judges of their appointment. And the officer ordering said election, shall by three advertisements, which shall be posted up at three of the most public places in the neighborhood, where each of the polls shall be opened.

SEC. 4. **Clerk or sheriff to give certificates to those elected.** That the officer ordering said election (aforesaid) shall receive and canvass the polls, and grant certificates to the persons elected to fill the several offices mentioned in this act. The officer ordering each of said elections, shall discharge the duties of the clerk of the board of county commissioners, until there shall be one elected and qualified for said county.

SEC. 5. **Election to be as usual.** Said election shall in all cases not provided for in this act, be conducted according to the law of this territory regulating general elections.

SEC. 6. **Officers to hold till general election.** The officers elected under the provisions of this act, shall hold their offices until the next general election, and until their successors are elected and qualified.

SEC. 7. **Clerk or sheriff to return all books to county commissioners.** The officer ordering the election in said county, shall return all the books and papers which may come to his hand by virtue of this act, to the clerk of the board of county commissioners of said county, forthwith, after said clerk shall be elected and qualified.

SEC. 8. **Sheriff of Mahaska to act in Marion until 1st September.** That it shall be the duty of the sheriff of Mahaska county, to perform the duties required by this act, until the first Monday in September next; and until a sheriff shall be elected and qualified for said county of Marion; and the said sheriff shall be allowed the same fees for services rendered by him under the provisions of this act, that are allowed for similar services performed by the sheriff in similar cases.

SEC. 9. **Clerk of court to be appointed by judge.** That the clerk of the district court for said county of Marion may be appointed by the judge of said district, and qualified at any time after the passage of this act; but he shall not enter on the duties of said office, prior to the first day of August next.

SEC. 10. **No action at law to abate.** That all actions at law in the district court for the county [95] of Mahaska, commenced prior to the organization of the said county of Marion; where the parties or either of them reside in the county of Marion, shall be prosecuted to final judgment or decree, as fully and effectually as if this act had not passed.

SEC. 11. **Justices to deliver books to newly elected justices.** That it shall be the duty of all justices of the peace residing within said county, to return all books and papers in their hands, appertaining to said office, to the next nearest justice of the peace which may be elected and qualified for said county, under the provisions of this act; and all suits at law or other official business which may be in the hands of such justice of the peace and unfinished, shall be completed or prosecuted to final judgment by the justices of the peace to whom such business or papers may have been returned.

SEC. 12. **Assessor to assess county.** That the county assessor elected under the provisions of this act for said county, shall assess said county in the same manner and be under the same obligations and liabilities, as now are or may hereafter be, provided by law, in relation to the county assessors.

SEC. 13. **Commissioners appointed to locate seat of justice.** That Ezra M. Jones, of Van Buren, Joseph Robertson, of Scott county, and James Montgomery, of Wapello county, be, and they are, hereby appointed commissioners to locate and establish the seat of justice of Marion county. Said commissioners, or a majority of them, shall meet at the house of William Stanley, in said county, on the second Monday in August next; or at such other time in the month of August next, as may be agreed on by them, in pursuance of their duties under this act.

SEC. 14. **Commissioners to take oath.** Said commissioners shall first take and subscribe the following oath or affirmation, to-wit: "We do solemnly swear (or affirm) that we have no interest, either directly or indirectly, in the location of the county seat of Marion county; and that we will faithfully and impartially examine the situation of said county, taking into consideration the future as well as the present population of said county; and that we will take into consideration the best interests of the whole people of the county; and that we will not be influenced by any fear, reward, or any promise thereof,"—which oath shall be administered by the clerk of the district court, or by some justice of the peace of said county of Marion. And the officer administering the same, shall certify and file the same in the office of the clerk of the board of county commissioners of said county, whose duty it shall be to record the same.

SEC. 15. **Commissioners to record place selected.** Said commissioners when met and qualified under the provisions of this act, shall proceed to locate the seat of justice of said county, and as soon as they have come to a determination, they shall commit to writing the place so selected, with a particular description thereof, signed by the said commissioners, in which such seat of justice [96] is located, whose duty it shall be to record the same and forever keep it on file in his office; and the place thus designated shall be the seat of justice of said county.

SEC. 16. **Compensation.** Said commissioners shall each receive the sum of two dollars per day, while necessarily employed in the duties enjoined on them by this act; and two dollars for every twenty miles travel, in going and returning, to be paid out of the first funds arising from the sale of lots in said seat of justice.

SEC. 17. **County to form part of second judicial district.** The county of Marion shall form a part of the second judicial district, and it shall be the duty of the judge of said district, to hold one term of said court in the same, on the twelfth Monday after the first Monday of March, in each year.

SEC. 18. **Takes effect after passage.** This act to take effect and be in force from and after its passage.

Approved, June 10th, 1845.

CHAPTER 58.

ADDITIONAL JUSTICE IN LEE COUNTY.

AN ACT to provide for the election of an additional justice of the peace, in Madison township, in the county of Lee.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Additional justice to be elected at the annual election, to hold office till April, 1847.** That there shall be elected at the annual election to be held on the first Monday of August next, one additional justice of the peace, in and for Madison township, in the county of Lee; who shall, when so elected, hold his office until the annual election in April, eighteen hundred and forty-seven, and until his successor shall be elected and qualified.

SEC. 2. **Madison township to have hereafter, three justices.** That the aforesaid township of Madison shall forever after the passage of this act, be entitled to three justices of the peace, who shall be elected according to the law providing for the election of justices of the peace.

SEC. 3. **This act takes effect after passage.** This act shall take effect and be in force from and after its passage.

Approved, June 10th, 1845.

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[97] CHAPTER 59.

WILLIAM B. SNYDER.

AN ACT for the relief of William B. Snyder.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Treasurer to sell after twenty days notice lots enough to raise two hundred and sixty dollars, in cash.** That the territorial treasurer be, and he is, hereby authorized and empowered to offer at public sale, and sell to the highest bidder, for cash, so many of the unsold lots in Iowa City, as may be necessary to raise the sum of two hundred and sixty dollars, exclusive of the expenses of such sale, upon giving twenty days previous notice thereof in the Iowa Capital Reporter.

SEC. 2. **Treasurer to pay William B. Snyder for pine shingles and costs of former suit.** It shall be the duty of the territorial treasurer immediately after such sale as aforesaid, to allow and pay over unto William B. Snyder, upon his presenting proper vouchers therefor, the amount incurred by the said Snyder for the purchase of shingles for the capitol of this territory, at Cin-

cinnati, together with all the costs incurred by the said William B. Snyder in consequence of a suit brought against him for the amount of said shingles in the state of Ohio in April last: provided however, that should a sufficient sum of money be paid into the territorial treasury, previous to the expiration of twenty days as aforesaid for the liquidation of said claim, then such sale shall be dispensed with, and the money shall be applied to the payment of said demand.

SEC. 3. **This act takes effect after passage.** This act shall take effect and be in force from and after its passage.

Approved, June 10th, 1845.

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[98] CHAPTER 60.

HENRY HEFFLEMAN.

AN ACT for the relief of Henry Heffleman and others.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Allows pay to several sheriffs for posting first election.** That the auditor of public accounts, be and he is, hereby authorized to audit and allow, if found to be correct and unpaid, the sum of fifty dollars, to Henry Heffleman, former sheriff of the county of Van Buren; and Martin Harless, of Louisa county; and J. W. Tallman, for extra services as sheriff of said counties in the year 1838, as allowed by an act entitled "An act for the compensation of the sheriffs of the different counties of this territory for advertising elections and putting up notices," approved, January 25, 1838: provided, that in case the said sheriffs shall have sold their claims, the person now holding them, shall alone be entitled to receive the pay.

SEC. 2. **Act to take effect after passage.** This act shall take effect and be in force from and after its passage.

Approved, June 10th, 1845.

CHAPTER 61.

ROAD.

AN ACT to legalize the location of a road from Cascade, in Du Buque county, to O. A. Olmstead's mill, in Delaware county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Legalizes the road.** That the road leading from Cascade, in Du Buque county, to O. A. Olmstead's mill, in Delaware county, be and the same is, hereby declared a territorial road; and the action of the commissioners which were appointed by the law, approved 13th February, 1843, be, and the same is, hereby legalized.

SEC. 2. **Takes effect after passage.** This act to take effect and be in force from and after its passage.

Approved, June 10th, 1845.

[99] CHAPTER 62.

TERRITORIAL ROAD.

AN ACT to establish a territorial road in the counties of Van Buren and Davis.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Appoints commissioners and states course of road.** That Samuel Swearinger and Israel Rister, of the county of Davis, and John B. Wilson, of Van Buren county, be, and they are, hereby appointed commissioners to lay out and establish a territorial road, commencing at the Sullivan line of Missouri, where the road leading from Keosauqua to Churchville crosses said line—thence on the divide between Fox river and Indian creek, via Fox post office, Sebastian Streeter's and Loyd A. Nelson's; keeping the divide between Fox river, Cherrynest and Soap creeks, to the western line of Davis county.

SEC. 2. **Commissioners to meet 1st Monday in July and proceed to lay out road.** Said commissioners shall meet at Fox post office, on the first Monday of July next, or on such other day as a majority of them may agree on, within one month thereafter, and proceed to the discharge of the duties required of them by the provisions of this act.

SEC. 3. **Commissioners to be governed by the general road law.** Said commissioners shall in all other respects be governed by the provisions of the act to provide for laying out and opening territorial roads; with the exception, that nothing contained in said act shall be so construed as to authorize the expense of said road to be paid out of the treasury of either of said counties.

SEC. 4. **This act takes effect after passage.** This act to take effect and be in force from and after its passage.

Approved, June 10th, 1845.

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[100] CHAPTER 63.

TERRITORIAL ROAD.

AN ACT to re-locate a part of a territorial road leading from Rockingham, in Scott county, to Moscow, in Muscatine county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Appoints commissioners to relocate part of road.** That Fifield H. Richardson, Delevan Bratt and Robert Stewart, be, and they are, hereby appointed commissioners to relocate and establish all that part of the territorial road leading from Rockingham to Moscow, as lies between Moscow and Centre grove.

SEC. 2. **Commissioners to meet 1st Monday in July.** Said commissioners shall meet at Moscow on the third Monday in July next, or on such other day as a majority of them may agree upon, within thirty days thereafter, and proceed to the discharge of the duties required of them by this act.

SEC. 3. **Commissioners to be governed by general road laws.** Said commissioners shall in all respects be governed by the provisions of the act to provide for laying out and opening territorial roads, approved December the 29th, 1838.

SEC. 4. **This act takes effect after passage.** This act to take effect and be in force from and after its passage.

Approved, June 10th, 1845.

CHAPTER 64.

TERRITORIAL ROAD.

AN ACT to establish a territorial road from Bloomington to the county line of Muscatine county, near the present road leading to Davenport.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Appoints commissioners to lay out road.** That George H. Fitch, Elijah Sells and Stephen Nye, of Muscatine county, be and they are, hereby appointed [101] commissioners to lay out and establish a territorial road from Bloomington, in Muscatine county, to the county line of Scott county, near the present road leading towards Davenport.

SEC. 2. **Commissioners to meet first Monday in July.** Said commissioners shall meet at Bloomington on the first Monday of July next, or on some subsequent day to be agreed upon by them, and proceed to lay out and establish said road upon this side of the Mississippi bluffs, and above the floods of the Mississippi river, so as to suit the convenience of the inhabitants and without injury to the farms.

SEC. 3. **Vacates certain road along the Mississippi river when new road is improved.** That the county road along the Mississippi river, near or on the banks of the same, after the said road shall be established and sufficiently improved, shall be vacated so far as the said road so to be established shall extend along the said county road in the county of Muscatine, whenever the commissioners of the county shall deem it expedient.

SEC. 4. **This act takes effect after passage.** This act to take effect and be in force from and after its passage.

Approved, June 10th, 1845.

CHAPTER 65.

TERRITORIAL ROAD.

AN ACT to repeal "An act repealing a portion of an act to locate and establish a territorial road from the town of Du Buque, to Camp Atkinson;" approved, January 13, 1841, and providing for the re-location of said road.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Repeals law of January 13, 1841.** That "An act repealing a portion of an act to locate and establish a territorial road from the town of Du Buque, to Camp Atkinson;" approved January 13, 1841, be and the same is hereby repealed.

SEC. 2. **Appoints commissioners to relocate as much of said road as was affected by law of January 13, 1841.** That Peter D. Sharp, David Moreland and William J. Anderson are hereby appointed commissioners to re-locate so

much of said road as was repealed by the act aforesaid, the territorial road leading from Du Buque to Fort Atkinson, by the way of the Colony and Ead's Grove, in Delaware county, to Fort Atkinson; and said commissioners shall keep the county road from Du Buque, through the Bankston set- [102] tlement. Said commissioners or a majority of them shall meet at the house of William J. Anderson, on the first Monday in July next, or as soon after as may be convenient for them, and proceed to locate said road.

SEC. 3. **Allows usual compensation.** That the commissioners, surveyor, chain-carrier and other hands employed to relocate said road as herein specified, shall receive the usual rates allowed for similar work, two thirds of which shall be paid out of the treasury of Du Buque county, and one third out of the treasury of Delaware county.

SEC. 4. **This act takes effect after passage.** This act to take effect and be in force from and after its passage.

Approved. June 11th, 1845.

CHAPTER 66.

FERRIES.

AN ACT to authorize the board of commissioners of Muscatine county, to license certain ferries across the Mississippi river.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Commissioners to issue license to any one to keep ferry across Mississippi, opposite Wyoming and section 30 and 31, in township 77, N. R. 1 W. and opposite section 36, T. 77, N. R. 2 W.** That the commissioners of the county of Muscatine be, and they are, hereby authorized to issue license to any person or persons, to keep a ferry across the Mississippi river, opposite the town of Wyoming; and also opposite sections thirty and thirty-one, in township seventy-seven north, range one west; and opposite section thirty-six, township seventy-seven north, range two west, of said county of Muscatine: provided, said board of commissioners shall not license a ferry to conflict with the rights of the corporation of the town of Bloomington, to establish and keep a ferry across said river.

SEC. 2. **No license to exceed ten years.** That said board of commissioners shall not issue a license to keep a ferry to exceed the term of ten years.

SEC. 3. **This act to take effect after passage.** This act to take effect and be in force from and after its passage.

Approved, June 11th, 1845.

[103] CHAPTER 67.

KISHKEKOSH COUNTY ORGANIZED.

AN ACT to organize the county of Kishkekosh, and to provide for the location of the seat of justice thereof.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Declares the county organized after July 1, 1845.** That the county of Kishkekosh be, and the same is, hereby organized, from and after

the first day of July next, and the inhabitants of said county shall be entitled to all the privileges to which by law the inhabitants of other organized counties of this territory are entitled; and the said county shall constitute a part of the first judicial district of this territory.

SEC. 2. **Clerk of said county or sheriff of Wapello to order election for usual county officers after 10th July.** That for the purpose of organizing said county, it is hereby made the duty of the clerk of the district court of said county, and in case there should be no such clerk appointed and qualified, or for any cause said office should become vacant on or before the tenth day of July next, then it shall be the duty of the sheriff of Wapello county, to proceed immediately after the tenth day of July, to order an election in said county for the purpose of electing three county commissioners, one judge of probate, one county treasurer, one clerk of the board of county commissioners, one surveyor, one county assessor, one sheriff, one coroner, one county recorder, and such number of justices of the peace and constables as may be directed by the officer ordering said election; the officer having due regard to the convenience of the people; which election shall be on the first Monday in the month of August next. And that the officer ordering said election shall appoint as many places of holding elections in said [104] county, as the convenience of the people may require, and shall appoint three judges of election for each place of holding elections in said county; and issue certificates to said judges of their appointment. And the officer ordering said election shall give at least fifteen days notice of the time and place of holding such election, by at least three printed or written advertisements, which shall be posted up at three or more of the most public places in the neighborhood where each of the polls shall be opened as aforesaid.

SEC. 3. **Said clerk or sheriff to canvass poll, and give certificates to elected.** That the officer ordering the elections aforesaid shall receive and convass the polls and grant certificates to the persons selected to fill the several offices mentioned in this act, and in all cases not provided for by this act. The officer ordering said election shall discharge the duties of a clerk of the board of county commissioners, until there shall be a clerk of the board of county commissioners elected and qualified for said county under the provisions of this act.

SEC. 4. **Election to be held as usual.** Said election shall in all cases not provided for by this act, be conducted according to the laws of this territory regulating general elections.

SEC. 5. **Elected, to hold till next general election.** The officers elected under the provisions of this act, shall hold their offices until the next general election, and until their successors are elected and qualified.

SEC. 6. **Clerk or sheriff to deliver all papers to county commissioners.** The officer ordering the election in said county shall return all the books and papers which may come into his hands by virtue of this act, to the clerk of the board of county commissioners of said county, forthwith, after said clerk shall be elected and qualified.

SEC. 7. **Compensation.** That the officer conducting said election shall be allowed the same fees for services rendered by him under the provisions of this act, that are allowed by law for similar services performed by the sheriff in similar cases.

SEC. 8. **Judge of district court to appoint clerk.** That the clerk of the district court for said county of Kishkekosh, may be appointed by the judge of said district and qualified at any time after the passage of this act; but shall not enter upon the discharge of the duties of said office, prior to the first day of July next.

SEC. 9. **No action at law to abate.** That all actions at law in the district court for the county of Wapello, commenced prior to the organization of said county of Kishkekosh, when the parties, or either of them, reside in said county of Kishkekosh, shall be prosecuted to final judgment, order or decree, as fully and effectually, as if this act had not been passed.

SEC. 10. **Justices to deliver books to nearest elected justice.** That it shall be the duty of all justices of the peace, residing within said county, to return all books and papers in their hands [105] appertaining to said office, to the next nearest justice of the peace which may be elected and qualified for said county under the provisions of this act. And all suits at law or other official business which may be in the hands of such justices of the peace and unfinished, shall be completed, or prosecuted to final judgment by the justices of the peace to whom such business or papers may have been returned as aforesaid.

SEC. 11. **Assessor to assess new county.** That the county assessor elected under the provisions of this act for said county, shall assess the said county in the same manner and be under the same obligations and liabilities, as are now or may hereafter be provided by law, in relation to township assessors.

SEC. 12. **Commissioners appointed to locate seat of justice.** That James A. Galliher, of the county of Jefferson; E. S. Rand, of the county of Van Buren; and Israel Kister, of the county of Davis, be, and they are, hereby appointed commissioners to locate and establish the seat of justice of said county of Kishkekosh. Said commissioners or any two of them, shall meet at the house of W. G. Clark, Esquire, in said county, on the first Monday in July next, or at such other time within one month thereafter as a majority of said commissioners may agree upon, in pursuance of their duties under this act.

SEC. 13. **Commissioners to take oath.** Said commissioners shall first take and subscribe the following oath, to-wit: "We do solemnly swear (or affirm) that we (or either of us) have no personal interest, either directly or indirectly, in the location of the seat of justice for Kishkekosh county; and that we will faithfully and impartially examine the situation of said county, taking into consideration the future as well as the present population of said county; also to pay strict regard to the geographical centre of said county, and locate the seat of justice as near the centre as an eligible situation can be obtained;"—which oath shall be administered by the clerk of the district court or justice of the peace of the county of Kishkekosh; and the officer administering the same shall certify and file the same in the office of the clerk of the board of county commissioners of said county, whose duty it shall be to receive the same.

SEC. 14. **Commissioners to file their report with clerk of county commissioners.** Said commissioners when met and qualified under the provisions of this act, shall proceed to locate the seat of justice of said county; and as soon as they shall have come to a determination, they shall commit to writing the place so selected, with such name as they may see proper, and a particular description thereof, signed by the said commissioners and filed with the clerk of the board of county commissioners, in which such seat of justice is located, whose duty it shall be to record the same, and forever keep it on file in his office, and the place thus designated shall be the seat of justice of said county.

[106] SEC. 15. **Compensation of commissioners.** Said commissioners shall each receive the sum of two dollars per day while necessarily employed in the duties enjoined upon them by this act, which shall be paid by the county out of the first funds arising from the sale of town lots in said seat of justice.

SEC. 16. **County west of new county attached thereto for judicial purposes.** That the territory west or said county be, and the same is hereby attached to the county of Kishkekosh, for election, revenue and judicial purposes.

SEC. 17. **Judge to appoint time of holding court.** The judge of the first judicial district may appoint such time of holding court in said county, as he shall deem proper and convenient.

SEC. 18. **This takes effect after passage.** This act to take effect and be in force from and after its passage.

Approved, June 11th, 1845.

CHAPTER 68.

HENRY SWAN TO CONVEY CERTAIN PROPERTY.

AN ACT to authorize Henry Swan, administrator of the estate of David Duke, deceased, late of the county of Henry, to convey certain lands.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Henry Swan to convey certain lands.** That Henry Swan, administrator of the estate of David Duke, late of the county of Henry, deceased, be, and he is, hereby authorized to convey by deed, the undivided half of the north west quarter of the south east quarter of section number twenty-seven, in township number seventy, north of range number five west, to the heirs as designated in the last will and testament of Alexander McDonald, deceased, late of the county of Henry.

SEC. 2. **Henry Swan to act under direction of probate judge.** And the said administrator aforesaid shall make said deed aforesaid to the said heirs under the order and direction of the judge of the probate court of said county of Henry.

SEC. 3. **This act takes effect after passage.** This act to take effect and be in force from and after its passage.

Approved, 11th June, 1845.

JOINT RESOLUTIONS

NO. 1.

JOINT RESOLUTION providing that the maps voted for the use of the legislative assembly, be distributed among the different counties.

Resolved, by the Council and House of Representatives of the Territory of Iowa.

That Barrow's map of Iowa and notes, in possession of the members of the council, be, and they are, hereby appropriated for the use of the respective counties of this territory; and it is hereby made the duty of the members of the council immediately after the adjournment thereof, to deposit the same with the clerk of the board of commissioners of their respective counties.

Approved, May 29th, 1845.

NO. 2.

JOINT RESOLUTION providing seals for counties therein named.

Resolved, by the Council and House of Representatives of the Territory of Iowa.

That Paul Bratton be, and he is, hereby authorized to contract with some person to furnish a full set of seals for the county of Davis, for which they shall receive such compensation, out of the territorial treasury, as the legislature may hereafter direct.

That William Edmundson, of Mahaska county, is hereby authorized to contract for, and furnish a full set of seals for the county of Mahaska, to be allowed and paid for as above.

[108] That Samuel James, of the county of Keokuk, be authorized to contract for and furnish a full set of seals for the county of Keokuk, to be paid as above.

That Paul Bratton, of Van Buren county, be authorized to contract for and furnish a full set of seals for the county of Wapello, to be paid for as above.

Approved, June 5th, 1845.

NO. 3.

JOINT RESOLUTIONS instructing our delegate in congress to procure an increase of facility on mail route No. 4228.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

That our delegate in congress be, and he is hereby requested to use his influence and best exertions to extend the service on the mail route, number four thousand two hundred and twenty-eight, (4228) from Fulton City, in the state of Illinois, via Lyons, De Witt, Washington ferry and Spring Rock post office, to Tipton, in the territory of Iowa, to once a week, instead of once in two weeks, as under the present arrangement.

Resolved, that his excellency, the governor, is hereby respectfully requested to forward one copy of this resolution to the post master general, and one copy to our delegate in congress.

Approved, June 7th, 1845.

NO. 4.

JOINT RESOLUTION requesting the delegate in congress to endeavor to procure the establishment of a mail route from Burlington, via Lowell, Salem, and Washington, in Henry county, to the county seat of Mahaska county.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

That our delegate in congress be requested to use his best endeavors to obtain the establishment of a mail route from Burlington, in Des Moines county, to the county seat of Wapello county, via Lowel, Salem and Washington, in Henry county, to Winchester, Birmingham, in the county of Van Buren—thence to the county seat of Wapello county, and thence to Oscaloosa, in Mahaska county: said mail route to be carried on the military road, from Burlington to the Old Agency, or as [109] near thereto as practicable, so as to touch the points designated above, and that his excellency, the governor of the territory, be requested to forward a copy of this resolution to our delegate in congress.

Approved, June 7th, 1845.

NO. 5.

A JOINT RESOLUTION to authorize the trustees of the Protestant Methodist church to convey their church half lot in Iowa City, to the trustees of the Iowa City College.

Whereas, the trustees of the Protestant Methodist church of Iowa City have sold the east half of their church lot, in block number sixty-six, as designated on the recorded plat of Iowa City, to the trustees of the Iowa City college, for the sum of twenty-five hundred dollars, and whereas, by the grant of said half lot, the said premises are to be held for religious and literary purposes, according to the discipline of said Protestant Methodist church: therefore,

Resolved, by the Council and House of Representatives of the Territory of Iowa.

That the trustees of the Protestant Methodist church, or a majority of them, be, and they are, hereby authorized, to convey said premises, to the trustees of the Iowa City college, to be used for literary purposes, according to the by-laws and rules of said Iowa City college. And the said trustees of the Iowa City college, or a majority of them, shall have full power to sell and convey said premises for religious or literary purposes, whenever in their opinion, such conveyance will advance the interest of said college.

Approved, June 9th, 1845.

NO. 6.

A JOINT RESOLUTION to provide for the printing of the laws.

Resolved, by the Council and House of Representatives of the Territory of Iowa.

That Palmer & Williams, publishers of the Iowa Capital Reporter, be, and they are, hereby employed to print twenty-five hundred copies of all laws passed at the present session—also, all those passed at the extra session of June, 1844, at the prices and conditions prescribed by an act establishing the prices of public printing, approved Feb., 1843. And that said publishers be authorized to have the laws stitched and bound in the usual manner: provided, the same be exe-[110] cuted at a price not exceeding ten cents per copy: and the said Palmer and Williams be required to enter into bond, with good and sufficient security, to the secretary of the territory of Iowa, in the penal sum of three thousand dollars, conditioned that they have the said laws printed and bound as aforesaid, and ready for delivery, on the first day of August next.

Approved, June 10th, 1845.

NO. 7.

JOINT RESOLUTION instructing our delegate in congress in regard to the boundaries of the future state of Iowa.

Resolved, by the Council and House of Representatives of the Territory of Iowa.

That the delegate in congress be instructed to insist unconditionally on the convention boundaries, and in no case to accept or proffer to accept anything short of the St. Peters on the north, and the Missouri on the west, as the northern and western limits of the future state of Iowa.

Approved, June 10th, 1845.

NO. 8.

JOINT RESOLUTION providing for the care of public property at the Capitol.

Resolved, by the Council and House of Representatives of the Territory of Iowa.

That the treasurer of this territory is hereby directed to collect all stoves, pipes or other furniture, or any stationery or books, belonging to this territory; and cause the same to be kept in a safe and suitable place, during the recess of the legislature.

Approved, June 10th, 1845.

NO. 9.

JOINT RESOLUTION to authorize the clerk of the supreme court to use a certain room in the Capitol, for the purpose of a clerk's office.

Resolved, by the Council and House of Representatives of the Territory of Iowa.

That the clerk of the supreme court of the territory of Iowa [111] be, and he is hereby authorized to use the northwest corner room, on the first floor of the capitol, in Iowa City, for all the purposes of a clerk's office of said court.

Approved, June 10th, 1845.

NO. 10.

JOINT RESOLUTION instructing the secretary to pay the widow of the late James Leonard, the full amount of his per diem for this entire session.

Resolved, by the Council and House of Representatives of the Territory of Iowa.

That the secretary of the territory be, and he is, hereby authorized to pay to Betsy K. Leonard, the widow of James Leonard, deceased, late a member of this house, the full amount of per diem and mileage, that he would have otherwise been entitled to receive for the present session.

Approved, June 10th, 1845.

NO. 11.

JOINT RESOLUTION providing for the adjournment of the legislative assembly.

Resolved, by the Council and House of Representatives of the Territory of Iowa.

That both houses of the legislative assembly, adjourn *sine die,* on Wednesday, the eleventh day of June, instant.

Approved, June 10th, 1845.

NO. 12.

JOINT RESOLUTION providing for the appointment of a fiscal agent.

Whereas, The secretary of the territory has not received the draft for the payment of the expenses of the present session of the legislative assembly: therefore,

Resolved, by the Council and House of Representatives of the Territory of Iowa.

That Chauncey Swan be, and he is, hereby appointed Fiscal Agent, for the purpose of obtaining a loan of three thousand dollars, for the payment in part, of the expenses of the officers and members of this legislature; and that the secretary of the territory be, and he is, here- [112] by authorized and required to pay said loan as soon as he receives said draft; and that said fiscal agent be instructed to report to this house, at his earliest convenience, the terms on which he can obtain said loan.

Approved, June 10th, 1845.

NO. 13.

JOINT RESOLUTION providing for an examination of the affairs of the penitentiary.

Resolved, by the Council and House of Representatives of the Territory of Iowa.

That there be a committee of one member appointed on the part of the council, and two members on the part of the house of representatives, to examine into the affairs of the penitentiary; and that they have power to send for persons and papers, and report the same to the legislature at its next annual session.

Approved, June 10th, 1845.

NO. 14.

JOINT RESOLUTION providing for the safe keeping of the property belonging to the Capitol and for other purposes.

Resolved, by the Council and House of Representatives of the Territory of Iowa.

That the treasurer of the territory take charge of all property belonging to the capitol, and on no account permit it to be used or taken from the same; and that he shall not permit either of the legislative halls to be used for any purpose during the recess of the legislature.

Approved, June 11th, 1845.

NO. 15.

JOINT RESOLUTION instructing the secretary of the council and clerk of the house.

Resolved, by the Council and House of Representatives of the Territory of Iowa.

That the secretary of the council and clerk of the house, are hereby required to place in the hands of the secretary of the territory, all accounts which have been presented to and allowed by this legislature, and the said secretary is hereby requested to file the same in his office at Iowa City.

Approved, June 11th, 1845.

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[113] NO. 16.

JOINT RESOLUTIONS relative to the distribution of the laws.

Resolved, by the Council and House of Representatives of the Territory of Iowa.

That the laws of the present session shall be distributed as follows, to-wit: To the counties of Des Moines, Van Buren and Du Buque, each, one hundred and fifty copies—to the counties of Henry, Jefferson and Jackson, one hundred and twenty copies each—to the counties of Washington, Louisa, Johnson, Muscatine, Scott and Linn, one hundred copies—to the county of Cedar, eighty copies—to the counties of Clinton, Jones, Clayton, Delaware, Davis, Wapello, and Keokuk, each seventy-five copies—to the counties of Iowa, Buchanan, Fayette, Kishkekosh, Appanoose and Marion fifty copies each; to be deposited with the clerks of the board of county commissioners of each county herein named.

Resolved, that in the distribution of said laws, the clerks of the several boards of county commissioners shall be governed by the act relative to the distribution of laws, approved, 16th February, A. D. 1844.

Resolved, that S. J. Burr, secretary of the territory, is hereby required to prepare for publication and to superintend the printing, etc., etc., of the laws of the extra session of the legislative assembly, and make an index thereto; and that he be allowed for said services, two hundred and fifty dollars.

Resolved, that F. M. Irish be employed to distribute the laws so printed as soon as they are printed, according to the provisions of this act; and that he be allowed therefor, one hundred and fifty dollars: provided, that said Irish shall enter into a bond conditioned that said laws shall be delivered as aforesaid, within thirty days from the time the same shall be ready for delivery by the said Williams and Palmer, with good securities, for the faithful distribution of the laws, in behalf of the territory of Iowa, and deposit the same with the treasurer of the territory.

Resolved, that the secretary of the territory furnish the printers with copies of said laws as soon as practicable: provided, that the joint resolutions be printed in their order at the end of the acts.

Approved, June 11th, 1845.

[114] NO. 17.

JOINT RESOLUTION instructing our delegate to use his influence for an appropriation to repair the bridge on Devil creek in Lee county.

Resolved, by the Council and House of Representatives of the Territory of Iowa.

That our delegate in congress be instructed to use his influence to procure an appropriation of one thousand dollars, to improve and repair the bridge on Devil creek, in the county of Lee, on the mail route leading from St. Francisville, in the state of Missouri, to Burlington, in the territory of Iowa.

Approved, June 11th, 1845.

NO. 18.

A JOINT RESOLUTION supplementary to a joint resolution adopted by the council and house of representatives, for the appointment of a committee to examine into the affairs of the penitentiary.

Resolved, by the Council and House of Representatives of the Territory of Iowa.

That the committee appointed by the council and house of representatives to examine into the affairs of the penitentiary, be, and they are hereby authorized to administer oaths, examine persons under oath, and receive proposals for leasing said penitentiary—which proposals, said committee shall submit to the next legislature.

Approved, June 11th, 1845.

[115] CHAPTER 69.

S. J. BURR.

AN ACT for the relief of S. J. Burr, secretary of Iowa territory.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Appropriates for payments made.** That there be appropriated to the secretary of the territory, the sum of twelve hundred and seventeen dollars and thirty-seven and a half cents, for the purpose of making up the amount of the following bills, which have been paid as expenses of the year ending July 1st, 1844, viz:

Wilson and Keesecker's bill for printing and binding the journals of the house of representatives of the session of 1843-44, five hundred and ninety-three dollars and twenty-five cents;

James G. Edward's bill for printing and binding journals of council of same session, four hundred and ninety-nine dollars, and twelve and a half cents;

William Green's bill for binding laws of session 1843-44, two hundred dollars;

William Windham's bill for work for the library during session of 1843-44, fifteen dollars;

Peter Conboy's bill for services in library during session of 1843-44, ten dollars.

SEC. 2. **This act takes effect after passage.** This act to take effect and be in force from and after its passage.

Approved, May 14th, 1845.

NOTE.—This bill not having reached me in season, will account for its not appearing in its regular order in the book. S. J. BURR.

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LAWS OF IOWA

PASSED AT THE ANNUAL SESSION

OF THE

LEGISLATIVE ASSEMBLY

WHICH COMMENCED ON THE FIRST DAY OF DECEMBER,
EIGHTEEN HUNDRED AND FORTY-FIVE

JAMES CLARKE, Governor
JESSE WILLIAMS, Secretary
STEPHEN HEMPSTEAD, President of the Council
GEORGE W. McCLEARY, Speaker of the House of Representatives

PUBLISHED BY AUTHORITY

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1846

SECRETARY'S OFFICE, IOWA CITY,
FEBRUARY 18TH, 1846

IT IS HEREBY CERTIFIED, That the Acts and Resolutions contained in this volume have been compared with the original enrolled acts on file in this office, and are found to be true and correct copies thereof.

JESSE WILLIAMS,
Secretary of Iowa Territory.

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LAWS OF IOWA

[1] CHAPTER 1.

CRIMINAL PROCEEDINGS.

AN ACT to amend an act entitled "An act regulating criminal proceedings," approved January 4, 1839.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Persons charged with criminal offence—the fees of witnesses of prosecution shall be paid out of county treasury—proviso; that if the court is satisfied that private prosecutor has maliciously instigated prosecution, the court shall adjudge the cost of such prosecution against the prosecutor.** That in the event of the acquittal of a person charged with a criminal offence, the fees of witnesses on the part of the prosecution and of the defendant, shall be paid by the county, provided the court be satisfied from the report of the grand jury, or by other testimony that any person acting in the capacity of a private prosecutor has maliciously instigated any prosecution, the court shall adjudge the costs of such prosecution against such prosecutor and not against the county as above provided.

SEC. 2. **Repeals all laws that conflict with the provisions of this act.** That all laws or parts of laws that conflict with the provisions of this act be and the same are hereby repealed.

SEC. 3. **This act takes effect from its passage.** This act to take effect and be in force from and after its passage.

GEORGE W. McCLEARY,
Speaker of the house of representatives.
STEPHEN HEMPSTEAD,
President of the council.

Approved, January 1st, 1846.
JAMES CLARKE.

[2] CHAPTER 2.

ACTIONS OF RIGHT.

AN ACT to amend an act entitled "An act to allow and regulate the action of right," approved, December 29, 1838.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **If commissions appointed under 56th section of act to assign dower, report that the property is not susceptible of assignment by metes and**

bounds as provided in said section, the court shall decree that the widow shall enjoy one-third of the rents and profits—court shall have chancery power to put widow in possession of dower. That if the commissioners appointed under the fifty-sixth section of said act, to assign dower report that the property is not susceptible of assignment by metes and bounds as provided for in said section, the court may order and decree that the widow shall thereafter enjoy one-third of the rents and profits of said property, and the court shall have full chancery power to make any decree or issue any writ to put the widow into the full enjoyment of her dower.

SEC. 2. **Act takes effect from its passage.** This act to take effect and be in force from and after its passage.

Approved, January 1st, 1846.

CHAPTER 3.

CENSUS.

AN ACT to authorize and require the county assessors to take the enumeration of the inhabitants of their respective counties for the purpose of making an apportionment at the next session of the legislature of the territory of Iowa.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

[3] SECTION 1. **County assessors required to take enumeration of inhabitants at the time of taking assessment of property—in counties that are not organized, enumeration to be taken by assessors of adjoining counties.** That the county assessors of the various counties of this territory are hereby authorized and required to take an enumeration of all the inhabitants, of all ages, of their respective counties, at the time they are now required by law to take an assessment of the property of said counties; and in those counties that are not organized it shall be the duty of the assessors residing in the counties next to such counties to take such enumeration in said unorganized counties.

SEC. 2. **Made duty of assessors to make correct return of duties performed under this act, under oath to clerk of county board before 1st September, to receive such compensation as county board may allow.** It shall be the duty of said assessors to make a correct return of the duties performed under this act, under oath, to the clerks of the boards of county commissioners in their counties, on or before the first day of September next, for which service they shall receive such compensation as the boards of county commissioners may allow.

SEC. 3. **Duty of clerk of county board to transmit copy to secretary of the territory before 1st November next.** It shall be the duty of the several clerks of the boards of county commissioners to forward a certified copy of said returns to the secretary of the territory, on or before the first day of November next.

SEC. 4. **Said enumeration to be taken but once under this act.** This act shall only apply to the enumeration of said inhabitants but once as herein provided.

SEC. 5. **Act takes effect from its passage.** This act shall take effect and be in force from and after its passage.

Approved, January 2d, 1846.

CHAPTER 4.

FIRING PRAIRIES.

AN ACT to prevent the firing of prairies.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **If any person sets fire to woods and prairies to the injury of others, shall be fined not exceeding fifty dollars, and liable for injury sustained.** That if any person or persons shall set on fire, or cause to be set on fire, any woods, prairies, or other grounds whatever, in this territory, other than his own, or shall permit the fire set out by him, to pass from his own prairie or woods, to the injury of any person or persons, every person so offending shall, on conviction thereof, for every such offense be fined in any sum not exceeding fifty dollars, and shall be liable to an action, to the party injured for all dama- [4] ges, which he, she, or they, may have sustained in consequence of such fire.

SEC. 2. **Duty of judges to give this act in charge to grand jury.** It shall be the duty of the judge to give this act in charge to the grand jury.

SEC. 3. **Act to take effect from its passage.** This act shall take effect and be in force from and after its passage.

Approved, January 2d, 1846.

CHAPTER 5.

MARRIED WOMEN.

AN ACT concerning the rights of married women.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Married women may be seized of real estate** That any married woman may become seized or possessed of any real estate by descent, bequest, demise, gift, purchase or distribution, in her own name and as of her own property: provided, the same does not come from her husband, nor is, nor has been purchased with the funds or property of the husband during coverture.

SEC. 2. **Not liable for husband's debts.** That hereafter when any married woman shall become possessed of any real estate as aforesaid, or shall have possessed any real estate before coverture, she shall possess the same in her own right, and the same shall in no case be liable to the debts of her husband.

SEC. 3. **Rents and profits belong to husband.** The control and management of such real estate, and the annual productions and rents and profits of the same, shall remain to the husband agreeably to the laws heretofore in force. All suits to recover the property or possession of such real estate, shall be prosecuted or defended, as the case may be, in the joint names of the husband and wife.

SEC. 4. **Husband to join in conveyance.** The real estate owned by a *feme covert* under the provisions of this act, may be sold by the joint deed of the husband and wife, executed, proved and recorded, agreeably to the laws now in force in regard to the conveyance of real estate.

Approved, January 2d, 1846.

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[5] CHAPTER 6.

COUNTY TREASURER.

AN ACT to amend "An Act for assessing Territorial tax and for other purposes," approved, 15th February, 1844.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Treasurer to settle with auditor.** That the 5th section of said act be so amended that the county treasurers shall be required to settle with the auditor and treasurer of the territory within sixty days after the 1st Monday of March in each year, instead of within thirty days as is required by said 5th section of said act.

SEC. 2. **Territorial warrants received for taxes.** That the treasurer of the territory shall receive from the treasurers of the respective counties, territorial warrants in payment of territorial taxes and that the seventh section of the act hereby amended, be and the same is hereby repealed.

SEC. 3. **Act in force from passage.** This act to take effect and be in force from and after its passage.

Approved January 2d, 1846.

CHAPTER 7.

PUBLIC REVENUE.

AN ACT to ament an act, entitled "An act to amend an act to provide for assessing and collecting public revenue," approved, 28th May, 1845.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Assessment of taxes 1st March.** That the county assessor in each county in this territory, shall on the first day of March, or within fifteen days thereafter, in each year, proceed to assess all the real and personal property within his county subject to taxation; which assessment shall be made at the cash value thereof at the time of assessment, ta-[6] king into consideration the fertility and quality of the soil, the vicinity to roads, towns, villages, and navigable waters, water privileges on the same, and all other local advantages.

SEC. 2. **County clerk to furnish assessment rolls.** It shall be the duty of the clerk of the board of county commissioners in each county, to deliver the blank assessment roll, to the county assessor on or before the first day of March in each year.

SEC. 3. **Assessor may swear owner of property.** The assessor may require each owner or occupant of property in his county, to render under oath, a true and just account of all the taxable property of which he may be owner or holder on the said first day of March.

SEC. 4. **Repealing clause.** That the 6th section of the "act" to which this is amendatory, and all other "acts" and parts of "acts" which conflict with the provisions of this "act," be and hereby are repealed.

SEC. 5. **In force from passage.** This act shall take effect and be in force from and after its passage.

Approved, January 2d, 1846.

CHAPTER 8.

MILITIA.

AN ACT to repeal all laws in force allowing compensation to military officers in this territory.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Pay of military officers abolished.** That all laws now in force in this territory allowing compensation to any military officer, for any military services whatever, be and the same are hereby repealed.

SEC. 2. **Act in force from passage.** This act to take effect from and after its passage.

Approved, January 3d, 1846.

[7] CHAPTER 9.

COMMISSIONERS IN STATES AND TERRITORIES.

AN ACT to authorize the governor to appoint commissioners to take acknowledgments of deeds, or other contracts and depositions, in other territories or states.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Governor to appoint commissioners.** That the governor shall have power to appoint one or more commissioners in any of the United States or territories who shall continue in office during the pleasure of the governor, and shall have authority to take the acknowledgement and proof of the execution of any deed or other conveyance, or lease of any lands lying in this territory, or of any contract, letter of attorney, or any other writing under seal, or not, to be used or recorded in this territory.

SEC. 2. **Force and effect of commissioner's acts.** Such acknowledgement, or proof, so taken, according to the laws of this territory, and certified to by any such commissioner, under his seal of office annexed to, or endorsed on such instrument, shall have the same force and effect as if the same had been made before a judge or justice of the peace, or any other officer authorized to perform such acts in this territory.

SEC. 3. **May administer oaths and take depositions.** Every commissioner, appointed as before mentioned, shall have power to administer an oath,

which may be lawfully required in this territory, to any person willing to take it, and to take and certify depositions to be used in any of the courts of this territory in conformity to the laws thereof, either on interrogatories proposed under commission from a court of this territory, or by consent of parties, or on legal notice given to the opposite party; and all such acts shall be as valid as if done and certified according to law, by a magistrate in this territory.

SEC. 4. **Commissioner to qualify.** Every such commissioner, before performing any duty, or exercising any power in virtue of his appointment, shall take and subscribe an oath or affirmation, before a judge or clerk of the supreme court of the state or territory, in which such commissioner shall reside, well and faithfully to execute and perform all the duties of such commissioner, under, and by virtue of the laws of the territory of Iowa, which oath, and a description of his seal of office, together with his sig- [8] nature thereto, shall be filed in the office of the secretary of this territory.

SEC. 5. **Fees allowed.** That every such commissioner shall be entitled to receive the same fees for his services as are now allowed for similar services by the laws of the state for which such commissioner is appointed.

Approved, January 9th, 1846.

CHAPTER 10.

RELIGIOUS ASSEMBLIES.

AN ACT supplementary to an act entitled "An act to preserve good order in all worshiping congregations in this territory," approved, January 4th, 1839.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Selling liquors etc. within two miles of religious assemblies prohibited.** That no person shall keep any shop, booth, tent, wagon or other carriage, vessel or boat, for the sale of spirituous or other liquors, or any provisions or other articles of traffic whatever, or sell or expose to sale, give, barter or otherwise dispose of, in, or near such shop, booth, tent, wagon or other carriage, vessel or boat, or in any other way or place any spirituous or other liquors or any provisions or other articles of traffic whatever, at or within the distance of two miles from the place where any religious society or people are collected or collecting together for religious worship, in any field or woodland or other place of public worship: provided, that nothing in this act shall affect tavern or grocery keepers, exercising their calling in the places mentioned in their license, nor distillers or manufacturers, or others in the prosecution of their ordinary calling or business from vending or exposing to sale the articles above forbidden, at their usual place of vending the same, or at their residence, nor any person who shall have a written permit from the person or persons having the oversight, charge or management of such religious society, to sell bread or other provisions for the supply of persons attending such religious worship, their horses or cattle, such persons conforming to the legal regulations of said religious assembly and to the laws of the territory.

SEC. 2. **Penalty for violating the law.** That any person who shall be guilty of a breach of this act, shall be notified in writing by the person or persons having the [9] oversight, charge or management of such religious assembly, or by any other person that he, she or they are violating the law;

and if after such notice, such person shall continue in such violation, he, she or they shall forfeit and pay for every such offense a fine not exceeding fifty dollars to the county where such offense shall be committed, for the use of common schools in such county.

SEC. 3. **Mode of prosecution.** All offenses against the provisions of this act shall be prosecuted under the provisions of the act to which this is supplementary.

SEC. 4. **Act in force first of March, 1846.** This act shall take effect and be in force from and after the first day of March next.

Approved, January 15th, 1846.

CHAPTER 11.

SCHOOL TAX.

AN ACT to amend an act entitled "An act to establish a system of common schools," approved, January 16, 1840.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Assessment of school tax.** That for the purpose of providing a fund for the support of common schools in the several counties of this territory, that it shall be the duty of the boards of commissioners of the several counties, at the time of levying the tax for county purposes, to levy a tax, not less than one mill, nor more than five mills on the dollar, on the assessed value of all the property real and personal, within their respective counties.

SEC. 2. **Duty of county clerk.** That it shall be the duty of the several clerks of the boards of commissioners, at the time of making out the assessment rolls, to append thereto a column containing the amount of school tax, levied agreeably to the provisions of the first section of this act.

SEC. 3. **Duty of treasurer.** That it shall be the duty of the treasurer to collect the school tax, at the same time, and in the same manner that territorial and county taxes are now collected, and shall be entitled to the same remedies to enforce the collection of the said tax, as is now allowed to the treasurer in the collection of other taxes, to lay before the board [10] of commissioners on the first Monday in January of each year a statement showing the amount of the school tax paid, the amount remaining unpaid, and a complete list of the lands and property on which the school taxes remain unpaid; which shall be filed in the office of the clerk of the board of commissioners, together with a statement of the amount of money in his hands appropriated by law to the use of common schools.

SEC. 4. **Apportionment of school funds.** That it shall be the duty of the clerk of the board of commissioners to make a fair apportionment of the money in the hands of the treasurer, for the use of schools on the first Monday of January, to the different townships, according to the number of children between the ages of five and twenty-one years, as shown by the report of the school inspectors of the townships, and deliver to the chairman of the board of inspectors an order on the treasurer of the county for the amount of money to which his township is entitled.

SEC. 5. **Parents to pay deficiency.** That whenever the amount of money received by any school district, from the fund created by this act, shall be insufficient to pay for the services of the teacher, the deficit shall be

assessed upon the parents or guardians of the children in proportion to the length of time they shall severally have attended school during the term when such deficiency shall have arisen.

SEC. 6. **[Compensation to clerk and treasurer.]** That the board of commissioners shall allow to their clerk out of the county treasury, a fair compensation for the services required by this act, and the treasurer shall be allowed one per cent. for collecting and paying out school funds.

SEC. 7. [**Fines, etc. appropriated to use of school funds; proviso.**] That all fines collected for any breach of the penal laws of this territory, all monies arising from the granting of licenses for the sale of ardent spirits by the county commissioners, and all sums of money in the respective treasuries arising from the sale of water crafts, lost goods and estrays, under the provisions of the 11th section of the act concerning water crafts, lost goods and estrays, be and the same are hereby appropriated to the use of common schools within the county wherein they accrue: provided however, that nothing in this act contained shall be so construed as to prevent the county commissioners from receiving county orders for all fines assessed under this act.

SEC. 8. **Repealing clause.** That the third article of the eighteenth section and all acts and parts of acts that conflict with the provisions of this act, be and the same are hereby repealed.

SEC. 9. **Act in force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 15th, 1846.

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[11] CHAPTER 12.

CONSTABLES.

AN ACT defining the term of office of constables.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Constables elected for two years.** That hereafter the constables in all of the townships and precincts of this territory, shall be elected for the term of two years, and shall continue in office until their successors are duly elected and qualified.

SEC. 2. **Part of act of June, 1837, repealed.** Be it further enacted, that so much of an act entitled an act for the election of constables and defining their duties, approved January 29th, 1839, and all subsequent acts as conflict with this act, be and the same are hereby repealed.

SEC. 3. **Act in force 1st April, 1846.** This act shall take effect and be in force from and after the first day of April, 1846.

Approved, January 13th, 1846.

CHAPTER 13.

ADDITIONAL TAX.

AN ACT to levy an additional tax for territorial purposes.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Additional tax of ¾ of a mill.** That the county commissioners of the several counties in this territory, shall at the July term next ensuing, examine the assessment rolls returned to them, and assess a tax of three-fourths of one mill per cent. on all property returned to them in such assessment roll, for territorial purposes, for the year 1846, which tax shall be collected and paid as is now or shall hereafter be provided by law.

SEC. 2. **Repealing clause.** All acts and parts of acts coming under the purview of this act, be and the same are hereby repealed.

[12] SEC. 3. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 16th, 1846.

CHAPTER 14.

COURTS, TERMS IN 1846.

AN ACT fixing the terms of the district courts in the territory of Iowa.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Courts in 1st district, when held.** That the terms of the district court in the first judicial district, composed of the following counties, shall be as follows:

In Henry county on the fourth Monday of February and the first Monday of September.

In Van Buren county on the first Monday in March and second Monday in September.

In Jefferson county on the second Monday of March and third Monday of September.

In Wapello county on the third Monday of March and fourth Monday of September.

In Kishkekosh county on the fourth Monday of March and on the first Friday after the fourth Monday of September.

In Davis county on the first Wednesday after the fourth Monday of March and on the first Monday of October.

In Lee county on the first Monday of April and second Monday of October.

In Desmoines county, on the first Monday of May and the second Monday of November.

SEC. 2. **Second district, when held.** That the terms of the district courts in the second judicial district, composed of the following counties, shall be as follows:

In Washington county on the second Monday of March and on the last Monday of August.

In Keokuk county on the first Monday after the second Monday of March and on the first Monday of September.

[13] In Mahaska county on the second Monday after the second Monday of March and on the second Monday of September.

In Marion county on the third Monday after the second Monday of March and on the first Monday after the second Monday of September.

In Polk county on the fourth Monday after the second Monday of March and on the second Monday after the second Monday of September.

In Jasper county on the fifth Monday after the second Monday of March and on the third Monday after the second Monday of September.

In Iowa county on the 6th Monday after the second Monday of March and on the fourth Monday after the second Monday of September.

In Johnson county on the seventh Monday after the second Monday of March and on the fifth Monday after the second Monday of September.

In Louisa county on the eighth Monday after the second Monday of March and the sixth Monday after the second Monday of September.

In Muscatine county on the ninth Monday after the second Monday of March and on the eighth Monday after the second Monday of September.

SEC. 3. **Third district, when held.** That the times for holding the district courts for each year in the third judicial district, composed of the following counties, shall be as follows:

In Dubuque county on the second Monday in February, on the first Monday in June and on the second Monday of November.

In Linn county on the third Monday in March and on the first Monday in September.

In Cedar county on the second Monday after the third Monday in March and on the third Monday in September.

In Scott county on the third Monday after the third Monday in March and on the fourth Monday in September.

In Clinton county, on the fourth Monday after the third Monday in March and on the first Monday after the fourth Monday in September.

In Jackson county on the fifth Monday after the third Monday in March and on the second Monday after the fourth Monday in September.

In Jones county on the sixth Monday after the third Monday of March and on the third Monday after the fourth Monday of September.

In Delaware county on the seventh Monday after the third Monday in March and on the fourth Monday after the fourth Monday of September.

In Clayton county on the eighth Monday after the third Monday in [14] March and on the fifth Monday after the fourth Monday in September.

In Benton county on the last Monday in August.

SEC. 4. **No error for change of time.** No suits, writs, indictments, recognizances, pleas or other process or proceedings, returnable at, or pending in said district courts for any of the counties above named, shall abate, be made void or in any wise affected in consequence of any change in the time of holding said courts by the provisions of this act, but when the same may have been issued or may have been returnable at any day in accordance with the time heretofore fixed for holding said courts, they shall be considered returnable to the term of the courts respectively named in this act, and all jurors, witnesses and other persons bound in any way or summoned to appear before the courts mentioned above at the next term thereof, shall be bound to appear at the time specified by this act as the time for holding said courts.

SEC. 5. **Repealing clause.** All acts and parts of acts contrary to the provisions of this act, be and the same are hereby repealed.

SEC. 6. **Act in force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

CHAPTER 15.

ATTACHMENTS.

AN ACT to amend an act entitled "An act allowing and regulating writs of attachment" approved, February 16th, 1843.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Affidavit of plaintiff and what it must contain.** That the following shall hereafter be the requisites to be alleged in the affidavit for a writ of attachment.

First—The affidavit must state, that something is due from the defendant to the plaintiff, and as nearly as practicable the exact amount.

Second—It must state, that as deponent verily believes the said defendant is a non-resident of the territory—or, that he is in some manner about to dispose of, or remove his property, with intent to defraud his creditors, or that he has disposed, or removed his property with intent [15] to defraud his creditors, or that he has absconded, so that the ordinary process cannot be served upon him.

SEC. 2. **Substitution of requisites in former act.** That the above requisites shall be substituted for the 1st and 2d class of requisites in the 1st section of the act to which this act is amendatory, and the 1st and 2d class of said requisites are hereby repealed.

SEC. 3. **Damages for unlawfully sueing out.** In any trial on an attachment bond, the jury may assess in favor of the plaintiff any damages he may have sustained by reason of the unlawful sueing out of such writ of attachment, and may find exemplary damages.

SEC. 4. **Takes effect from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

CHAPTER 16.

LEGISLATURE.

AN ACT to repeal an act entitled "An act to postpone the election of the members of the house of representatives of the territory of Iowa, from August until April."

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Repeal of act of June 7, 1845.** That an act entitled an act to postpone the election of the members of the house of representatives of the territory of Iowa from August until April, approved, June 7, 1845, be and the same is hereby repealed.

SEC. 2. **General elections on first Monday in August.** The election for members of the house of representatives shall hereafter be held at the time specified in the act entitled an act to change the time of holding the general elections, approved 29th January, 1844.

SEC. 3. **Act in force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

[16] CHAPTER 17.

MISDEMEANORS.

AN ACT to amend an act entitled "An act defining crimes and punishments," approved, 16th February, 1843.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Penalty for destroying mining fixtures.** That if any person or persons shall wilfully or maliciously cut down, level, demolish or otherwise damage any windlass, timbers, plank or machinery, used for the purpose of mining, or shall fill up or obstruct any shaft, or otherwise injure the same, shall upon conviction thereof, be fined in any sum not exceeding five hundred dollars, or imprisoned not exceeding three months, or both at the discretion of the court.

SEC. 2. **In force 1st June, 1846.** That this act shall take effect and be in force from and after the first day of June next.

Approved, January 17th, 1846.

CHAPTER 18.

DISTRICT PROSECUTORS.

AN ACT relative to district prosecutors.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Prosecuting attorneys not to give bond.** That the several district prosecutors of this territory are not required to give bond as is provided and required in the third section of an act, providing for the appointment of district prosecutors and defining their duties, approved January 15th, 1839, and so much of said act as requires district prosecutors to give bond before they enter upon the discharge of their duties be and the same is hereby repealed.

SEC. 2. **Act in force from passage.** This act shall take effect from and after its passage.

Approved, January 17th, 1846.

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[17] CHAPTER 19.

DISTRICT PROSECUTORS.

AN ACT to amend an act entitled "An act providing for the appointment of district prosecutors and defining their duties."

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Governor to nominate.** That there shall be appointed by the governor, by and with the advice and consent of the council, a suitable per-

son in each county, or organized district as hereinafter provided, to act as public prosecutor, who shall qualify in like manner as district prosecutors now are required to by the act to which this is amendatory, and shall hold their offices for the term of two years, unless sooner removed.

SEC. 2. **Duty of prosecutors.** Such public prosecutors, shall perform all the duties now required by law to be performed by district prosecutors, and be paid by their respective counties or organized districts, in like manner as the district prosecutors now are paid.

SEC. 3. **Territory divided into 20 districts.** Said territory shall be divided into prosecuting attorneys' districts, as follows: the county of Lee shall constitute the first district; the county of Van Buren shall constitute the second district; the counties of Davis, Appanoose, and the counties that may hereafter be organized west of said counties shall constitute the third district; the county of Desmoines shall constitute the fourth district; the county of Henry shall constitute the fifth district; the county of Jefferson shall constitute the sixth district; the counties of Wapello, Kishkekosh, and the counties that may hereafter be organized west of said counties, shall constitute the seventh district; the county of Louisa shall constitute the eighth district; the county of Washington shall constitute the ninth district; the county of Keokuk shall constitute the tenth district; the counties of Mahaska, Marion, Powesheik, and the counties that may hereafter be organized west of said counties, shall constitute the eleventh district; the county of Muscatine shall constitute the twelfth district; the county of Scott shall constitute the thirteenth district; the county of Clinton shall constitute the fourteenth district; the county of Cedar shall constitute the fifteenth district; the counties of Johnson and Iowa shall constitute the sixteenth district; the county of Jackson shall constitute the seventeenth district; the counties of Linn, Benton, and the counties [18] that may hereafter be organized west of said district shall constitute the eighteenth district; the counties of Jones, Dubuque, Delaware and the counties that may hereafter be organized west of Dubuque and Delaware shall constitute the nineteenth district; and the county of Clayton and the counties that may hereafter be organized west shall constitute the twentieth district.

SEC. 4. **Repealing clause.** That the first section of the act to which this is amendatory, and all other acts and parts of acts conflicting with this act, be and the same are hereby repealed.

SEC. 5. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, December 17th, 1845.

CHAPTER 20.

PENITENTIARY.

AN ACT to lease the penitentiary.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **John W. Cohick, appointed keeper and lessee.** That from and after the fifteenth day of March next, John W. Cohick shall be keeper and lessee of the penitentiary of the territory of Iowa for the term of three years, with full power to have the sole management, control and profits for the term aforesaid, subject to the restrictions, conditions and limitations here-

inafter provided. The said lessee shall have possession and control of all the lots or lands reserved for the penitentiary.

SEC. 2. **Lessee to take possession of warden's house.** The said keeper shall have the use of the warden's house, and all the buildings and improvements within and without the walls of the said penitentiary, and shall take proper care to preserve all the improvements, buildings and property of every kind appurtenant to the [19] penitentiary, in condition and repair, to prevent waste, etc., and shall restore the same to the territory in good condition and repair, the natural wear and decay, and unavoidable accidents excepted.

SEC. 3. **Duty of lessee.** It shall be the duty of every keeper, overseer, guard, and other person employed in or about the said penitentiary, to faithfully and diligently perform the duties of his office, and studiously guard the interest of the territory, and constantly endeavor to prevent all improper conduct on the part of the convicts.

SEC. 4. **Police and discipline.** The keeper of the penitentiary shall have the management, control and superintendence of the penitentiary, and all the convicts confined therein, and shall, at his own expense, clothe, feed and attend them; shall employ all necessary overseers, guards, and physicians, when necessary, and defray all the necessary contingent expenses of the penitentiary; and shall in all respects, keep the same from becoming chargable to the territory. He shall have the same control and authority over said penitentiary, as has heretofore been possessed by law, by the warden thereof; he shall guard and watch the convicts, take proper steps to preserve a strict police and proper discipline among them, and prevent all improper intercourse. He shall pay strict attention to the habits, health and cleanliness of the convicts, treat them with proper humanity, render them all necessary medical aid and attention in sickness, and keep their rooms properly ventilated and warmed.

SEC. 5. **Lessee to give bond and security.** Before said keeper enters on the discharge of his duty, he shall execute to the territory of Iowa, a good and sufficient bond, in the penalty of three thousand dollars, with at least one or more good securities, conditioned, that he will faithfully perform all the duties imposed on him by or under this act; said bond and securities, shall be approved by the governor of the territory, and filed in the office of the auditor of the territory and by him recorded.

SEC. 6. **On failing to give bond, office forfeited.** The keeper shall within thirty days after the passage of this act, execute and deliver to the governor, bond and security required by this act, and if he shall fail to do so, his contract shall be forfeited.

SEC. 7. **Lessee, subject to legislature.** Said keeper shall hold the penitentiary subject to such rules, regulations and mode of discipline as shall from time to time be prescribed by law.

SEC. 8. **Pardoning power not limited or restrained.** Nothing in this act shall be so construed, as in any manner to limit or restrain the pardoning power of the governor, and the said keeper shall not require the convicts to labor on the Sabbath day, and he shall on that day at suitable hours, permit clergymen to preach to the convicts, when they can be obtained by said keeper.

SEC. 9. **How keeper may employ convicts.** Said keeper shall be at liberty, and may employ said con-[20]-victs, or any portion of them, in any and all honorable species of labor, and shall have the benefits and profits resulting from their labor.

SEC. 10. **Salary of keeper $100 per annum.** There is hereby appropriated to the said keeper the sum of one hundred dollars, to be paid annually for three years, in quarterly payments, of twenty-five dollars, to be paid out of any moneys in the territorial treasury not otherwise appropriated.

SEC. 11. **Commissioners appointed to take inventory.** That William T. McGaugh, of the county of Jefferson, William Chambers, jr., of the county of Muscatine, and Daniel Shelby, of the county of Van Buren, be and they are hereby appointed commissioners, to take an inventory of all the manufactured articles, stock and raw materials belonging to the territory, now in said penitentiary; together with all the beds, kitchen furniture, tools, goods, wares, merchandise pertaining to such institution; and fix a fair valuation and appraisement, on or before the fifteenth day of March as aforesaid. Said commissioners shall be entitled to three dollars per day, for the time necessarily engaged in the duties assigned them by this act.

SEC. 12. **Commissioners to deliver property to Cohick.** The commissioners having been first sworn, faithfully and impartially, to execute the trust reposed in them, shall, after having made the inventory and appraisement as above required, deliver over to said Cohick, as keeper of said penitentiary, all of the manufactured articles, stock and materials, belonging to the territory, and beds and bedding, furniture, goods, tools, wares, and merchandise invoiced by them, and shall take his receipt therefor, and shall file said inventory and receipt in the office of the auditor of public accounts.

SEC. 13. **Keeper may sell manufactured articles.** The said keeper of the penitentiary hereby appointed, may sell, use and dispose of said manufactured articles, goods, wares and merchandise to him delivered as aforesaid, except the beds and bedding, furniture and tools belonging to said institution, for his own use and benefit.

SEC. 14. **Keeper to be responsible for property wasted or lost.** At the expiration of the term of the said keeper, the governor shall appoint three commissioners to examine and make out a list of all the property belonging to said penitentiary, and if it shall appear that any part of the property delivered up to the said keeper, by the commissioners named in this act, has been lost, wasted or otherwise misplaced by any neglect of the said keeper, or any person under him, or by him employed, he shall forfeit and pay to the territory of Iowa, all damages which may have been sustained by reason of such neglect.

SEC. 15. **In force from passage.** That this act shall take effect and be in force from and after its passage.

Approved, January 17th, 1846.

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[21] CHAPTER 21.

ESTRAYS.

AN ACT to amend an act entitled "An act concerning water crafts found adrift, lost goods and estray animals," approved, January 22d, 1839.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Liability of persons taking up estray animals.** That if any person taking up any estray animal, or animals, shall sell the same, abuse or suffer to be abused, either by working, riding, or neglecting to feed, or in any other manner so that such estray, in consequence thereof die, or be lessened in value; either take, or cause such estray to be taken out of the county more than three days at any one time, or shall by his or her neglect suffer such estray to escape; and any person who may knowingly purchase any estray or estrays contrary to the provisions of the act to which this is amendatory, the persons so offending shall be liable to the action of the

party injured—and upon conviction thereof shall pay the full amount of damages sustained and the costs of suit. If any person who may have taken up any horse, mare, gelding, or work cattle, shall in any manner work or use the same, such person shall be debarred from recovering any compensation for keeping such estray or estrays.

SEC. 2. **Act in force first April.** This act to take effect and be in force from and after the first of April next.

Approved, January 17th, 1846.

CHAPTER 22.

PERCH OF MASON WORK.

AN ACT to define a perch of mason work in Iowa territory.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Perch of mason work twenty-one cubic feet.** That from and after the passage of this act it shall not be lawful for any person or persons, to charge for, or count a less number of cubic feet as a perch of mason work, than twenty-one [22] cubic feet, and it is hereby declared that twenty-one cubic feet shall form a perch of mason work as established by this act.

SEC. 2. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

CHAPTER 23.

CONFLICT OF JURISDICTION.

AN ACT to authorize the governor of Iowa territory to employ counsel in cases growing out of the disputed boundary between this territory and the state of Missouri.

Preamble—Missouri difficulties. Whereas, the sheriff of Davis county in this territory, has been arrested and held to bail by the authorities of Missouri, while in the act of executing the laws of this territory: and whereas, other matters of litigation may result from the present dispute between this territory and said state of Missouri, in relation to the boundary line between said state and territory—therefore,

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Governor to employ counsel.** That the governor of this territory be, and he is hereby authorized, to draw upon the territorial treasurer for the sum of $1,500, to be taken from any moneys not otherwise appropriated, and that the same or any amount thereof, at the discretion of the governor, shall be used in the employment of competent counsel, to conduct all cases in which this territory, or any citizen or citizens thereof, shall be a party against the state of Missouri, or the authorities thereof.

SEC. 2. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

[23] CHAPTER 24.

DIVORCE AND ALIMONY.

AN ACT to amend an act entitled "An act relative to divorce and alimony and other purposes," approved, 20th January, 1843.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Act of January, 1843, amended.** That the sixth clause of the second section be amended by striking out after the word "drunkenness," the following: "provided that said habitual drunkenness shall be contracted after marriage."

SEC. 2. **Further amendments.** That the second section of said act be amended as follows: add as a ninth cause for divorce from the bonds of matrimony, the following:—when it shall be made fully apparent to the satisfaction of the court, that the parties cannot live in peace or happiness together, and that their welfare requires a separation between them.

SEC. 3. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

CHAPTER 25.

WIDOWS.

AN ACT to amend an act entitled "An act relative to the probate of wills, executors, administrators, guardians, trustees of minors, and probate courts, and for defining their duties," approved, February 13th, 1843.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **To select other articles or money.** That when any one shall die leaving a widow in this territory, but shall not at the time of their decease be possessed of all of the articles of personal property as specified in said act to which this is an amendment, to be set apart to the widow—said widow may select any other personal property to the amount of, or have the same set apart to her in money, so as to make up said deficit, and it shall be the [24] duty of said executor or administrator to set apart the property so selected, or pay its value in money, at the option of said widow, should there be property enough to sell for that amount.

SEC. 2. **In force from passage.** This act shall take effect and be in force from and after its passage.

Approved, January 17th, 1846.

CHAPTER 26.

REPORTS OF SUPREME COURT.

AN ACT to provide for the printing, publication and preservation of the decisions of the supreme court of Iowa territory.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Court to appoint a reporter.** That it shall be the duty of the judges of the supreme court, to appoint a reporter to said court, whose duty it shall be to report all the decisions of said court, in such manner and form as the said court may direct.

SEC. 2. **Entitled to copyright.** That the reporter thus appointed, shall be entitled exclusively to the copyright of said reports when published.

SEC. 3. **Governor to subscribe for 100 copies.** That the governor of the territory shall be and he is hereby authorized and required to subscribe on behalf of the territory of Iowa, for one hundred copies of said reports for the use of the citizens of this territory, which shall be deposited in the territorial library, subject to the order of the legislature: provided however, that the governor shall not subscribe for such reports, if the cost of the same shall exceed one cent per page, or five dollars for each volume containing 500 pages octavo.

SEC. 4. **Reporter to receive order on treasury.** That upon the delivery of the volumes to the secretary of the territory, the reporter shall be entitled to an order on the territorial treasury to the amount subscribed for.

SEC. 5. **Governor may subscribe for 50 additional copies.** That the governor is hereby authorized to subscribe for fifty additional copies of said reports, to be exchanged for the reports of the several states and territories, and of the United States.

[25] SEC. 6. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

CHAPTER 27.

JURIES.

AN ACT to amend an act entitled "An act to amend an act entitled an act concerning grand and petit jurors," approved, February 13th, 1844.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Judges not to select same persons in succession.** That the judges of election in making their selection of jurors shall not select the same persons in succession, until all the persons who in their judgment are competent jurors within their respective townships, have been selected in their turn.

SEC. 2. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

CHAPTER 28.

GROCERY LICENSE.

AN ACT to amend an act entitled "An act to regulate grocery license," approved January 4th, 1840.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Persons to take out county license.** That it shall be lawful for the county commissioners of the several respective counties in this territory, to require each and every person or persons wishing to keep a grocery within the county, or within any city or incorporated town within their respective counties, to take out a county license, all laws giving exclusive rights to any city or incorporated town to the contrary notwith- [26] standing; and that the provisions of this act shall extend to all persons and property enumerated in the first section of an act entitled "an act to provide for assessing and collecting county and territorial revenue," approved February 13, 1843.

SEC. 2. **Not to sell in less quantities than one gallon without license.** That if any person or persons, shall vend or sell any spirituous liquors in less quantity than one gallon, without having first obtained a license so to do, such person so offending shall be liable to a fine of not less than thirty dollars nor more than fifty dollars, to be recovered before any justice of the peace for the use or the common schools, at the suit of any county or township officer in said county.

SEC. 3. **In force from passage.**. This act to be in force and take effect from and after its passage.

Approved, January 17th, 1846.

CHAPTER 29.

TERRITORIAL CREDITORS.

AN ACT to provide for the payment of the claims of the creditors of the territory.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Creditors may purchase lots and offset claims.** That all bona-fide creditors of the territory of Iowa, whose claims were contracted in the erecting of the capitol at Iowa City, and who may purchase lots at the sale authorized by the act to which this is supplemental, shall have the right to offset the claims, so far as they may extend, against any debts they may contract in the purchase of said lots: provided, said creditors produce the certificate of the territorial agent, setting forth the amount due for services performed in the erection of said capitol: provided also, that creditors holding notes against the office of territorial agent, or having claims against said office, allowed, or that may be allowed by Morgan Reno, present "ex-officio" territorial agent, shall be entitled to all the privileges of this act.

SEC. 2. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

[27] CHAPTER 30.

LIMITED PARTNERSHIPS.

AN ACT in relation to limited partnerships.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Limited partnership authorized.** That limited partnerships are hereby authorized for the transaction of any business which may be lawfully carried on by general partners.

SEC. 2. **Any number of persons may associate.** Any number of persons may associate in this manner, and may make such regulations as they please for the management of their business, consistent with a legal and honest purpose.

SEC. 3. **May render their interest transferable.** They may render their interest in their association transferable.

SEC. 4. **Death not to terminate.** The death of any of the partners shall not terminate the partnership.

SEC. 5. **May sue in partnership name.** It may sue and be sued in its partnership name.

SEC. 6. **Private property not liable.** The private property of the partners shall not be liable for the debts of the partnership: provided, the requisites of this act are substantially complied with.

SEC. 7. **Shall adopt articles of association.** Previous to commencing business as a partnership, they shall adopt articles of association, which shall be recorded in the office of the recorder of deeds for the county in which such partnership shall be formed.

SEC. 8. **Notice to be published in newspaper.** A notice shall be published for four weeks in some newspaper in each county where their business is to extend; or if there is no newspaper therein, then such publication shall be made in some newspaper as convenient as practicable to such place of business.

SEC. 9. **What notice shall contain.** Such notice shall contain:

[28] First—The name of the partnership.

Second—The general nature of the business to be transacted.

Third—The amount of capital actually paid in, and the times and conditions on which the remainder is to be paid.

Fourth—the place where the articles of association are deposited as above required.

Fifth—The time of commencement and termination of the partnership.

SEC. 10. **Publication on renewal of partnership.** A like publication shall be made upon a renewal or essential alteration of the articles of association.

SEC. 11. **Limited to ten years.** The association shall not be permitted to continue for more than ten years at once; but may be renewed by the unanimous consent of the partners.

SEC. 12. **Cannot be dissolved previously.** The partnership cannot be dissolved previous to the period first agreed upon, without giving the same previous publicity of its dissolution as is required of its creation.

SEC. 13. **Penalty for fraud.** Intentional fraud in the transaction of the affairs of the partnership shall subject those guilty thereof, to fine or imprisonment, or both, at the discretion of the court. Any person who receives an injury from such fraud, may also recover damages therefor in a civil suit.

SEC. 14. **Process may be served on any officer.** Legal process may be served upon any officer of the association, or if there are no officers, then upon any member thereof.—This shall be deemed a sufficient service upon the partnership.

SEC. 15. **Payment of dividends.** The payment of dividends which shall leave insufficient funds to meet the liabilities of the partnership, shall be deemed fraudulent.

SEC. 16. **Civil suits for fraud.** The perpetration of any fraud, shall render the individual property of all those engaged in, or cognizant of, such perpetration, liable for the partnership debts.

SEC. 17. **Execution against company, how served.** Whenever an execution shall be issued against the company, and after reasonable inquiries no partnership property can be found sufficient to satisfy the same, it shall be lawful to levy in the first instance upon the individual property of any of the partners. This property shall only be released from the effects of the levy, by either.

First—Pointing out sufficient partnership property whereon to levy; in which case the costs thus far made by the first levy shall be added to the amount to be collected from the company by the execution, or,

Second—By informing the officer who made the levy, that the funds of the partnership are wholly exhausted. In this latter case the officer shall forthwith make return of that fact to the court from whence the [29] execution issued. He shall thereupon suspend all further proceedings under the execution, and the property shall be treated as though held by virtue of a writ of attachment, until the further order of the court.

SEC. 18. **Plaintiff may direct release of property.** The plaintiff may direct a release of the property thus taken in execution, or he may appear before the court at the return day of the execution, or as early as practicable afterwards, and in answer to a rule to show cause why the property s[illegible] released, may allege such matters as will render the private property of the partners liable, or that the funds of the partnership are not exhausted; and issue shall thereupon be joined to be tried by a jury.

SEC. 19. **Company to exhibit books and papers.** Upon such trial, it shall be necessary for the company to exhibit their books and papers if required, and to explain by those, or some other means, the fairness and regularity of their business transactions.

SEC. 20. **Remedy for partner when he pays a firm debt.** Whenever the private property of one of the partners is thus held, he shall have a claim for indemnity against the company.

SEC. 21. **Any of the partners may sue company at law.** Any of the partners may sue the company at law for a private demand against the partnership.

Approved, January 17th, 1846.

CHAPTER 31.

GARNISHEES.

AN ACT to amend an act entitled "An act regulating practice in the district courts of the territory of Iowa."

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Garnishee required to appear—facts to be tried by jury.** That a garnishee clause in an execution issued from any court of record, shall re-

quire the garnishee to appear at the next term of the court from which said writ issued, and the plaintiff in execution may deny the answer of such garnishee. and the issue shall be tried in the same manner as other issues of fact are tried; and if it shall be found that such garnishee had under his control, or in his possession, any money, property, right or credit of any name, kind or description, or any right, either legal or equitable, to any real estate be- [30] longing to said defendant in execution, the same shall be bound for the payment of such judgment from the day of the service of such summons of garnishee. And the said garnishee shall be responsible for the same to the plaintiff in execution, and the court shall adopt such rules, and make such orders, as shall be necessary to compel a full and complete exhibition of the rights of the defendant in execution of every kind, kept or held back, or which may be in any manner in the hands of the garnishee for the present or future benefit of the defendant in execution.

SEC. 2. **Fees of witnesses to be taxed on party against whom judgment is rendered, unless otherwise ordered by court.** All necessary witnesses, summoned, sworn and examined, or sworn and examined without being summoned, shall be taxed in the general bill of costs, and paid by the party against whom judgment is given, unless the court for good cause shown, shall otherwise order.

SEC. 3. **Act in force from passage.** This act shall take effect and be in force from and after its passage.

Approved, January 19th, 1846.

CHAPTER 32.

ELECTORAL DISTRICTS.

AN ACT to amend an act entitled "An act to district the territory of Iowa into electoral districts, and to apportion the representatives of each."

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Third, fourth, fifth sixth electoral district apportioned.** That the third district composed of the county of Des Moines, shall be entitled to one member of the council and four members of the house of representatives.

The fourth district composed of the county of Henry, shall be entitled to one member of the council, and two members of the house of representatives.

The fifth district composed of the counties of Jefferson, Wapello and Kishkekosh, shall be entitled to one member of the council, and two members of the house of representatives.

The county of Jefferson shall elect one member, and the counties of Wapello and Kishkekosh one member to the house of representatives.

That the sixth district, composed of the counties of Louisa, Washington, Keokuk, Mahaska and Marion shall be entitled to one member of the council, and three members of the house of representatives; the [31] county of Louisa shall elect one member; the counties of Washington and Keokuk shall elect one member, and the counties of Mahaska and Marion shall elect one member of the house of representatives.

SEC. 2. **Davis and Appanoose set apart.** That the counties of Davis and Appanoose are hereby set apart from the county of Van Buren in the election of members of the house of representatives, and shall be entitled to one

member, and the county of Van Buren to two members of the house of representatives, and the three shall elect two members of the council; as directed in the act to which this is amendatory.

SEC. 3. **In force from its passage.** This act to take effect and be in force from and after its passage.

Approved, January 19th, 1846.

CHAPTER 33.

APPRAISEMENT and REDEMPTION.

AN ACT to amend an act entitled "An act subjecting real and personal estate to execution."

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Appraisement law repealed.** That the third and fourth sections of an act entitled "An act subjecting real and personal estate to execution," commonly called the valuation law, be and the same, are hereby repealed; and also, so much of the ninth section of said act, as requires the officer to notify in writing the defendant in execution, of the time, and place of sale: provided, that nothing in this act contained, shall be so construed as to affect any rights which may have accrued under and by virtue of the said sections, hereby repealed, but the same shall be prosecuted as though this act had not been passed.

SEC. 2. **Duty of sheriff on sales under execution.** When any real estate shall be sold on execution, under this act, the sheriff shall give to the purchaser a certificate, showing the amount for which said real estate was sold and, that the purchaser will be entitled to a deed, at the expiration of fifteen months from said sale, unless redeemed, as hereinafter provided; and the said purchaser shall not be required to have said certificate recorded.

SEC. 3. **Right of redemption in one year.** It shall be lawful for any defendant in execution, whose [32] real estate may be sold on execution, to redeem the same within one year after the sale thereof; by paying to the clerk of the court, who issued the same, for the use of the purchaser, the amount of said sale, with ten per cent per annum added thereto; and the said clerk shall give said defendant a certificate of redemption, which shall be a full satisfaction of said sale; and said clerk shall enter on his judgment docket, a memorandum, stating said real estate was redeemed, and the date of such redemption.

SEC. 4. **Judgment creditors may redeem.** That, if the real estate so sold, shall not be redeemed, by the defendant in execution, within one year from the sale as above:—provided, any judgment creditor may, within three months thereafter redeem the same, by paying to the clerk of the court, from which the execution issued, for the use of the purchaser the amount of the purchase money, with ten per cent. per annum, added thereto; and the said clerk, shall give said judgment creditor, a certificate of redemption, showing the amount paid by him, and that he will be entitled to a deed, at the expiration of fifteen months from the sale, if not redeemed from him by some other judgment creditor; and the said clerk shall enter a memorandum of the same on his judgment docket; and any other judgment creditor may in the same manner, within the said three months, redeem from the first or any other judgment creditor, by paying to the said judgment creditor,

the amount of his debt, in full satisfaction thereof, and the amount paid by said judgment creditor, to the clerk as aforesaid, with ten per cent. per annum added thereto, and at the expiration of said fifteen months, from the sale, the sheriff shall make a deed to the purchaser, or to the judgment creditor, who last redeemed, as the case may require.

SEC. 5. **In force 1st April, 1846.** This act to be in force from and after the first day of April next.

Approved, January 19th, 1846.

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[33] CHAPTER 34.

JUDGMENT LIENS.

AN ACT concerning the lien of judgments.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Judgment not a lien upon defendant's equitable interest in real estate if not upon record in county where judgment rendered.** That no judgment in the district court in any county in this territory shall be a lien upon the equitable interest of the defendant in real estate: provided, said equitable interest does not appear of record in the county wherein said real estate is situated.

SEC. 2. **Not a lien upon real estate after the expiration of ten years.** No such judgment shall be a lien upon the real estate of the defendant after the expiration of ten years from the rendition thereof.

SEC. 3. **Judgment to be a lien ten years from rendition, upon real estate in county where rendered.** Such payment shall be a lien upon the real estate of the defendant situated in any county where such judgment shall be rendered ten years from the rendition thereof.

SEC. 4. **Act in force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 19th, 1846.

CHAPTER 35.

TERRITORIAL AND COUNTY ROADS.

AN ACT relative to re-locations of territorial and county roads.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Duty of county commissioners in the re-location of roads for less distance than three miles.** That when any person or persons present to the commissioners of any county in this territory for an alteration or re-location of any county or territorial road for a less distance than three miles, the commissioners may, at their discretion, appoint [34] viewers and surveyor, as is now provided for by law. Said reviewers, after notification of their appointment, shall at their earliest convenience, meet at such time and place as a majority of them shall agree, and after being sworn according to

law, shall proceed to examine said route and report for or against, as their judgment shall determine: provided, that no reviewer, surveyor or other person employed, shall have any claim upon the county treasury for such services; but all expenses of such reviewers shall be paid by the petitioners in advance, if required.

SEC. 2. **Compensation to reviewers and surveyors.** That the compensation allowed under the provisions of this act shall not exceed that now fixed by law, and may be such as the parties may agree upon.

SEC. 3. **Act in force from passage.** This act to take effect and be in force from and after the first day of June next.

Approved, January 19th, 1846.

CHAPTER 36.

APPROPRIATIONS, 1845-6.

AN ACT to provide for the compensation of the members of the present legislature, and for other purposes.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Pay of council.** That the following sums are hereby appropri-[35]-ated, out of any moneys in the hands of the secretary of the territory of Iowa, for the following purposes, viz:

For pay, and mileage of the members of the council, two thousand four hundred and six dollars.

SEC. 2. **Officers of council.** For the pay of the officers of the council, seven hundred and thirty-two dollars.

SEC. 3. **Pay of representatives.** For pay and mileage of the members of house of representatives, four thousand five hundred and forty-six dollars and fifty cents. For pay of the officers of the house of representatives, seven hundred and forty-seven dollars.

SEC. 4. **Pro tem officers of council.** For pro tem officers of the council, twenty-seven dollars.

SEC. 5. **Pro tem officers of the house.** For pay of pro tem officers of the house of representatives, eighteen dollars.

SEC. 6. **Speaker of the house—speaker pro tem of house.** For extra pay to the speaker of the house of representatives of the present session, one hundred and forty-four dollars. For extra pay to J. M. Robinson as speaker pro tem of the house of representatives, six dollars.

SEC. 7. **Jesse Williams.** To Jesse Williams, for moneys paid out for sundries, as per bills and receipts rendered, one hundred and sixty-five dollars.

SEC. 8. **John Taylor.** To John Taylor, for purchase of stationery at St. Louis, ten dollars.

SEC. 9. **Lyman Holt, Williard Barrow, maps, J. L. Campbell, Isaac Havens.** To Lyman Holt, for crepe furnished for council and house of representatives, eight dollars and seventy-five cents; to Williard Barrows, for maps furnished the legislature, of the last session, seventy-five dollars; to J. L. Campbell, for cash paid for brush and letter bags, one dollar and fifty cents; to Isaac Havens, for axe handles furnished, fifty cents.

SEC. 10. **A. P. Wood.** To A. P. Wood, for papers furnished the members of the present legislature, one hundred and thirteen dollars.

SEC. 11. **Palmer, Palmer.** To Messrs. Palmer, for papers furnished the members of the present legislature, two hundred and four dollars; for incidental printing, one hundred and forty dollars and sixty-three cents.

SEC. 12. **Malcolm Murray, Lyman Holt, E. C. Lyon, J. Weineke, John Powell, Lyman Holt.** To M. Murray, for sprigs, pulley, etc., one dollar and fifty cents; to Lyman Holt, for half ream letter paper, two dollars and fifty cents, and to E. C. Lyon for an additional half ream of paper, two dollars and fifty cents, and to Julius Weineke, for cutting wood for secretary's office and library, eighteen dollars and seventy-five cents; to John Powell, for shovel, tongs, and sundries, per bill rendered, three dollars and three cents; to Lyman Holt, for quills, two dollars.

SEC. 13. S. C. Trowbridge, postage. To S. C. Trowbridge, for postage on documents, papers, [36] letters, etc., the sum of one hundred and seventy-four dollars and fifty cents.

SEC. 14. **Hughes and Waters.** To Hughes and Waters, for papers furnished the members of the legislature, for the present session, six dollars and fifty cents.

SEC. 15. **George Greene.** To George Greene, for papers furnished the legislature, four dollars.

SEC. 16. **H. Crittendon.** To H. Crittenden, for stationery furnished for use of legislative assembly, two hundred and twenty-two dollars and seventy-five cents.

SEC. 17. **Peter Jackson.** To Peter Jackson, for freight on boxes of stationery, five dollars and twenty-three cents.

SEC. 18. **J. H. Fisher.** To J. H. Fisher, service under direction of legislature, six dollars.

SEC. 19. **E. M. Ingrahm.** To E. M. Ingrahm, for ink, fifty cents.

SEC. 20. **E C. Lyons.** To E. C. Lyon, for furniture for use of legislature, as per bill, seventeen dollars and eighty-four cents.

SEC. 21. **Peter Roberts.** To Peter Roberts, for repairing desk-locks three dollars.

SEC. 22. **Theodore Sanxay.** To Theodore Sanxay, for articles furnished for the use of the legislature, eleven dollars and thirty-four cents.

SEC. 23. **J. Reid.** To J. Reid, for ink furnished for the use of the legislature, twenty-two dollars and ninety cents.

SEC. 24. **D. Cox.** To D. Cox, for repairing three fire-places, of the capitol, per order of the secretary of the territory, three dollars each, nine dollars.

SEC. 25. **J. Hughes.** To J. Hughes, for eight volumes of Nile's Register for the use of the library, twenty-three dollars and twelve cents.

SEC. 26. **James Trimble.** To James Trimble, for services in swearing in members, three dollars.

SEC. 27. **William Thompson.** To Wm. Thompson, the sum of two hundred and eighty-three dollars, for pay for indexing, superintending, and distributing the journals of the house.

SEC. 28. **Peter Conboy.** To Peter Conboy the sum of fifteen dollars.

SEC. 29. **A. P. Wood.** To A. P. Wood, for papers furnished the members of the council, during the present session, the sum of thirty-three dollars.

SEC. 30. **S. C. Trowbridge.** To S. C. Trowbridge, for postage on documents, papers, letters, etc., during the present session, one hundred and eleven dollars and eighteen and one-fourth cents.

SEC. 31. **Palmers, printers.** To A. H. and G. D. Palmer, for incidental printing, and papers furnished members of the council, four hundred and thirty-three dollars and thirty-eight cents.

[37] SEC. 32. **Palmers, printers.** To A. H. and G. D. Palmer, forty-seven dollars and fifty cents; being the balance due for printing for council during the last session.

SEC. 33. **J. S. Stephenson.** To John S. Stephenson, the sum of eighteen dollars, as expenses, etc., in attending the remains of J. M. Robertson, deceased, member of the house of representatives, to his residence in Scott county.

SEC. 34. **J. F. Kinney.** To J. F. Kinney, two hundred and fifty dollars, for preparing the journals of the council of the present session, for the press, superintending the publication thereof, and indexing and distributing the same.

SEC. 35. **Hunor and Davis.** That Jacob Hunor, of Lee county, and E. W. Davis, of Desmoines county, be allowed the sum of three dollars per day each, for nineteen days' services as members of committee to examine the affairs of the penitentiary.

SEC. 36. **William Greene.** To William Greene, for binding eight volumes of Nile's Nat. Register for territorial library, $1.25, per volume, $10.00.

Approved, January 19th, 1846.

CHAPTER 37.

CONVENTION.

AN ACT to provide for the election of delegates to a convention to form a constitution and state government.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Election of delegates first Monday April.** That there shall be a poll opened at the township election in April next, for the election of delegates to a convention, to form a constitution for the future state of Iowa; and the notice for said election for delegates, shall be given at least twenty days before the holding thereof, and the manner of giving said notice, and all other proceedings connected with said election, shall be in accordance with the provisions of the law providing for the election of members of the council and house of representatives in this territory, so far as the same may be applicable.

[38] SEC. 2. **Apportionment of members.** That the convention shall consist of thirty-two members; to be elected within the several organized counties in this territory as follows, to-wit:

Desmoines	3
Lee	3
Van Buren	3
Jefferson	2
Henry	2
Davis	1
Appanoose and Kishkekosh	1
Wapello	1
Iowa, Marion, Polk and Jasper	1
Mahaska	1
Keokuk	1
Washington	1
Louisa	1
Muscatine	1
Johnson	1
Linn and Benton	1

Cedar 1
Scott 1
Clinton 1
Jackson 1
Jones 1
Clayton 1
Dubuque, Delaware, Buchanan, Fayette and Blackhawk 2

The said delegates shall be citizens of the United States and shall have resided six months within this territory, before the election aforesaid.

SEC. 3. **Duty of judges of election.** That the judges of election, in the several townships and precincts shall certify the votes for delegates, in the same manner, as is provided by law for the election of members of council and house of representatives, and shall send returns of said election, so certified to the clerk of the board of county commissioners, who shall open said returns, and certify the election of delegates, in the same manner as is provided by law, for the election of members of the legislative assembly; and in case of a tie vote between any of the candidates for delegates, it shall be the duty of the clerk of the board of county commissioners, to order a new election for the purpose of effecting an election in said tied vote, which election shall be held within twenty days after said first election.

[39] SEC. 4. **Meeting of convention first Monday in May.** That the said delegates elect, shall meet at Iowa City, on the first Monday of May, A. D. 1846, and proceed to form a constitution, and state government for the future state of Iowa.

SEC. 5. **Publication and vote on constitution.** That when a constitution, and form of state government shall have been adopted by said convention, they shall cause the same to be published, and at the next general election succeeding the formation of a constitution and state government by said convention, the qualified electors who may have resided thirty days in this territory next preceding said election, and who are entitled in all other respects to vote for members of the legislative assembly of said territory, shall be, and they are hereby authorized, to vote for or against a convention. The vote for and against a constitution shall be counted, and returned to the clerk of the board of county commissioners, who shall, in the same manner, transmit the returns of said votes for and against the constitution, to the secretary of the territory; who shall open and count the same, as soon as they are all received from the several counties in this territory, in the presence of the governor; who shall issue his proclamation declaring the result.

SEC. 6. **Qualification of voters.** That all electors, qualified as aforesaid, may vote for or against said constitution in any county in said territory, whether a resident of such county or not. But in the election of delegates to the convention the said electors shall not vote out of the counties wherein they have their residence.

SEC. 7. **Election how held.** That the several elections, provided for in this act, shall in all respects, be conducted in accordance with the provisions of an act regulating general elections in this territory, so far as the same is applicable, and except as is herein specially provided for.

SEC. 8. **Presentation of constitution to congress.** That said constitution and form of state government, shall, if ratified at the election specified in the fifth section of this act, be presented to the congress of the United States, at the next ensuing session thereof, for admittance into the Union upon an equal footing with the original states; and with such other provisions and conditions as may be provided for by the convention, framing said constitution, and form of state government; but shall not be presented for admittance until the same shall be accepted and ratified, by the qualified electors of this territory.

SEC. 9. **Duty of secretary of territory.** That it shall be the duty of the secretary of the territory, to provide a suitable room for the meeting of the convention; also to provide the same with furniture, stationery, and all other things necessary for the comfort and convenience of the convention.

SEC. 10. **Pay of delegates.** That the members of said convention shall be entitled to [40] three dollars for every twenty miles travel to and from the place of holding said convention, and three dollars per diem for their services, to be paid in the way and manner as may hereafter be provided for by the legislative assembly of the territory or state of Iowa.

SEC. 11. **In force from passage.** This act shall take effect, and be in force from and after its passage.

Approved, January 17th, 1846.

CHAPTER 38.

ROADS.

AN ACT to amend an act entitled "An act to prevent and punish the obstruction of roads and highways."

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Penalty for obstructing roads.** That if any person or persons, shall obstruct any public road, or highway in this territory, by falling any tree, or trees across the same, or by encroaching upon, or fencing, or ploughing up the same, or by placing any other obstruction thereon, or who shall destroy or injure any bridge or causeway, or remove any plank or timber therefrom, without being legally authorized so to do, shall upon conviction thereof, before any court having competent jurisdiction, be fined, in any sum not exceeding one hundred dollars, nor less than ten dollars, and shall be imprisoned in the county jail until the fine and costs are paid.

SEC. 2. **Repealing clause.** That the first section of the act to which this is amendatory, be and the same is hereby repealed.

SEC. 3. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 1st, 1846.

[41] CHAPTER 39.

FRANCES E. ANDERSON.

AN ACT for the relief of Mrs. Frances E. Anderson.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Mrs. Anderson empowered to convey a lot.** That Mrs. Frances E. Anderson, widow of the late Jeremiah G. Anderson, of Lee county, be, and she is hereby authorized and empowered to convey by deed in fee simple, to Mr. W. R. and F. P. Johnson of Brown county, Kentucky, a certain brick house and lot, with all the appurtenances thereunto belonging, in the town of Nashville, in the county of Lee, and territory of Iowa; being the one

occupied by James Anderson, deceased, previous to the time of his death, and now occupied by John Smith, and by reference to the records of said county, the description of which will more fully appear; providing however, that said sale shall in no wise effect any lien, or incumbrance now existing against said property.

SEC. 2. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 2d, 1846.

CHAPTER 40.

ROADS.

AN ACT to legalize territorial and county roads.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Certain roads declared legal.** That the territorial and county roads, which have been laid out by authority of the territorial legislature, or by order of the board of commissioners of any county of this territory, the return of the reviewers and the surveyors plat of which roads have been accepted by the commissioners of the counties through which such roads [42] may run, shall be, and are hereby, declared legal roads, as fully and effectually as though the said returns and plats had been recorded at length in the respective counties.

SEC. 2. **Alterations when legal.** That all alterations of territorial or county roads, made by order of any board of commissioners of the proper county, the returns and plats of which have been accepted by said board, shall be, and are hereby declared legal, as though said alterations had been recorded, as provided for in the laws of this territory regulating roads and highways.

SEC. 3. **Roads to be recorded.** That it shall be the duty of the board of commissioners of the respective counties within this territory, to furnish their clerks with suitable record books, to be kept for the purpose of recording all roads, and alterations thereof, which may be made within their respective counties.

SEC. 4. **Clerks to record and allowance for.** That it shall be the duty of the several clerks of the board of county commissioners, in all counties where a record of territorial and county roads has not been kept, immediately on the receipt of the record books provided for in the third section of this act, to record all the surveyors plats of roads on file in their offices, and which roads have not been vacated; for which services, he shall be allowed such compensation as is now provided by law for similar services.

SEC. 5. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 2d,1846.

CHAPTER 41.

ELI AND LUCY P. DOW.

AN ACT to dissolve the bonds of matrimony existing between Eli Dow and Lucy P. Dow of the county of Lee.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Mr. and Mrs. Dow divorced.** That the bonds of matrimony, existing between Eli Dow, and Lucy P. Dow, of the county of Lee, be and the same are hereby dissolved.

SEC. 2. **In force from passage.** This act shall take effect and be in force from and after its passage.

Approved, January 3d, 1846.

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[43] CHAPTER 42.

E. G. WHITE.

AN ACT to change the name of E. G. White, of Dubuque county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Name changed from White to Anderson.** That the name of E. G. White, of Dubuque county, shall be changed to that of E. G. Anderson.

SEC. 2. **Not to affect his indentures.** That this act shall not in any manner, affect said minor's indenture.

SEC. 3. **In force from passage.** This act to be in effect from its passage.

Approved, January 3d, 1846.

CHAPTER 43.

DUBUQUE COUNTY.

AN ACT to repeal an act entitled "An act to authorize the board of commissioners of the county of Dubuque to levy a tax on all real estate and personal estate," approved, May 26, 1845.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Repeal of act of May 26th, 1845.** That an act, entitled "An act to authorize the board of commissioners of the county of Dubuque to levy a tax on all real estate," &c., approved May 26, 1845, be and the same is hereby repealed: provided, that nothing in this act contained, shall be so construed as to provent the collection of the tax, assessed for the year eighteen hundred and forty-five, but the same shall be collected, as though this act had not been passed.

SEC. 2. **In force from passage.** That this act shall take effect and be in force from and after its passage.

Approved, January 9th, 1846.

[44] CHAPTER 44.

MARION COUNTY.

AN ACT to amend an act entitled "An act to organize the County of Marion," approved, June 10th, 1845.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Mahaska to have cognizance of crimes.** That the county of Mahaska shall have cognizance and jurisdiction, of all crimes or violations of the criminal laws of this territory, committed within the limits of the said county of Marion, prior to the organization of said county of Marion, in all cases where prosecutions have been commenced, under the judicial authorities of said Mahaska county, prior to the passage of this act.

SEC. 2. **Marion to have, where prosecutions had not been commenced, etc.** That the county of Marion shall have cognizance and jurisdiction of all crimes or violations of the criminal laws of this territory, committed within the limits of the said county of Marion prior to the organization of said county in all cases, when prosecutions have not been commenced under the judicial authorities of the county of Mahaska.

SEC. 3. **Treasurer of Mahaska, to collect taxes.** That the treasurer of Mahaska county, be and he is hereby authorized, to collect all uncollected taxes or revenue assessed in the county of Marion, prior to the organization of said county, as fully and effectually as if the act to which this is amendatory, had not been passed.

SEC. 4. **Repealing clause.** That all acts and parts of acts, contravening the provisions of this act, be and the same are hereby repealed.

SEC. 5. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 9th, 1846.

[45] CHAPTER 45.

WYOMING ROAD.

AN ACT to establish and confirm an alteration in the Wyoming road.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Certain survey of established.** That the alteration in the Wyoming road, from the town of Wyoming, in the county of Muscatine, to Iowa City, recommended by reviewers, appointed by the board of commissioners of the county of Johnson, at the farm of Governor Robert Lucas, near Iowa City, be and the same is hereby established, and confirmed, as a part of said Wyoming road.

SEC. 2. **In force from passage.** This act to be in force from and after its passage.

Approved, January 9th, 1846.

CHAPTER 46.

TREASURER, AUDITOR AND WARDEN.

AN ACT requiring certain officers therein named, to make their annual reports to the executive of the territory of Iowa.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Treasurer, auditor and warden of penitentiary to report annually to the governor.** That the territorial treasurer, territorial auditor, and warden of the Iowa penitentiary, are hereby required to make their annual reports, containing a correct synopsis of all the important matters pertaining to their respective offices, with such suggestions as they may deem proper, to the executive of the territory, on or before the first day of November in each year.

SEC. 2. **Repealing clause.** All acts conflicting with this act, be and the same are hereby repealed.

SEC. 3. **Act in force from passage.** That this act shall take effect and be in force from and after its passage.

Approved, January 9th, 1846.

[46] CHAPTER 47.

KEOKUK COUNTY.

AN ACT to provide for the appointment of commissioners, to re-locate the county seat of Keokuk county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Commissioners to relocate county seat.** That Joseph Foster, of the county of Van Buren, Joshua Owens, of the county of Lee, and John Brophy, of the county of Clinton, be and they are hereby appointed commissioners, to relocate the county seat of Keokuk county.

SEC. 2. **Commissioners to meet at Sigourney.** Said commissioners or a majority of them, shall meet at the town of Sigourney, in said county, on the second Monday of May next; or at such other time thereafter, as a majority may agree upon, and before entering upon the discharge of their duties, shall take and subscribe before some justice of the peace of said county, or other person authorized by law to administer the same, the following oath—"You do solemnly swear or affirm, that you are not, either directly or indirectly interested in the location of the county seat of said county, that you are not, directly or indirectly interested in any land, or lands, or land claims of any description, within the limits of the same; and that you will faithfully and fully discharge the duties incumbent upon you, without

favor or affection, to the best of your judgment," which oath so taken and subscribed, shall be filed in the office of the clerk of the board of county commissioners in said county.

SEC. 3. **Duty of commissioners.** Said commissioners when qualified as aforesaid, shall proceed to select a suitable site for the county seat of said county; taking into consideration, the relative advantages, and disadvantages, of different points, the present and future interest and convenience of the population of said county; and among the several points, so examined, including the town of Sigourney: they shall select such point as they may deem most suitable, for the county seat of said county.

SEC. 4. **To name the new location.** That as soon as said commissioners shall agree upon such point, for the county seat of said county, they shall reduce a proper and particular description of the same to writing, giving said point a name, [47] which description, properly certified as the point selected, shall be filed with the clerk of the board of county commissioners.

SEC. 5. **Electors to decide between the two points.** That if the commissioners shall determine that the town of Sigourney is a proper and suitable point, for the county seat of said county said decision properly certified, shall be reduced to writing, and filed with the clerk of the board of county commissioners of said county, and the same shall be and remain the county seat of said county, as provided by law; but if any other point should be selected, as aforesaid, then, the clerk of the board of county commissioners, shall give at least twenty days' notice, by posting up the same in at least four of the most public places in said county, that at the next August election, a poll will be opened, for the qualified electors of said county, to determine by ballot, which of the two points, the one so selected by the commissioners, or the town of Sigourney, shall be the county seat of said county. Those voting for the town of Sigourney, shall write the word "Sigourney" on their ballots. Those voting for the point selected by the commissioners as aforesaid, shall write on their ballots the name agreed on by the commissioners, for the new location, and whichever point shall receive a majority of votes, cast at said election shall be, and remain forever afterwards, the county seat of Keokuk county.

SEC. 6. **Compensation of commissioners.** Said commissioners shall receive two dollars per day, for each day necessarily employed in the discharge of the duties of their appointment, and two dollars for every twenty miles travel, in going and returning, to be paid out of any moneys in the treasury of Keokuk county, not otherwise appropriated.

SEC. 7. **Action of county commissioners.** That if the qualified electors, shall decide at said election, in favor of the new location, made by the commissioners aforesaid, then, the commissioners of said county, shall immediately proceed to make a survey of said new location; and as soon as the plat of the survey of the new location is filed, and recorded in the office of the clerk of the board of county commissioners, the said commissioners shall make such indemnity to the lot holders of the town of Sigourney, as they may have sustained, to reimburse them for any loss, or losses sustained. by the removal of the county seat: provided, that any person aggrieved, by the decision of the board of county commissioners, under and by virtue of this act, may take an appeal to the district court, as in other cases.

SEC. 8. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 9th, 1846.

[48] CHAPTER 48.

JOSEPH AND ANN HARTLEY,

AN ACT to divorce Joseph Hartley from his wife Anna Hartley.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Hartley and wife divorced.** That the bonds of matrimony existing between Joseph Hartley of Scott county and his wife Ann Hartley, be and the same is [are] hereby dissolved.

SEC. 2. **Act in force from passage.** This act shall take effect and be in force from and after its passage.

Approved, January 12th, 1846.

CHAPTER 49.

JOSEPH AND JANE HEWITT.

AN ACT to divorse Joseph Hewitt from his wife Jane Hewitt.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Hewitt and wife divorced.** That the bonds of matrimony now existing between Joseph Hewitt and his wife Jane, be and the same are hereby dissolved.

SEC. 2. **In force from passage.** This act shall take effect and be in force from and after its passage.

Approved, January 12th, 1846.

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[49] CHAPTER 50.

WYOMING AND MOSCOW ROAD.

AN ACT to vacate a part of the territorial road, from Wyoming to Moscow.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Portion of road vacated.** That so much of the territorial road leading from Wyoming to Moscow, as lays west of the territorial road from Bloomington in Muscatine county, to Whittlesey's mill in Cedar county, be and the same is hereby declared vacated.

SEC. 2. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, December 12th, 1845.

CHAPTER 51.

ROAD FROM OSKALOOSA.

AN ACT to locate a territorial road, from Oskaloosa in Mahaska county to Knoxville in Marion county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Commissioners to locate road from Oskaloosa to Knoxville.** That Britton Edwards and Newton Severs of Mahaska county and William C. Paine of Marion county, be and they are hereby appointed commissioners, to lay out and establish a territorial road, from Oskaloosa, in Mahaska county, to Knoxville in Marion county.

SEC. 2. **Commissioners to meet at Oskaloosa.** Said commissioners shall meet in Oskaloosa, on the second Monday in March next, and proceed to locate said road, by taking to their assistance, two chain men, and one marker, (the said Newton Severs acting as surveyor;) they shall take an oath before some justice of the peace, before entering on their duties for the faithful performance of the same.

SEC. 3. **Nearest route between.** Said road shall be laid out on the nearest and most practi- [50] cable route, for a road, taking into consideration the public interest, and at the same time doing as little damage to private property as the public convenience will admit.

SEC. 4. **To be marked and staked.** The commissioners aforesaid shall cause said road to be plainly staked out through prairies and plainly blazed through the timber, and return a complete plat of the same to the board of county commissioners, of the counties of Mahaska and Marion; stating the number of days spent on each; and the board of county commissioners shall allow a reasonable compensation per day, for each day necessarily spent in their respective counties, to be paid out of any money in the treasury, not otherwise appropriated; and said road when laid out, shall be opened and kept in repair, as other public roads are.

SEC. 5. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 12th, 1846.

CHAPTER 52.

FERRY AT FREDONIA.

AN ACT to authorize Edmund C. Whipple & Co., to establish and keep a ferry across the Iowa and Cedar rivers at the junction of said rivers.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Whipple & Co. authorized to establish.** That Edmund C. Whipple & Co., their heirs and assigns, be and they are hereby authorized, to establish and keep a ferry across the Iowa and Cedar rivers, at the junction of said rivers, opposite to the town of Fredonia, in Louisa county; where the road leading from Columbus City to Bloomington crosses said Iowa river, and where the road leading from Fredonia to Iowa City crosses the

Cedar river; for the term of ten years: provided, said Edmund C. Whipple & Co., shall within one year after the passage of this act, procure a good horse, or steam ferry boat, with power sufficient to propel the same, for the safe transportation of all persons, and their property, across either of said rivers when practicable and without delay.

SEC. 2. **County not to license one if they perform.** Should Edmund C. Whipple and company, establish and [51] keep said ferry according to law, and the provisions of this act, no license shall be granted by the board of county commissioners of said Louisa county, to any other person, to keep a ferry during said term of ten years, within one mile of said ferry, unless the board of commissioners shall deem it indispensably necessary to the public convenience: provided, that said ferry, when established, shall not interfere with the rights of any other person, or persons, or any ferry already established, or licensed by the board of county commissioners of said county.

SEC. 3. **Saving clause.** Any future legislature may amend or repeal this act.

SEC. 4. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 12th, 1846.

CHAPTER 53.

THOMAS AND PHEBE WILKIE.

AN ACT to divorce Phebe Elizabth Wilkie from her husband Thomas Wilkie.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Wilkie and wife divorced.** That the bonds of matrimony, existing between Thomas Wilkie, and Phebe Elizabeth Wilkie, of the county of Lee, be and the same are hereby dissolved.

SEC. 2. **In force from passage.** This act to take effect and be in force from and after its passage.

Become a law, January 12th, 1846.

CHAPTER 54.

THOMAS AND AMELIA SCANLIN.

AN ACT to divorce Amelia Scanlin from her husband Thomas Scanlin.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Scanlin and wife divorced.** That the bonds of matrimony, heretofore ex-[52]-isting between Thomas Scanlin and Amelia Scanlin, are hereby dissolved.

SEC. 2. **Wife's name changed to Amelia Tull.** That the name of the said Amelia Scanlin, be changed to that of Amelia Tull.

SEC. 3. **In force from passage.** This act to take effect and be in force from and after its passage.

Become a law January 12th, 1846.

CHAPTER 55.

NATHANIEL AND JEMIMA SNYDER.

AN ACT to divorce Jemima Snyder from her husband Nathaniel Snyder.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Snyder and wife divorced.** That the bonds of matrimony, heretofore existing between Jemima Snyder of the county of Linn, and her husband Nathaniel Snyder, of the same county, be and the same are hereby dissolved.

SEC. 2. **In force from passage.** This act to be in force from and after its passage.

Become a law January 12th, 1846.

CHAPTER 56.

DIVORCES.

AN ACT to divorce certain person therein named.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Phillips and wife divorced.** That the bonds of matrimony heretofore existing between Mary Ann Phillips of the county of Desmoines, and her husband Aaron Phillips, be and the same are hereby dissolved.

SEC. 2. **Baltzer and wife divorced.** That the bonds of matrimony heretofore existing between Martha Baltzer of the county of Desmoines and her husband Thomas Baltzer, be and the same are hereby dissolved, and that the said Mar- [53] tha be allowed to possess and retain the guardianship and protection of her two minor children, John Baltzer and Francis Baltzer, until they severally become of age.

SEC. 3. **In force from passage.** That this act take effect and be in force from and after its passage.

Become a law January 12th, 1846.

CHAPTER 57.

HENRY C. SMITH.

AN ACT to legalize the acts of Henry C. Smith.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Acts as constable legalized.** That the official acts of Henry C. Smith, as a constable, within the county of Davis, in this territory, be and they are hereby made good and valid in law, and shall have the same effect

as if no informality had occurred in the filing of his bond or other requirements of the act entitled "An act for the election of constables and defining their duties," approved January 24th, 1839.

Approved, January 13th, 1846.

CHAPTER 58.

ROAD FROM FAIRFIELD.

AN ACT to relocate a territorial road from Fairfield in Jefferson county to the Agency City, in Wapello county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Road from Fairfield to Agency City.** That David Sears and Henry B. Mitchell of the county of Jefferson, and Nathaniel H. Gates of the county of Wapello, be and they are hereby appointed commissioners to relocate that part of a territorial road, leading from Fairfield to Ottumwa, which lies between Fairfield and Agency City; said commissioners shall meet in Fairfield, on the third Monday in March next; or on such other day as [54] a majority of them may agree on, within three months thereafter, and proceed to discharge the duties herein required of them; commencing at Fairfield, thence the nearest and best route to William P. Holmes, in Jefferson county; thence the nearest and best route to Agency City, in Wapello county; said commissioners shall in all other respects, be governed by an act to provide for laying out and opening territorial roads, approved December 29th, 1838.

SEC. 2. **In force from passage.** This act to be in force from and after its passage.

Approved, January 13th, 1846.

CHAPTER 59.

ROAD FROM DUBUQUE.

AN ACT to declare a certain road in the county of Dubuque, to be a territorial road, and to locate a territorial road from Floyd's in said county, via Colony in Delaware county to Boardman's precinct, in the county of Clayton, thence to the Neutral Ground.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Road from Dubuque to Floyds established.** That the county road in the county of Dubuque, leading from Dubuque City via Benton's furnace to John Floyd's, in said county, be, and the same is hereby declared to be a territorial road.

SEC. 2. **Commissioners to survey one from Floyds.** That John Floyd, of the county of Dubuque, David Moreland, of the county of Delaware, and Elisha Boardman, of the county of Clayton, be, and they are hereby appointed commissioners, to locate and mark out a territorial road, commencing at Floyd's, in the county of Dubuque, and running via the Colony in Delaware

county, to Boardman's precinct in the county of Clayton; thence on the nearest, best and most eligible ground, to the boundary line of Clayton county in the direction of Fort Atkinson.

SEC. 3. **Commissioners to meet in six months.** Said commissioners or a majority of them shall meet at the house of John Floyd, in Dubuque county, within six months after the passage of this act, and proceed to locate and mark out said road as above designated.

SEC. 4. **Compensation of viewers, etc.** That said commissioners and hands employed in locating [55] said road, shall receive for their services, such sum as the board of commissioners of the respective counties through which said road passes, shall deem to be just and right.

SEC. 5. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 13th, 1846.

CHAPTER 60.

APPANOOSE COUNTY.

AN ACT for the organization of the county of Appanoose.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Appanoose county organized.** That the county of Appanoose be, and the same is hereby organized, from and after the first Monday of August next, and the inhabitants thereof shall be entitled to all the privileges and rights to which by law, the inhabitants of other counties in this territory are entitled; and the said county of Appanoose, shall constitute a part of the first judicial district of the territory.

SEC. 2. **First general election in August.** That the first general election in and for said county, shall be held on the first Monday in the month of August next, at which time the county officers for said county, shall be elected; and also such number of justices of the peace and constables as may be ordered by the clerk of the district court of said county; said clerk having due regard to the convenience of the people.

SEC. 3. **Duty of the clerk on giving notice.** That it shall be the duty of the clerk of the district court, in and for said county, to give notice of the first general election in said county, grant certificates of election, and in all respects discharge the duties required by law, to be performed by clerks of the board of county commissioners in relation to general elections, until a clerk of the [56] board of county commissioners for said county, may be elected and qualified.

SEC. 4. **Clerk to discharge duty of sheriff.** That it shall be the duty of the clerk of the district court, in said county, to perform and discharge all the duties required by law, to be performed by sheriffs in relation to general elections, until a sheriff for said county shall be elected and qualified.

SEC. 5. **Term of officers to be elected.** That the term of office of the county officers elected at the first general election under the provisions of this act, shall expire on the day of the general election for the year 1847, and the term of office of the justices of the peace and constables elected as aforesaid, shall expire on the first Monday in the month of April, 1847.

SEC. 6. **Appointment of clerk.** The clerk of the district court for said county, may be appointed at any time after the passage of this act.

SEC. 7. **In case of vacancy sheriff of Davis to act.** In case of a vacancy in the office of the clerk of the district court for said county, it is hereby made the duty of the sheriff of Davis county, to perform the duties required by this act, to be performed by said clerk.

SEC. 8. **Assessment of taxes.** That there shall be no assessment or tax levied by the authorities of Davis county, within the limits of said county of Appanoose, for the year 1846, but such assessment may be made by the county assessor elected at the first general election in and for said county of Appanoose, which assessment may be made at any time prior to the first Monday in the month of October, 1846.

SEC. 9. **Duty of county commissioners.** That it shall be the duty of the board of county commissioners of said county, to hold a meeting on the first Monday of October, 1846, at which time they shall examine the assessment roll returned to them, and levy such a tax for county and territorial purposes, upon such assessment, for the year 1846, as may be required by law.

SEC. 10. **County treasurer to attend in December.** That the time for the treasurer of said county to attend in each of the townships or precincts, for the purpose of collecting revenue, according to the provisions of the thirty-fourth section of an act entitled "an act to provide for assessing and collecting public revenue," approved 15th February, 1844, shall be during the month of November, and he shall attend at his office at the county seat of said county, during the month of December, to receive taxes from persons wishing to pay the same, for the year 1846.

SEC. 11. **Actions commenced in Davis county.** That all actions at law or equity, in the district court, for the county of Davis, commenced prior to the organization of the said county of Appanoose, where the parties, or either of them reside in the county of Appanoose, shall be prosecuted to final judgment, order or decree, as fully and effectually, as if this act had not been passed.

[57] SEC. 12. **Duty of justices of the peace.** That it shall be the duty of all justices of the peace, residing within the county aforesaid, to return all books and papers in their hands, pertaining to said office, to the next nearest justice of the peace, which may be elected and qualified for said county, under the provisions of this act; and all suits at law, or other official business, which may be in their hands, and unfinished, shall be prosecuted, or completed by the justice of the peace to whom such business or papers may have been returned, as aforesaid.

SEC. 13. **Judicial authorities of Davis.** That the judicial authorities of Davis county, shall have cognizance of all crimes or violations of the criminal laws of this territory, committed within the limits of said county, prior to the first day of August next; provided prosecution be commenced under the judicial authorities of Davis county, prior to said first day of August next.

SEC. 14. **Appanoose county to have jurisdiction, etc.** That said county of Appanoose, shall have cognizance and jurisdiction of all crimes, or violations of the criminal laws of this territory, prior to the first day of August next, in cases where prosecutions shall not have been commenced under the judicial authorities of Davis county.

SEC. 15. **Territory west attached.** That the territory or country west of Appanoose, be and the same is hereby attached to the said county of Appanoose, for election, revenue and judicial purposes.

SEC. 16. **Clerk may keep his office anywhere.** That the clerk of the district court, in and for the said county of Appanoose, may keep his office at any place in said county until the county seat thereof be located.

SEC. 17. **Commissioners to locate county town.** That William Whitacre of Van Buren county, B. P. Baldwin, of Washington county, and Andrew

Leach, of Davis county, be and the same are hereby appointed commissioners to locate and establish the seat of justice of said county of Appanoose. Said commissioners, or a majority of them, shall meet at the office of the clerk of the district court, in and for the said county, on the first Monday in the month of September next, or within thirty days thereafter, as they may agree.

SEC. 18. **Oath of commissioners.** Said commissioners shall first take and subscribe the following oath to-wit: "We do solemnly swear (or affirm) that we have no personal interest, directly or indirectly, in the location of the seat of justice of Appanoose county; and that we will faithfully and impartially locate the county seat of said county, according to the best interests of said county, taking into consideration, the future, as well as the present population of said county;" which oath shall be administered by the clerk of the district court or any other person authorized to administer oaths within said county, and the officer administering said oath, [58] shall certify and file the same in the office of the clerk of the district court of said county, whose duty it shall be to record the same.

SEC. 19. **To make plat etc.** Said commissioners when met and qualified under the provisions of this act, shall proceed to locate the seat of justice of said county; and as soon as they have come to a determination, they shall commit the same to writing, signed by said commissioners, and filed with the clerk of the district court of said county, whose duty it shall be to record the same, and forever keep it on file in his office; and the place so designated shall be the seat justice of said county.

SEC. 20. **Compensation of commissioners.** Said commissioners shall each receive the sum of two dollars per day, for each day they may be necessarily employed in the discharge of the duties enjoined upon them by this act; and two dollars per day for each day traveling to and from the said county of Appanoose, which shall be paid out of the first proceeds, arising from the sales of town lots, in said seat of justice.

SEC. 21. **In force from passage.** This act to take effect, and be in force from and after its passage.

Approved, January 13th, 1846.

CHAPTER 61.

JACKSONVILLE.

AN ACT to authorize the board of commissioners of Clayton county, to change the name of Jacksonville in said county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Commissioners of Clayton co. may change the name of Jacksonville.** That the board of commissioners of Clayton county, be, and they are hereby authorized and empowered, to change the name of Jacksonville in said county, to whatever name a majority of said board shall deem proper; and that the name when so changed shall be and remain the name of said town: provided, there shall be but one change.

SEC. 2. **In force from passage.** This act to take effect, and be in force from and after its passage.

Approved, January 13th, 1846.

[59] CHAPTER 62.

ROAD IN JONES AND DELAWARE.

AN ACT to establish a territorial road in the counties of Jones and Delaware.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Road from Maquoketa in Jones to Olmstead's mills in Delaware co.** That Alfred W. Darling, of Jones county, L. A. Stiles, of Dubuque county, and William Burnham, of Delaware county, be and they are hereby appointed commissioners, to lay out and establish a territorial road, on the nearest and best route from the military road near the bridge across the south fork of Maquoketa river in the county of Jones, to the residence of Alfred W. Darling; thence to B. Bardley's in said county of Jones; thence to intersect the road leading from Jenkin's in Linn county, to Olmstead's mills in Delaware county.

SEC. 2. **Commissioners to meet 1st of April.** Said commissioners shall meet at the house of Wm. Clark, in the county of Jones, on the first Monday of April next, or on such other day as a majority of them may agree, within thirty days thereafter, and proceed to the discharge of the duties required of them by this act.

SEC. 3. **Duty of commissioners.** Said commissioners shall in all respects, be governed by the provisions of the act to provide for laying out and opening territorial roads, approved, December 29th, 1828.

SEC. 4. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 13th, 1846.

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[60] CHAPTER 63.

ROAD FROM SIGOURNEY.

AN ACT to establish a terrtiorial road from Sigourney, in Keokuk county to Washington, in Washington county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Road from Sigourney to Washington.** That William Bosy and Joel Long, of the county of Keokuk, and James Dorson, of the county of Washington, be and they are hereby appointed commissioners, to lay out and establish a territorial road, from Sigourney in the county of Keokuk, to Washington in Washington county. Said commissioners shall meet in Sigourney, on the first Monday in March next, or on such other day as a majority of them may agree upon, within six months after the passage of this act, and proceed to discharge the duties herein required of them; commencing at the public square in Sigourney; thence the nearest and best practicable route, to Washington: provided however, that said commissioners may, should they deem it expedient, terminate the review and survey of said road, at the western line of Washington county, by intersecting said road with the road leading from Washington, to the western line of said county of Washington.

SEC. 2. **Duty of commissioners.** Said commissioners shall in all other respects be governed by an act to provide for laying out and opening territorial roads, approved, January 17th, 1840.

SEC. 3. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 14th, 1846.

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[61] CHAPTER 64.

WILLIAM AND RACHEL EVANS.

AN ACT to divorce William H. Evans from his wife Rachel Evans.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Evans and wife divorced.** That William H. Evans, of the county of Davis, be divorced from his wife Rachel Evans.

SEC. 2. **In force from passage.** This act to take effect, and be in force from and after its passage.

Become a law, January 14th, 1846.

CHAPTER 65.

BLOOMINGTON.

AN ACT to amend an act entitled "An act to incorporate the town of Bloomington," approved, January 23d, 1839.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Recorder not entitled to a vote.** That the recorder of said town of Bloomington, shall not have a vote in any question before the president and trustees of said town of Bloomington, and shall exercise no other privileges than those expressly granted in the act to which this is amendatory.

SEC. 2. **Mode of selling lots for taxes.** That when it shall be necessary to sell real estate, in said town for non payment of taxes, the collector shall give four weeks notice of such sale, by posting on the court house door of said town, a list of the property to be sold, the time when, and the place where the same is to be sold; and the collector shall proceed to sell such real estate, to any bidder who will pay the taxes and costs thereon, for the least quantity of such real estate, to be taken off of the westerly side of such real estate.

[62] SEC. 3. **Collector to execute deeds.** That the collector shall execute to such purchaser, a deed to such real estate so purchased, which deed shall be prima facia evidence of the regularity of the proceedings, and in no case shall the title of the purchaser of such real estate be impeached, in a court of law or equity, unless the person impeaching the title, shall have tendered to such purchaser the amount for which such real estate was sold, and the interest due thereon, at the rate of fifty per centum per annum; provided, that nothing contained in this act, shall be so construed, as to effect the claim of the territory or county on real estate for taxes.

SEC. 4. **Owner may redeem.** The owner of any real estate, so sold, may redeem the same, at any time within two years after such sale, by paying to such purchaser, the sum for which such real estate was sold, and fifty per cent. per annum, together with the costs of sale, or by paying the same and costs with the interest, to the recorder for the use of such purchaser.

SEC. 5. **Taxes for 1844-5.** That the collector shall proceed to collect the taxes assessed for said town, for the year A. D. 1844, unpaid, in the same manner as the taxes are collected for the year A. D. 1845; and if it shall be necessary to sell real estate for the collection of taxes assessed for the year 1844, and for the year 1845, the collector shall collect the same in the manner prescribed by this act.

SEC. 6. **Sales heretofore made.** That the provisions of the third section of this act, shall be applied to all sales of real estate heretofore made in said town, for non payment of taxes; and if any such real estate shall not have been redeemed, the collector shall proceed to execute deeds to the purchasers or their assigns.

SEC. 7. **Deeds to be acknowledged.** All deeds executed by the collector, shall be executed and acknowledged by him, according to the law regulating conveyances, in his name, as collector of taxes for said town.

Approved, January 14th, 1846.

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[63] CHAPTER 66.

CLAYTON COUNTY.

AN ACT to authorize Eliphalet Price, judge of probate in the county of Clayton, or his successor in office, to transcribe the records of said court.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Price to transcribe probate records.** That Eliphalet Price, judge of the probate court, in and for the county of Clayton, (or his successor in office) be and he is hereby authorized and required, to furnish for the use of said court, a good, sufficient, and well bound book, in which he shall make a true and faithful record of the proceedings of said court; and it is hereby made his duty to faithfully and truly transcribe and record in said book, all acts, doings, and proceedings of his predecessor in office.

SEC. 2. **Shall be presented to commissioners.** That as soon as he shall have performed the duties enjoined upon him by this act, he shall as soon as convenient, present and lay before the board of commissioners of said county, the record, together with all the papers he has transcribed, whose duty it shall be to examine the record and compare it with the papers so transcribed, and if said commissioners shall find the same to be correct and according to law, they shall immediately issue to said judge of probate, a certificate under the seal of said board, stating the same to be correct and according to law; which certificate the said judge of probate shall record in his office.

SEC. 3. **Compensation for transcribing.** That the board of commissioners in said county, shall allow the said judge of probate for said book and services, such reasonable sum as they shall deem right, to be paid out of the treasury of said county.

SEC. 4. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 14th, 1844.

[64] CHAPTER 67.

JACKSON COUNTY.

AN ACT for the relief of Thomas J. Pearce collector of taxes in Jackson county for the year 1843.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Thomas J. Pearce's delinquent tax list may be collected by J. Carbin.** That John Carbin, collector of taxes in and for the county of Jackson, be and he is hereby authorized to collect and receive all such taxes as remain unpaid for the year A. D. 1843, on the delinquent list of said Thomas J. Pearce.

SEC. 2. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 15th, 1846.

CHAPTER 68.

VAN BUREN COUNTY.

AN ACT to authorize the Clerk of the District Court for the county of Van Buren to transcribe the records of said court.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Cutler to transcribe records.** That Elisha Cutler, Jr., clerk of the district court for the county of Van Buren, is hereby authorized, so soon as suitable books are furnished by the United States, to transcribe all judgments in said court remaining unsatisfied, to such new books; to refile, number and arrange all the papers in said office, and prepare a general index to the same, for which service, the board of county commissioners of said county, shall pay to the said Elisha Cutler, Jr., and such compensation as shall be right and proper, not exceeding ten cents per hundred words: provided, that the said Elisha Cutler, Jr., shall not receive any compensation for refiling, numbering and arranging the papers filed in said office, during the time he has had charge of the same.

[65] SEC. 2. **In force from passage.** That this act shall not in any manner, effect said minor's indentures.

SEC. 3. **In force from passage.** This act shall take effect and be in force from and after its passage.

Approved, January 15th, 1846.

CHAPTER 69.

JACKSON COUNTY.

AN ACT to authorize the clerk of the District Court for the county of Jackson to transcribe the records of said court.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Marshall to transcribe records.** That Thomas Marshall, clerk of the district court for the county of Jackson, is hereby authorized so soon as suitable books are furnished, by the United States, to transcribe all of the records of said court; such transcribing shall be first certified by the judge of the district court for said county, that the old records are not fit for preservation, and that in his opinion, they ought to be transcribed, also to refile, number, and arrange, all the papers in said office and prepare a general index to the same, for which service the board of county commissioners of said county, shall pay to the said Thomas Marshall, such compensation as shall be right and proper, not exceeding ten cents per folio.

SEC. 2. **In force from passage.** This act shall take effect and be in force from and after its passage.

Approved, January 15th, 1846.

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[66] CHAPTER 70.

MAQUOKETA ACADEMY.

AN ACT to incorporate the Maquoketa Academy, in Jackson county, Iowa.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Academy incorporated.** That there shall be established at Maquoketa, in Jackson county, a seminary of learning, for the instruction of youth of both sexes, in arts, science and literature, to be known by the name and style of the Maquoketa Academy, and that Alonzo Spaulding, John E. Goodenow, John Shaw, Joseph McCloy, Jason Paugborn, Wm. H. Efner, Isaac C. Hall, and William Salter, and their associates and successors, are hereby declared a body politic, and corporate in law and in fact, by the name and style of the "Maquoketa Academy," and by that name shall have perpetual succession, and power to acquire, possess, retain and enjoy, mixed, personal and real property, and the same to sell, grant, convey, rent or otherwise dispose of at pleasure; and they shall have power to contract and be contracted with, sue and be sued, plead and be impleaded in all courts of law or equity, and they shall have and use a common seal.

SEC. 2. **Stock, ten dollars per share.** The stock of said academy shall consist of shares of ten dollars each, which shall be deemed personal property, and shall be transferable on the books of said corporation, in such manner as may be prescribed by the board of trustees.

SEC. 3. **Capital and income.** The annual income exclusive of tuition, shall not exceed eight hundred dollars, and that the total capital stock of said institution shall not exceed five thousand dollars, and that its funds, privileges and immunities, shall be used for no other purpose than those of education.

SEC. 4. **Election of trustees.** The stockholders of said academy shall on the first Monday in March next, and on the same day, annually thereafter, elect by ballot, a board of trustees, consisting of eight members, five of whom shall constitute a quorum, whose duties shall be to transact and perform, or cause to be performed, all the functions, concerns and business of said academy; and said stockholders shall elect or appoint such other officers as may, in their opinion, be requisite, and shall give such other directions to the board of trustees, as may in their estimation, be of im-[67]-portance to the corporation; and each stockholder shall be entitled to one vote for every share owned by him, to the amount of ten shares, and then to one vote for every five shares, over and above that amount; any stockholder may vote in person or by proxy.

SEC. 5. **Officers and powers.** The board of trustees shall on their first meeting after being elected, appoint from their number a president, vice president, secretary and treasurer, and they shall have power to fill vacancies in their own body, until the annual elections; they shall have power to appoint subordinate officers, and to make, ordain and establish such ordinances, regulations, rules and by-laws, as they may deem necessary for the interests and good government of the academy, in its several departments: provided however, that such rules and regulations shall not contravene the laws of the United States or of this territory or future state of Iowa.

SEC. 6. **Form of official acts.** All deeds or other instruments of writing or conveyance shall be made by order of the board of trustees, sealed with the seal of the corporation, signed and acknowledged by the president in his official capacity in order to render them good and valid in law.

SEC. 7. This act may be amended or repealed by any future legislature, and shall take effect and be in force from and after its passage.

Approved, January 15th, 1846.

CHAPTER 71.

LEE COUNTY.

AN ACT to provide for the election of additional justices of the peace in the town of Keokuk, in the county of Lee.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Two additional justices of the peace in Keokuk, Lee county.** That at the next annual election to be held on the first Monday of April next, there shall be elected in the town of Keokuk, Jackson township, in the county of Lee, two additional justices of the peace, who shall reside in the aforesaid town of Keokuk.

SEC. 2. **To hold according to general act.** Said justices when so elected shall hold their offices according to the act providing for the election of justices of the peace, and to prescribe their powers and duties.

[68] SEC. 3. **Jackson township allowed four justices of the peace.** The said township of Jackson shall from and after the passage of this act, be entitled to four justices of the peace.

SEC. 4. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 15th, 1846.

CHAPTER 72.

JACKSON COUNTY.

AN ACT to change the name of Charleston, in Jackson county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Name of Charleston changed to Sabula.** That the name of the town of Charleston, in the county of Jackson, be changed to that of Sabula.

SEC. 2. **In force from passage.** That this act shall take effect and be in force from and after its passage.

Approved, January 15th, 1846.

CHAPTER 73.

ROAD IN JACKSON.

AN ACT to authorize the County Commissioners of Jackson county to establish the survey of a road in said county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Part of road from Belleview to Springfield established.** That the county commissioners of Jackson county be, and they are hereby authorized to establish and order to be opened, that part of the surveyed road leading from Belleview to Springfield, which lies between the third mile post from Belleview and the twenty-second mile post, any law to the contrary notwithstanding.

SEC. 2. **In force from passage.** This act shall take effect and be in force from and after its passage.

Approved, January 15th, 1846.

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[69] CHAPTER 74.

LEE COUNTY.

AN ACT to authorize the clerk of the District Court for the County of Lee, to transcribe the Records of said Court.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Joel C. Walker, to transcribe records.** That Joel C. Walker, clerk of the district court for the county of Lee, is hereby authorized so soon as suitable books are furnished by the United States, to transcribe all of the records of said court which are not in safe and well bound record books, all of such transcribing shall be first certified by the judge of the district court for said county, that the old records are not fit for preservation, and that in his opinion they ought to be transcribed, also to refile, number and arrange all the papers in said office and prepare a general index to the same, for which

service the board of county commissioners of said county shall pay to the said Joel C. Walker, such compensation as shall be right and proper not exceeding ten cents per folio.

SEC. 2. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 15th, 1846.

CHAPTER 75.

IOWA COUNTY.

AN ACT to legalize the assessment of Iowa county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Assessment of tax legalized.** That the assessment of taxes for Iowa county, previous to its organization, be and the same is hereby legalized.

SEC. 2. **Collector to collect.** That the collector of Iowa county is hereby authorized to collect the taxes for Iowa county, according to said assessment.

SEC. 3. **In force from passage.** This act shall take effect and be in force from and after its passage.

Approved, January 16th, 1846.

[70] CHAPTER 76.

ROAD FROM DUBUQUE.

AN ACT declaring a road therein named to be a territorial road.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Part of road from Dubuque to Ft. Atkinson, to be a territorial road.** That so much of the territorial road from Dubuque to Fort Atkinson as was re-located in the counties of Dubuque and Delaware, in September, 1845, by David Moreland, P. L. Sharp and William A. Anderson shall be a territorial road from Dubuque to Fort Atkinson.

SEC. 2. **Pay of commissioners.** That said commissioners and their assistants, shall be allowed the usual compensation for laying off territorial roads.

SEC. 3. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 16th, 1846.

CHAPTER 77.

HENRY COUNTY.

AN ACT to declare a certain road therein named a territorial road.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Road from Mt. Pleasant to Jefferson, in Henry county.** That the county road leading from Mt. Pleasant, in Henry county, to Jefferson in said county, be and the same is hereby declared a territorial road.

SEC. 2. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 16th, 1846.

[71] CHAPTER 78.

ROAD FROM OTTUMWA.

AN ACT to locate a territorial road from Ottumwa, in Wapello county to Bloomfield, in Davis county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Road from Ottumwa to Bloomfield.** That Loyd Nelson and Riley Macy, of Davis county, and Richard Fisher, of Wapello county, be and they are hereby appointed commissioners to locate a territorial road from Ottumwa, in Wapello county, to Bloomfield in Davis county.

SEC. 2. **Commissioners to meet 1st Monday in June.** Said commissioners shall meet at Ottumwa, on the first Monday in June, 1846, or within sixty days thereafter, and proceed to locate said road, according to law, which road shall be confined as near as practicable to the township line, running between range thirteen and fourteen, from Ottumwa to Bloomfield.

SEC. 3. **Compensation of viewers.** Said commissioners, together with the surveyor and other necessary hands employed, shall be compensated for their services, in whatever amount the commissioners of each county may deem proper, and each county shall defray one-half of said expenses.

SEC. 4. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 16th, 1846.

CHAPTER 79.

ROAD FROM KEOKUK.

AN ACT to re-locate a territorial road therein named.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Road from Keokuk to Farmington.** That Alexander Kerr, Peter Wykoff, and Clark Johnson, be and they are hereby appointed com-

missioners to re-locate so much of a territorial road leading from Keokuk, in the county of Lee, [72] to Farmington, Van Buren county, as lies between Keokuk, and where said road crosses the line that divides sections twenty-two and three. Said commissioners shall meet at Keokuk, on the first Monday of March next, or within thirty days thereafter, and proceed to re-locate so much of said road as above described according to law.

SEC. 2. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 16th, 1846.

CHAPTER 80.

A. M. FICKE AND WIFE.

AN ACT to divorce Andrew M. Ficke, of the county of Van Buren, from his wife Susan Ficke.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Ficke and Susan his wife divorced.** That the bonds of matrimony existing between Andrew M. Ficke, of Van Buren county and Susan his wife, be and the same are hereby dissolved.

SEC. 2. **In force from passage.** This act to take effect and be in force from and after its passage.

Become a law January 16th, 1846.

CHAPTER 81.

ROAD IN WASHINGTON AND KEOKUK.

AN ACT to establish a territorial road in Washington and Keokuk counties.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Commissioners to locate road.** That Joseph R. Edwards, and Eli Haworth, of Keokuk county, and John Lewis, of Washington county, be and they [73] are hereby appointed commissioners to lay out and establish a territorial road, commencing at a half mile stake, dividing sections number twenty-six and number thirty-five, in township seventy-four north, of range number nine west, in Washington county; and running thence the nearest and best route to a bridge on Richland creek, east of Eli Haworth's; thence the nearest and best way to Western City; and thence the nearest and best way to Enos Darnell's in Keokuk county.

SEC. 2. **Meet at Brighton 1st Monday in March.** Said commissioners shall meet at Brighton, on the first Monday in March next, or as soon thereafter as they may agree, and proceed to lay out and establish said road, agreeably to an act for opening and regulating roads and highways, approved February 15th, 1843.

SEC. 3. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved January 16th, 1846.

CHAPTER 82.

NEW COUNTIES.

AN ACT to establish new counties and define their boundaries.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Boundaries of Wayne county.** That the following shall be the boundaries of a new county, which shall be called Wayne, towit: beginning at the north-west corner of Appanoose county; thence west on the township line, dividing townships 70 and 71 north, to the north-west corner of township 70, north of range 23 west; thence south, on the range line between ranges 23 and 24, to the north boundary of the state of Missouri; thence east, along said boundary to the south-west corner of Appanoose county; thence north, to the place of beginning.

SEC. 2. **Lucas county.** That the following shall be the boundaries of a new county, which shall be called Lucas, to wit: beginning at the north-west corner of Kishkekosh county; thence west, to the north-west corner of township 73, north, of range 24 west; thence south, to the south-west [74] corner of township 71, north of [range] 24 west; thence east, to the south-west corner of Kishkekosh county; and thence north, to the place of beginning.

SEC. 3. **Warren county.** That the following shall be the boundaries of a new county, which shall be called Warren, to wit: beginning at the north-west corner of Marion county; thence west, along the line dividing townships 77 and 78, to the north-west corner of township 77, north of range 25 west; thence south, to the south-west corner of township 71, north of range 25 west; thence east, to the south-west corner of Marion county; thence north, to the place of beginning.

SEC. 4. **Polk county.** That the following shall be the boundaries of a new county, to be called Polk, to wit: beginning at the north-west corner of Jasper county; thence west, to the north-west corner of township 81, north, of range 24 west; thence south, to the south-west corner of township 78, north of range 24 west; thence east, to the south-west corner of Jasper county; thence north to the place of beginning.

SEC. 5. **Marshall county.** That the following shall be the boundaries of a new county, to be called Marshall, to wit: beginning at the north-east corner of township 85, north of range 17 west; thence west, to the north-west corner of township 85, north of range 20 west; thence south to the south-west corner of township 82, north of range 20 west; thence east, to the south-east corner of township 82, north, of range 17 west; thence north to the place of beginning.

SEC. 6. **Jasper county.** That the following shall be the boundaries of a new county, to be called Jasper, to wit: beginning at the north-west corner of Powesheik county, on the line dividing townships 81 and 82, north of range 17 west; thence west, to the north-west corner of township 81, north of range 20 west; thence east to the south-west corner of township 78, north of range 20 west; thence south, to the south-west corner of Powesheik county; thence north, to the place of beginning.

SEC. 7. **Story county.** That the following shall be the boundaries of a new county, to be called Story, to wit: beginning at the north-west corner of Marshall county; thence west, to the north-west corner of township 85, north of range 24 west; thence south, to the south-west corner of township 82, north of range 24 west; thence east to the south-west corner of Marshall county; thence north to the place of beginning.

SEC. 8. **Boone county.** That the following shall be the boundaries of a new county, to be called Boone, to wit: beginning at the north-west corner of Story county; thence west, to the north-west corner of township 85, north, of range 28 west; thence south, to the south-west corner of township 82, north of range 28 west; thence east, to the south-west corner of Story county; thence north, to the place of beginning.

[75] SEC. 9. **Dallas county.** That the following shall be the boundaries of a new county to be called Dallas, to wit: beginning at the north-west corner of Polk county; thence west, to the north-west corner of township 81, north, of range 28 west; thence south, to the south-west corner of township 78, north, of range 28 west; thence east, to the south-west corner of Polk county, and thence north, to the place of beginning.

SEC. 10. **Madison county.** That the following shall be the boundaries of a new county, to be called Madison, to wit: beginning at the north-west corner of Warren county; thence west to the north-west corner of township 77, north of range 29 west; thence south, to the south-west corner of township 74, north of range 29 west; thence east, to the south-east corner of township 74, north of range 26 west; thence north, to the place of beginning.

SEC. 11. **Clarke county.** The following shall be the boundaries of a new county, to be called Clarke, to wit: beginning at the north-west corner of Lucas county; thence west, to the northwest corner of township 73, north, of range 29 west; thence south, to the south-west corner of township 71, north of range 29 west; thence east to the south-west corner of Lucas county, and thence north to the place of beginning.

SEC. 12. **Decatur county.** The following shall be the boundaries of a new county, to be called Decatur, to wit: beginning at the north-west corner of Wayne county; thence west, to the north-west corner of township 70, north, of range 27 west; thence south, to the north boundary of the state of Missouri; thence east, to the south-west corner of Wayne county, and thence north, to the place of beginning.

SEC. 13. **Act in force from passage.** This act shall take effect and be in force from and after its passage.

Approved, January 13th, 1846.

CHAPTER 83.

NEW COUNTIES.

AN ACT supplemental to an act, to establish new counties and define their boundaries.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Boundaries of Jasper altered and defined.** That the following shall be the boundaries of the county of Jasper, to-wit: beginning at the north-east corner of [76] township number 81, north, of range number 17 west; thence west to the north-west corner of township number 81, north of range number 21 west; thence south, to the south-west corner of township number 78, north, of range number 21 west; thence east, to the south-east corner of township number 78, north, of range number 17 west; thence to the place of beginning.

SEC. 2. **Boundaries of Polk altered and defined.** The following shall be the boundaries of Polk county, to-wit:—beginning at the north-east corner of

township 81, north, of range 22 west; thence west, to the north-west corner of township 81, north of range 25 west; thence south to the south-west corner of township 77, north, of range 22 west; and thence north, to the place of beginning.

SEC. 3. **Boundaries of Dallas altered and defined.** The following shall be the boundaries of Dallas county, to-wit:—beginning at the north-west corner of Polk county; thence west on the line dividing townships 81 and 82, to the north-west corner of township 81, north, of range 29 west; thence south to the south-west corner of township number 78, north, of range 29 west; thence east, to the south-east corner of township 78, north, of range number 26 west; and thence north, to the place of beginning; any law to the contrary notwithstanding.

SEC. 4. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

CHAPTER 84.

DUBUQUE COUNTY.

AN ACT to provide for an expression of opinion of the citizens of Dubuque county, for and against township organization.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Electors to vote for or against townships.** That on the first Monday of April next, at the several places of holding elections in the county of Dubuque, there shall be opened a poll, by the judges of said election, for the purpose of receiving votes for and against township organization; and it is hereby made the duty of said judges to interrogate each qualified elec- [77] tor of said county, whether he is in favor of, or against township organization, and the said judges shall write in separate columns, opposite each elector's name, the vote given for and against such organization, as aforesaid.

SEC. 2. **Duty of the judges of election, in April.** Said judges shall make out and certify the number of votes received for and against township organization, and shall transmit the same to the clerk of the board of county commissioners, whose duty it shall be to examine, as other election returns, and publish the number of votes, for and against such organization in a newspaper in the county of Dubuque. If a majority of the votes polled in said county, shall be in favor of township organization, then such organization shall be in force, agreeably to the present law, regulating township organization; but if the whole number of votes polled at said election, should be against township organization, then the county shall be divided into precincts, as it was prior to the passage of the law, providing for township organization; but nothing herein contained, shall be so construed as to prevent the county commissioners from altering the precincts previously established, or establishing new ones to suit the convenience of the public, in case township organization should be voted down: provided however, that nothing in this act shall prevent the election of township officers according to law, on said first Monday of April, and if a majority of said votes polled at said election, should be against township organization, then there shall be held on the first Monday of May, a special election for precinct officers, ac-

cording to the present law, regulating such elections; and that the justices of the peace and other officers elected on the first Monday of April, shall hold their offices until the first Monday of May, or until precinct officers shall be duly elected and qualified.

SEC. 3. **In force from passage.** This act to take effect, and be in force from and after its passage.

Approved, January 16th, 1846.

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[78] CHAPTER 85.

ROAD IN MUSCATINE.

AN ACT to establish a territorial road therein named.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Road from bridge at the mouth of Pine river, to Overman's ferry, on Cedar.** That Benjamin Nye, William Chambers, sr., and Elias Overman, be and they are hereby appointed commissioners to lay out and establish a territorial road, as follows: beginning at the bridge at the mouth of Pine river, in Muscatine county; thence running in a north-west direction, on the nearest and best ground, to or near the house of William Chambers, sr.; thence on the nearest and best ground to the south-east corner of the north-west quarter of section eleven; thence west, on said line to the south-west corner of the north-east quarter of section ten, township seventy-seven, north, of range one west; thence on the nearest and best ground, to the south line of section number four, to a suitable point; thence west, on said line, to the south-west corner of said section; thence on the nearest and best ground so as to intersect the Iowa City road, at Overman's ferry on Cedar river.

SEC. 2. **Commissioners to meet at Nye's first Monday in March.** That said commissioners, or a majority of them shall meet at the house of Benjamin Nye, on the first Monday of March next, or at such other time and place as they may agree, and after being qualified, shall proceed to the performance of the duty assigned them, as now provided for by law.

SEC. 3. **In force from passage.** This act to take effect, and be in force from and after its passage.

Approved, January 16th, 1846.

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[79] CHAPTER 86.

LEWIS BIDMAN AND WIFE.

AN ACT to divorce Mary Ann P. Bidman from her husband Lewis Bidman.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Bidman and wife divorced.** That the bonds of matrimony, heretofore existing between Mary Ann P. Bidman and Lewis Bidman, be and the same are hereby dissolved.

SEC. 2. **Mrs. Bidman's name changed to Douglass.** That the name of the said Mary Ann P. Bidman, be changed to her former name of Mary Ann P. Douglass.

SEC. 3. **Mr. Bidman to exercise no control over property of wife.** That the said Lewis Bidman shall have or exercise no interest in, or control over the property, real or personal, which the said Mary Ann P. Bidman had or possessed at the time of their marriage, or acquired since that time.

SEC. 4. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

CHAPTER 87.

ROAD FROM WAPELLO.

AN ACT to locate a territorial road from Wapello, in Louisa county, to Augusta, in Desmoines county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Road from Wapello to Augusta.** That Joshua Marshal, of the county of Louisa, and Samuel C. Jackson and John D. Camron, of Desmoines county, be and they are hereby appointed commissioners, to locate a territorial road from Wapello, in Louisa county, to Augusta, in Desmoines county.

SEC. 2. **Commissioners to meet 1st Monday in September.** Said commissioners shall meet at Wapello, in Louisa coun- [80] ty, on the first Monday in September next, or within sixty days thereafter, and proceed to locate said road according to law: beginning at Wapello, in Louisa county; thence on the nearest and best route, to the north-east corner of the north-west quarter of section number 33, of township number 73, north of range 3 west; thence south one mile; thence on the nearest and best route, to the centre of section number 20, of township number 72, north of range number 3 west; thence south, with the west line of Brown and Bridge's land to the creek, in Linn grove; thence on the nearest and best route, to or near the dwelling house of John Henderson; thence on the nearest and best route, to Thomas Brown's ford, on Flint creek; thence on the nearest and best route, to intersect the county road, at John Manes'; thence on or near the county road to Augusta, on Skunk river.

SEC. 3. **In force from passage.** This act shall take effect and be in force from and after its passage.

Approved, January 17th, 1846.

CHAPTER 88.

IOWA CITY UNIVERSITY.

AN ACT amendatory of an act entitled "An act to incorporate Iowa City University," approved, 2d June, 1845.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Nine regents may constitute a board.** That the sixth section of the act to which this is amendatory, be and the same is hereby amended, so that nine regents of the university shall hereafter be a sufficient number

to constitute a quorum for doing business, and to make, pass and establish ordinances, rules and by-laws, and also, that the elected or appointed regents, be authorized to fill all vacancies that may occur between elections.

SEC. 2. **Repealing clause.** That any future legislature may amend or repeal this act.

SEC. 3. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January17th, 1846.

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[81] CHAPTER 89.

TOWN OF FRANKLIN.

AN ACT to vacate a part of the town of Franklin, in the county of Lee.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Portion of Franklin vacated.** That all that portion of the town of Franklin, in the county of Lee, situated on the south half of the south-east quarter of section number twenty-three, township number sixty-eight, range number six west, be and the same is hereby vacated, excepting a strip eighteen feet wide and one hundred and forty feet long, on the west side of lot number one hundred and eighteen.

SEC. 2. **Not to interfere with private rights.** That nothing in this act shall be so construed as to destroy, abridge or in any way interfere with the private right or rights of any person, or persons, unless by their special and expressed will and consent.

SEC. 3. **In force from passage.** That this act shall take effect and be in force from and after its passage.

Approved, January 17th, 1846.

CHAPTER 90.

MARION COUNTY.

AN ACT to authorize the board of County Commissioners of Marion county, to select grand and petit jurors.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Special term of county commissioners.** That the board of county commissioners of the county of Marion, are hereby authorized and it is hereby made their duty, to hold a special term of said court, on the first Monday in March next, for the purpose of selecting grand and petit jurors, for said county of Marion, for the next term of the district court for said county.

SEC. 2. **To select grand and petit jurors.** Said commissioners when met, shall make out a list of twenty- [82] three names for a grand jury, and twenty-four for a petit jury; and the clerk of said court shall furnish a list of said names, so made out to the clerk of the district court, in and for said county, whose duty it shall be to make out a venire to the sheriff of said county, who shall serve the same as is now required by law.

SEC. 3. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

CHAPTER 91.

ROAD FROM IOWA CITY.

AN ACT to lay out and establish a territorial road from Iowa City to Fort Desmoines, in Polk county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Road from Iowa City to Fort Desmoines.** That Robert M. Hutchinson, of the county of Iowa, James Douglass, of the county of Johnson, and John Scott, of the county of Polk, be and they are hereby appointed commissioners to lay out and establish a territorial road, commencing at Iowa City, and running thence west, by the old trading house, to Marengo in Iowa county; and thence through the counties of Poweshiek and Jasper, to Fort Desmoines, in Polk county.

SEC. 2. **Commissioners to meet at Iowa City in April.** Said commissioners or a majority of them, shall meet at Iowa City, on the first Monday in April, or within thirty days thereafter; and after being sworn before some justice of the peace, shall proceed to perform the duties required of them, by this act, taking to their aid, the necessary assistance; and they shall receive for their services, a reasonable compensation, to be paid out of the county treasuries of the counties of Johnson, Iowa, Jasper and Polk, in equal proportions.

SEC. 3. **Law of 1838 to be commissioners' guide.** Said road shall be laid out and established agreeably to the provisions of an act, for opening and regulating roads and highways, approved December 29th, 1838.

SEC. 4. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

[83] CHAPTER 92.

ISABELLA CRAWFORD.

AN ACT to authorize Isabella Crawford, to convey certain real estate.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Mrs. Crawford is empowered to sell husbands estate and make deed to purchaser.** That Isabella Crawford, of Johnson county, be and she is hereby authorized, to rent, or to sell and convey all the real estate belonging to her deceased husband, Josiah Crawford, at the time of his death, in said Johnson county, and that the said Isabella Crawford, is hereby empowered to execute, under her hand and seal, deed or deeds of conveyance, for said real estate, with covenants of general warranty.

SEC. 2. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

CHAPTER 93.

JONES COUNTY.

AN ACT to provide for the re-location of the county seat of Jones county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Commissioners to select two points for seat of justice.** That the county commissioners of Jones county, shall on or before the first day of March next, proceed to select two places to be balloted for, for the seat of justice of said county. It shall be the duty of the said county commissioners, after an examination of said county, and the taking into consideration, the local advantages of timber, roads, the settlements of the county, both as regards the present and the future, to designate two places to be balloted for, on the first Monday of April next.

[84] SEC. 2. **Notices to be posted up.** As soon as said commissioners shall make a selection of two points in said county, they shall cause notices to be posted up in each place of the holding of elections in said county, declaring the two points to be balloted for, at said election, for the county seat, and particularly describing the said points.

SEC 3. **Point having most votes seat of justice.** That it shall be the duty of the judges of election in said county, to receive votes for the two places so designated by the county commissioners, and shall note down in separate columns the number of votes received for each place designated as aforesaid; and the place receiving the highest number of votes polled at said election, shall be and remain the county seat of said county; provided, that nothing in this act shall be so construed as to prevent the commissioners aforesaid, from designating the present seat of justice of said county as one of the points to be voted for.

SEC. 4. **Manner of holding election.** The manner of conducting said election shall be the same as is now prescribed by the law, regulating elections in this territory, and it shall be the duty of said judges of election, to transmit true returns to the clerk of the board of county commissioners, and the number of votes polled for each place, designated by the said commissioners.

SEC. 5. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

CHAPTER 94.

ROAD FROM CLARKSVILLE.

AN ACT to locate a territorial road therein named.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Road from Clarksville to Raccoon fork.** That N. B. Preston, of Kishkekosh county, William F. Ayers, of Polk county, and Horace H. Lyman, of Marion county, be and they are hereby appointed commissioners, to locate and establish a territorial road, beginning at Clarksville, in the county

of Kishkekosh, thence on the nearest and best route, to the county seat of Marion county; thence on the nearest and best route to the Raccoon fork of the Desmoines river.

SEC. 2. **Commissioners to meet at Clarksville.** Said commissioners, or a majority of them, shall meet at [85] Clarksville, in Kishkekosh county, on the first Monday in May next, or within sixty days thereafter, to discharge their duties according to law.

Approved, January 17th, 1846.

CHAPTER 95.

ROAD FROM OTTUMWA.

AN ACT to locate a territorial road therein named.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Road from Ottumwa to Chariton river.** That George Reynolds, of Wapello county, Ira Claflin, of Van Buren county, and Lafayette Bear, of Davis county, be and they are hereby appointed commissioners to locate and establish a territorial road, beginning at Ottumwa, in Wapello county; thence on the most suitable ground, to the crossing on Soap creek, at Ritchey's mill; thence by way of Joseph Jump's on the Fox river divide, to the Chariton river, at a point where the territorial road crosses, leading from Iowaville to the Missouri line.

SEC. 2. **Commissioners to meet at Ottumwa in May.** Said commissioners, or a majority of them, shall meet at the town of Ottumwa, on the first Monday of May next, or within thirty days thereafter, to discharge their duties.

SEC. 3. **To receive no compensation.** Said commissioners, and all hands employed, in locating and establishing said road, shall receive no compensation for their services.

Approved, January 17th, 1846.

[86] CHAPTER 96.

BENTON COUNTY.

AN ACT for the organization of the county of Benton.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Benton county organized.** That the county of Benton, be and the same is hereby organized from and after the first day of March next, and the inhabitants of said county shall be entitled to all the rights and privileges, to which by law the inhabitants of other organized counties of this territory are entitled; and the said county shall constitute a part of the third judicial district of this terriory.

SEC. 2. **Election 1st Monday in April.** That there shall be a special election, held on the first Monday in the month of April next, at which time the

county officers for said county shall be elected, and also such number of justices of the peace, and constables, for said county, as may be ordered by the clerk of the district court for said county.

SEC. 3. **Clerk to give ten days notice.** That it shall be the duty of the clerk of the district court, in and for said county, to give at least ten days previous notice of the time and place of holding such special election in said county, grant certificates of election, and in all respects discharge the duties required by law to be performed by clerks of the boards of county commissioners in relation to elections, until a clerk of the board of county commissioners may be elected and qualified.

SEC. 4. **Clerk to discharge duty of sheriff.** That it shall be the duty of the clerk of the district court in said county, to discharge all the duties required by law to be performed by sheriffs, in relation to elections, until a sheriff for said county may be elected and qualified.

SEC. 5. **Officers to hold till August election.** That the county officers, justices of the peace, and constables elected under the provisions of this act, shall hold their offices until the first Monday of August, 1846, and until their successors are elected and qualified.

[87] SEC. 6. **Clerk of district court.** That the clerk of the district court, in and for said county of Benton, may be appointed and qualified at any time after the passage of this act.

SEC. 7. **Suits prior to organization.** That all actions at law, or equity, in the district court for the county of Linn, commenced prior to the organization of said county of Benton, where the parties or either of them reside in said county of Benton, shall be prosecuted to final judgment, order or decree, as fully and effectually as if this act had not been passed.

SEC. 8. **Justices of the peace now in Benton.** That it shall be the duty of all justices of the peace, residing within said county of Benton, to return all books and papers in their hands pertaining to said office, to the next nearest justice of the peace which may be elected and qualified, in and for said county under the provisions of this act; and all suits at law, or other official business, which may be in the hands of such justice of the peace, and unfinished, shall be prosecuted and completed by the justice of the peace to whom such business or papers may have been returned as aforesaid.

SEC. 9. **Jurisdiction of Linn prior to March.** That the judicial authorities of Linn county, shall have cognizance of all crimes or violations of the criminal laws of this territory, committed within the limits of said county of Benton, prior to the first day of March next; provided, prosecutions be commenced under the judicial authorities of said Linn county, prior to the said first day of March next.

SEC. 10. **Jurisdiction of Benton.** That said county of Benton, shall have cognizance and jurisdiction of all crimes, or violations of the criminal laws of this territory, committed prior to the first day of March next, in cases where prosecutions shall not have been commenced under the judicial authorities of Linn county.

SEC. 11. **Tama county attached.** That the county of Tama, and the counties lying west of said county of Tama, be and the same are hereby attached to the county of Benton, for election, revenue and judicial purposes.

SEC. 12. **Clerk to keep his office at any place, etc.** That the clerk of the district court, in and for the county of Benton, may keep his office at any place within said county, until the county seat thereof may be located.

SEC. 13. **Commissioners to locate county town.** That Joseph A. Secrest, of Jones county, Lyman Dillon, of Dubuque county, and Joseph A. Downing, of Cedar county, be and they are hereby appointed commissioners to locate and establish the seat of justice of the county of Benton.

SEC. 14. **To meet 1st Monday in May.** That said commissioners, or a majority of them shall meet at the office of the clerk of the district court of the county of Benton, on the first Monday of May next, or at such other time not exceeding thirty days thereafter as a majority of them may agree.

[88] SEC. 15. **Commissioners' oath.** Said commissioners shall first take and subscribe the following oath, to-wit:—"We do solemnly swear (or affirm) that we have no personal interest either directly or indirectly in the location of the seat of justice of the county of Benton, and that we will faithfully and impartially locate the same, according to the best interest of said county, taking into consideration the future, as well as present population of said county," which oath shall be administered by the clerk of the district court, or any other officer authorized by law to administer oaths within the county of Benton, and the officer administering said oath, shall certify and file the same in the office of the clerk of the district court of said county, whose duty it shall be to record the same.

SEC. 16. **To locate and make return to district clerk.** Said commissioners when met and qualified under the provisions of this act, shall proceed to locate the seat of justice of said county of Benton, and as soon as they shall have come to a determination, the same shall be committed to writing, signed by the said commissioners, and filed with the clerk of the district court of said county, whose duty it shall be to record the same, and forever keep it on file in his office; and the place thus designated, shall be the seat of justice of said county.

SEC. 17. **Compensation of locators.** Said commissioners shall each be entitled to receive the sum of two dollars per day, while necessarily employed in the said location, and the sum of two dollars for every twenty miles travel, to and from the said county seat, which shall be paid by said Benton county, out of the first funds arising from the sale of town lots in such seat of justice.

SEC. 18. **Blackhawk county attached.** The county of Blackhawk, is hereby attached to said county of Benton for election, judicial and revenue purposes.

SEC. 19. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1845.

[89] CHAPTER 97.

ROAD IN HENRY.

AN ACT to declare a certain road therein named to be a territorial road.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Road between Pickles and McMillians.** That so much of the county road as lies between Rufus M. Pickles, in Henry county, and McMillian's mill, formerly Holcomb's mill in Washington county, be and the same is hereby declared to be a territorial road.

SEC. 2. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

CHAPTER 98.

ROAD IN HENRY.

AN ACT to locate a territorial road therein named.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Lee, Hamlin, and Warren, commissioners.** That John Lee, D. Hamlin and William Warren of Henry county, be and they are hereby appointed commissioners to locate and establish a territorial road, beginning on the territorial road in Jefferson township, in Henry county, on the section line, between sections 15 and 22; thence east along the section line, between sections 14 and 23, 13 and 24, to the east line of Jefferson township; thence a southeasterly course to the head of Flint creek; thence the nearest and best route to intersect the territorial road, leading from Mt. Pleasant to Burlington.

SEC. 2. **Commissioners to meet at Hamlin's in April.** The commissioners or a majority of them shall meet at the house of D. Hamlin, on the first Monday in April next, or within sixty days thereafter and proceed to discharge their duties according to law.

Approved, January 17th, 1846.

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[90] CHAPTER 99.

ROAD IN LEE.

AN ACT to re-locate a part of a territorial road in the county of Lee.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Road from Keokuk to Burlington.** That Reuben Conley, Andrew J. Steffer, and John Box, are hereby appointed commissioners to relocate so much of a territorial road leading from Keokuk, in the county of Lee, to the city of Burlington, in the county of Desmoines, as lays between Montrose, and John Wright's, of Lee county. Said commissioners or a majority of them, shall meet at Montrose, on the first Monday of March next, or as soon thereafter as convenient, and proceed to locate and mark said road as above described; and shall receive such compensation, as the county commissioners may deem just and reasonable.

SEC. 2. **In force from passage.** This act shall take effect and be in force from and after its passage.

Approved, January 16th, 1846.

CHAPTER 100.

BUCHANAN COUNTY.

AN ACT to locate the seat of justice of Buchanan county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Seat of justice to be located.** That John G. McDonald, of the county of Jackson, Theophilus Crawford, of Dubuque county, and John W. Clark, of the county of Delaware, be and they are hereby appointed commissioners, to locate and establish the seat of justice of the county of Buchanan. Said commissioners, or any two of them, shall meet at the house of Joseph A. Reynolds, in said county of Buchanan, on the first Monday in May, A. D. 1846, or on such other day during the month of May, as they or a majority of them may agree, and proceed [91] to locate and establish the seat of justice of said county, as near the geographical centre of said county as said commissioners may deem proper, paying due regard to the present, as well as future population of said county; and as soon as they have come to a determination, they shall give said point a name; their proceedings shall be committed to writing, signed by the said commissioners, or a majority of them, and filed in the office of the clerk of the board of commissioners of Delaware county until the said county of Buchanan is fully organized, and when organized, the clerk of the board of commissioners of said Buchanan county shall record and keep the same on file in his office; and the place so selected as aforesaid, shall be the seat of justice of Buchanan county.

SEC. 2. **Commissioners to be qualified.** Said commissioners shall, previous to entering upon their duties as aforesaid, take and subscribe before some magistrate, or other person authorized to administer oaths, the following oath or affirmation, to-wit: "We do solemnly swear (or affirm) that we have no personal interest, directly or indirectly, in the location of the seat of justice of the county of Buchanan, and that we will faithfully and impartially locate the same, according to the best interest of said county, taking into consideration the future, as well as present population of said county; and the person so administering such oath, shall certify and file the same as provided in the first section of this act.

SEC. 3. **Compensation of locators.** The commissioners aforesaid shall receive each, two dollars per day, and two dollars for every twenty miles travel, while necessarily engaged in the discharge of their duty.

SEC. 4. **Treasury of Buchanan liable for expenses.** Said commissioners shall be paid for their services required by this act, out of the county treasury of said county of Buchanan, so soon as the same shall become organized, for county purposes.

SEC. 5. **Act in force forthwith.** This act shall take effect and be in force from and after its passage.

Approved, January 19th, 1846.

[92] CHAPTER 101.

JASPER AND POLK COUNTIES.

AN ACT for the organization of the counties of Jasper and Polk.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Jasper and Polk counties organized.** That the counties of Jasper and Polk, be and they are hereby organized, from and after the first day of March next, and the inhabitants of said counties, shall be entitled to all the rights and privileges, to which by law, the inhabitants of other organized counties of this territory are entitled; and the said counties shall constitute a part of the second judicial district of this territory.

SEC. 2. **Special election the 1st Monday in April.** That there shall be a special election held on the first Monday in the month of April; at which time, the county officers, for each of said counties, shall be elected; and also, such number of justices of the peace, and constables, for each of said counties, as may be ordered by the clerks of the district court, for their respective counties.

SEC. 3. **Clerk to give ten days notice of election.** That it shall be the duty of the several clerks of the district court, in and for said counties, to give at least ten days previous notice, of the time and place of holding such special election, in each of said counties, grant certificates of election, and in all respects discharge the duties required by law, to be performed by clerks of the boards of county commissioners, in relation to elections, until a clerk of the board of county commissioners for their respective counties, may be elected and qualified.

[93] SEC. 4. **Clerk to discharge duty of sheriff.** That it shall be the duty of the clerk of the district court, in each of said counties, to discharge all the duties required by law, to be performed by sheriffs in relation to elections, until a sheriff for their respective counties may be elected and qualified.

SEC. 5. **Officers elected to hold until August election.** That the county officers, justices of the peace and constables, elected under the provisions of this act, shall hold their offices until the first Monday in the month of August, 1846, and until their successors are elected and qualified.

SEC. 6. **Clerks of district court may be appointed at any time.** That the clerks of the district court, in and for said counties of Jasper and Polk, may be appointed and qualified at any time after the passage of this act.

SEC. 7. **Suits commenced prior to organization, etc.** That all actions at law or equity, in the district court for the county of Mahaska, commenced prior to the organization of the said counties of Jasper and Polk, where the parties, or either of them, reside in either of the aforesaid counties, of Jasper and Polk, shall be prosecuted to final judgment, order or decree, as fully and effectually as if this act had not been passed.

SEC. 8. **Justices in Jasper and Polk to hand over books, etc.** That it shall be the duty of all justices of the peace, residing within the said counties of Jasper and Polk, to return all books and papers in their hands pertaining to said office, to the next nearest justice of the peace, who may be elected and qualified for their respective counties, under the provisions of this act; and all suits at law, or other official business, which may be in the hands of such justice of the peace and unfinished, shall be prosecuted or completed by the justice of the peace to whom such business or papers may have been returned as aforesaid.

SEC. 9. **Mahaska to have jurisdiction till 1st March, etc.** That the judicial authorities of Mahaska county, shall have cognizance of all crimes, or violations of the criminal laws of this territory, committed within the limits of said counties of Jasper and Polk, prior to the first day of March next: provided, prosecutions be commenced under the judicial authorities of said Mahaska county, prior to the first day of March next.

SEC. 10. **Jasper and Polk, to have jurisdiction, etc.** That the said counties of Jasper and Polk, shall have cognizance and jurisdiction of all crimes or violations of the criminal laws of this territory, committed prior to the first day of March next, in cases where prosecutions shall not have been commenced under the judicial authorities of Mahaska county.

SEC. 11. **Marshall attached to Jasper.** That the county of Marshall, be and the same is hereby attached to the county of Jasper, for elections, revenue and judicial purposes.

SEC. 12. **Story, Boone, and Dallas, attached to Polk.** That the counties of Story, Boone and Dallas, and the [94] territory of country, north and west of said counties, be and the same are hereby attached to the county of Polk for elections, revenue and judicial purposes.

SEC. 13. **Clerks may keep office anywhere in county until, etc.** That the several clerks of the district court, in and for the said counties of Jasper and Polk, may keep their respective offices at any place within their respective counties, until the county seats thereof may be located.

SEC. 14. **Fisher, Kirkham, and Henderson, commissioners for Jasper, seat of justice.** That Richard Fisher, of the county of Wapello, E. M. Kirkham, of the county of Davis, and Thomas Henderson of the county of Keokuk, be and they are hereby appointed commissioners to locate and establish the seat of justice of the county of Jasper.

SEC. 15. **Hughes, Williams, and Pinneo, commissioners for Polk, seat of justice.** That Thomas Hughes of Johnson, M. T. Williams of the county of Mahaska, and Giles M. Pinneo, of the county of Scott, be and they are hereby appointed commissioners, to locate and establish the seat of justice of the county of Polk.

SEC. 16. **To meet 1st Monday in May, to locate seats of justice.** That said commissioners, or a majority of them, shall meet at the office of the clerk of the district court in and for the county, for which seat of justice they have been appointed to locate, on the first Monday in the month of May next, or at such other time, not exceeding thirty days thereafter, as a majority of said commissioners may agree.

SEC. 17. **Oath of commissioners and duty of clerks.** Said commissioners shall first take and subscribe the following oath, to-wit: "We do solemnly swear, (or affirm,) that we have no personal interest, directly or indirectly, in the location of the seat of justice of the county of (as the case may be) and that we will faithfully and impartially locate the same, according to the best interest of said county, taking into consideration the future as well as the present population of said county;" which oath shall be administered by the clerk of the district court, or any other officer authorized by law to administer oaths within the county, for which seat of justice said commissioners are appointed to locate; and the officer administering said oath, shall certify and file the same in the office of the clerk of the district court of such county, whose duty it shall be to record the same.

SEC. 18. **Commissioners to make out and return locations.** Said commissioners when met and qualified, under the provisions of this act, shall proceed to locate the seat of justice of the respective counties for which they have been appointed, and as soon as they shall have come to a determination, the same shall be committed to writing, signed by the said commissioners, and filed with the clerk of the district court of the county, in which such seat

of justice is situated; whose duty it shall be to record the same, and forever keep it on file in [95] his office; and the place thus designated shall be the seat of justice of such county.

SEC. 19. **Pay of locators, two dollars per day each.** Said commissioners shall each be entitled to receive the sum of two dollars per day while necessarily employed, and the sum of two dollars for every twenty miles travel, in the discharge of the duties enjoined upon them by this act; which shall be paid by the county, for which such location shall be made, out of the first funds arising from the sale of town lots, in such seat of justice.

SEC. 20. **First court in Jasper, at Springer's.** That the district court for the county of Jasper, shall be held at the house of Mathew D. Springer, in said county, or at such other place as may be designated by the board of county commissioners of said county, until the seat of justice of said county may be located.

SEC. 21. **First court in Polk, at Ft. Desmoines.** That the district court for the county of Polk, shall be held at Fort Desmoines, until the seat of justice of said county may be located.

SEC. 22. **Act in force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

CHAPTER 102.

MUSCATINE COUNTY.

AN ACT for the relief of Muscatine county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Commissioners to pay for support of the poor.** That the board of commissioners of the county of Muscatine, be and they are hereby authorized to audit and pay all costs and expenses for the support of the poor, in said county, existing prior to the twelfth day of February, A. D. 1844; provided, the same shall not have been paid out of the township treasuries.

SEC. 2. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

[96] CHAPTER 103.

ROAD FROM FT. MADISON.

AN ACT to establish a Territorial road, from Fort Madison, in Lee County, to Mount Pleasant, in Henry county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Road from Fort Madison to Mount Pleasant.** That James D. Spearman, and E. Archbold, of the county of Henry, and John Grun of the county of Lee, be and they are hereby appointed commissioners, to locate and

establish a territorial road, commencing at Fort Madison; thence the nearest and best route, to the half mile post at the center of section 22; thence to the north side of section 15, of township sixty-nine, north, of range five west; thence on the nearest and best route, to the town of Lowell, in Henry county; thence on the nearest and best route to Mount Pleasant, in said county.

SEC. 2. **Commissioners to meet at any time, etc.** Said commissioners shall meet in the town of Fort Madison on any day that a majority of said commissioners may agree on, within six months after the passage of this act, and proceed to lay out and establish said road according to the provisions of an act to provide for laying out and opening territorial roads, approved, Dec. 29, 1838.

SEC. 3. **Part of a road vacated.** Be it further enacted, that so much of the territorial road, lying north of the agency road and south of Skunk river, in the township of Baltimore, be and the same is hereby vacated.

SEC. 4. **Not to run through farms now established.** Provided, that nothing contained in the provisions of the foregoing act, shall be so construed as to authorize the commissioners appointed to locate said road, to interfere with any farm, now established on said road.

SEC. 5. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

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[97] CHAPTER 104.

ROCKINGHAM.

AN ACT to vacate a part of the town of Rockingham.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Part of the town plat vacated.** That the following described blocks and half blocks, together with all streets, alleys and squares, adjoining the same, situated in the town of Rockingham, in Scott county, be and the same are hereby vacated. The west half of blocks fifteen, sixteen, seventeen, and block C., and all of blocks D., eighteen, nineteen, twenty, twenty-seven, twenty-eight, twenty-nine, and block E.

SEC. 2. **Not to abridge the right of individuals.** That nothing in this act shall be so construed, as to destroy, abridge or in any way interfere with the private right, or rights, of any person, or persons, unless by their special and express will and consent.

SEC. 3. **In force from passage.** That this act shall take effect and be in force from and after its passage.

Approved, January 17th, 1846.

CHAPTER 105.

SAMUEL SHUFFLETON.

AN ACT to legalize the acts of Samuel Shuffleton as a notary public.

Whereas, Samuel Shuffleton, late notary public, in the county of Jefferson, was appointed post master of the post office in Fairfield, in said county, and continued to act as notary public, a short time after receiving said appointment of post master; therefore,

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Acts as notary public legalized.** That the acts of Samuel Shuffleton as notary public, in and for the county of Jefferson, be and the same are hereby legalized.

[98] SEC. 2. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

CHAPTER 106.

ROAD IN MUSCATINE.

AN ACT to re-locate a part of a territorial road in Muscatine and Cedar counties.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Alger, Smith and McCoy, commissioners to re-locate a road in Muscatine and Cedar counties.** That Pearson Alger, and Egbert T. Smith, of Muscatine county, and James McCoy, of Cedar county be and they are hereby appointed commissioners, to review a certain road, to-wit:—beginning at the bridge near the corner of Mary Nices' farm two and a half miles from West Liberty; thence to the grave yard, half a mile from the same, with instructions to locate said road on the county and section lines, or parallel thereto; provided, that such citizens of Cedar and Muscatine counties, as are interested in the re-location of said road, shall pay all the expenses of said re-location, and if required they shall enter into bond to that effect, to the satisfaction of said viewers before they shall proceed to the performance of the duty assigned them.

SEC. 2. **Commissioners to meet before May.** That said commissioners, or a majority of them, shall meet at such time and place, as they may agree, before the first of May next, and proceed to re-view said road, as provided in section one.

SEC. 3. **Act in force now.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

[99] CHAPTER 107.

ROAD FROM JEFFERSON COUNTY.

AN ACT to establish a certain territorial road therein named.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Ross, Heard and Quinton, commissioners.** That S. S. Ross and Stephen Heard, of the county of Jefferson, and Richard Quinton, of the county of Keokuk, be and they are hereby appointed commissioners, to lay out and establish a territorial road, commencing at a point where the territorial road, leading from Mount Pleasant, in Henry county, to Fairfield, in Jefferson county crosses the western line of Henry county; thence on the nearest and best ground to S. S. Ross'; thence to pass between the farms of Caleb Cooper and Lenn's; thence on the nearest and best practicable route, to a point on the middle fork of Walnut creek, where the road leading from Fairfield, in Jefferson county, to Richland, in Keokuk county crosses said creek; thence the nearest and best route, to a point on Rock creek, in Keokuk county, where the territorial road, leading from Richland in said county to Oskaloosa, in Mahaska county crosses said creek.

SEC. 2. **To meet third Monday in March.** Said commissioners shall meet at the place of commencing said road, on the third Monday in March next, or within sixty days thereafter, and proceed to discharge the duties required of them by this act, and shall in all respects be governed by the act entitled an act to provide for laying out and opening territorial roads, approved, Dec. 29, 1838.

SEC. 3. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

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[100] CHAPTER 108.

ROAD FROM FRANKLIN.

AN ACT to establish a territorial road from Franklin, in Lee county, to Mt. Pleasant, in Henry county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Road from Franklin to Mount Pleasant.** That James Hayworth, of the county of Lee, and James Millison, and Daniel Alsop, of the county of Henry, be and they are hereby appointed commissioners, to view, lay out, and establish, a territorial road, commencing at Franklin; thence on the nearest and best route to the half mile stake, on the south line of section eleven, of township number sixty-nine, north of range number six west, thence north, through the center of said section, and the center of section number two, to the county line of Lee county, at the half mile stake on the south line of section number thirty-five, of township number seventy, north of range number six west; thence north, to the road leading from Burlington, to the old Agency; thence east, with said road, to near the northwest corner of section thirty-six; thence the nearest and best route, to Hugh Boyls' mills; thence on the nearest and best route to Mount Pleasant, in Henry county.

SEC. 2. **Commissioners to meet in Franklin.** Said commissioners shall meet in the town of Franklin, on the first Monday of March, 1846, or on such other day as a majority of said commissioners may agree upon, and proceed to locate and establish said road, agreeable to the provisions of an act to provide for laying out and opening territorial roads, approved December 29th, 1838.

SEC. 3. **In force from passage.** This act to be in force from and after its passage.

Approved, January 17th, 1846.

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[101] CHAPTER 109.

SUSANNAH CHANEY.

AN ACT to authorize Susannah Chaney of Lee county, to convey certain real estate therein named.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Susannah Chaney, empowered to sell lands.** That Susannah Chaney, of Lee county, be and she is hereby authorized to sell and convey the north-east quarter, of the south-west quarter of section number thirty, township number sixty-nine north, range six west; containing forty acres, and situated in Marion township, in Lee county.

SEC. 2. **To make deed for same.** That said Susannah Chaney is hereby auhorized and empowered to execute a good deed of conveyance, with covenants of general warranty, under her hand and seal, for the premises mentioned in the first section of this act.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved, January 17th, 1846.

CHAPTER 110.

ROAD FROM FAIRVIEW.

AN ACT to locate a certain road therein named.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Road from Fairview to Dewitt's landing.** That Julius Pert, of Jones county, and Ira Sammons and Joseph Caroway, of Linn county, be and they are hereby appointed commissioners, to lay out and establish a territorial road, as follows: commencing at or near Fairview on the Military road in Jones county; thence to the center of section four, in township eighty-three, north, in range five west; thence west, to the county road, leading from [102] the west of section four to Scott's mill on Big creek; thence on the track of said road to the range line between ranges five and six; thence on said line, to or near the land of Joseph Caroway and James Scott; thence angling through Sugar grove to the west line of section one, in township eighty-two, of range six; thence by said line for some distance; and then to Dewitt's landing on Cedar river.

SEC. 2. **Commissioners to meet at Fairview.** That said commissioners shall meet at Fairview on the first day of May next, or on such other day thereafter, as a majority of them may agree on, not exceeding two months after the said first day of May next, and employ the necessary assistance, and proceed to locate said road agreeably to the first section of this act, doing as little damage to private property as possible.

SEC. 3. **Part of road vacated.** That so much of a road located in pursuance of a law of the last session of the legislature, as lies between Isaac Butler's and Dewitt's landing, in Linn county, be and the same is hereby repealed.

SEC. 4. **Compensation of viewers.** Said commissioners and their necessary assistants, shall receive such compensation as the board of county commissioners of the county of Linn may allow.

SEV. 5. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

CHAPTER 111.

KEOSAUQUA CITY.

AN ACT to amend an act entitled "An act to incorporate the city of Keosauqua."

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Mode of selling lots for taxes.** That in case it shall become necessary to sell real estate in said city, for the payment of taxes, the same shall be sold in the manner, and under such regulations, as the mayor and aldermen may have ordained; and at the time and place when and where the mayor and aldermen may order and direct; provided, four weeks notice shall be given of such sale, by advertisement in any newspaper published in said city, and by posting on the court house door of said city, a written notice of such sale, for the space of four weeks.

[103] SEC. 2. **To be sold to the highest bidder, who will pay for least portion of lot.** Such real estate shall be sold to the bidder who will pay the taxes, costs and expenses of such sale, for the lowest quantity of such real estate, to be taken off of such part of such real estate as the mayor and aldermen shall direct.

SEC. 3. **May be redeemed in two years.** Such real estate may be redeemed from such sale, at any time within two years from the time of such sale, by the owner paying to such purchaser or recorder of said city, for the use of such purchaser, the amount for which such real estate shall have been sold, and costs, with fifty per centum per annum, until paid.

SEC. 4. **Mayor and aldermen to convey.** The mayor and aldermen, shall at the expiration of two years from such sale, execute in their corporate capacity, a deed for any real estate so sold, and not redeemed, to the purchaser or his assigns; which deed shall be sufficient to convey the estate in fee to such purchaser, and shall be prima facie evidence of the regularity of the proceedings; and no person shall ever question the title under such deed, either in a court of law or equity, until such person shall have paid to, or tendered to the purchaser, the amount for which such real estate may have been sold, and fifty per centum per annum and the costs of sale.

Approved, January 19th, 1846.

CHAPTER 112.

ROAD FROM BUSH'S MILL.

AN ACT to lay out and establish a territorial road from Bush's mill, in Jefferson county to the Desmoines river in Van Buren county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Road from Bush's mills to Desmoines river.** That Enos Ellmaker, of the county of Jefferson, and Jesse Sutton and Peter Walker, of the county of Van Buren, be and they are hereby appointed commissioners to lay out and establish a territorial road, commencing at the north bank of Big Cedar creek, at Bush's mill, in Jefferson county; thence to Enos Ellmaker's; thence to Reuben Ellmaker's; thence to Cutting's & Gordon's storehouse, thence southeast, to the section line; thence south, on said line to the northeast corner of the lands of George Fisher, in Jefferson [104] county; thence to Peter Walker's in the county of Van Buren; thence north of the Widow Baker's farm; thence passing on the east of said Widow Baker's house; thence to Jesse Sutton's, on the Desmoines river, in Van Buren county.

SEC. 2. **Commissioners to meet at Bush's mill.** Said commissioners shall meet at Bush's mill in Jefferson county, on the third Monday in March next, or on such other day as a majority of them may agree on, within three months thereafter, and proceed to discharge the duties required of them by this act.

SEC. 3. **Governed by road law of 1838.** Said commissioners shall in all other respects be governed by an act entitled an act to provide for laying out and opening territorial roads, approved Dec. 29th, 1838.

SEC. 4. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 19th, 1846.

CHAPTER 113.

DUBUQUE COUNTY.

AN ACT for the relief of the sheriff of Dubuque county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Sheriffs allowed for keeping prisoners.** That it shall be the duty of the board of county commissioners of the county of Dubuque, to allow to the sheriff of said county, twenty-five cents in cash per day, for dieting any prisoner confined in the county jail of said county, when said prisoner is insolvent or unable to pay the same.

SEC. 2. **To keep jail clean and comfortable.** That it shall be the duty of the sheriff of said county, to keep the jail thereof, clean and comfortable, for which services he shall be entitled to receive a reasonable compensation, to be paid out of the county treasury, after having been allowed by the board of county commissioners.

SEC. 3. **In force from passage.** That this act shall take effect and be in force from and after its passage.

Approved, January 19th, 1846.

[105] CHAPTER 114.

ROAD FROM DUBUQUE.

AN ACT to re-establish a part of a territorial road vacated by an act, approved, February, 16, 1842.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Road leading from Camp Atkinson established.** That so much of a territorial road, heretofore laid out under and by virtue of an act, approved January 13th, 1841, commencing at the city of Dubuque, and running to Camp Atkinson as is west of the Widow Hogan's farm and within the county of Dubuque, be and the same is hereby established and declared to be a territorial road, any law to the contrary notwithstanding.

SEC. 2. **In force from passage.** That this act shall take effect and be in force from and after its passage.

Approved, January 19th, 1846.

CHAPTER 115.

DANVILLE ACADEMY.

AN ACT to incorporate the Danville Academy in Desmoines county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Danville academy incorporated.** That there shall be, and hereby is established in the township of Danville, Desmoines county, a literary institution, for the instruction of youth of both sexes in science and literature, to be called the Danville academy, and that Thomas L. Sergeant, Jeremiah Hall, Edwin Cady, Calvin S. Jackson, Thomas Bristor, Reuben Gaylord, Warren Dee, Wolcott Seymour, William Ramsey, E. W. Davis and O. S. Goodrich, and their associates and successors, are hereby declared a body politic and corporate in law, by the name and style of the Danville Academy, to hold their offices for one year, from the first [106] Monday of March next, and until others shall be duly elected to succeed them in the manner hereinafter provided.

SEC. 2. **To have perpetual succession.** And the corporation before named shall have perpetual succession, and power to acquire, possess, retain and enjoy property, real, personal and mixed, and the same to sell, grant, convey, rent, or otherwise dispose of at pleasure, and they shall have power to contract and be contracted with, sue and be sued, plead and be impleaded, in all courts of justice; and they shall have and use a common seal with power to alter the same at pleasure.

SEC. 3. **Stock divided into shares of $10.00.** That the stock of said academy shall consist of shares of ten dollars each, which shall be deemed personal property, and shall be transferable on the books of said corporation, in such manner as may be prescribed by the board of trustees: provided, that the annual income of said corporation (not including tuition) shall not exceed three thousand dollars, and that its fund privileges and immunities shall be used for no other purpose whatever than education.

SEC. 4. **Governed by trustees.** The corporate concerns of said academy shall be managed by a board of trustees consisting of five members, any three of whom shall constitute a quorum to do business; said board shall be elected by the stockholders on the first Monday of March annually and shall hold their offices for the term of one year and until their successors are duly elected. The election of trustees shall be by ballot, and each stockholder shall be entitled to one vote for each share by him owned to the amount of five shares, and one vote for every additional three shares. Any stockholder may vote in person or by proxy. Said trustees shall elect one of their number to be president of the board, and shall have power to fill all vacancies in their own body that may occur between their annual elections. If any election shall not be made on the day designated by this act, such election shall be held on any other day: provided, a notice of time and place of holding such election signed by one fourth of the stockholders to be posted up at two of the most public places in the township of Danville, at least ten days before said election.

SEC. 5. **To appoint officers and agents.** The board of trustees shall have power to appoint subordinate officers and agents, to make, ordain and establish such ordinances, rules and regulations, as they may deem necessary for the good management of said academy, its officers, teachers, and pupils, and for the management of the property and affairs of said corporation to the best advantage: provided, they shall not contravene the laws of the United States or of this territory.

SEC. 6. **Deeds to be made by board.** That all deeds and other instruments of conveyance shall [107] be made by order of the board of trustees, sealed with the seal of the corporation, signed by the president and be by him acknowledged in his official capacity.

SEC. 7. **In force from passage.** That this act shall take effect and be in force from and after its passage.

Approved, December 19th, 1845.

CHAPTER 116.

IOWA COUNTY.

AN ACT to amend an act entitled "An act for the organization of the county of Iowa."

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Iowa a part of second judicial district.** That the first section of the act to which this is amendatory, be so amended as to read, that the said county of Iowa shall constitute a part of the second judicial district.

SEC. 2. **In force from passage.** This act shall take effect and be in force from and after its passage.

Approved, December 19th, 1845.

CHAPTER 117.

ROAD FROM FAIRFIELD.

AN ACT to lay out and establish a territorial road from Fairfield, in Jefferson county, to Keokuk, in Lee county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Road from Fairfield to Keokuk.** That E. S. McCulloch, of the county of Lee, and Samuel Mitcheler, of the county of Van Buren, and H. B. Notson, of the county of Jefferson, be and they are hereby appointed commissioners, to locate and establish a territorial road; commencing at Fairfield, in Jefferson county, thence the nearest and most practicable route [108] to intersect the territorial road leading from Keokuk to Manchester, at or near the residence of E. S. McCulloch, in Lee county.

SEC. 2. **Commissioners to meet in March.** Said commissioners shall meet in Fairfield, on the first Monday in March next, or on such other day as a majority of them may agree, within three months thereafter, and proceed to discharge the duties required of them by this act.

SEC. 3. **Governed by act of 1838.** Said commissioners shall in all respects be governed by an act entitled "an act to provide for laying out and opening territorial roads," approved December 29th, 1838.

SEC. 4. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 19th, 1846.

CHAPTER 118.

KISHKEKOSH, NOW MONROE.

AN ACT to change the name of Kishkekosh county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Kishkekosh to be called Monroe Co.** That the name of Kishkekosh county be changed to that of Monroe county.

SEC. 2. **In force from passage.** This act to take effect from and after the first day of August next.

Approved, January 19th, 1846.

CHAPTER 119.

TOWNS IN LINN.

AN ACT to legalize the survey of certain towns in Linn county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Marion, Ivanhoe and Cedar Rapids—surveys and plats legalized.** That the respective surveys of the towns of Marion, Gray and Green's

addition to the town of Marion, Ivanhoe, [109] and Cedar Rapids, in Linn county, as designated and recorded in the recorder's office of said county, be and the same are hereby declared to be as legal and proper as the same would be if all the requirements of "an act to provide for the recording of town plats," and all other laws in relation thereto had been fully complied with.

SEC. 2. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 19th, 1846.

CHAPTER 120.

TOWN OF LYONS.

AN ACT to authorize David W. Fisher to build a ware house on a portion of the public ground in the town of Lyons in Clinton county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **David W. Fisher, authorized to build a ware house on the public grounds.** That David W. Fisher, be and he is hereby authorized, to build a ware house on the following described tract of public ground in the town of Lyons, in Clinton county, to-wit: to commence one hundred and eighty feet due east of the south east corner of lot one, in block number five in said town and north of Main street; thence running one hundred and fifty feet due north; thence running one hundred and twenty feet due east, and thence south, with low water mark of the Mississippi river one hundred and fifty feet, and thence running one hundred and twenty feet to the place of beginning; containing eighty rods of land more or less: provided, that the said David W. Fisher shall within one year and six months after the passage of this act, build or cause to be built a ware house thereon at least thirty by sixty—two stories high.

SEC. 2. **In force from passage.** That this act shall take effect and be in force from and after its passage.

Approved, January 19th, 1846.

[110] CHAPTER 121.

KISHKEKOSH SEAT OF JUSTICE.

AN ACT to establish the seat of justice of Kishkekosh* county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Clarksville and Princeton, to be voted for.** That for the purpose of permanently establishing the seat of justice of Kishkekosh county, an election shall be held at the several precincts in said county on the first Monday of April next, at which time the qualified electors of said county, shall vote for Princeton or Clarksville for the seat of justice.

*Name changed to Monroe, see Chapter 118.

SEC. 2. **Qualification of voters.** That to entitle any person to vote at said election, he must be a citizen of the United States, twenty one years of age, and shall have resided in said county sixty days, and in the territory six months preceding said election.

SEC. 3. **Judges of election.** That the same persons who are or may be appointed judges at the several precincts in said county of the general election, shall be judges of the election directed by this act; and in case of failure of any of them to attend at the hour for opening the polls, their places shall be supplied in the manner directed by the law regulating general elections, and the said judges of each precinct, shall appoint two suitable persons having the qualifications of electors to act as clerks of said election, and the said judges and clerks before entering upon the discharge of their duties shall take an oath before some person authorized to administer the same, honestly, faithfully and impartially to perform the duties required of them by this act.

SEC. 4. **Elector may be challenged and sworn.** That the said judges or any of them shall have power, and on any person offering to vote being challenged by any elector who has voted at such election, are hereby required to administer an oath to such persons offering to vote, true answers to make to such questions touching his qualifications as a voter as shall be propounded to him, and shall thereupon examine such person as to his right to vote and said judges [111] shall not permit any person to vote at said election, who is not qualified according to the requirements of this act.

SEC. 5. **Clerks of election to keep poll books and time of opening and closing.** That each of the clerks of said election shall keep a separate poll book, or list of voters, and shall enter on his poll book the name of every person voting at his precinct, numbering them from one progressively in the order in which they shall vote with the proper number set opposite each name, and the judges of said election are hereby required to number the vote or ballot (on the book thereof) of each and every voter with the same number that stands opposite the name of such voter on the clerk's poll books and the ballot so given and numbered, shall be deposited in a box and shall be safely kept by the judges of said election, until disposed of as hereinafter directed. The polls shall be opened at each precinct at the hour of nine o'clock, a. m., and not before, and shall be closed at six o'clock, p. m., of the same day—upon closing the polls, the judges shall proceed openly and in the presence of such electors as may choose to attend, to count the ballots so given in, and the clerks shall severally keep a tally of the votes so counted out, designating the name of the town for which said votes or ballots may have been given, and when they shall all have been counted, they shall be added up and the aggregate for each town set down in figures and in words at full length, and the said judges and clerks shall certify that the same is a true statement of the votes polled at such precinct, and shall return the said ballots into the box from which they were taken and seal up said box; and the said judges shall return said box containing the ballots so sealed up, and shall also return one of the poll books of each precinct to the clerk of the district court of Kishkekosh county by three o'clock, p. m., of the third day after said election, on which said third day after said election, the judges of the several precincts shall meet at the office of the clerk of the district court, and shall in the presence of each other, and of the clerk of said district court, proceed to examine the returns from each precinct, and on said judges or a majority of them being satisfied that one of the two places mentioned in the first section of this act, has received a greater number of legal votes than the other, said judges shall declare the town having received such majority of votes, the seat of justice of Kishkekosh county; and the clerk of the district court shall make an entry of such fact in the minutes of said district court, and the town so declared to have received

a majority of the votes shall thenceforth be the seat of justice of Kishkekosh county.

SEC. 6. **Clerk of court to file poll books.** That the ballots and poll books so returned from the several precincts, shall be safely kept by the clerk of the district court in his [112] office for twenty days from the day of said election, at which time he shall destroy said ballots unless within that time, said election shall be contested in the manner hereinafter provided.

SEC. 7. **Election may be contested, and how.** That any three electors who shall have voted at said election may within said twenty days, enter into bond with sufficient security, to be approved of by said clerk, payable to said clerk, in the penal sum of three thousand dollars, conditioned to prosecute said contest with effect, or failing therein to pay all such costs as may accrue in the premises; the said clerk shall immediately notify the judge of said district court, that said election is contested, and the said judge on receiving such notice, shall appoint a time and place, in Kishkekosh county, for enquiring into and deciding the said contested election; and notice of such time and place, shall be given by said clerk by publication in the Iowa Democrat, newspaper published at Keosauqua, in Van Buren county, not less than fifteen days prior to the time so appointed, for the trial of said contested election; and said clerk shall issue subpoenas for all such witnesses as said persons contesting said election, or any other three voters of said county may require, returnable to the time and place as aforesaid, appointed for said trial.

SEC. 8. **Clerk and sheriff to attend the judges.** That the clerk of said district court, and the sheriff of Kishkekosh county, shall attend the judge of said court, at the time and place so appointed, and the clerk of said court shall deliver to the judge thereof, the ballots and poll books returned to him as above provided; and said judge shall proceed to enquire into the legality of said election, and may examine said ballots and poll books, and receive the testimony of all such witnesses as may be produced before him, and shall purge the said polls of all illegal votes that may have been received, and shall decide the said contested election in favor of the town that may have received the greatest number of legal votes at said election; and the clerk of said district court, shall make an entry of the decision of said judge, on the minutes of said court, as a judgment thereof.

SEC. 9. **Penalty for illegal voting.** That if any person shall vote at said election, without being qualified as above provided, or who shall vote more than once at said election, or shall vote at more than one precinct in said county, or who shall for the purpose of voting at said election swear falsely, touching his qualifications as a voter, shall be fined in a sum not less than fifty nor more than five hundred dollars; one half thereof to the use of the county, and the other half to any one who shall prosecute for the same, and shall be further liable to an indictment, and if found guilty of swearing falsely, shall suffer all the pains and penalties of wilful and corrupt perjury.

[113] SEC. 10. **Liability of judges and clerks of election.** That if either of the judges or clerks of said election, shall be guilty of any wilful violation of any duty, required of them by this act, and shall be thereof convicted, on indictment, such person so convicted, shall be fined in any sum, not less than five hundred, nor more than one thousand dollars, or imprisoned not more than twelve months at the discretion of the jury, trying the same.

SEC. 11. **In force from passage.** That this act shall take effect and be in force from and after its passage.

Approved, January 19th, 1846.

CHAPTER 122.

ROAD FROM WEST POINT.

AN ACT to re-locate a part of a territorial road leading from West Point, in Lee county, to Salem, in Henry county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Road from West Point to Salem.** That John Woodman, William Steel, and William Stewart, are hereby appointed commissioners to re-locate so much of the territorial road leading from West Point, in Lee county, to Salem, in Henry county, as lies between William Steel's and John Woodman's; said commissioners shall meet at the house of said Steele on the second Monday of February next, or as soon thereafter as convenient, and proceed to re-locate so much of said road as above described.

SEC. 2. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 16th, 1846.

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[114] CHAPTER 123.

DUBUQUE CITY.

AN ACT to incorporate and establish the City of Dubuque.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. **Town of Dubuque incorporated and corporate bounds defined.** That all that part of the territory of Iowa included within the following limits, to-wit:—beginning at a point in the middle of the main channel of the Mississippi river eastwardly and in line with the south boundary of the town of Dubuque, as surveyed and laid out by the commissioners appointed in pursuance of an act of congress, to lay off the towns of Fort Madison, Burlington, Dubuque, etc., thence south sixty-seven degrees, thirty-nine minutes west, to a stone planted in the ground; thence on the westerly boundary, north, twenty-two degrees, thirty minutes west, to a stake and stone; thence on the north boundary, north sixty-seven degrees, thirty minutes east, to the middle of the main channel of the Mississippi river; thence down the said river with said channel to the place of beginning; shall be and hereby is declared to be a city, and the inhabitants thereof are created a body corporate and politic, with perpetual succession by the name and style of the city of Dubuque; and as such by that name shall be capable in law of contracting and being contracted with, of suing and being sued, pleading and being impleaded, answering and being answered unto, in all courts and places in all matters whatsoever, and also of purchasing, using, occupying, enjoying and conveying real, personal [115] and mixed estate, and may have and use a corporate seal, and change, alter and renew the same at pleasure, and shall be competent to have, exercise and enjoy all the rights, immunities, powers and privileges, and be subject to all the duties and obligations incumbent upon and appertaining to a municipal corporation, and for the better ordering and governing said city, the exercise of the corporate powers

of the same, hereby and herein granted, and the administration of its fiscal, prudential and municipal concerns with the conduct, direction and government thereof shall be vested in a mayor and board of aldermen, consisting of thirteen members to be denominated the city council, together with such other officers as are hereinafter mentioned and provided for.

SEC. 2. **New corporation succeed to rights of the old.** That the said city of Dubuque, shall be, and is hereby invested as the lawful owner and proprietor, with all the real, personal and mixed estate, and all the rights and privileges thereof, together with the property, funds and revenues, and all moneys, debts, accounts and demands due and owing, or in any wise belonging to said city; or which by, or under the authority of any former act or acts, have been acquired, vested in, or is, or may be owing or belonging to the city of Dubuque; and the same are hereby transferred to the corporate body, created and established by this act; and all suits pending and judgments recovered by, in favor of, or against the city of Dubuque, together with all rights, interests, claims and demands in favor of or against said city, may be continued, prosecuted, defended and collected in the same manner as though this act had never been passed.

SEC. 3. **Mayor and aldermen elected 1st Monday in April.** That the qualified electors of said city shall on the first Monday of April, annually, elect a mayor who shall have resided in said city three years; and the qualified electors of said city, shall at the same time elect thirteen aldermen, who shall have resided in the said city two years, and the mayor and aldermen so elected when assembled together and duly organized, shall constitute the city council, a majority of the whole number of whom shall be necessary to constitute a quorum for the transaction of business; they shall be the judges of the election returns, and qualifications of their own members, and shall continue in office for the term of one year, and until their successors shall be chosen and qualified. They shall determine the rules of their proceedings, and keep a journal thereof, which shall be open to the inspection and examination of every citizen; and may compel the attendance of absent members in such manner and under such penalties as they may prescribe. And they shall meet at some convenient place in said city, on the first Monday in May, and after taking the oath of office before some officer [116] qualified to administer oaths, shall elect from their own body, a president *pro tempore*.

SEC. 4. **Treasurer elected by people.** That there shall be elected by the qualified electors of said city, on the first Monday of April annually, a treasurer who shall hold his office for the term of one year, and until his successor shall be elected and qualified. He shall perform such duties and exercise such powers not herein specified, as may be lawfully required of him. There shall also be elected by the qualified voters of said city on the first Monday of April annually, a recorder, city marshal and assessor, of said city, who shall hold their offices for the term of one year, and until their successors shall be chosen and qualified, and who shall perform such duties and exercise such powers as may be lawfully required of them by the ordinances of said city.

SEC. 5. **Mayor to issue proclamation.** That in all elections for city officers, it shall be the duty of the mayor to issue a proclamation to the qualified voters of said city, setting forth the time of such elections, the place or places where the same shall be holden, the officer or officers to be chosen, and cause such proclamation to be posted up in three of the most public places in said city, at least ten days previous to such election. And every such election shall be opened between the hours of eight and ten o'clock in the forenoon and continue open until four o'clock in the afternoon, and shall in all things be conducted agreeably to the laws regulating township elections for the time being; and it shall be the duty of the judges of said elections within two

days thereafter, to make and direct the returns thereof to the mayor of said city at his office, in the same manner that election returns are required to be made by the township trustees for the time being; provided, that in all elections for mayor, the returns shall be made directed to the president *pro tempore* of the city council; and the mayor or president *pro tempore* of the city council, as the case may be, shall within five days after any such election, open the returns which shall have been made as aforesaid, and shall make an abstract of all the votes and file the same with the city recorder, who shall make a record thereof in a book to be kept by him for that purpose, and the person or persons having the highest number of votes shall be declared duly elected; but if from any cause the qualified voters of said city, or any of the respective wards, as the case may be, should fail to effect any election at the time and in the manner herein provided, the mayor shall forthwith issue his proclamation for a second or other election, which in all things shall be notified, conducted, regulated, and the returns thereof made as in and by this act is prescribed, and the person or persons, who shall be chosen at any such second or other election, shall [117] hold their office until the next stated prior for the choice of a successor or successors; and it shall be the duty of the mayor or president *pro tempore* of the city council, immediately to notify such person or persons who may be elected as aforesaid, of his or their election, by causing a written notice thereof, to be served upon him or them by the city marshal; and every person so chosen or elected as aforesaid, shall within ten days after his election, cause himself to be qualified to enter upon the duties of his office, and in default thereof, the office to which he shall have been elected shall be deemed and considered in law to be vacated; and it shall be the duty of the city council, to prescribe the time and manner, and provide the place or places of holding all elections in said city, for city officers and of making the returns thereof, not herein otherwise directed and prescribed; and the said city council shall appoint judges and clerks for all city elections.

SEC. 6. **Qualification of electors.** That each and every white male citizen above the age of twenty-one years, who shall have been a resident in said city six months immediately preceding any election for city officers, shall be deemed a qualified voter of said city, and shall be entitled to vote in the same or in the ward where he may reside for mayor, aldermen, recorder, treasurer, city marshal, assessor, and such other officers, as are in and by this act directed to be chosen by the qualified voters of said city or of the respective wards therein, and all others which by public ordinance may be required to be chosen or elected; and when any person shall present himself to give his vote and either of the judges shall suspect that such person does not possess the requisite qualification of an elector, or if his vote shall be challenged by an elector who has previously given his vote at such election, the judges of said election shall tender to such person an oath or affirmation in the following form, to-wit: 'I A. B. do solemnly swear (or affirm as the case may be) that I am a citizen of the United States, and that I have been a resident of this city six months immediately preceding this election, am a resident of this ward (if wards shall have been established) and to the best of my knowledge and belief, have attained the age of twenty-one years, and that I have not voted at this election.

SEC. 7. **Eligibility of city council.** That no member of the city council shall be eligible to any office within the gift of the city council during the year for which he may have been elected, nor shall any member of the city council be interested directly or indirectly in the profit of any contract or job, for work or services to be performed for the city.

SEC. 8. **Mayor's duties as a police officer, etc.** That it shall be the duty of the mayor to be vigilant and active at all times in causing the laws and

ordinances of said city, to be put in [118] force and duly executed. He shall keep the seal of said city, and all of the records, papers and official documents thereunto belonging. He shall sign all by-laws and ordinances adopted and passed by the city council, and see that the same are published six days before they go into effect. He shall preside when present at the meetings of the city council and be denominated president of the same, and when there is a tie shall give the casting vote. He shall do and perform such other duties as the city council may prescribe and determine, not inconsistent with the provisions of this charter.

SEC. 9. **Oath of treasurer, marshal, recorder, etc.** That the treasurer, marshal, recorder, assessor, and all other officers under the government of said city, shall before entering upon the duties of their respective offices, take an oath or affirmation to support the constitution of the United States, and faithfully and impartially to perform the several duties of the offices to which they may be respectively elected or appointed, and when required shall give such bond to the city with good and sufficient security in such sum or sums, and with such conditions thereto as the city council may from time to time direct, and in all cases not herein provided for shall respectively be allowed and receive such fees and compensation for their services, and be liable to such fines, penalties, and forfeitures for negligence, carelessness, misconduct in office, and positive violation of duty, as the said city council shall order and determine.

SEC. 10. **Meetings of the board.** That the city council shall provide the times and places of holding their meetings not herein otherwise provided for, which shall at all times be open to the public, they shall provide by ordinance for the election by the qualified voters of said city, of such other city officers whose election is not herein otherwise provided for, as shall be necessary for the good government of said city and the due exercise of its corporate powers, and which shall have been provided for by ordinance, and all city officers whose term of service is not prescribed and whose powers and duties are not defined in and by this act, shall perform such duties, exercise such powers, and continue in office for such term of time not exceeding one year, as shall be prescribed by ordinance.

SEC. 11. **Vacancies, how filled.** That whenever the office of mayor, councilmen, treasurer, marshal, recorder, or any other officer in and by this act, specified and provided for shall become vacant by death, resignation, removal from the city or otherwise, it shall be the duty of the council as soon as may be, to appoint some suitable person having the requisite qualifications to fill such vacancy, and the person so appointed shall continue in office during the remainder of the term for which his predecessor was elected or temporary absence of the mayor, the duties of his office during such [119] sickness or temporary absence shall be discharged by the president *pro tem* who shall be obeyed and respected accordingly.

SEC. 12. **By-laws and ordinances.** That the said city council shall have power, and it is hereby made their duty to make and publish from time to time, all such ordinances as shall be necessary to secure said city and the inhabitants thereof, against injuries by fire, thieves, robbers, burglars and all other persons violating the public peace; for the suppression of riots and gambling, and indecent and disorderly conduct; for the punishment of all lewd and lascivious behavior in the streets and other public places in said city; they shall have power from time to time to make and publish all such laws and ordinances as to them shall seem necessary to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of said city, and the inhabitants thereof, to impose fines, forfeitures and penalties on all persons offending against the laws and ordinances of said city, and provide

for the prosecution, recovery and collection thereof, and shall have power to regulate by ordinance the keeping and sale of gun-powder within the city.

SEC. 13. **Organization of fire companies.** That the city council shall have power to establish and organize all fire companies and provide them with proper engines, and such other instruments as shall be necessary to extinguish fire and preserve the property of the inhabitants of said city from conflagration, and they shall have power to establish and constitute landing places, wharves, docks and basins in said city at or on any of the city property, and fix the rates of landing, wharfage and dockage of all steamboats, boats, rafts and other water crafts, and of all goods, wares, merchandize, produce and other articles that may be moored at, landed on, or taken from any landing, wharf, dock, or basin belonging to said city.

SEC. 14. **Restrictions as to buildings.** That for the purpose of more effectually securing said city from the destructive ravages of fire, the said city council shall have power and authority on the application of three-fourths of the whole number of owners and proprietors of any square or fractional square in said city, to prohibit in the most effectual manner, the erection of any building or the addition to any building before erected more than ten feet high in any such square or fractional square, except the outer walls thereof shall be composed entirely of brick or stone and mortar, and to provide for the most prompt removal of any building or addition to any building which may be erected contrary to the true intent and meaning of this section.

SEC. 15. **To regulate taverns and tippling houses.** That the city council shall have power, and it is hereby made their duty to regulate by good and wholesome laws and ordinan- [120] ces all taverns, ale, beer, cider and porter shops, and places where spirituous liquors are sold in less quantities than one gallon, and all other houses of public entertainment in said city, all theatrical exhibitions, and public shows, and all exhibitions of whatever name, or nature to which admission is obtained on the payment of money or any other reward; to license and establish ferries across the Mississippi river from said city to the opposite shore, and to impose reasonable fines and penalties for the violation of any such laws and ordinances. And the said city council shall have full and exclusive power to grant or refuse license to tavern keepers, inn holders, retailers of spirituous liquors by less quantities than one gallon, keepers of ale, porter, cider, beer houses and shops, and all other houses of public entertainment, showmen, keepers and managers of theatrical exhibitions, and other exhibitions for money or other reward, auctioneers for the sale of goods, wares and merchandize, horses and other animals at public auction, keepers of billiard tables, ball and ten pin alleys, and keepers of ferries from said city across the Mississippi river to the opposite shore; and in granting any such license it shall be lawful for said city council to exact, demand and receive such sum or sums of money as they shall think reasonable and expedient; to annex thereto such terms and conditions in regard to time and place, and other circumstances under which such license shall be acted upon, as in their opinion the peace, quiet, and good order of society and said city may require, and for the violation of such terms and conditions as aforesaid the city council shall have power to revoke or suspend any such license whenever the good order and welfare of said city may require it, in such manner as shall be provided by ordinance: provided, that no power herein granted to the said city council shall be so construed as to impair, interfere with, or in any way affect any right or rights now existing by virtue of any acts heretofore passed by the legislative authority of this territory establishing ferries across the Mississippi river opposite the town of Dubuque, in Dubuque

county, but the same shall be and remain as though this act had not been passed.

SEC. 16. **Abatement of nuisances.** That the city council shall have power, and they are hereby authorized to require and compel the abatement and removal of all nuisances within the limits of said city, under such regulations as shall be prescribed by ordinance; to cause all grounds therein where water shall at any time become stagnant to be raised, filled up, or drained, and to cause all putrid substances of either animal or vegetable to be removed; and to effect these objects the said city council may from time to time, give order to the proprietor or proprietors, or to his, her, or [121] their agent or agents, and to the non-resident proprietors who have no agents therein, notice by publication in one or more of the newspapers printed in said city, for the period of two weeks, of all or any grounds subject at any time to be covered with stagnant water, to fill up, raise or drain such ground at their own expense, and the said city council shall designate how high such grounds shall be filled up and raised, or in what manner they shall be drained and fix some reasonable time for filling up, raising or draining the same, and if such proprietor or proprietors or agents shall neglect or refuse to fill up, raise or drain such grounds in such manner and within such time as the said city council shall have designated and fixed, they shall cause the same to be done at the expense of the city and assess the amount of the expenses thereof on the lot or lots of ground so filled up, raised or drained as aforesaid, and place the assessment so made as aforesaid, in the hands of the city collector, who shall proceed to collect the same by the sale of such lot or lots if not otherwise paid in such manner and under such restrictions and regulations as may be prescribed by ordinance: provided, the proprietor or proprietors shall have the privilege and right to redeem such lot or lots within one year after such sale, by paying to the purchaser or purchasers the amount by them paid together with ten per cent. interest on the same.

SEC. 17. **Supervisors and other officers.** That said city council shall have the exclusive power of appointing supervisors and other officers of the streets and highways within the said city, and if collected in money or labor any sum not exceeding one dollar annually as a road tax from each and every person liable by law to pay such tax or labor on the highways; they shall have the power whenever public convenience or safety shall require it, to prohibit hogs, cattle, horses and all other description of animals from running at large in the streets, lanes, alleys, commons and other public places in said city; they shall have power to license and regulate all carts, wagons and drays, and every description of two and four wheeled carriages which may be kept in said city for hire, and all livery stables, brokers and loan offices.

SEC. 18. **Public schools.** That the said city council shall have power whenever they deem it expedient, to provide for the establishment and support of public schools within said city, and to pass all ordinances necessary and proper for the good government of the same.

SEC. 19. **Collection and disbursement of city revenue.** That all monies raised, recovered, received or collected by means of any tax, license, penalty, fine, forfeiture or otherwise under the authority of this act, or which may belong to said city shall be paid in to the city treasury, and shall not be drawn therefrom except by or- [122] der or under the authority of the city council. And it shall be the duty of the city council to liquidate and settle all claims and demands against said city, and to require all officers, agents or other persons intrusted with the disbursement or expenditure of the public money to account to them therefor at such time and in such manner as they may direct, and they shall annually publish for the information of the citizens

a particular statement of the receipts and expenditures of all public moneys belonging to said city, and also of all debts due and owing to and from the same. And the city council shall have power to pass all such laws and ordinances as may be necessary and proper to carry into effect the powers herein and by this act granted.

SEC. 20. **Publication of laws and ordinances.** That every law or ordinance of said city before it shall be of any force or validity, or in any manner binding on the inhabitants thereof or others, shall be signed by the mayor and published in one or more newspapers in said city at least six days.

SEC. 21. **Owner, to include leases for a term of years.** That for the purpose of opening or improving any street, lane, alley, market space, public landing or common, or other purposes, the term owner or owners used in this act, is hereby declared to mean any person or persons who may own any lease upon lands for any term not less than ninety-nine years renewable forever, on any freehold estate either for life or otherwise, upon any ground to be affected by partition, and such tax shall be a lien upon the real estate upon which it may be assessed from the time of filing such petition until it shall be fully paid and satisfied.

SEC. 22. **Grading streets and wharves.** That said city council shall have exclusive power to establish and regulate the grade of the wharfs, streets, and banks along the Mississippi river within the corporate limits of said city.

SEC. 23. **Duty of justices of the peace.** That the justices of the peace in said city shall have full power and authority and it is hereby made their duty at such times as the same by the city authorities shall be required of them or any of them, to issue all needful process for the apprehension of offenders against the by-laws, ordinances and regulations of said city, and to hold a court for the trial of all offences within the said city, and the same to fine, imprison or discharge as the by-laws, ordinances and regulations of said city and the facts of the case may require. And for that purpose they and each of them are authorized and required to cause to come before them when necessary, a jury of six citizens of said city who shall be qualified voters of said city. And all such offenders on conviction shall be liable for the costs of prosecution and judgment shall go accordingly, and in case of acquittal the same shall be paid by the corporation, having first been allowed by the city council, and all process [123] in behalf of said city shall run in the name of the United States for the use and benefit of said city and shall otherwise conform to the requisitions and provisions that may be made by the city council, and shall be signed, executed and returned by the marshal of said city, and until other provisions shall be made by said city authorities it shall be lawful for said justices or any of them to commit all offenders against said by-laws, ordinances and regulations on conviction, to the jail of Dubuque county. And in case where a portion or all the punishment shall be imprisonment, the keeper of said jail is hereby required to receive such persons on the proper warrant of such justices or justice of the peace into his custody in said jail in the same manner as in ordinary cases. And all expenses of such imprisonment in cases where the same cannot be collected from the person so convicted and imprisoned shall be paid out of the treasury of the corporation; the fees of the justices and jurors in such cases shall be the same as are allowed by the statute.

SEC. 24. **Jury of six citizens.** That all trials for the violation of the by-laws, ordinances and regulations, shall be in a summary manner, and that no person shall for any offense be deprived of his or her liberty, or fined in

any sum greater than twenty dollars, unless convicted by a jury of six citizens of said city qualified to vote as aforesaid.

SEC. 25. **Corporation to hold and convey property.** That the said city council shall have the custody, care and management of all real, personal and mixed estate, and other corporate property of said city, and all the real, personal and mixed estate, money, funds and resources which from time to time may be owned by, or of right belong to said city, with full power to purchase, hold, possess, use and occupy, and to sell and convey the same for the use and benefit of the said city, and the inhabitants thereof: provided, that the city council shall not have power to sell any real estate belonging to the said city of Dubuque, unless the qualified voters thereof in pursuance of ten days' previous notice given by order of the city council and published in one or more of the newspapers printed in said city, setting forth the time, place and purpose of voting, and there shall be a majority of written or printed ballots given expressing their consent thereto.

SEC. 26. **Levy and collection of taxes.** That to defray the current expenses of said city, the city council shall have power to levy and collect taxes on the real and personal property therein: provided, that the amount of taxes shall not in any one year exceed the sum of twenty-five cents on each one hundred dollars worth of property taxed. They shall also have power whenever in their opinion the interest of said city shall require it, to levy and collect a tax on dogs or other domestic animals not included in the list [124] of taxable property for territorial and county purposes, which said taxes shall be collected by the city collector and paid into the treasury in such manner and under such restrictions and regulations as may be prescribed by ordinance; the city council shall have power to cause to be opened, paved or re-paved, or improved any street, lane, alley, market space or public landing on petition of not less than two thirds of the number of owners of any square or parts of square of said city, boundary [bounding] or abutting on such street, lane, alley, market space or public landing so to be opened, paved, re-paved or improved; and to levy and collect a special tax for defraying the costs and expenses of the same by an equal assessment on the first front boundary and abutting as aforesaid.

SEC. 27. **Borrowing money, requisites before.** That whenever in the opinion of the city council it is expedient to borrow money for any public purpose, the question shall be submitted to the citizens of Dubuque, the nature and object of the loan shall be stated, and a day fixed for the electors of the said city to express their wishes, the like notice shall be given as in cases of an election, and the loan shall not be made unless two thirds of all the votes polled at such election shall be given in the affirmative.

SEC. 28. **Adoption of this charter.** That before this act shall take effect and be in force, a vote shall be taken upon the adoption of the same by the qualified voters residing within the limits of said city, at such time and place, and under such regulations as the present mayor and aldermen of said city may prescribe and determine: provided, that a majority of the whole vote cast, shall be deemed necessary to adopt and carry into effect this act.

SEC. 29. **This charter a public act.** That this act shall be taken and received in all courts, and by all judges, magistrates and other public officers, as a public act, and all printed copies of the same which shall be printed by or under the authority of the council and house of representatives, shall be admitted as good evidence thereof without any other proof whatsoever.

SEC. 30. **Repealing clause.** That all acts and parts of acts heretofore passed relative to the incorporation of said city of Dubuque and coming within the purview of this act, be and the same is [are] hereby repealed.

Approved, January 19th, 1846.

JOINT RESOLUTIONS

NO. 1.

A JOINT RESOLUTION for an appropriation to improve the agency road.

Resolved, by the Council and House of Representatives of the Territory of Iowa.

That whereas the congress of the United States, has heretofore appropriated at different times, the sum of ten thousand dollars, for the laying out and bridging a certain road known as the agency road, from Burlington to the old Indian agency, and whereas, said sum of ten thousand dollars has been expended as aforesaid, and still said road is in an onfinished state. And whereas, said road is of the utmost importance not only to the government of the United States, but to the city of Burlington, and to the country through which the road passes.

Resolved therefore, that our delegate in congress, the Hon, A. C. Dodge, be requested to use his best endeavors to obtain an appropriation sufficient to complete the bridging and embanking of said road; and that his excellency the governor, be requested to forward a copy of this resolution to our said delegate at Washington.

Approved, December 19th, 1845.

NO. 2.

JOINT RESOLUTION authorizing the librarian to procure copies of the journals of the legislative assembly.

Resolved, by the Council and House of Representatives of the Territory of Iowa.

That the territorial librarian, be authorized to procure five copies of the journals of each house of all the past sessions of the legisla- [126] ture of this territory, and put and keep the same in the territorial library, as a part and parcel of said library; and if the said journals cannot be otherwise got, that the librarian be authorized to purchase the same if they can be found; and that hereafter there shall be deposited in the library five copies of the journals of each house.

Approved, January 2d, 1846.

NO. 3.

A JOINT RESOLUTION instructing our delegate in congress to use his influence to get an appropriation to rebuild the bridge over Flint river in Desmoines county.

Resolved, by the Council and House of Representatives of the Territory of Iowa.

That our delegate in congress be instructed to use his influence to procure an appropriation of three thousand dollars, to build a bridge over Flint river, in Desmoines county, on the mail route leading from Burlington via Bloomington to Iowa City, and that the secretary be instructed to forward a copy of this resolution to our delegate in congress.

Approved, January 2d, 1846.

NO. 4.

JOINT RESOLUTION relative to obtaining another land office.

Resolved, by the Council and House of Representatives of the Territory of Iowa.

That our delegate in congress be instructed to use his influence to get an additional land district and land office in this territory.

Resolved, that the secretary of the territory be instructed to forward a copy of the above to our delegate in congress.

Approved, January 2d, 1846.

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[127] NO. 5.

JOINT RESOLUTION asking an appropriation for a bridge over Skunk river at Lowell, in Henry county, Iowa.

Whereas, the citizens of the territory of Iowa are deeply interested in procuring the erection of a permanent bridge over Skunk river, where the agency road leading from Burlington to the former Sac and Fox agency, and the road from Mount Pleasant to Lee county crosses the same at Lowell, in Henry county, therefore,

Resolved, by the Council and House of Representatives of the Territory of Iowa.

That our delegate in congress be and he is hereby requested to use his exertions to obtain an appropriation of five thousand dollars for the purpose of erecting a bridge over the said river at the point above designated.

Resolved, that his excellency the governor be requested to forward a copy of the preamble and resolution to our delegate in congress.

Approved, January 16th, 1846.

NO. 6.

JOINT RESOLUTION for the adjournment of the legislature sine die.

Resolved, by the Council and House of Representatives of the Territory of Iowa.

That the two houses adjourn *sine die* on Monday the twenty-ninth day of January, A. D. 1846.

Approved, January 16th, 1846.

NO. 7.

JOINT RESOLUTIONS on mail routes.

Resolved, by the Council and House of Representatives of the Territory of Iowa.

That the postmaster general be respectfully requested to increase the mail facilities on the principal mail routes in the territory of Iowa.

Resolved, that he be requested to establish as soon as practicable a tri-weekly mail between the towns of Keokuk, in Lee county, and Dubuque, in the county of Dubuque, on the line of the military road through Iowa City, to the city of Dubuque; and from Knoxville, [128] Illinois, via. Bloomington, Iowa, to Iowa City, Iowa territory; and that proposals may be issued for the transportation of said mails in four horse post-coaches.

Resolved, that the secretary of the territory be requested to forward a copy of these resolutions to the postmaster general, and to Gen. Dodge, our delegate in congress, with a request that he exert his influence with the post office department to obtain the mail facilities prayed for by the foregoing resolutions.

Approved, January 17th, 1846.

NO. 8.

JOINT RESOLUTION for an appropriation to improve the territorial road across the Mississippi bottom between Toolsboro and the Mississippi river.

Resolved, by the Council and House of Representatives of the Territory of Iowa.

That the Hon. A. C. Dodge, our delegate in congress, be requested to use his exertions to procure an appropriation by congress of the sum of five thousand dollars to improve the territorial road across the Mississippi bottom between the town of Toolsboro and the Mississippi river.

Resolved, that his excellency, Gov. Clark be requested to forward a copy of the above resolution to our delegate in congress.

Approved, January 17th, 1846.

NO. 9.

JOINT RESOLUTION relative to a mail route.

Resolved by the Council and House of Representatives of the Territory of Iowa.

That our delegate in congress, the Hon. A. C. Dodge, be requested to use his best exertions to procure the establishment of a semi-weekly mail route from Knoxville, Ill., via Hendersonville and Millersburgh to Bloomington, Iowa, crossing the Mississippi river at the latter place, and that it may be so arranged that the annual letting of mail routes in June next, this route may be advertised and offered to competition as is now provided for by law, said mail to be conveyed in two horse post-coaches—also a weekly mail route from Keokuk in Lee county to Fairfield in Jefferson county.

[129] Resolved, that the secretary of the territory of Iowa, be and he is hereby requested to send one copy of this resolution to the postmaster general, and one to our delegate in congress.

Approved, January 17th, 1846.

NO. 10.

JOINT RESOLUTION providing for a set of seals for the counties of Iowa, Marion, Jasper and Polk.

Resolved, by the Council and House of Representatives of the Territory of Iowa.

That Robert M. Hutchinson be and he is hereby authorized to contract with some person to furnish a full set of seals for the county of Iowa, for which they shall receive such compensation out of the territorial treasury as the legislature may hereafter direct.

Resolved, that William Edmundson be and he is hereby authorized to contract for a full set of seals for the counties of Marion, Jasper and Polk, and that the same be paid for out of the territorial treasury.

Approved, January 17th, 1846.

NO. 11.

JOINT RESOLUTION for a mail route.

Resolved, by the Council and House of Representatives of the Territory of Iowa.

That the Hon. A. C. Dodge, our delegate, be requested to use his exertions to procure the passage of an act by the congress of the United States, for a mail route from Monmouth, Illinois, via Keathville, Ill., Wapello, Columbus City and Port Allen, in Louisa county, to Iowa City, in Johnson county, Iowa territory.

Resolved, that his excellency Gov. Clarke, be requested to forward a copy of this resolution to our delegate in congress.

Approved, January 17th, 1846.

[130] NO. 12.

JOINT RESOLUTION relative to the transmission of the Laws and Journals to the different States and Territories.

Whereas a custom of interchange of laws, reports, records and documents prevails between the states and territories of the United States, and whereas the important benefits of that custom have been extended to this territory without a reciprocity on her part, therefore, be it

Resolved by the Council and House of Representatives of the Territory of Iowa:

That it shall be the duty of the secretary of the territory to transmit to the executives of the different states and territories, three copies of the laws, three copies of the journals of each house of the legislative assembly of this territory, and that said documents shall be endorsed by the governor according to an act of congress entitled "an act authorizing the governors of the several states to transmit by mail certain books and documents," approved, Jan. 30th, 1834.

Approved, January 17th, 1846.

NO. 13.

JOINT RESOLUTION providing for a full set [of] seals for the counties of Keokuk, [Kishkekosh] and Appanoose.

Resolved by the Council and House of Representatives of the Territory of Iowa.

That William G. Coop, be and he is hereby authorized to contract with some person to furnish a full set of seals for the counties of Kishkekosh and Appanoose, for which they shall receive such compensation out of the territorial treasury, as the legislature may hereafter direct.

Approved, January 17th, 1846.

NO. 14.

JOINT RESOLUTION providing for the printing of the laws.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

That Messrs. Palmer publishers of the Iowa Capitol Reporter, be and they are hereby employed to print twenty-five hundred co- [131] pies of the laws passed at the present session, and that they be allowed the prices established by law.

Approved, January 17th, 1846.

NO. 15.

JOINT RESOLUTION relative to furniture, books and stationery, belonging to the Territory.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

That the treasurer of the territory is hereby directed to collect all the furniture, books and stationery, belonging to this territory, and cause the same to be kept in a safe and secure place during the recess of the legislature.

Approved, January 17th, 1846.

NO. 16.

JOINT RESOLUTION for the relief of George S. Hampton.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

That the auditor of public accounts, be and he is hereby authorized to audit and allow, and issue territorial warrants to George S. Hampton, to the amount of one hundred and one dollars for rent of office for clerk of supreme court, for the year 1842, for moving records of said supreme court from Burlington to Iowa City, and for blank book and other stationery for said supreme court: provided, that if said George S. Hampton should receive pay from the general government for the above said articles that he the said George S. Hampton, be required to pay the same into the territorial treasury.

Approved, January 17th, 1846.

NO. 17.

JOINT RESOLUTION for the donation of Fort Desmoines to Polk county.

Resolved by the Council and House of Representatives of the Territory of Iowa:

That the Hon. A. C. Dodge, our delegate in congress, be and he is hereby instructed to use his influence to obtain the passage of an [132] act of congress, granted [granting] to the county of Polk, in said territory, one quarter section or two eighty acre lots of land on which Fort Desmoines is situated, together with the improvements thereon for the use of the public building at the seat of justice of said county, provided said county pay into the land office the sum of one dollar and twenty-five cents per acre for such land.

Resolved, that the secretary of said territory be instructed to forward a copy of the above resolution to our delegate in congress, to the president of the senate, and to the speaker of the house of representatives.

Approved, January 17th, 1846.

NO. 18.

JOINT RESOLUTION relative to the distribution of the laws.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

That the laws of the present session shall be distributed as follows, to wit:

To the counties of Lee, Van Buren, Desmoines and Dubuque, each, one hundred and thirty copies.

To the counties of Henry, Jefferson and Jackson, one hundred and fifteen copies each.

To the counties of Washington, Louisa, Johnson, Muscatine, Scott and Linn, ninety copies each.

To the county of Cedar, eighty copies.

To the counties of Clinton, Jones, Delaware, Clayton, Davis, Mahaska, Wapello and Keokuk, seventy copies each.

To the counties of Iowa, Kishkekosh, Appanoose, Marion, Jasper, Polk and Benton, fifty copies each

And that unorganized counties shall be entitled to their proportion of the laws, from the counties to which they are attached for judicial purposes.

Resolved, that in the distribution of the laws aforesaid, the clerk of the boards of county commissioners shall be governed by the act relative to the distribution of the laws, approved 16th Feb. A. D. 1844.

Approved, January 17th, 1846.

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[133] NO. 19.

JOINT RESOLUTION to pay Charles A. Robbins.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

That the auditor of public accounts, be and he is hereby authorized to audit and allow, and issue territorial warrants to Charles A. Robbins, to the amount of seventy-five dollars, as pay for furnishing the counties of Wapello, Davis, and Iowa, with a full set of seals.

Approved, January 17th, 1846.

NO. 20.

JOINT RESOLUTION relative to lands granted Iowa territory for a university.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

That Hon. A. C. Dodge, our delegate in congress, be and he is hereby requested to use his influence for the appointment of a suitable person by

the secretary of the treasury, to select two townships of land granted to the territory of Iowa for a university, according to the provisions of an act entitled "An act granting two townships of land for the use of a university in the territory," approved July 20th, 1840.

Approved, January 2d, 1846.

NO. 21.

JOINT RESOLUTION relative to the printing of the act for a state government.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

That the auditor of the territory, be and he is hereby directed to allow the account of the respective publishers of newspapers in this territory for publishing "an act to provide for the expression of the opinion of the people of the territory of Iowa, upon the subject of the formation of the state constitution, for the state of Iowa," to the amount of twenty-five dollars, on being satisfied that the service was performed.

Approved, January 17th, 1846.

[134] NO. 22.

JOINT RESOLUTION for the payment of J. D. Bourne.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

That the auditor of public accounts of this territory, be authorized to audit and allow, and to issue territorial warrants to J. D. Bourne, sheriff of Clinton county, to the amount of one hundred dollars as pay for services rendered to the territory, in going and demanding from the governor of Illinois the body of Johnson Butler, a fugitive from justice from this territory, upon a requisition of the governor of Iowa, and carrying said Butler from Illinois to this territory, to wit: into Clinton county, and the expenses attendant thereon.

Approved, January 17th, 1846.

NO. 23.

JOINT RESOLUTION for the payment of Jesse Williams.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

That Jesse Williams, secretary of the territory, be allowed the sum of two hundred and fifty dollars for indexing and superintending the printing of the laws of the present session of the legislative assembly.

Approved, January 19th, 1846.

NO. 24.

JOINT RESOLUTION for the payment of Samuel C. Trowbridge.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

That Samuel C. Trowbridge, of Johnson county, be allowed the sum of thirty-one dollars for his services as sheriff and clerk of Johnson county, at the time of its organization, to be paid out of the treasury of the territory; and that the auditor of public accounts is hereby instructed to audit and allow the same.

Approved, January 17th, 1846.

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[135] NO. 25.

JOINT RESOLUTION to provide for the binding of the laws, and for other purposes.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

That James McIntosh, be and he is hereby employed to bind the laws of the present session, in pamphlet form, and that he be allowed the same price that is allowed by law for binding the journals of the council and house of representatives, and the said McIntosh and the persons employed to print the laws be required to give bonds to the secretary of the territory in the penal sum of five thousand dollars each, that their respective portions of the work will be completed and the laws ready for distribution by the first day of April next.

Approved January 19th, 1846.

NO. 26.

JOINT RESOLUTION approving of the late Memphis convention.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

That we highly approve of a union of efforts of the west and south-west, for the purpose of mutual aid and counsel in the protection of their natural interests, therefore, we approve of the object and action of the late Memphis convention.

Approved January 19th, 1846.

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