

IOWA

STATE

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AUTHORIZED REPRINT OF THE
ACTS AND RESOLUTIONS
PASSED AT THE
REGULAR SESSION
OF THE
SEVENTH GENERAL ASSEMBLY
REGULAR SESSION
OF THE
EIGHTH GENERAL ASSEMBLY
AND THE
EXTRA SESSION
OF THE
EIGHTH GENERAL ASSEMBLY
OF THE
STATE OF IOWA

Prepared for Publication Under the Direction of
W. S. ALLEN
Secretary of State

DES MOINES:
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J. M. JAMIESON, STATE BINDER
1914

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SEVENTH GENERAL ASSEMBLY
EIGHTH GENERAL ASSEMBLY
EIGHTH GENERAL ASSEMBLY
STATE OF IOWA

Prepared for Publication Under the Direction of
W. E. ALLEN
Secretary of State

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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 by 34th General Assembly, April 12, 1911.

CERTIFICATE.

STATE OF IOWA,
OFFICE OF SECRETARY OF STATE.

I, W. S. Allen, secretary of state of the state of Iowa, hereby certify that the acts and resolutions herein contained are copied from printed volumes of the regular session of the Seventh General Assembly, the regular session of the Eighth General Assembly, and the extra session of the Eighth General Assembly of the state of Iowa, and that the same are a full, true and complete copy thereof, except that the paging of the original volumes is shown herein by inserting in brackets [thus] 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
21st day of March, A. D. 1914.

(SEAL)

W. S. Allen

Secretary of State.

ACTS AND RESOLUTIONS

PASSED AT THE

REGULAR SESSION

OF THE

SEVENTH GENERAL ASSEMBLY

OF THE

STATE OF IOWA

WHICH CONVENEED AT THE CAPITOL, DES MOINES, ON THE FIRST
MONDAY IN JANUARY, A. D. 1858.

RALPH P. LOWE, Gov'r.
ELIJAH SELLS, Secretary.
M. L. FISHER, Supt. of Inst.

JOHN PATTEE, Auditor.
M. L. MORRIS, Treasurer.
T. S. PARVIN, Register.

ORAN FAVILLE, Lt. Gov. and President of the Senate.
STEPHEN B. SHELLY, Speaker of the House.

BY AUTHORITY

DES MOINES:
J. TEESDALE, STATE PRINTER.
1858.

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LAWS OF IOWA

CHAPTER 1.

FIRST JUDICIAL DISTRICT.

AN ACT to amend an Act Regulating the Terms of the District Courts in the First Judicial District.

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

SECTION 1. Change time holding court in Keokuk and Burlington. That that part of the act entitled "an act, fixing the time of holding court in the first judicial district," approved January 21st, 1857, which requires and fixes a term of the district court of Des Moines county, on the fourth Monday in January, and the district court of Lee county, at Keokuk, on the second Monday of February, be and the same is hereby repealed, but this act shall not affect other terms of court fixed by the aforesaid act.

SEC. 2. Return of writs. All writs, actions, pleas, indictments, recognizances and notices made returnable, or by which parties are bound to appear at said terms, shall be returnable to and valid at the April and September terms of said courts, respectively, in the same manner and to the same extent as the same are returnable to the January and February terms of said courts respectively; and all defendants duly summoned to said January and February terms of said courts respectively, shall be held to answer at the April and September terms of said courts respectively, as if served with notice for said terms, and without further notice.

SEC. 3. Take effect. This act shall take effect and be in force from and after its publication in the Iowa Citizen, Burlington [2] State Gazette, Gate City of Keokuk, and Burlington Hawkeye.

Approved January 19th, 1858.

I certify that the foregoing Act was published in the Iowa Citizen, Jan. 27th, 1858, in the Burlington State Gazette, January 26, 1858, and in the Gate City, Jan. 25th, 1858, and in the Burlington Hawk-Eye, Jan. 26th, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 2.

ELEVENTH JUDICIAL DISTRICT.

AN ACT fixing the time of holding Courts in the Eleventh Judicial District.

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

SECTION 1. Time of holding—Polk county—Dallas county—Madison county—Warren county—Mahaska county—Poweshiek co.—Jasper county—Marion county. That the district courts for the Eleventh judicial district, shall for the year A. D. 1858, be held as follows: in the county of Polk on the

second Monday in February and first Monday in August; in the county of Dallas on the first Monday in March and fifth Monday in August; in the county of Madison on the second Monday in March and first Monday in September; in the county of Warren on the fourth Monday in March and second Monday in September; in the county of Mahaska on the first Monday in April and third Monday in September; in the county of Poweshiek on the fourth Monday in April and second Monday in October; in the county of Jasper on the first Monday in May and third Monday in October; and in the county of Marion on the third Monday in May and the first Monday in November.

SEC. 2. **Return of writ.** That no notice, plea, writ, bond, recognizance, indictment or proceeding of any kind whatever, shall be quashed or affected in any way whatever, by the change in the times of holding court in said district; and all notices, subpoenas, and process now made, or which shall hereafter be made returnable to the next terms of said courts as provided by law, shall be construed and held to be returnable to the next term of said courts as provided herein.

[3] SEC. 3. **Take effect.** This act shall take effect and be in force from and after its publication in the Iowa Weekly Citizen and Iowa State Journal.

Approved January 22, 1858.

I hereby certify that the foregoing Act was published in the Iowa Weekly Citizen, January 27th, 1858, and in the Iowa State Journal February 13th, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 3.

SWAMP LANDS.

AN ACT making an Appropriation for Swamp Land purposes.

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

SECTION 1. **Govern'r appoint agent—appropriates \$2,000.** That the governor is hereby authorized to appoint an agent to proceed to Washington to effect an adjustment and settlement for the different counties in the state, of their swamp land business, and also one or more to have the swamp and overflowed lands selected in the new and unorganized counties of the state; and for defraying expenses of same there be, and hereby is appropriated from the treasury of the state, the sum of two thousand dollars.

SEC. 2. **Apportion scrip.** That when the general government shall issue the scrip, and refund the money to the state, contemplated by the act of congress of 2d March, 1855, and patent to the state the lands accruing by virtue of the act of congress of 28th September, 1850, the governor, register of state land office, and the agent of the county, if any, shall constitute a board to ascertain what amount of said land, money and scrip, is due the different counties in the state, and when so ascertained the same shall be subject to the order of the county judges, or other proper authorities in the county.

SEC. 3. **Counties refund to the state.** That the two thousand dollars hereby appropriated be refunded the state with ten per cent. interest from date of same, each county paying an [4] amount proportionate to its share of the

lands, scrip and money received, to be ascertained and withheld by said board and paid over to the state treasury.

SEC. 4. **Repeal.** Any laws inconsistent with, or contrary to this act, are hereby repealed.

SEC. 5. **Take effect.** This act to take effect and be in force from and after its passage and publication in the Iowa State Journal and the Iowa Citizen.

Approved January 27th, 1858.

I hereby certify that the foregoing Act was published in the Iowa Citizen January 30th, 1858, and in the Iowa State Journal, February 13th, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 4.

TWELFTH JUDICIAL DISTRICT.

AN ACT fixing the time of holding Court in the Twelfth Judicial District.

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

SECTION 1. **Terms of court.** That the regular terms of the district court in the twelfth judicial district of this state during the year 1858 shall be held as follows:

Woodbury co. In Woodbury county, on the third Monday of April and first Monday of November.

Monona county. In Monona county on the fourth Monday of April and second Monday of November.

Crawford county. In Crawford county on the first Monday of May and third Monday of November.

Carroll county. In Carroll county on second Monday of May and fourth Monday of November.

Cherokee county. In Cherokee county on the third Monday of May and first Monday of December.

Dickinson county. In Dickinson county on the fourth Monday of May and second Monday of December.

Clay county. In Clay county on the first Monday of June and third Monday of December.

[5] **Plymouth county.** In Plymouth county on the second Monday of June and fourth Monday of December, and in all other counties, at such times and places as the judge of said district may appoint.

SEC. 2. **Repeal—take effect.** All acts and parts of acts coming in conflict with this act are hereby repealed. This act to take effect and be in force from and after its publication in the Sioux City Eagle and Western Independent.

Approved February 4th, 1858.

I hereby certify that the foregoing Act was published in the Sioux City Eagle February 20th, 1858, and in the Western Independent February 25th, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 5.

SCHOOL OFFICERS.

AN ACT to legalize the Election and acts of certain School officers of School District No. 1, in Marion Township, Linn County, Iowa.

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

SECTION 1. **Acts legalized.** That the election of John M. Wilson, Robert Smith and Robert Holmes, as a board of school directors, in and for school district No. 1, in Marion township, Linn county, state of Iowa, elected at a meeting of the electors of said district, on the 4th day of May, A. D., 1857, be and the same are hereby legalized and declared valid, as though all the requirements of the statute in such case made and provided, had been fully and properly complied with by them.

SEC. 2. This act to be in force from and after its publication in the Iowa Citizen and the Linn County Register, without expense to the state.

Approved February 4th, 1858.

I certify that the foregoing Act was published in the "Iowa Citizen," February 17th, 1858, and in the Linn County Register.

ELIJAH SELLS,
Secretary of State.

[6] CHAPTER 6.

FRED. M. HUBBELL.

AN ACT to legalize the official acts of Fred. M. Hubbell.

Statement of the facts. *Whereas*, Fred. M. Hubbell was, on or about the 20th day of August, A. D. 1856, appointed deputy district clerk, in and for the county of Woodbury in this state, by T. Elwood Clark, clerk of said county, the said appointment being in all respects in accordance with the requisitions of section 411 of the code of Iowa, except that the county judge of said county, who had verbally approved the said appointment, failed or neglected to endorse his approval thereon; *and whereas*, the said deputy has since his said appointment, performed all the duties of the said office of clerk of said county—*now therefore*—

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

SECTION 1. **Acts legalized.** That each and every official act of the said Fred. M. Hubbell, as deputy clerk aforesaid, since his said appointment shall have the same force and effect, in law and equity, as if section 411 of chapter 33 of the code had been strictly complied with; *provided*, that this act shall not affect any legal liability of said Fred. M. Hubbell and T. Elwood Clark.

SEC. 2. **Take effect.** That this act shall take effect and be in full force from and after its publication once in the Sioux City Eagle and Western Independent, without expense to the state.

Approved February 4th, 1858.

I hereby certify that the foregoing act was published in the Sioux City Eagle, February 20th, 1858, and in the Western Independent, February 25th, 1858.

ELIJAH SELLS,
Secretary of State.

[7] CHAPTER 7.

STATE BONDS.

AN ACT to provide for issuing State Bonds and procuring a loan for the State of Iowa.

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

SECTION 1. **\$200,000—run 10 years—payable in New York.** That there shall be borrowed for the purpose of paying the current expenses of the state government, and the redemption of the outstanding warrants of the auditor of state, the sum of two hundred thousand dollars, for a term not exceeding ten years, and at a rate of interest not exceeding seven per cent per annum, the interest payable semi-annually; the payment of the interest, and the reimbursement of the principal to be made at such place in the city of New York as may be agreed upon.

SEC. 2. **Governor issue.** The governor of the state is authorized and required to issue bonds for and in behalf of the state, for the sum or sums of money which may be borrowed under the provisions of this act, stipulating for the payment of the interest and principal in manner and form as may be agreed upon, not contrary to the provisions of this act, which bonds shall be signed by the governor, and countersigned by the auditor of state.

SEC. 3. **Faith of state pledged for payment.** The state doth hereby irrevocably pledge its faith to provide adequate means to pay the interest due on said bonds, as the same may become due, and to reimburse the principal as may be agreed on, and for these purposes the revenues arising from all the taxable lands, and other taxable property in the state, or so much thereof as may be necessary, shall be, and the same is hereby set apart and pledged for that purpose; which revenue shall in no year be less than the amount payable for the interest, or the principal, as the case may be, after the payment of all expenses of collection; and no tax shall ever be levied by the legislative authority of Iowa on stock hereby created, nor on the interest which may be payable thereon; and further, that the value of [8] the said stock shall in no wise be impaired by the authority of this state.

SEC. 4. **Money paid into the state treasury.** All moneys or funds arising from the loan, shall be paid into the state treasury, and be there subject to the warrants of the auditor of state.

SEC. 5. **M. L. Morris, Ag't. Report to Gov.** That M. L. Morris, be and he is hereby appointed an agent on the part, and in behalf of the state, to negotiate said loan, to sell and transfer the bonds, and to do and perform all things necessary and proper for fulfilling the purposes of this act. It shall be the duty of said agent to communicate a full and official statement of all his acts and proceedings, with reference to the negotiation of the loan, to the governor of the state, who shall communicate the same to the legislature as soon as practicable.

SEC. 6. **Agent give bond.** The said agent shall give bond, with securities, in the amount of three hundred thousand dollars, for the faithful performance of his duties; which bond shall be approved by the governor and deposited with the auditor of state.

SEC. 7. **Compensation of agent.** That the said agent shall be allowed such compensation in addition to his necessary expenses, for the services required by this act, as shall be deemed proper by the governor and auditor

of state, not to exceed, however, one quarter of one per cent., on the amount so sold and paid over as directed by this act.

SEC. 8. **Duties of agent executed. State Stocks.** It shall be deemed a good execution of the powers and duties prescribed by this act, for the agent to sell the bonds herein authorized to be made, and to pay the proceeds of the same into the state treasury—*provided*, that in no instance shall said bonds be sold for less than their nominal par value, which bonds when made as aforesaid, shall be called the Iowa state stocks.

SEC. 9. **Publication of notice.** It shall be the duty of the agent negotiating this loan, to give at least ten days public notice by advertisement in the Daily New York Times, Daily New York Journal of Commerce, Daily New York Tribune, Daily Boston Atlas and the Daily Boston Post, inviting proposals for said loan, and all proposals received by him, [9] shall by him be preserved and filed in the office of the auditor of state.

SEC. 10. **Take effect.** This act shall take effect and be in force from and after its publication in the Iowa Citizen and Iowa State Journal.

Approved February 8th, 1858.

I certify that the foregoing act was published in the Iowa Citizen February 10, 1858, and in the Iowa State Journal, February 13th, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 8.

SCHOOL LANDS.

AN ACT to legalize the sale of certain School Lands by James Hull, School Fund Commissioner of Boone County, Iowa.

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

SECTION 1. **Legalize the acts of J. A. Hull, school fund Com'r Boone co.** That the sale of the west half of the south-west quarter of section ten, ten, (10) in township eighty-three, (83) north of range twenty-six, (26) west of the fifth principal meridian, by James Hull, school fund commissioner of Boone county, Iowa, on the sixth day of February, 1855, to J. A. Hull, be and the same is hereby declared legal and valid to all intents and purposes, as if the same had been sold at public sale with notice as required by chapter 136 of the acts of the fifth general assembly, approved January 25th, 1855.

SEC. 2. **Take effect.** This act shall take effect and be in force from and after its publication in the Boonsboro Democrat and the Boone County News, without expense to the state.

Approved Feb. 8th, 1858.

I hereby certify that the foregoing Act was published in the Boonsboro Democrat, February 17th, 1858, and in the Boone County News February 12th, 1858.

ELIJAH SELLS,
Secretary of State.

[10] CHAPTER 9.
SCHOOL LANDS.

AN ACT to amend Section 1052 of the Code.

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

SECTION 1. **Prevent forfeiture of school lands.** That so much of section 1052 of the code as authorizes school fund commissioners to declare contracts for school lands forfeited, where the interest on the same has not been paid, and further authorizes them to sell said lands anew, be and the same is hereby repealed.

SEC. 2. **Take effect.** This act shall be in force from and after its publication in the Tri-Weekly Iowa Citizen and Tri-Weekly Iowa State Journal, at Des Moines.

Approved February 9th, 1858.

I hereby certify that the foregoing Act was published in the Tri-Weekly Citizen February 11th, 1858, and in the Tri-Weekly Iowa State Journal February 10th, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 10.

STANDING ARMY.

AN ACT authorizing the Governor to raise, arm and equip a company of mounted men for the defense and protection of our frontier.

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

SECTION 1. **Gov. raise company, arm and equip.** That the governor be and he is hereby authorized and empowered to raise, arm and equip, one company of mounted volunteers, to consist of not less than thirty nor more than one hundred men, whenever he shall deem the same necessary for the protection of the frontiers.

SEC. 2. **Company officers.** The officers of said company shall consist of one captain, one first lieutenant, and one second lieutenant and one surgeon.

Non-com. officers. The non-commissioned officers shall be four sergeants, [11] and four corporals. The officers and non-commissioned officers shall be elected by the company, and the captain and lieutenants shall be commissioned by the governor.

SEC. 3. **Governor furnish Capt., arms &c.** It shall be the duty of the governor to furnish the captain of the company aforesaid, with the arms, ammunitions and equipments necessary to a company of mounted men at the expense of the state of Iowa.

SEC. 4. **Necessity of raising company—gov. disband.** The governor shall in no case call out said company of volunteers, unless in his judgment, founded upon reliable information, it is absolutely necessary to protect the lives or property of the citizens of the state, and such force shall always be subject to the order of the governor; and in no case shall the governor keep such body of men in service after the general government shall have taken measures effectually to protect the said frontier, and said company shall be discharged and disbanded at any time, by an order from the governor.

SEC. 5. Where rais'd and recruited. Said company shall be raised and recruited as near the theatre of operations as practicable, and for that purpose J. Palmer, of Spirit Lake, is hereby appointed as agent, to whom all persons desirous of volunteering shall apply.

Duty of agent in organizing company—mustering into service—make return to governor. Whenever said J. Palmer shall have received the names of thirty men, over the age of twenty-one and of good sound health, he shall then notify said volunteers to meet at a certain time and place for the purpose of electing their officers. Said J. Palmer shall preside over and conduct said election, and his certificate of election shall be sufficient proof to the governor, to authorize him to commission said officers so elected. Said agent shall then muster into the service of the state of Iowa, all persons possessing the above requisites, and shall transmit an accurate return, showing the names of the officers, non-commissioned officers and privates who shall have volunteered, together with their ages and place of residence, to the governor of the state.

SEC. 6. Horse furnished by volunteer and examined by agent, Capt. and lieutenant—officers may condemn horses. Each officer, non-commissioned officer and [12] private, shall be required to furnish a good horse suitable for service, and said J. Palmer, agent, and the captain and lieutenants aforesaid, are hereby created a board of survey for the examination of all horses that are hereby required, with the power of condemning all that are unfit for service in their judgment, and after said mounted volunteers shall have been mustered into the service, the right of condemnation and rejection of horses shall be vested in the officers of said company.

SEC. 7. Subsistence and clothing furnished by volunteers. The officers, non-commissioned officers and mounted volunteers shall furnish in addition to a horse, as required by this act, all of their own clothing and rations of subsistence for both horse and man for such time as they may be in the service of the state of Iowa.

SEC. 8. Compensation—how paid. The compensation of the officers of said company shall be as follows: for captain, the sum or at the rate of seventy dollars per month. 1st lieutenant (60) sixty dollars per month, and second lieutenant fifty-five dollars (55) per month; non-commissioned officers as follows: sergeant (50) per month; corporals forty-eight dollars per month, and each mounted volunteer the sum of forty-five dollars per month; and all claims arising against the state under the provisions of this act shall be audited and paid as other claims against the state.

SEC. 9. Captain reports to the governor. It shall be the duty of the captain of said company to transmit to the governor of the state of Iowa, at the end of each and every month, a return showing the names and ages of the men in said company, and the number of days that said company was actually engaged in active operations during said month, together with such suggestions as he may deem proper and best, having in view the protection of the frontier settlements of the state of Iowa.

SEC. 10. Liable for arms. Each officer, non-commissioned officer and mounted volunteer shall be held liable for the return of any arms or equipments which he or they may receive from the governor of the state of Iowa, under section 4 of this act; and any such arms or equipments not re- [13] turned, or if returned in a damaged state, such person shall be liable to pay whatever amounts shall be adjudged against him by the commissioned officers of said company, who are hereby created a board of survey for that purpose, and such amounts so found by said board shall be deducted from the pay of such non-commissioned officer or mounted volunteer.

SEC. 11. Court martial—trial and punishment. The commissioned and non-commissioned officers shall constitute a board for the trial of all privates who shall be guilty of such breaches of law or military discipline, or unsoldier-like conduct as are prescribed by the articles of war of the United States army, and said board shall have the right to expel or discharge any person who shall have been found guilty of any of the above misdemeanors after a fair trial upon written charges and specifications before said board, during which the accused shall have the right of producing witnesses, appearing by counsel, and of being furnished with a copy of the charges and specifications. Provided, that the punishment of flogging, branding and drumming out shall never be permitted.

SEC. 12. Govern'r may remove officer. The governor of the state shall have the right to remove any commissioned officer, for any breach of law or military discipline, or unsoldier-like conduct as are prescribed by the articles of war of the United States army.

The charges in such case shall be sustained by specifications and affidavits and replied to by the officer in counter affidavits.

SEC. 13. Governor notify Sec'y of war—ask protection gen'l government. It is hereby made the duty of the governor to notify the secretary of war of the exposed and defenceless condition of our frontier, and ask the protection of the general government, and to demand and receive indemnity for any expenditures which may be made in carrying out the provisions of this act, and in case this act shall be deemed insufficient to accomplish the purpose for which it was intended, viz: The protection of the frontier of the state of Iowa, the governor of the state is hereby invested with power to correct [14] any oversight or insufficiency in this act, and take steps to fully carry out the spirit and meaning of the law.

SEC. 14. Time of Paym't. The payment of said company shall be at the end of each two months, and shall be upon a pay roll, which shall be made out by the captain of said company; and when the mounted volunteers receive their pay they shall sign said pay-roll, and each signature shall be attested by a commissioned officer, whose duty it shall be to see that each and every private shall receive the amount of pay to which he may be entitled.

SEC. 15. Company when considered organized—when service commences. After said company shall have been organized and mustered into service, they shall be considered as organized and subject to be called into service by order of the governor; and it is hereby declared to be the intent of this act that such an organization into a company and mustering into service, shall be considered as only initiatory steps, and that no payment of said volunteers shall commence until they shall actually be called out by the governor, or for such time as they shall actually be engaged in frontier service.

SEC. 16. Gov. appoint surgeon. The governor shall have the right to appoint some physician of good medical standing, who shall receive for his services \$50 per month, subject also to the restrictions of the foregoing section.

SEC. 17. Take effect. This act to take effect and be in force from and after its publication in the Tri-Weekly State Journal and Tri-Weekly Citizen, published at Des Moines, state of Iowa.

Approved February 9th, 1858.

I hereby certify that the foregoing act was published in the Tri-Weekly State Journal February 15th, A. D. 1858, and in the Tri-Weekly Citizen at Des Moines February 10th, A. D. 1858.

[15] CHAPTER 11.

GRAND JURY.

AN ACT entitled an Act to amend Section 2891 of the Code of Iowa.

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

SECTION 1. **Foreman administer oaths.** That section 2891 of the code of Iowa be amended so as to read as follows: "from the persons summoned to serve as grand jurors, the court must appoint a foreman who shall have authority to administer oaths to all witnesses produced for examination before the grand jury. The court shall also appoint a foreman who shall have like authority, when the person already appointed is discharged or excused before the grand jury is dismissed.

SEC. 2. **Take effect.** This act shall take effect from and after its publication in the Iowa Citizen and Iowa State Journal.

Approved February 9th, 1858.

I hereby certify that the foregoing Act was published in the Iowa Citizen February 24th, A. D. 1858, and in the Iowa State Journal February 13th, A. D. 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 12.

INSURANCE COMPANIES.

AN ACT to amend An Act entitled An Act in relation to Insurance Companies, approved January 28th, 1857.

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

SECTION 1. **When guarantee fund deposited in another state the auditor shall withhold certificate until statement is made & deposit of five per cent. with auditor—guarantee fund held by auditor for the benefit of parties insured within this state—fund how disposed of by auditor when company insolvent.** That if any insurance company, association, firm or individual, or their agent or agents having filed its or their statements and evidences of investments as required by the act to which this is amendatory, and conformed to the requirements of that act, shall have on deposit in any other state or territory, or elsewhere than in this state, any portion of its capital or earnings as a guarantee fund for the exclusive ben- [16] efit or security of persons insured in such state, territory or other place, it shall be the duty of the auditor of state to withhold from such body or individual, so alienating any such portion of their capital and resources, the certificate and authority in said act provided for, until such body or individual shall file with the auditor of state a statement duly verified by the oath or affirmation of the president or secretary of such incorporated company, or member of such incorporated company, association, partnership or firm, or by such individual, showing the amount of premiums received in this state by such company during the year ending on the first of January next, preceding the filing of said statement, and shall deposit in this state in such manner as the auditor of state shall direct, five per cent. of the amount so received in

money or solvent state or United States stocks of at least par value or mortgages on real estate, situated in this state of at least double the value for which the same is mortgaged—which statements and deposits shall be so made, from year to year, at the time of each renewal or original grant of authority by said auditor, until the sum of forty thousand dollars is deposited as aforesaid; which said sum and every yearly part thereof deposited as aforesaid, shall be held under the control of such auditor of state as a guarantee fund for the benefit of such persons as may be in any manner insured in their property by such company within this state, and the same or any part of the sum so deposited shall not be drawn out by the depositors until all claims for losses or premiums, or risks unexpired, shall be fully paid and discharged, or until all deposits made in other states, territories and other places, not within this state, shall be withdrawn. And in case of the insolvency of any such company, the sums so deposited as aforesaid, shall be applied by the auditor of state, pro tanto, towards the payment of all claims against such body or individual, filed in his office duly liquidated and authenticated, and losses and premiums on risks unpaid, on policies issued within six [17] months after such insolvency may occur, any such body or individual shall be deemed insolvent, upon failure to pay any undisputed loss insured against, within this state, for the space of ninety days after final judgment, for the amount of any loss so insured against, when no appeal shall have been taken from such judgment by either party, or other proceeding begun to vacate, modify, reverse or review such judgment, or to arrest the same, or to obtain a new trial. Such body or individual shall be entitled to receive the interest or dividends on such stocks so deposited from time to time as the same may become due.

Application of foregoing. This section shall not apply to any of the aforesaid bodies or individuals who have made no such deposits as in this section mentioned elsewhere, than in this state.

SEC. 2. Auditor issue certificate to foreign insurance companies. Mutual insurance companies incorporated by any other state than the state of Iowa, upon filing in the office of the auditor the act of incorporation of said company, together with a written instrument under seal of said company signed by the president and secretary of said company, under oath certifying that said company is possessed of a capital of at least one hundred thousand dollars, secured by lien on real estate, worth at cash valuation at least five times the amount of said capital, and not encumbered to more than one half of said cash valuation, shall be entitled to a certificate from said auditor with authority to transact business of insurance in this state, and said company shall be exempt from the provisions of an act to which this is amendatory, with the exception of the publication of statement and certificate of the auditor.

SEC. 3. Agent file statement with clerk district court—published in newspapers. It shall be the duty of the agent or agents in either of the foregoing sections, mentioned, before taking any risks or transacting any business of insurance in this state, to file in the office of the clerk of the district court of the county of which he or they may desire to establish an agency for any such company, a copy of the statement required to be filed with the auditor of state as aforesaid, together with a certificate of said auditor, which shall be carefully preserved for public inspection by said clerk, and said statement and certificate shall be published one week in three daily, and three weeks in five weekly newspapers of general circulation in the state of Iowa.

SEC. 4. Repeal. Section seven of the act to which this is amendatory, and all other acts that conflict with the provisions of this act are hereby repealed.

SEC. 5. **Take effect.** This act to take effect and be in force from and after its publication in the Iowa Weekly Citizen and Iowa State Journal without expense to the state.

Approved February 9th, 1858.

I hereby certify that the foregoing Act was published in the Iowa Weekly Citizen on the 17th day of February, A. D. 1858, and in the Iowa State Journal on the 13th day of February, A. D. 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 13.

TOWN OF GUTTENBURG.

AN ACT regulating the official acts of the Town Council of Guttenburg.

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

SECTION 1. **Acts legalized.** That the official acts of the mayor and town council of Guttenburg, in the purchase and sale of real estate and personal property for the benefit of said town, be and the same are hereby legalized.

SEC. 2. **Take effect.** This act shall take effect from and after its publication in the Clayton County Herald and Weekly North Iowa Times, without cost to the state.

Approved February 10th, 1858.

I hereby certify that the foregoing Act was published in the Clayton County Herald,, 1858, and in the Weekly North Iowa Times,, 1858.

ELIJAH SELLS,
Secretary of State.

[19] CHAPTER 14.

THIRTEENTH JUDICIAL DISTRICT.

AN ACT to change the boundaries of the Thirteenth Judicial District so as to include Webster County.

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

SECTION 1. **Webster county attached.** That the county of Webster be and the same is hereby made a part of the 13th judicial district.

SEC. 2. **Time holding court.** The time of holding court in said county shall be the fourth Monday in March.

SEC. 3. **Take effect.** This act to be in force and take effect from and after its publication in the Iowa Weekly Citizen and Fort Dodge Sentinel.

Approved February 10th, 1858.

I hereby certify that the foregoing Act was published in the Iowa Weekly Citizen February 24th, 1858, and in the Fort Dodge Sentinel February 20th, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 15.

GEORGE F. M'CLURE.

AN ACT to repeal an act entitled an act to authorize George F. McClure to construct a dam across the Des Moines River.

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

SECTION 1. **Repeal.** That an act entitled an act to authorize George F. McClure to construct a dam across the Des Moines river, approved January 29th, 1857, be and the same is hereby repealed.

SEC. 2. **Take effect.** This act shall take effect and be in force from and after its publication in the Iowa Citizen and Iowa State Journal.

Approved February 10th, 1858.

I hereby certify that the foregoing Act was published in the Iowa Citizen on the 24th day of February, 1858, and in the Iowa State Journal February 13th, A. D. 1858.

ELIJAH SELLS,
Secretary of State.

[20] CHAPTER 16.

DUBUQUE CHARTER.

AN ACT to repeal an act entitled an act revising and consolidating the laws incorporating the City of Dubuque, and to establish a City Count therein.

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

SECTION 1. **Repeal.** That chapter 210 of the acts passed at the regular session of the general assembly, begun and held at Iowa City on the first day of December, A. D. 1856, approved January 28th, 1857, be and the same is hereby repealed.

SEC. 2. **Take effect.** This act shall take effect and be in force from and after its publication one time in each of the following named newspapers to wit: Express and Herald, Tribune and National Demokrat, published in the city of Dubuque, and it is hereby made the duty of the secretary of state to have such publication made without delay.

Approved February 10th, 1858.

I hereby certify that the foregoing Act was published in the Express and Herald on the 18th day of February, 1858, in the Tribune on the 18th day of February, 1858, and in the National Demokrat on the 19th day of February, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 17.

SCHOOL OFFICERS.

AN ACT to legalize the acts of certain School Officers.

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

SECTION 1. **Acts legalized.** That all school districts organized after July 4th, 1857, under the provisions of chapter 158 of the laws of the sixth gen-

eral assembly of the state of Iowa, be and the same are hereby declared legal so far as relates to the time of organization and election of school officers.

[21] SEC. 2. **Take effect.** This act shall take effect from and after its publication in the Iowa Citizen and Iowa State Journal, without expense to the state.

Approved February 11th, 1858.

I hereby certify that the foregoing Act was published in the Iowa Citizen on the 20th day of February, 1858, and in the Iowa State Journal on the 6th day of March, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 18.

JAIL IN KEOKUK.

AN ACT authorizing the county Judge of Lee county to build a Jail in the City of Keokuk, in said County.

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

SECTION 1. **County judge build.** That the county judge of Lee county be and he is hereby authorized to cause to be built a jail in the city of Keokuk, in said county, of sufficient capacity to safely keep all persons committed to prison from that portion of said county known as the "Half Breed Tract."

SEC. 2. **Take effect.** That this act take effect from and after its publication in the Keokuk Daily Post, The Gate City, Keokuk Daily Journal, Fort Madison Plain Dealer and Fort Madison Independent. The expense of said publication to be paid by the county of Lee.

Approved February 11th, 1858.

I hereby certify that the foregoing Act was published in the Keokuk Daily Post February 19th, 1858, in the Gate City February 19th, 1858, in the Keokuk Daily Journal February 18th, 1858, Fort Madison Independent February — 1858, and Fort Madison Plaindealer on the 19th day of February, A. D. 1858.

ELIJAH SELLS,
Secretary of State.

[22] CHAPTER 19.

COURT IN FT. MADISON.

AN ACT in relation to the time of holding Court in Fort Madison, Lee county, and providing for a special term of said Court for the purpose of trying Criminal Cases.

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

SECTION 1. **Time of holding.** That the next term of the district court of Lee county, at Fort Madison, for the purpose of trying civil cases, shall be held on the second Monday in October, 1858.

SEC. 2. **Time of trial.** All civil causes set for trial at the March term, 1858, of said court, shall be tried at the October term aforesaid, and all notices, writs, and all processes of every kind and nature whatsoever, which

are now required to be returned to the March term, 1858, shall be returnable to the said October term, *provided* the provisions of this section shall not apply to criminal causes.

SEC. 3. **Criminal cases.** A term of said district court shall be held at Fort Madison on the second Monday in March, 1858, for the purpose of trying the criminal cases now pending in the said court, or which may hereafter be commenced therein, but no cases other than criminal shall be tried at said term.

SEC. 4. **Repeal.** So much of chapter sixty-five of the acts of the sixth general assembly of the state of Iowa, as conflicts with the provisions of this act is hereby repealed.

SEC. 5. **Take effect.** This act shall take effect and be in force from and after its publication in the "Gate City," "Keokuk Daily Journal," and "Fort Madison Plain Dealer."

Approved February 20th, 1858.

I certify that the foregoing Act was published in the Gate City on the 26th of February, A. D. 1858, and in the Keokuk Daily Journal of 25th of February, 1858, and in the Fort Madison Plain Dealer February 25th, 1858.

ELIJAH SELLS,
Secretary of State.

[23] CHAPTER 20.

RECORDER IN KEOKUK.

AN ACT to amend an Act to establish a Recorder's Office in the City of Keokuk, approved January 8th, 1857.

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

SECTION 1. **Office establish'd.** That section first of said act is hereby so amended as to read as follows: There is hereby established in the city of Keokuk, Lee county, Iowa, a recorder's office, to be kept in said city as the county judge of said county may designate.

SEC. 2. **Conveyances indexed and recorded.** Be it further enacted, that section fourth of said act is hereby so amended as to require the deputy recorder therein mentioned to index and record all bills of sale, chattel mortgages, and other conveyances of personal property, together with all notices of mechanic's liens and other instruments of writing required by law to be recorded within the limits designated in the same manner and with the same effect as is therein provided for conveyances of real estate.

SEC. 3. **Expense of transcript—Record'r's Sal'ry.** Be it further enacted, that so much of the sixth section of said act as provides that the sum for the transcription of the records of Lee county, shall be paid by the city of Keokuk, and fixing the compensation of the deputy recorder, be and is hereby so altered and amended as to read as follows: "For the transcription of said records at Fort Madison, the person appointed by the county judge shall receive an amount to be fixed by the county judge, which shall be paid by the county of Lee, and the deputy recorder at Keokuk shall be provided with a duplicate seal for authenticating transcripts, &c., and for his services he shall receive the sum not less than eight hundred dollars nor more than twelve hundred dollars per annum, at the discretion of the county judge, to be paid out of the county treasury, and all fees received by him shall be paid into the county treasury.

SEC. 4. **Conveyances otherwise recorded not legal.** Be it further enacted, that the recording of instruments otherwise than in accordance with the provisions of this act, and to the act of which this act is amendatory, shall be no notice of what they contain; provided none of the provisions of this act shall have any reference to any instruments of writing except such as are mentioned in this act and in the act aforesaid.

SEC. 5. **Fire proof building.** The county judge of Lee county is hereby authorized to provide a fire proof building in the city of Keokuk, in which to keep the records of said county, and the cost of said building shall be paid by the county.

SEC. 6. **Pay for clerk hire.** The deputy recorder aforesaid shall be entitled to receive from the county of Lee, such an allowance for assistance in his office as the county judge may deem right and proper, and such allowance shall be in addition to his salary.

SEC. 7. **Take effect.** This act shall take effect and be in force from and after its publication in the Keokuk Daily Journal, the Gate City and Fort Madison Plaindealer, the cost of such publication to be paid by the county of Lee.

Approved February 20th, 1858.

I hereby certify that the foregoing Act was published in the Keokuk Daily Journal on the 20th of February, 1858, in the Gate City on the 27th of February, 1858, and in the Fort Madison Plaindealer on the 5th of March, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 21.

FALSE ENTRIES.

AN ACT defining the crime and punishing the offence of making false entries of fines and fees on dockets of Courts and otherwise, and of failing or neglecting to pay over such fines or fees according to law.

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

SECTION 1. **Officers failing to pay over fees or fines, guilty of misdemeanor—subject to civil action.** That any justice of the peace, clerk of the district or other court, county recorder, or any other officer who by law is authorized to receive and required to pay over fees of office, or who is or may be authorized to impose or collect fines, who shall fail, neglect or refuse to pay over as prescribed, or as may here- [25] after be prescribed by law, all such fees and fines, shall be guilty of a misdemeanor, and shall be subject and liable to be prosecuted therefor in any court having jurisdiction of the offense, besides being liable and subject to a civil action for the recovery of such fines and fees as may be by any such officer illegally withheld or appropriated.

SEC. 2. **Officer making false entries in relation to fees or fines guilty of misdemeanor.** If any justice of the peace, clerk of the district or other court which is now or may hereafter be established, county recorder or other officer, who by law is authorized or required to keep a court docket, or who is or may be required to keep an account of fees or fines, and to pay over, or in any way account for the same, shall in any manner falsify such docket or account, or shall fail, neglect or refuse to make an entry upon such docket,

or account of such fees and fines, as are required to be paid over according to law, such justice of the peace, clerk of the district court, or clerk of any other court, county recorder and other officer shall be guilty of a misdemeanor, and shall be subject and liable to be prosecuted therefor in any court having jurisdiction of the offense.

SEC. 3. Officer appropriating fees to his own use, when required to pay over, is liable to removal—amount punished by fine and imprisonment. Any justice of the peace, district court clerk, or clerk of any other court which is or may be established, county recorder, or other officer who may be found guilty of the offense of appropriating to his own use fees of office or fines collected for violation of law, or of neglecting to pay over the same as prescribed by law, shall be removed from office by the court before or by whom the offense may be tried and judgment or conviction had, and each and every person so found guilty shall be punished by a fine not exceeding 300 dollars nor less than 10 dollars, or imprisoned in the county jail for a period not exceeding one year, or by both such fine and imprisonment, in the discretion of the court.

SEC. 4. By whom prosecution commenced—duty of prosecuting attorney. Prosecutions under this act may be commenced by any person having cognizance of the offense, in the same manner as any other criminal offense may be commenced or prosecuted, and it is hereby made the duty of the prosecuting attorney of the county in which [26] the offense herein contemplated may be committed, and of the district attorney of the judicial district in which such offense may be committed, to take such action respecting the commencement and prosecution of such offense as may in their respective judgment be most conducive and effectual in carrying out the intention of this act, whether they or either of them become personally cognizant of its commission, or by or on the affidavit of another party.

SEC. 5. Pros. attorney examine dockets of justices of the peace and clerks of the district court, and other officers—prosecuting attorney institute suit. Until otherwise provided by law, fines and fees shall be collected and accounted for as prescribed by existing law, except that until otherwise provided, it is hereby made the duty of the prosecuting attorney of each county, or district attorney respectively, to make or cause to be made, an examination of the dockets of justices of the peace and clerk of the district court, and of the accounts of the fees of the recorders of deeds, clerks of district courts, and such other officers as are or may be authorized to receive fees, and are or may be required to account for the same for any other purpose than their own benefit, and the prosecuting attorney, or district attorney, after such examination is had, shall require all fees and fines which he may find unaccounted for, to be paid over and accounted for as prescribed by law, and it is further made his duty to institute and prosecute to judgment a civil action against any and every person or officer who may have neglected or refused, or may hereafter neglect or refuse to pay over according to law, fees and fines collected by them.

SEC. 6. Take effect. This act shall take effect and be in force from and after its publication according to law.

[27] CHAPTER 22.

ACKNOWLEDGEMENTS.

AN ACT entitled an act prescribing the manner of certifying acknowledgements in certain cases.

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

SECTION 1. **Att'y may acknowledge deed and other instruments.** That the execution of any deed, mortgage or other instrument in writing, executed by any attorney in fact, may be acknowledged by the attorney executing the same.

SEC. 2. **Officer endorse—title of court—identity proved—voluntary executions.** The court or person taking the acknowledgment must endorse upon such instrument a certificate setting forth the following particulars: 1st, the title of the court or person before whom the acknowledgment was taken. 2nd, that the person making the acknowledgment, was personally known to at least one of the judges of the court or to the officer taking the acknowledgment, to be the identical person whose name is subscribed to the instrument as attorney for the grantor or grantors therein named, or that such identity was proved to him by at least one credible witness, to him personally known and therein named. 3d, that such person acknowledged said instrument to be the act and deed of the grantor or grantors therein named, by him as his or their attorney thereunto appointed, voluntarily done and executed.

SEC. 3. **Past acknowledgments legalized.** All acknowledgments by attorneys heretofore made and certified, substantially as herein prescribed shall be deemed sufficient.

SEC. 4. **Take effect.** This act shall take effect and be in force from and after its publication in the Iowa Citizen and Iowa State Journal.

Approved February 24th, 1858.

I hereby certify that the foregoing Act was published in the Iowa Citizen March 3rd, 1858, and in the Iowa State Journal, February 27th, 1858.

ELIJAH SELLS,
Secretary of State.

[28] CHAPTER 23.

APPROPRIATION FOR INSANE ASYLUM.

AN ACT making a further appropriation for the State Insane Asylum.

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

SECTION 1. **Appropriates \$100,000 paid on the order of the commissioner—drawn upon estimates—copies of vouchers filed with auditor.** That there be and is hereby appropriated out of any money in the state treasury not otherwise appropriated, the sum of one hundred thousand dollars, for the further construction and furnishing of the state insane asylum at Mount Pleasant, Iowa. The same to be paid on the order of the commissioners appointed for the erection of said asylum, which orders shall be audited and paid as

other claims; provided, that said money so appropriated shall be drawn from the treasury by the commissioners only upon estimates made monthly upon and during the progress of the work, and where material or furniture shall have been purchased for the erection or use of such building, vouchers shall be taken, and copies thereof sent to the auditor of state with such orders for warrants or money as the commissioners may sign.

SEC. 2. **Take effect.** This act to take effect and be in force from and after its publication in the Iowa Weekly Citizen and Iowa State Journal.

Approved February 25th, 1858.

I hereby certify that the foregoing Act was published in the "Iowa Weekly Citizen," on the 3rd day of March, A. D. 1858, and in the Iowa State Journal on the 27th day of February, A. D. 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 24.

FORECLOSURE OF MORTGAGES.

AN ACT concerning the foreclosure of Mortgages, and amendatory of chapter 118 of the Code.

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

SECTION 1. [29] **Foreclose by civil action.** That hereafter no mortgage of real estate shall be foreclosed in any other manner than by civil action in the proper court; *provided* that nothing herein contained shall be construed to apply to deeds of trust.

SEC. 2. **Chattel mortgage foreclosed by notice.** The provisions of chapter 118 of the code concerning foreclosure of mortgages by notice and sale, shall still be applicable to mortgages of personal property.

SEC. 3. **Take effect.** This act shall be in force from and after its publication in the Iowa Weekly Citizen and Iowa State Journal.

Approved February 25th, 1858.

I hereby certify that the foregoing Act was published in the Iowa Weekly Citizen on the 3rd day of March, A. D. 1858, and in the Iowa State Journal on the 27th day of February, A. D. 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 25.

PROTEST OF NOTARIES PUBLIC.

AN ACT regulating the mode of service of notices of Protest of Notaries Public.

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

SECTION 1. **Notice to endorser deposited in post office.** That in case of a demand of payment of any promissory note, bill of exchange or other commercial paper, by a notary public, and a refusal by the maker, drawer or acceptor, as the case may be, the notary making said demand may inform the en-

dorser or any party to be charged, if in the same town or township, by notice deposited in the nearest post office to the party to be charged, on the day of demand, and no other notice shall be necessary to charge said party.

SEC. 2. **Take effect.** This act shall be in force from and after its publication in the Tri-weekly Citizen and Tri-Weekly Iowa State Journal.

Approved February 25th, 1858.

I hereby certify that the foregoing Act was published in the Tri-Weekly Citizen on the 2nd day of March, A. D. 1858, and in the Tri-Weekly Iowa State Journal on the 1st day of March, A. D. 1858.

ELIJAH SELLS,
Secretary of State.

[30] CHAPTER 26.

ATTACHMENTS.

AN ACT to amend Chapter 84 of the laws of 1853, entitled "An act to amend Section 1848 of the Code of Iowa," approved January 24th, 1853.

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

SECTION 1. **Repeal act of 1858.** That so much of chapter 84 of the laws of 1853, approved January 24th, 1853, entitled "an act to amend section 1848 of the code of Iowa, which reads as follows: "or that he has property, goods or money or lands and tenements, or choses in action not exempt from execution which he refuses to give either in payment or security of said debt," be and the same is hereby repealed.

SEC. 2. **May issue when the debtor is about to remove from the county.** That in all cases where a debtor is about to remove out of the county with the intention of remaining out of the same, and refuses to pay or secure any debt then due to any person residing in such county, and that such debtor, as affiant believes, has property not exempt from execution, which he refuses to give either in payment or security of said debt, and these facts stated and shown in the petition, sworn to as the law requires, shall entitle the creditor to a writ of attachment against such debtor.

SEC. 3. **Removing from the state may issue on debt not due on property not exempt.** That when any debtor is about to remove out of the state, with the intention of remaining out of the same, and refuses to pay or secure any debt then due, or any debt not then due, when nothing but time is wanting to fix an absolute indebtedness thereon, and when the petition states these facts, sworn to as the law requires, the creditor shall be entitled to and allowed a writ of attachment against such debtor, and no property of such debtor non-exempt by law from execution shall be exempt from seizure and sale under, and by virtue of such writ, but may be attached and taken as other property to secure and pay such debt.

SEC. 4. **Not effect suits commenced.** This act shall not, in any manner, affect any suit commenced, or writ of attachment issued under the law of 1853.

[31] SEC. 5. **Take effect.** This act shall be in force from and after its publication in the Iowa Weekly Citizen and Iowa State Journal.

Approved February 27th, 1858.

I hereby certify that the foregoing Act was published in the Iowa Weekly Citizen on the 10th day of March, A. D. 1858, and in the Iowa State Journal on the 6th day of March, A. D. 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 27.

FREE BRIDGE AT CEDAR RAPIDS.

AN ACT entitled an act to amend and carry into effect an act entitled an act to create a Board of Commissioners with authority to erect a free bridge across the Cedar River at Cedar Rapids, in Linn county. Approved January 25th, 1855.

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

SECTION 1. **Commissioners may transfer property to rebuild the bridge.** That the board of commissioners appointed by virtue of an act passed at the fifth general assembly of the state of Iowa, approved January 25th, 1855, and entitled "an act to create a board of commissioners with authority to erect a free bridge across the Cedar river, at Cedar Rapids, in Linn county," or their successors in office, or such persons as are now acting as such board of commissioners, or a majority of the same, be, and hereby are authorized, to convey, transfer, set over, and assign by deed, over their hands and seals, to William D. Watrous, his heirs and assigns, all and singular, the property belonging or in anywise appertaining to the said free bridge, in the hands or under the control of the said commissioners, or either of them, for the sole purpose, nevertheless, of rebuilding the bridge across the Cedar river, at Cedar Rapids, in Linn county, where the said free bridge was formerly constructed, provided that the said William D. Watrous, shall before the execution and delivery of the deed aforesaid by the said commissioners, comply with the requirements of this act as hereinafter provided.

[32] SEC. 2. **W. D. Watrous must receipt in full all claims against commissioners and give bond to rebuild the bridge—bond filed.** The said William D. Watrous shall, before the execution and delivery of the deed aforesaid, by the said commissioners, and in consideration of the same, execute to the said commissioners, a receipt in full, discharging and releasing the said commissioners from any and all indebtedness to the said Watrous, either by reason of any contract made with those relating in any manner to the said bridge, or of any claim or demand against them as commissioners as aforesaid, he shall also deliver and assign to the said commissioners, any and all subscriptions remaining in his hands and made to the said commissioners for the purpose of erecting the said free bridge, to be by them dealt with as hereinafter provided; he shall also execute a bond to the said commissioners in the penalty of twenty thousand dollars (\$20,000) with sureties to be approved by them, or a majority of them, and by the county judge of Linn county conditioned that the said Watrous shall faithfully apply all the property and effects received from the said commissioners by virtue of this act, to the sole purpose of rebuilding the said bridge, and that he shall in all things appertaining thereto, comply with and abide by all and singular, the provisions of this act, which said bond shall be filed in the office of the county judge aforesaid, and be for the use of the said commissioners or of any and all person or persons injured or aggrieved by the said Watrous, in any matter relating to any of the provisions of this act.

SEC. 3. **Watrous authorized to rebuild the bridge and to take toll therefrom—rates of toll.** The said William D. Watrous, after complying with the requirements of the recording section and the execution and delivery of the deed aforesaid, is hereby authorized and empowered to rebuild the said bridge according to the original plan and design of the same, subject, nevertheless, to such changes and alterations as the said commissioners, or a majority of them, may direct or approve, provided that the alterations

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directed by the said commissioners shall not materially increase the cost and expenditure of building the said bridge, and the said Watrous is hereby authorized and empowered to keep and maintain the said bridge as a [33] toll bridge, until such time as by the provisions of this act hereinafter specified, he shall be required to deliver the same up to the said commissioners, demanding and receiving for the use of the said bridge, toll not exceeding the following rates, to-wit: for each foot passenger, one cent, for each horse and rider, ten cents, for each single horse and wagon or other vehicle, fifteen cents, for every two horses and vehicle, twenty cents, and for every additional horse attached to any vehicle, five cents, for the first five head of sheep or swine, three cents each, and for every additional head, one cent; and for the first ten head of horses or other live stock, not attached to any vehicle, five cents each, and for each additional head, three cents. The word horses, as used above, is intended to include mules, asses and oxen.

SEC. 4. Persons who have subscribed entitled to use bridge free. Any and all persons who have subscribed to the said free bridge, and have paid their subscriptions to the same, or may hereafter pay the same, shall be entitled to the use of the said bridge, for themselves, their property, their wives and such other members of their family as are under the age of twenty-one years, free of all charges whatsoever, from the time the said bridge is so far completed as to afford safe and convenient crossing for foot passengers and teams, anything herein contained to the contrary notwithstanding. Servants of the subscribers above mentioned, while actually engaged in their masters business, are also entitled to the free use of the said bridge.

SEC. 5. Commissioners continued in office—they may superintend the building and repairing of the bridge. The board of commissioners as created by the act of the fifth general assembly afore mentioned, and their successors in office, are hereby continued in office as such board of commissioners, and it is hereby made the duty of the said commissioners, upon the taking effect of this act, and as soon thereafter as practicable, to execute and deliver to the said William D. Watrous, the deed hereinbefore mentioned, upon the performance by the said Watrous of all the requirements of this act, as herein specified, by him to be done before the delivery of the said deed. It is further made the duty of the said commissioners to superintend the re-[34] building of the said bridge, to require the said Watrous in all things to rebuild the same according to the original design and plan of the same, except in such particulars as the said commissioners may in writing direct or permit, the said Watrous to alter or change the same subject to the provision contained in the third section of this act, also to require the said Watrous, after the rebuilding of said bridge, to keep the same, and the abutments and embankments thereto, in good condition and repair, so as to afford safe and convenient access to the said bridge, and safe and convenient crossing thereon, for foot passengers, teams and live stock.

SEC. 6. Commissioners receive subscriptions—bridge free to subscribers—bridge made free. The said commissioners are further authorized, and it is hereby made their duty, to receive payment upon any subscription heretofore made for the purpose of building the said bridge, and assigned to them by said Watrous as hereinbefore required, and also to solicit and receive voluntary subscriptions for the purpose of rebuilding the said bridge; and any person who may hereafter pay to the said commissioners the sum of 25 dollars, shall have the same right to the free use of the said bridge, as is given in section four (4) of this act, to such persons as have or may hereafter pay their subscriptions to the same, and the said commissioners shall, as soon as practicable, after the receipt of such subscription, pay the same over to the said William D. Watrous, taking his receipt therefor, and

as soon as the said commissioners shall have received and paid over to the said Watrous the aggregate sum of eight thousand dollars, the said Watrous shall surrender, transfer and deliver up to the said commissioners the said bridge, to be by them delivered up to the proper officers, as provided in section six (6) of the act passed by the fifth general assembly, hereinbefore mentioned,

Provided, nevertheless, that from and after the first day of January, A. D., 1870, the said bridge shall be a free bridge, whether the said sum of eight thousand dollars be paid to the said Watrous or not; and after the said day, all rights and interests of the said Watrous, his heirs or assigns, in or to the said bridge shall forever [35] cease, and the said bridge shall forever be and remain a free bridge, as contemplated in the act aforesaid.

SEC. 7. **Completion of bridge.** The said William D. Watrous shall, upon the execution and delivery of the deed aforesaid, and within thirty days thereafter, proceed to the rebuilding of the said bridge, and shall have the same so far completed by the first day of April, A. D. 1859, as to afford safe crossing for foot passengers and teams; and shall by the first day of January, A. D. 1860, have the said bridge completed according to the original design, except as changed as herein provided.

SEC. 8. **Condition of Watrous' rights.** The rights and privileges hereby conferred upon the said William D. Watrous, shall continue only so long as he in all respects complies with the provisions of this act, and the directions of the said commissioners acting under the same; and upon the neglect or refusal of the said Watrous to comply with and conform to the provisions of this act, and the directions and requirements of the said commissioners acting by virtue hereof, all rights, privileges and immunities hereby conferred upon him shall cease, determine and be of non-effect; and all the property conveyed by virtue hereof to the said Watrous, shall revert back to the said commissioners, for the use originally designed for the same.

SEC. 9. **Conflicting acts repealed.** All acts or parts of acts conflicting herewith are hereby repealed.

SEC. 10. **Take effect.** This act shall take effect and be in force from and after its publication in the Cedar Valley Times and Cedar Rapids Democrat, without expense to the state.

Approved February 27th, 1858.

I hereby certify that the foregoing Act was published in the Cedar Valley Times on the — day of — A. D. 1858, and in the Cedar Rapids Democrat on the 16th day of March, A. D. 1858.

ELIJAH SELLS,
Secretary of State.

[36] CHAPTER 28.

FOURTH JUDICIAL DISTRICT.

AN ACT to change the time of holding Courts in the Fourth Judicial District.

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

SECTION 1. **Time of holding.** That the terms of court in the fourth judicial district, shall be as follows:

Johnson co. with consent of all parties. In the county of Johnson on the first Monday of March and June, and the second Monday of October,

provided that at the March term, 1858, of said court in Johnson county, no cause shall be tried without the consent of all the parties thereto—after the third Monday of March, 1858.

Linn county. In the county of Linn on the first Monday of April and September, and the second Monday of December.

Benton county. In the county of Benton on the third Monday of April and the fourth Monday of September.

Washington co. In the county of Washington on the fourth Monday of June and the fourth Monday of November.

Iowa county. In the county of Iowa on the first Monday of May and the second Monday of November.

Tama county. In the county of Tama on the first Tuesday after the third Monday of May and the first Tuesday after the fourth Monday of October.

SEC. 2. Writs returnable in Washington tried at June term. All pleas, notices, bills in chancery, indictments, recognizances and other proceedings now pending or returnable to the next term of said court in Washington county, shall be returnable to and for trial at the next June term thereof, as provided herein.

SEC. 3. Criminal suits not dismissed. No dismissal or discontinuance of any civil action or criminal proceeding shall be had in consequence of this act.

SEC. 4. Conflicting acts repealed. All acts and parts of acts conflicting with this act, are hereby repealed.

SEC. 5. Take effect. This act to be in force and take effect from [37] after its publication in the Iowa Weekly Citizen and Iowa State Journal

Approved March 1st, 1858.

I hereby certify that the foregoing Act was published in the Iowa Weekly Citizen March 3d, A. D. 1858, and in the Iowa State Journal on the 6th day of March, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 29.

SCHOOL DISTRICT IN VAN BUREN COUNTY.

AN ACT to repeal an Act establishing a School District in Van Buren Township, Van Buren County.

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

SECTION 1. Repeal act of 1857. That an act entitled an act establishing a school district in Van Buren township, Van Buren county, approved January 27th, 1857, be and the same is hereby repealed.

SEC. 2. Take effect. This act to be in force from and after its publication according to law.

Approved March 3rd, 1858.

CHAPTER 30.

RECORD AND ACKNOWLEDGMENT OF DEEDS.

AN ACT providing for the Acknowledgment and Recording of Deeds in certain cases, and rendering valid the Acknowledgment of Deeds and instruments in writing.

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

SECTION 1. **Acknowledgments in certain cases made valid—acknowledgments taken in other state confirmed and made valid.** That all deeds and conveyances of lands, tenements and hereditaments lying and being within this state, heretofore executed, and which said deeds and conveyances have been acknowledged or proved, according to and in compliance with the laws and usages of the state, territory or country in which [38] such deeds and conveyances were acknowledged and proved, or in which they shall be acknowledged or proven, are hereby declared effectual and valid in law to all intents and purposes, as though the same acknowledgments had been taken or proof of execution made within this state, and in pursuance to the acts and laws thereof; and such deeds, so acknowledged or proved as aforesaid, may be admitted to be recorded in the respective counties in which such lands, tenements or hereditaments do or may lie, anything in the acts and laws of this state to the contrary thereof notwithstanding. *Provided,* that all deeds and conveyances of lands, tenements and hereditaments, situated within this state, which have been acknowledged or proved in any other state, territory or country, according to and in compliance with the laws and usages of such state, territory or country, and which deeds or conveyances have been recorded within this state, be and the same are hereby confirmed and declared effectual and valid in law to all intents and purposes, although the said deeds or conveyances, so acknowledged or proved and recorded, had, prior to being recorded, been acknowledged or proved within this state.

SEC. 2. **Previous acknowledgments duly recorded declared legal and valid.** That the acknowledgments of all deeds, mortgages and other instruments in writing taken and certified previous to the taking effect of this act, and which have been duly recorded in the proper counties in this state, be and the same are hereby declared to be legal and valid in all courts of law or equity in this state or elsewhere, anything in the several different acts or laws of the territory or state of Iowa in regard to acknowledgments to the contrary notwithstanding.

SEC. 3. **Act of officer legalized.** That all deeds, mortgages or other instruments in writing, for the conveyance of lands, which have heretofore been made and executed, and the officer taking the acknowledgment has not affixed his seal to the acknowledgment, such acknowledgment shall nevertheless be good and valid in law and equity, anything in any law heretofore passed, to the contrary notwithstanding.

Approved March 3rd, 1858.

[39] CHAPTER 31.

THIRD JUDICIAL DISTRICT.

AN ACT fixing the terms of Court in the Third Judicial District.

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

SECTION 1. **Time of holding court—Van Buren co.—Jefferson co.—Keokuk co.—Davis co.—Wapello co.** That the terms of the district court in the several counties in the third judicial district of this state be held as follows: commencing in the county of Van Buren on the second Monday in April and fourth Monday in September; in the county of Jefferson on the fourth Monday in April and second Monday in October; in the county of Keokuk on the second Monday in May and the second Monday in November; in the county of Davis on the fourth Monday in May and the fourth Monday in October; in the county of Wapello on the first Monday in June and fifth Monday of November.

SEC. 2. **Proceedings not affected.** No process, writ, notice or other proceeding, either civil or criminal, shall be invalidated by reason of anything contained in this act, but all process, writs and notices returnable by virtue of laws heretofore in force and in force at the date of the passage of this act, shall be returnable to the terms of court fixed by this act, and all proceedings shall be treated as if commenced under this act.

SEC. 3. **Take effect.** This act shall take effect from and after its publication in the Iowa Weekly Citizen and Iowa State Journal.

Approved March 4th, 1858.

I hereby certify that the foregoing Act was published in the Iowa Weekly Citizen on the 10th day of March, A. D. 1858, and in the Iowa State Journal on the 6th day of March, A. D. 1858.

ELIJAH SELLS,
Secretary of State.

[40] CHAPTER 32.

JAMES M. BERRY'S ACTS.

AN ACT to legalize certain acts of James M. Berry, late County Judge of Linn County, Iowa, and of certain other persons.

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

SECTION 1. **J. M. Berry's licenses to H. G. Angle legalized.** That the acts of James M. Berry, late county judge of Linn county, Iowa, in relation to the granting of a license to build a toll bridge across the Cedar river at Cedar Rapids, in said county, to H. G. Angle, had on the fifth day of February, A. D., 1855, and also on the 24th day of June, A. D., 1856, and on the 15th day of April, 1857, be and the same are hereby declared legal, except as hereinafter provided.

SEC. 2. **Angle's assignment of license legalized.** The action of the said H. G. Angle, in assigning the license granted as aforesaid to the Cedar Rapids Bridge Company, is hereby declared legal, and the said bridge com-

pany is hereby vested with all the powers and privileges granted by the said license to the said Angle, except as herein modified.

SEC. 3. Comp'ny authorized to build a bridge—when built. The said company is hereby authorized to keep and maintain a toll bridge across the Cedar river at Cedar Rapids, in said county, extending from Iowa Avenue in Cedar Rapids, to Iowa Avenue in Kingston, in accordance with the provisions of the said license, and for the length of time therein stated; *provided*, that the said company shall within six months commence, and within three years from the passage of this act, complete the erection of a permanent bridge across the said river at the points above specified.

SEC. 4. Portion of license declared void. So much of the provisions of the said license as stipulates that no other toll bridge or ferry shall be permitted across said river within a distance of two miles of such bridge for a period of ten years, is hereby declared void, so far as it prohibits, and no farther, the erection of a bridge across the said river extending from Daniel's street, in the city of Cedar Rapids, to the west side of said river.

SEC. 5. Appraiser to value bridge—time of appraisement—appraisers qualified and report—purchase of bridge—bridge free after 1870. Upon the petition of fifty legal voters of Linn [41] county for that purpose, it shall be the duty of the county judge of said county to notify the said bridge company to appoint an appraiser, who, together with an appraiser appointed by said county judge, and a third appraiser to be selected by the said appraisers, as appointed by the said bridge company and county judge, shall make a true estimate of the actual value of said bridge; the same notice shall fix the day when said appraisement shall be made, which day shall not be more than sixty days after the filing of said petition, nor more than thirty days from the said notification to said bridge company. The said appraisers shall take an oath before said county judge or some justice of the peace, to faithfully and impartially estimate the actual and true value of said bridge, and to make report thereof within ten days to the said county judge, and if at any time within six months after the filing of said report of said appraisers, the sum fixed as the true and actual value of said bridge, shall be deposited with the said county judge, subject to the order of said bridge company, the said county judge shall forthwith make proclamation that said bridge is and shall forever remain free of all toll, and revert to and become the property of said Linn county. *Provided, nevertheless*, that from and after the first day of January, A. D., 1870, all the privileges hereby confirmed, or in the license aforesaid granted, shall forever cease and determine; and the said bridge shall thenceforth be and remain a free bridge, and public highway, anything herein, or in the license aforesaid contained, to the contrary notwithstanding.

SEC. 6. Compensation of appraisers. The appraisers shall be paid the sum of three dollars per day and mileage at the rate of five cents per mile, as compensation while making said appraisement, the same to be paid by the petitioners, and the county judge may require the deposit of such reasonable sum as he may deem necessary to defray the expenses of said appraisement before ordering the same to be made.

SEC. 7. Take effect. This act to take effect and be in force from and after its publication in the Cedar Rapids Democrat [42] and Cedar Valley Times, without expense to the state.

Approved March 4th, 1858,

I hereby certify that the foregoing Act was published in the Cedar Valley Times on the 11th day of March, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 33.

DOWER.

AN ACT to give greater security to purchasers and mortgages of real estate.

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

SECTION 1. **Wife joining husband in conveyance relinquishes dower.** That in every conveyance of real estate the joining of the wife with her husband shall be deemed sufficient to pass any and all right which the said wife had or has in said property in said conveyance, either in her own right independent of the husband, or as his wife, unless the contrary appears on the face of the conveyance.

SEC. 2. **Defective Acknowl'm'ts made valid.** That any deed, mortgage or other instrument of writing, heretofore executed in pursuance of law, by husband and wife, for the purpose of conveying or incumbering the estate of the wife, or her right of dower in any lands, tenements or hereditaments situated in this state, shall be received in evidence in any of the courts of this state as conveying or incumbering the estate or interest of the wife, or as releasing her right of dower, as the case may be, although the magistrate taking the acknowledgment of such deed shall not have certified that the grantors or wife were personally known, or that he read or made made known the contents of such deed, mortgage or other instrument of writing to such wife, or that she relinquished her right of dower, before or at the time she acknowledged the execution thereof.

This Act having remained with the Governor three days, (Sunday excepted) the General Assembly being in session, has become a law this 8th day of March, A. D. 1858.

ELIJAH SELLS,
Secretary of State.

[43] CHAPTER 34.

LAND TITLES.

AN ACT to give additional security to land titles in the State.

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

SECTION 1. **Courts authorized to correct defects in conveyance of husband and wife.** That the several courts of chancery in this state shall be authorized and empowered to correct, amend and relieve against any errors, mistakes or defects accruing in the deed or other conveyance of any husband and wife, hereafter to be executed and intended to convey or encumber the lands or estate of the wife or her right of dower in the lands of her husband, in the same manner and to the same extent as the said courts are or shall be authorized or empowered to correct errors, mistakes or defects in the deeds or conveyances of any person.

This Act having remained with the governor three days (Sunday excepted) the general assembly being in session, has become a law this the 8th day of March, A. D. 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 35.

SCHOOL FUND APPORTIONMENT.

AN ACT to provide for the apportionment of the interest on the school fund for the year 1858, and to legalize the apportionment of said instrument made by James D. Eads for the year 1857.

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

SECTION 1. **State treasurer shall report to superintendent public instruction.** That on or before the 10th day of March, 1858, the state treasurer shall report to the superintendent of public instruction all the interest which he has received and collected on the five per cent. and other school funds, and not heretofore apportioned; said report shall be certified to be correct by the auditor of state.

SEC. 2. **Superintendent make an apportionment for 1858 to the counties and give school fund commissioner notice &c.** The superintendent of public instruction, as [44] soon as practicable after receiving said report, shall make an apportionment for the year 1858, of all the interest on the school funds, as shown by said report and others in his possession, among the several counties of this state in proportion to the number of youth therein between the ages of five and twenty-one years, and shall immediately give notice to the several school fund commissioners, of the amount due to their several counties, and shall immediately after the passage of this act, notify said commissioners of that fact, and require them severally to postpone the apportionment required by section 1098 of the code until they receive notice that the apportionment required by this act has been made.

SEC. 3. **James D. Eads' apportionment legalized.** The apportionment made by James D. Eads on the 14th day of March, A. D. 1857, be and the same is hereby declared valid, and the school fund commissioners of the several counties are authorized and required to recognize said apportionment as valid, and to apportion the school moneys in their hands accordingly.

SEC. 4. **Repeal.** All acts and parts of acts conflicting with this act are hereby repealed.

SEC. 5. **Take effect.** This act shall take effect from and after its publication in the Iowa Weekly Citizen and Iowa State Journal.

Approved March 8th, 1858.

I hereby certify that the foregoing Act was published in the Iowa Citizen March 17th, 1858, and in the Iowa State Journal March 13th, 1858. ELIJAH SELLS,
Secretary of State.

CHAPTER 36.

SCHOOL FUND COMMISSIONERS.

AN ACT continuing the several school fund commissioners in office.

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

SECTION 1. **Continued in office.** That the several school fund commissioners are hereby continued in office until after the election and qualification of the county treasurers in the several counties of the state.

SEC. 2. **Take effect.** This act shall be in force from and after its publication in the Iowa Tri-Weekly Citizen and Iowa Tri-Weekly State Journal.

Approved March 10th, 1858.

I hereby certify that the foregoing Act was published in the Iowa Tri-Weekly Citizen March 13, 1858, and in the Tri-Weekly Iowa State Journal March 17, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 37.

ELEVENTH JUDICIAL DISTRICT.

AN ACT to amend an act entitled an act to fix the time of holding courts in the eleventh judicial district.

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

SECTION 1. **Time of holding court in Warren county.** That so much of an act entitled an act to fix the time of holding courts in the eleventh judicial district, passed at the seventh general assembly of the state of Iowa, and approved January 22d, A. D. 1858, which provides for holding a court in the county of Warren, on the fourth Monday in March, A. D. 1858, be and the same is hereby repealed, and all other acts in conflict herewith, are hereby repealed.

SEC. 2. **Take effect.** This act to take effect and be in force from and after its publication in the Tri Weekly Iowa State Journal, and the Tri-Weekly Citizen.

Approved March 10th, 1858.

I hereby certify that the foregoing Act was published in the Tri-Weekly Citizen on the 13th day of March, 1858, and in the Tri-Weekly Iowa State Journal March 17th, 1858.

ELIJAH SELLS,
Secretary of State.

[46] CHAPTER 38.

JUSTICE OF THE PEACE.

AN ACT providing for an additional justice of the peace in Union Township, Davis county, Iowa.

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

SECTION 1. **Union township Davis co., additional J. P.** That the qualified electors of Union township, Davis county, Iowa, be and they are hereby authorized to elect an additional justice of the peace in said township.

SEC. 2. **Election.** That it shall be the duty of the officers conducting the election on the first Monday in April, 1858, and every two years thereafter to open a poll at said election for the purpose aforesaid.

SEC. 3. **Qualification.** The person elected at said election shall proceed to qualify in the same manner now provided by law for the qualification of

other justices of the peace, and shall hold his office in the town of Stringtown, alias Dover in said township, for the term of two years and until his successor is elected and qualified.

SEC. 4. **Take effect.** This act to be in force from and after its publication in the Iowa Weekly Citizen and Iowa State Journal.

Approved March 10th, 1858.

I hereby certify that the foregoing Act was published in the Iowa Weekly Citizen March 17th, 1858, and in the Iowa State Journal March 20th, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 39.

MECHANICS LIEN.

AN ACT to amend chapter 220 of the session law of 1856-7.

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

SECTION 1. **Statement to be filed and recorded in recorders office.** That the first paragraph of section 1 of the act to which this is amendatory be so amended as [47] to read as follows: That when any person intends to avail himself of the provisions of chapter 64 of the code of Iowa, it shall be the duty of such person within ninety days from the time of the performance of the work, or of the furnishing of the material, to file in the office of the recorder and treasurer of the county in which the premises may be, and to record the same in a book to be provided in each county by the county judge and kept for that purpose, statement which shall plainly set forth.

SEC. 2. **Liens for materials.** Any person furnishing materials to be used in the construction or repair of any building by any contractor or in improving any lot or parcel of ground shall have the same lien as the contractor according to chapter 64 of the code of Iowa. *Provided,* that before furnishing said material, he shall notify in writing the owner or proprietor of the quantity and value of the material to be furnished, and if no objection in writing be made thereto, the owner or proprietor shall pay the said person furnishing the said materials, the value of the same according to the terms and conditions of the contract made with the contractor.

SEC. 3. **Take effect.** This act shall take effect and be in force from and after its publication in the Iowa Weekly Citizen and Iowa State Journal.

Approved March 11th, 1858.

I hereby certify that the foregoing Act was published in the Iowa Weekly Citizen March 17th, 1858, and in the Iowa State Journal March 20th, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 40.

REVISION OF THE LAWS.

AN ACT providing for a revision of the laws of Iowa, and the preparation of a code of civil and criminal procedure.

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

SECTION 1. **Com'rs revise and codify and report by 1st of Sept., 1858.** That the commissioners appointed [48] by the legislature to conform

the laws of the state to the constitution and perform other duties, are hereby directed to prepare a code of civil and criminal procedure, and revise and codify the laws of the state and have their report ready for publication by the first day of September, 1858.

SEC. 2. Report printed and distributed. Immediately after filing their report by said commissioners, the secretary of state shall procure to be printed 500 copies of said report, and one month previous to the next session of the general assembly whether the same be an extra or regular one, shall mail to each member thereof one copy of such printed report and shall retain the residue for the use of the general assembly.

SEC. 3. Take effect. This act shall be in force from and after its publication in the Tri-Weekly Iowa Citizen, and Tri-Weekly Iowa State Journal.

Approved March 11th, 1858.

I hereby certify that the foregoing Act was published in the Tri-Weekly Iowa Citizen March 16th, 1858, and in the Tri-Weekly Iowa State Journal March 17th, 1858.
 ELIJAH SELLS,
 Secretary of State.

CHAPTER 41.

STATE UNIVERSITY APPROPRIATION.

AN ACT making appropriation for the state university.

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

SECTION 1. \$3,000 for repairs—room to be fitted up for geological cabinet—\$10,000 for boarding hall. That there be and hereby is appropriated out of any money in the state treasury not otherwise appropriated the sum of three thousand dollars for repairing and modifying the building now occupied by the state university of Iowa, and for fitting up one or more rooms thereof for a cabinet to receive the specimens collected and to be collected by the state geologist and for other cabinets, and the further sum of ten thousand [49] dollars to be expended in the execution and completion of a suitable building for boarding hall, study rooms and dormitories.

SEC. 2. Money expended under direction of trustees. The money hereby appropriated shall be expended under the direction of the board of trustees of said university and under the supervision of a person to be chosen by said board, and the same shall be drawn from the treasury on the order of said board which they shall only order as the same shall be required for the purpose aforesaid.

SEC. 3. Take effect. This act to take effect and be in force from and after its publication in the Iowa Weekly Citizen and Iowa State Journal.

Approved March 11th, 1858.

I hereby certify that the foregoing Act was published in the Iowa Weekly Citizen March 17th, 1858, and in the Iowa State Journal March 20th, 1858.
 ELIJAH SELLS,
 Secretary of State.

CHAPTER 42.

HUMBOLDT COUNTY.

AN ACT explanatory of an act entitled "an act to create the county of Humboldt, and locate the county seat thereof."

Original act passed. Whereas, an act was passed by the general assembly which convened at Iowa City on the first day of December, 1856, entitled "an act to create the county of Humboldt and locate the county seat thereof," which act was approved January 28th, 1857, by which act townships 90, 91, 92 and 93 of ranges 27, 28, 29 and 30, west of the 5th principal meridian, were constituted into the county of Humboldt—and,

Original bill lost. Whereas, by mistake the said act was printed in the public laws so that township No. 90 in said ranges were omitted and left out, and whereas said original bill as the same was passed has been lost, and cannot be found,—therefore,

[50] *Be it enacted by the General Assembly of the State of Iowa,*

SECTION 1. **Explanation of original act.** That the first section of the act entitled "an act to create the county of Humboldt and locate the county seat thereof," approved January 28th, 1857, be so construed as to include townships No. 90 in said ranges mentioned in said section, together with the townships set forth in said section.

SEC. 2. **Co. boundary.** The county of Humboldt is hereby declared to include townships No. 90, 91, 92 and 93 of ranges 27, 28, 29 and 30 of the 5th principal meridian.

Approved March 11th, 1858.

CHAPTER 43.

TYRANNICAL JUDGES.

AN ACT to provide for the punishment of wilful and malicious oppression.

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

SECTION 1. **Oppression of judge punished by fine and imprisonment.** That if any judge or other officer in this state shall by color of his office, wilfully and maliciously oppress any person under pretense of acting in his official capacity, the person so offending shall upon conviction thereof be fined in any sum not exceeding three hundred dollars, and undergo imprisonment in the jail of the county where such conviction is had, not less than five nor more than thirty days.

SEC. 2. **Oppression of any officer punished.** Any person who by color of his office wilfully and maliciously oppress and person, under the pretense of acting in his official capacity, such person so offending shall be liable to any damages sustained by the injured party, to be recovered by civil action.

SEC. 3. **No conflict of proceeding.** Proceedings under either of the foregoing sections shall not affect or bar proceedings under the other.

SEC. 4. **Take effect.** This act to take effect and be in force from [51] and after its publication in the Iowa Citizen and Iowa State Journal.

Approved March 12th, 1858.

I hereby certify that the foregoing Act was published in the Iowa Citizen March the 24th day of March, 1858, and in the Iowa State Journal on the 20th day of March, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 44.

ADMISSION TO THE BAR.

AN ACT to amend section 1610 of the code.

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

SECTION 1. **Qualifications for admission.** That section 1610 of the code of Iowa be so amended as to read as follows: Any white male person who is actually an inhabitant of this state, and who satisfies any district court of this state that he possesses the requisite learning and legal ability, and which learning and legal ability shall be determined by the court upon an examination of the applicant in open court, and that such applicant is of good moral character, may by such court be admitted to practice law in all the district courts of the state, upon taking the usual oath of office.

Approved March 12th, 1858.

CHAPTER 45.

INDIANS RESIDE IN THE STATE.

AN ACT to permit certain Indians to reside within the state.

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

SECTION 1. **Pottawattamie Indians allowed to reside in Marshall co** That the consent of the state is hereby given that the Indians now located in Marshall coun- [52] ty, state of Iowa, known as a portion of the Pottawattamie tribe, be permitted to remain and reside in said county, and that the governor be requested to inform the secretary of war thereof, and urge on the war department the propriety of paying said Indians their proportion of the annuities due or to become due, to said tribe of Pottawattamie Indians.

SEC. 2. **Sheriff take census.** That the sheriff of said county shall, as soon as a copy of this law is filed in the office of the county court of said county of Marshall, proceed to take a census of said Indians now located within said county, giving their names and sex, which list shall be filed and recorded in said office.

SEC. 3. **Indians includ'd.** The persons whose names are included in said list, and their descendants, and none other, shall have and enjoy the privileges granted by this act.

SEC. 4. **Take effect.** This act shall take effect from and after its publication in the Iowa Weekly Citizen and Iowa State Journal.

Approved March 12th, 1858.

I hereby certify that the foregoing Act was published in the Iowa Weekly Citizen March 24th, 1858, and in the Iowa State Journal March 20th, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 46.

PAY OF MEMBERS OF GENERAL ASSEMBLY.

AN ACT fixing compensation of future general assemblies.

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

SECTION 1. **Members receive \$3.00 per day—Mileage.** That each member of the general assembly of the state of Iowa, shall be entitled to receive as compensation for his services, three dollars per day while in session, and also three dollars for every twenty miles travelled in going to and returning from the place where such session is held, by the nearest travelled route.

Approved March 12th, 1858.

[53] CHAPTER 47.

WORTH COUNTY ATTACHED TO CERRO GORDO.

AN ACT to attach the county of Worth to the county of Cerro Gordo, for certain purposes.

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

SECTION 1. **Co. attached.** That the county of Worth is hereby attached to the county of Cerro Gordo, for judicial, election and revenue purposes.

SEC. 2. **Conflicting acts repealed.** All acts or parts of acts in conflict with this act are hereby repealed.

SEC. 3. **Take effect.** This act shall be in force from and after its publication in the Iowa Citizen and Iowa State Journal.

Approved March 12th, 1858.

I hereby certify that the foregoing Act was published in the Iowa Citizen March 24th, 1858, and in the Iowa State Journal March 20th, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 48.

FIRE COMPANIES.

AN ACT to encourage the organization of fire companies, and for the protection of firemen and the property of fire companies.

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

SECTION 1. **Any person obtaining privileges of firemen by false papers fined and imprisoned.** That any person who shall either by misrepresentation or

by the use of a false certificate, or the certificate of any other person, endeavor to avail himself of the benefits of chapter 156 of the acts of the sixth general assembly, approved January 28th, 1857, upon conviction thereof before any mayor, recorder, or magistrate of any incorporated city or town in the state of Iowa, or before any district court of said state, shall be sentenced to imprisonment in the county jail for a period of not more than six months, or less than one month, and to pay a fine of not less than ten dollars, nor more than one hundred dollars.

[54] SEC. 2. **Destruction of fire apparatus punished by fine and imprisonment.** That any person or persons who shall wilfully destroy or injure any engine, hose carriage, hose, hook and ladder carriage, or anything whatever, used for the extinguishment of fires, belonging to any fire company, on conviction thereof shall be sentenced to imprisonment in the penitentiary for a period of not less than one year, nor more than three years.

SEC. 3. **Wilful removal of fire apparatus punished—suit bro't and fine paid to school fund.** That it shall not be lawful for any person to remove any engine or other apparatus for the extinguishment of fire, from the house or other place where the same shall be kept or deposited, except in time of fire or alarm of fire, unless properly authorized so to do by the president and directors or foreman of the company to whom the same shall belong, or their duly authorized agent, and any person offending against the provisions of this section shall forfeit and pay a sum not less than five dollars, nor more than twenty dollars, to be sued for, and recovered in the name of the state, for the use of the school fund, before any mayor, recorder, or magistrate of the city or town wherein the offence has been committed.

SEC. 4. **False alarms of fire punished.** That it shall not be lawful for any person or persons to cause false alarm of fire, either by setting fire to any combustible material or by giving an alarm of fire without cause, and any person offending against the provisions of this section shall be fined a sum of not less than five dollars nor more than twenty dollars, to be sued for and recovered as specified in the foregoing sections.

Approved March 12th, 1858.

CHAPTER 49.

TENANCY.

AN ACT to amend section 1209, chapter 78, of the code.

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

SECTION 1. [55] **Notice given to terminate tenancy—farmers leave March 1st, unless special agreement made.** That section 1209, chapter 78, of the code be so far amended as to read as follows: Thirty days notice in writing is necessary to be given by either party before he or she can terminate a tenancy at will; but when in any case rent is reserved, payable at intervals of less than thirty days, the length of notice need not be greater than such interval between the days of payment. In case of tenants occupying and cultivating farms, the notice must fix the termination of the tenancy, to take place on the first day of March; *Provided*, That where an express agreement is made, whether the same has been reduced to writing or not, the tenancy shall cease at the time agreed upon without notice.

SEC. 2. All acts and parts of acts contravening the provisions of this act, be and the same are hereby repealed.

Approved March 12th, 1858.

CHAPTER 50.

JURISDICTION OF JUSTICES.

AN ACT qualifying the criminal jurisdiction of justices of the peace

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

SECTION 1. **Code amended—imprisonment and fine.** That the punishment clause in each of the following sections of the code of Iowa, namely, sections 2597, 2687, 2688, 2716, 2723, 2725, 2717, 2718, 2728, 2730, 2737, 2738, 2739, 2740, 2742, 2685, 2719, shall be so changed as to read "shall be punished by imprisonment in the county jail not more than thirty days, or by fine not exceeding one hundred dollars, and not otherwise, in the discretion of the court.

SEC. 2. **The punishment for theft.** That section 2612 of the code of Iowa be so changed as that when the value of the property stolen does not exceed twenty dollars, the punishment shall be by fine not exceeding one hundred dollars, or imprisonment in the county jail not exceeding thirty days.

SEC. 3. **Jurisdiction of justices defin'd.** Section 3222 of the code of Iowa is repealed, [56] and justices of the peace in their respective counties have jurisdiction of, and may hear, try and determine all public offences, when the punishment imposed by law does not exceed one hundred dollars fine or thirty days imprisonment.

SEC. 4. **Code explained.** That part of chapter 165 of the code, which is of force only applies to those offences which the magistrate has not by section third of this act, the jurisdiction to try and determine.

SEC. 5. **Justice may order information filed.** In proceedings under chapter 165 of the code, when it shall appear to the examining magistrate that the offence committed is one which he has jurisdiction to try and determine, he shall, before discharging the accused on such examination, order an information to be filed against him, upon which proceedings shall be had as in other cases within his jurisdiction to try and determine.

Approved March 12, 1858.

CHAPTER 51.

WASHINGTON TOWNSHIP, BREMER COUNTY.

AN ACT to amend chapter 167 of the laws of the sixth general assembly.

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

SECTION 1. **Washington tp. substituted for Jackson township.** That chapter one hundred and sixty-seven of the laws enacted by the sixth general assembly of the state of Iowa, be amended, and the same is hereby

so amended as to read and mean Washington township instead of Jackson township, and that all the privileges intended to be conferred upon the electors of Jackson township by the act to which this is amendatory, are hereby conferred upon the electors of Washington township. *Provided*, that the justice, when elected, shall hold his office in Waverly, as therein provided.

SEC. 2. **Take effect.** This act to take effect and be in force from [57] and after its publication in the Iowa Citizen and Waverly Republican, without expense to the state.

Approved March 12, 1858.

I hereby certify that the foregoing act was published in the Iowa Citizen on the 24th day of March, 1858, and in the Waverly Republican on the — day of — 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 52.

AN ACT for the public instruction of the state of Iowa.

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

SECTION 1. **Tp. Dist's may be divided into sub districts—cities and towns separate Dist.** That each civil township in the several counties of this state is hereby declared a school district for all the purposes of this act, the boundaries of said township being the boundaries of said school district, and every township hereafter laid out and organized, a school district, and such district as at present organized, shall become a sub-district for the purpose hereinafter provided. *Provided*, that each incorporated city or town including the territory annexed thereto for school purposes and which contains not less than one thousand inhabitants, shall be and is hereby created a separate school district, which shall elect its officers in the same manner that officers are elected in other school districts, and the electors and officers of said district, shall possess and exercise the same powers, and perform the same duties as are by this act required of like officers in other school districts, and said district shall be in all respects subject to the provisions of this act so far as same are applicable, and the remaining part of such township or townships shall be considered as a separate township provided in this act.

SEC. 2. **Sub-Dist. required to keep up school sixteen weeks each year or forfeit funds.** In each sub-district there shall be taught one or more schools for the instruction of the youth between five and twenty-one years of age, residing therein for at least sixteen weeks of five school days each, in each year, and in case of failure so to keep up such school unless [58] the county superintendent shall be satisfied that there was good and sufficient cause for such failure, or in case of failure or neglect to make the proper returns to the county superintendent, as provided in this act, such district shall receive no part of the school money which shall be apportioned among the other districts of the same county for that year.

SEC. 3. **Persons transferred from one Dist. to another.** Whenever persons can be better accommodated at the school of an adjoining district township, the board of directors of the one in which such persons reside, with the concurrence of the board of the district to which it is proposed to attach them, shall transfer them for educational purposes to such adjoining district township, and when persons have been so transferred,

the board of directors of the district in which they reside, shall pay to the treasurer of the district township to which they have been transferred, the proportional of the public school money to which they may be entitled for their use.

SEC. 4. **Township districts may be organized in unorganized counties.** In case any township shall become organized in a county not organized, it shall be attached to the county which lies contiguous to it, and whose county seat is nearest to said township, and it shall be included as a part of said county, and be subject to taxation for school purposes, and shall receive its proportion of school money, in the same manner as if it formed a part of said county, until the county in which said township is situated shall become organized under the laws of this state, at which time it shall, for all school purposes, form a district in the county in which it is situated.

SEC. 5. **Dist's body corporate.** Every school district now or which may be hereafter organized in this state, is hereby made a body corporate by the name of district township of....., in the county of, and state of Iowa, and in that name may hold property, become a party to suits and contracts and do other corporate acts.

SEC. 6. **Notice of first meeting to be held 1st Monday of May, also succeeding meetings.** It shall be the duty of the trustees of the several townships in the state to give ten days previous notice of the first meeting of their respective district townships herein authorized, to be held on the first Mon- [59] day of May next, by posting a written notice specifying the time and place of meeting, in five different conspicuous places therein, and when a new township is organized, or in case a district should at any time be left without officers, it shall be the duty of the trustees thereof, immediately to give the like notice of the first meeting of the school district.

SEC. 7. **Organization of districts.** The electors of the district township, when assembled in accordance with the notice required in the foregoing section, for the purpose of electing district officers shall organize by appointing a president and secretary, who shall act as judges of the election.

SEC. 8. **Annual meeting for the election of officers.** The qualified voters at such meeting, and annually thereafter at the regular meeting on the second Monday of March, shall elect by ballot one president, one vice president, and one secretary of the district, who, together with one director from each sub-district, to be elected as hereinafter provided, shall constitute a board of directors for the district, and shall hold their offices for one year and until their successors are elected and qualified; they shall also at the same time and place elect one treasurer of the district, who shall hold his office for the term above provided, and shall perform the duties hereinafter specified.

SEC. 9. **Time of regular meetings.** The regular meetings of each district shall be held on the second Monday in March in each year.

SEC. 10. **Powers of electors, when assembled.** The electors of the district, when legally assembled at a district school meeting, shall have the following powers, viz:

First: **Appoint chairman and Sec'y.** To appoint a chairman and secretary in the absence of the regular officers.

Second: **Adjourn.** To adjourn from time to time as occasion may require.

Third: **Levy tax for sundry purposes.** To levy such tax, not exceeding one per cent. in any one year, on the taxable property of the district as the meetings shall deem sufficient to purchase or lease a suitable site for a school house or school houses, and to build, rent or purchase a school house or school houses and to keep in repair and furnish the same with the necessary fuel and appendages, and for com

pensa- [60] tion of teachers, and for procuring district libraries and apparatus for the schools, books and stationery for the board and district meetings, and defray all other contingent expenses of the district. *Provided*, no tax shall be levied for building school houses, excepting at the regular meetings in March, and the first Monday in September.

Fourth: **May direct sale of property.** To direct the sale or other disposition to be made of any school house or the site thereof, and of such other property, personal and real, as may belong to the district, and to direct the manner in which the proceeds arising therefrom shall be applied.

Fifth: **May borrow money from S. fund—(co. judge shall give preference.)** To authorize the board of directors to borrow money for procuring sites and erecting school houses, to be re-paid in such installments as may tend to apportion such re-payments among those who enjoy the benefits of the loan, and it shall be the duty of the county judge in loaning the school fund to give preference to the application of school districts, and in case any school districts shall borrow any portion of the school fund it shall be the duty of the county judge each and every year to determine the per centum of taxation on taxable property of such school district, that will produce in money the amount of ten per cent. on the amount of each loan, and certify such per centum to the county treasurer, who shall enter the same on the tax list for such township and collect the same as other taxes, and the same shall be part of the annual school fund.

Sixth: **May establish high school.** To determine whether a school or schools of a higher grade shall be established in the district.

Seventh: **May delegate power to the board.** To delegate any or all of the powers contained in the foregoing specifications to the district board of directors, or to any committee whom the meeting may choose to appoint.

Eighth: **May adopt rules.** They may adopt rules of order not inconsistent with the provisions of this act and the instructions of the superintendent of public instruction for the government of the district meetings, and may alter and change the same from time to time as occasion may require and may prescribe the manner of taking the sense [61] of the meeting upon any question: *Provided*, however, the district board of directors shall be elected by ballot.

SEC. 11. **Sec'y call meeting to elect director.** It shall be the duty of the secretaries of the several school district as now organized, to call a meeting of the electors of their respective districts on the first Saturday after the first Monday of May next, at the usual place of holding school meetings, for the purpose of electing one member of the district board of directors, notice of which meeting shall be given as now required by law.

SEC. 12. **Annual meeting of the sub-dist.** The several sub-districts shall annually thereafter on the first Saturday after the second Monday in March, hold a meeting for the election of their member of the district board of directors, five days notice of which meeting shall be given by the resident director, or if from any cause there be no resident director, by some other elector of said sub-district, posting a written notice in three public places therein.

SEC. 13. **Judges of election.** At all meetings of sub-districts they shall appoint a president and secretary who shall act as judges of the election, and who shall give a certificate of election to the directors elect.

SEC. 14. **Director shall qualify.** Each member elect of the district board of directors shall, within ten days after his election, appear before some justice of the peace or other officer qualified to administer oaths, and take an oath to support the constitution of the United States and that of the state of Iowa, and that he will faithfully discharge the duties of his office, and in case of fail-

ure to do so shall forfeit ten dollars, to be recovered against him for the use of the district.

SEC. 15. **Pres't. shall preside, sign order.** The president, or in his absence the vice-president, shall preside at all meetings of the board and of the district, sign all orders on the treasurer for the payment of money, and shall draw all drafts on the county treasurer for money apportioned to his district, and all drafts and orders drawn on the district treasurer as herein required, shall specify the fund on which they are drawn, and the use for which the money is designed.

SEC. 16. **Appear in behalf of his district in suits—counsel may be employed by directors.** The president shall appear in behalf of his [62] district in all suits brought by or against the same, but when he is individually a party, this duty shall be performed by the vice-president or secretary. And in all cases where suits may be instituted by or against any of the school officers, contemplated or created by this act to enforce any of the provisions herein contained, counsel may be employed by the board of directors of the district, and the expense of suit shall be borne by the district, county or state in whose name or against whom the same may be instituted.

SEC. 17. **Duties of Sec'y.** The secretary shall record all the proceedings of the board and of the district meetings in separate books to be kept for that purpose, and shall preserve copies of all reports made to the county superintendent, and shall file all papers transmitted to him by other school officers pertaining to the business of the district, and shall countersign all drafts, warrants and orders drawn by the president.

SEC. 18. **Same.** He shall between the first day of August and the fifteenth day of September of each year, take and keep on record a list of the names of all heads of families in the district, with the number of children in each family between the ages of five and twenty-one years.

SEC. 19. **Same.** He shall keep an accurate account of all the expenses incurred by the district, and shall present the same to the board of directors to be audited and paid as herein provided.

SEC. 20. **Same.** He shall give ten days previous notice of regular and special meetings of the district as herein authorized, by posting up a written notice in five different conspicuous places therein, one which shall be at or near where the last meeting was held, and shall furnish a copy of the same to the teacher of the school in each district, to be read at least once in the presence of the pupils thereof, provided any school be at the time in session, and such notice shall in all cases state the hour of meeting.

SEC. 21. **Same.** Whenever tax has been voted by any district for any of the purposes in this act specified, the [63] secretary shall immediately certify the amount to the county judge, who shall at the time of levying the tax for county purposes, levy a tax of the amount thus certified to him, upon the assessed value of all the real and personal property in the district, which shall be collected by the county collector at the same time and in the same manner as state and county taxes are collected, provided it shall be receivable only in cash.

SEC. 22. **Collector pay over tax to dist.** The collector shall on the first Monday of March and September, in each year, pay over to the treasurer of the district, the amount of said tax which shall have been collected, and shall render him a statement of the amount uncollected; and the amount unpaid shall be collected at any subsequent time as delinquent county taxes are collected, and shall be paid over when collected, to the treasurer aforesaid.

SEC. 23. **Sec'y report to the co. Sup't.** On or before the fifteenth day of September, in each year, the secretary of each school district shall file in the office of the county superintendent a report of the affairs of the district, which shall contain the following items, viz:

First: The number of males and females each, in his district between the ages of five and twenty-one years.

Second: The number of schools and the branches taught in each.

Third: The number of pupils in each school, and the average attendance of the same.

Fourth: The number of teachers employed in each school, distinguishing male teachers from female, and the average compensation paid to males and to females per week.

Fifth: The length of each school in weeks and days, distinguishing summer from winter schools.

Sixth: The average cost of tuition per week for each school, distinguishing summer from winter schools.

Seventh: The aggregate amount paid teachers during the year, and the amount of teachers' fund in the hands of the treasurer.

Eighth: The text books used in the schools.

Ninth: The number of volumes in the district libra- [64] ry, and the value of apparatus belonging to the district.

Tenth: The number of school houses in the district, and the estimated value of each.

Eleventh: The amount raised within the year in the district by tax, for the erection of school houses; the amount raised for tuition, for school libraries and apparatus, for fuel and other purposes of this act, stating separately the amount of each.

Twelfth: The amount of public money received from the county treasury, and the amount, if any, received from other sources, stating what, and how much from each, and such other information as he may deem useful.

SEC. 24. **Penalty for neglecting to report.** Should the secretary fail to file his report as above directed, he shall forfeit the sum of twenty-five dollars, and shall be also liable to mak good all losses resulting to the district from such failure. Suit shall be brought in both cases by the president, in the name of the district, on his official bond.

SEC. 25. **Duties of treas'r.** The treasurer shall have the custody of all moneys belonging to the district, and shall pay out the same upon the order of the president, countersigned by the secretary, and shall keep an account of the receipts and expenses thereof, in a book provided for the purpose.

SEC. 26. **Same.** The moneys collected by district tax for school house purposes, shall be called the "School House Fund," and those received from the county treasury, whether apportioned to the district from the School Fund, or raised by county or district tax for the support of schools shall be called the "Teachers' Fund;" and the treasurer shall keep with each a separate account, and no warrant for money shall be paid by the treasurer which does not specify the fund on which it is drawn and the specific use to which it is to be applied.

SEC. 27. **Same.** The treasurer shall apply for and receive all money apportioned to the district by the county judge, when notified of said apportionment, and also money in the county treasury collected on the district tax for his district.

[65] SEC. 28. **Same.** He shall render a statement of the finances of the district, as shown by the records of his office, at any time when required by the district board, and his books shall be always open for the inspection of said board.

SEC. 29. **Meeting of the directors.** The regular meetings of the district board of directors shall be held on the third Saturday in April and October in each year, and they may hold such special or adjourned meetings as they may from time to time determine.

SEC. 30. **Directors.** The duties of the district board of directors shall be as follows:

1. **Judge of election.** In each organized district to act as judges of all district elections.

2. **Contract for building school houses.** To make all contracts, purchases, payments and sales necessary to carry out any vote of the district for procuring any site for a school house, for building any school house, for renting, repairing or furnishing the same, or disposing thereof, or for keeping a school therein, and to perform all such other duties as may be delegated to them by the district meeting; Provided, That it shall be the duty of said board before erecting any school house, to consult with the county superintendent, as to the most approved plan for such building.

3. **Employ teachers.** To employ all teachers necessary for the schools of the district, specifying the term of time for which they are employed, and the amount of compensation, the contract to be reduced to writing and signed by the parties thereto.

4. **Education of colored children.** They may admit pupils not belonging to the district and not provided for in section three, to the privileges of their schools on such terms of tuition as may be agreed upon. And they shall provide for the education of the colored youth, in separate schools, except in cases where by the unanimous consent of the persons sending to the school in the sub-district, they may be permitted to attend with the white youth.

5. **Length of time—No. of school.** To determine the number of schools which shall be established in the district, and the length of time that [66] each shall be taught, subject to the provisions of section two of this act.

6. **Site for school house.** To fix the sight for each school house, taking into consideration in doing so, the wants and necessities of the people of each portion of the districts.

7. **Branches taught.** To determine what branches of learning shall be taught in the schools of their district.

8. **Sec'y and Treas'r give bond.** They shall require the secretary and treasurer each to give bond to the district in such penalty and with such sureties as in their opinion will secure the district against any loss, conditioned for the faithful performance of his duties under this act, and the correct application of all moneys that may come into his hands by virtue of his office. Said penalty may be increased from time to time, as the interests of the district may require. The bond shall be filed with the president of the board, and in case of a breach of the condition thereof, he shall bring suit thereon in the name of the district.

9. **Examine acct's of treasurer.** They shall from time to time examine the books and accounts of the treasurer, and make settlements with him, and shall at each regular meeting of the district, present to the same a full statement of the receipts and expenditures of the district, and all such other matters as may be deemed important, or which the district may require them to present, and of all matters which may have been delegated to them by the

district to perform, they shall render at such meeting a full and perfect account.

10. **Visit schools and aid in establishing and enforcing rules.** The said board shall be charged with the duty of visiting the schools in their district. One member of the board, together with a committee whom the board shall appoint for that purpose, shall visit each school monthly, and shall aid the teachers in establishing and enforcing rules for the government of the schools, and shall see that the teachers keep a correct list of the pupils, embracing the periods of time during which they attend school, the branches of learning which each pupil pursues, and all such other matters as may be required by the county superintendent, and which, in the opinion [67] of the board, tend to promote the welfare of the school.

11. **Employ teachers only who have certificates.** The board shall employ no teacher to teach in any school of the district, unless he shall first present to them a certificate of his qualification to teach all the branches required to be taught in such school, which certificate shall be duly signed by the county superintendent of the county in which he seeks to be employed, which shall have been given him not more than one year previous to the commencement of his school; and in case any teacher is employed and commences teaching without such certificate, he shall forfeit all claim for wages for instructing, for the time thus employed without such certificate.

12. **Audit claims against the Dist.** The said board shall audit and allow all just claims against the district, and the president may draw orders on the district treasurer for all demands thus audited.

13. **Call special meetings.** The said board may whenever they deem it expedient, and shall upon the written request of one-fifth of the legal voters of the district, call special meetings thereof, but in all such cases the notice for such meeting shall clearly state the precise object for which it is called, and the time and place at which it is to be held, and no other business shall be transacted at such meeting, except what shall have been specified in said notice.

14. **Fill vacancies.** All vacancies that may occur in the board shall be filled by an appointment made by the remaining member or members, which appointment shall remain good until the next regular meeting of the district, or sub-district, and until a new election to the office so vacant shall be had. Nothing herein contained shall be construed to prevent the other member or members of the board from calling a special meeting of the district or sub-district to fill such vacancy, or for any other purpose.

15. **Conform to instructions of state and county superintendents.** The members of the board shall conform to all the instructions of the county and state superintendents within the limits of their powers respectively.

16. **Director of sub-district to have charge of sub-district school house.** It shall be the duty of the director in each sub- [68] -district to see that the school house is kept in repair and supplied with fuel and to have the general supervision of the school and school house, under the board of directors, and with the approbation of the board, he may employ a teacher. He shall also settle the business of the sub-district remaining unfinished at the time of the organization under this act, and shall apply all funds belonging thereto, to the specific purpose for which the same were raised or received.

17. **May expel unruly pupils.** The board of directors may suspend during pleasure, or expel during the school term all pupils found guilty of incorrigibly bad conduct, or violation of the school regulations, and re-admit them on satisfactory evidence of amendment.

18. **Sec'y to transcribe record of school fund Com'r.** They shall cause the secretary to transcribe into a book to be kept for that purpose so

much of the records of the school fund commissioner of the county as applies to the boundaries of the sub-district in their district township.

19. **May change the boundaries of sub-districts.** They shall within twenty days after the first election under this act hold a meeting of the board, to be called by the president and secretary, at which they shall provide for the preparation of a map or plat of the district, on which shall be designated the sub-districts, and their boundaries, and in case no such sub-districts exist, shall establish the same, and shall have power at any regular meeting to change the boundaries of said sub-districts, as circumstances may require, notice of the same having been given at the previous meeting; they shall cause all such changes or establishment of boundaries to be marked upon said map or plat, and recorded in the proper book, and may from time to time, as occasion may require, cause new maps to be made.

20. **May equalize the tax for building school houses.** They shall vary the per centum of tax voted by the district meeting for school house purposes, when justice and equity require, making such discrimination as they shall deem just. They may, if necessary, appoint three disinterested householders of the county to examine and report to them the amount, value and condition of the property and reliable funds belonging and [69] coming to each district, organized under the law now in force, in its corporate capacity, and appropriated to school house purposes, which report shall be sworn to and entered by the secretary upon the records of the board, and such report together with the total amount of taxable property in, and the necessities of each sub-district in the township in regard to school house accommodations for the pupils therein, shall constitute the basis of action of the board in determining the per centum of tax to be levied upon each sub-district.

21. **May cause additional tax for the support schools.** They shall, at their regular meeting in April of each year, estimate the per centum of tax on the taxable property in the district, necessary to raise a fund which, with the addition of the amount of teachers fund due from the county treasurer as shown by notice from the county judge, shall be sufficient to pay the entire tuition of the several schools of the district for at least the time required by this act, for the current year, which per centum they shall certify to the county judge, who shall, at the time of levying the taxes for county purposes, levy the per centum of tax thus certified to him, upon the property of said district, which shall be collected and paid over in the same manner in all respects as other school district taxes.

22. **Fix the compensation of Sec'y and Treas'r.** They shall make such clasification of the pupils in the high school or schools as they may deem necessary, fix the compensation of the secretary and treasurer of the district, and transact generally such business as may tend to promote the cause of education in accordance with the provisions of this act, and shall exercise all powers contemplated therein.

SEC. 31. **Co. judge to levy tax for school purposes.** The county judge of each county, shall at the time of levying the tax for county purposes, levy a tax for the support of schools within the county, of not less than one mill, nor more than two and a half mills on the dollar, on the assessed value of all real and personal property within the county, which shall be collected by the county collector at the same time and in the same manner as state and county taxes are collected, except that it shall be receivable only in cash.

[70] SEC. 32. **Co. judge to apportion school property.** On the first Monday of April annually, the county judge of each county shall

divide one half of the proceeds of said tax among the several school districts of his county, and apportion the same sum to each district. And at the same time he shall apportion the remainder of said tax, together with the interest of the permanent school fund to which his county is entitled, and all other money in the hands of the county treasurer belonging in common to the schools of his county, among the several school districts therein, in proportion to the number of persons between five and twenty-one years of age, subject to the provisions of section two of this act. And in order to enable him to make such apportionment, it is hereby made the duty of the several county superintendents to report to their respective county judges on the first day of November annually, the number of such persons in each school district in his county.

SEC. 33. Co. judge to give notice to the district Pres't of the apportionment. The county judge shall immediately notify the president of each school district of the sum to which his district is entitled by said apportionment, and shall issue his warrant for the same to accompany said notice, which warrant shall be also signed by the president and countersigned by the secretary of the district in whose favor the same is drawn, and shall authorize the district treasurer to draw the amount due said district from the county treasurer, and the secretary shall charge the treasurer of the district with all warrants drawn in his favor, and credit him with all warrants drawn on the funds in his hand, keeping separate accounts for each fund.

SEC. 34. Scholarship established. For training and educating young men to become teachers in the common schools of the state, there shall be established in every county of the state, having a high school established therein, as many scholarships as there are school districts therein, and one scholarship shall be assigned to each district.

SEC. 35. Scholar selected. It shall be the duty of the board of directors in each school district in such county, with the principal teachers in each school, sometime in the month of [71] January next after the passage of this act, to select the best scholar in the district, not less than fifteen years of age, for ability, attainments, and capacity for teaching, for the scholarship of said district and the board shall grant the scholar so selected a certificate of scholarship.

SEC. 36. Scholar educated free of charge. Any scholar so selected shall be educated free of charge in the high school of the county, and shall be entitled to receive from the county treasury, at the end of each year, for a period not exceeding three years, fifty dollars, upon his producing from the principal professor of such high school, a certificate that he has been during the year faithful in his studies, exemplary in his department, and that he ranks in his scholarship among the first half of the class. *Provided*, that any such scholar may receive his education, with the consent of the county superintendent at any other literary institution established in this state, and receive the same sum from the county treasury on his producing a like certificate from the principal professor of said institution.

SEC. 37. Scholar requested to teach or refund. Every person, who shall have enjoyed a scholarship in the manner provided in section 36, shall teach in such common school in the county as shall be assigned to him by the county superintendent, a term of time equal to that for which he shall have enjoyed such scholarship; and there shall be deducted from his compensation fifty dollars each year for the same term, and the money thus deducted shall be paid into the county treasury; and in case he shall refuse so to teach, if in competent health, he shall pay

into the county treasury at the rate of fifty dollars each year, for the time he shall refuse to teach, with interest from the time he received the money, by virtue of his scholarship,—which may be recovered by the treasurer in an action at law.

SEC. 38. **Vacant scholarship to be filled.** When any scholarship shall become vacant during the term for which its scholar was elected, or by the expiration of the term, the vacancy may be filled in the manner provided in section 32, for the original selection, and the board of directors of the district where [72] such vacancy occurs, shall take all necessary measures for filling such vacancy in the manner therein provided.

SEC. 39. **By males and females alternately.** The scholarships herein established shall be filled by males and females alternately.

SEC. 40. **Co. Sup't to be elected.** On the first Monday of April next, and biennially, thereafter, on the second Monday of March, in each organized county in this state there shall be elected one county superintendent of common schools, who shall hold his office for two years, and until his successor is elected and qualified.

SEC. 41. **To take the oath of office—vacancy fill'd by Co. judge.** Within twenty days after his election, he shall take and subscribe an oath as prescribed by the constitution of the state of Iowa. Should he fail to be qualified as required, or if for any cause there be a vacancy in the office, the county judge shall appoint said officer, who shall qualify in like manner, but whose term of office shall expire at the next election thereafter, or when his successor shall be elected and qualified. But the county superintendent so selected shall only be such for the unexpired term of the vacancy, which he was selected to fill.

SEC. 42. **Examination of teachers.** It shall be the duty of the county superintendent, with two competent assistants, whom he shall select, to examine all such persons as shall present themselves, at the proper time and place, as to their ability to teach orthography, reading, writing, arithmetic, geography, and english grammar, and such other branches as may in special cases be required, and if the examination be satisfactory, and if he is satisfied that the applicant is of good moral character, he shall issue a certificate in duplicate that the bearer of the same is qualified to teach the branches above specified, and such others as the case may require, one copy of which shall be filed with the secretary of the district in which he is employed to teach. The county superintendent shall enter upon a register to be kept for that purpose, the names of the teachers receiving certificates, and the date of the same. He shall also give public notice of the time and place of holding such examinations. A certificate from the professor of the normal [73] department of the state university shall give to its possessor all the legal rights, powers, and privileges of a certificate from any school officer providing the person receiving such certificate has completed a course in the state university, satisfactory to the professor of the normal department of the state university.

SEC. 43. **Co. Supt. a body corporate.** The county superintendent of common schools is hereby declared to be a body corporate, by the name and style of "the county superintendent of common schools of the county of, state of Iowa," and in said corporate name the books shall be kept, investments made, property held, and all actions at law or equity in his official character shall be brought and defended.

SEC. 44. **Remov'l of teacher.** The county superintendent may remove any teacher from his school for immorality or incompetency, and annul his certificate, provided that such teacher may be entitled to receive his wages for the time he has taught.

SEC. 45. **Meeting of presidents of school dist's.** The county superintendent and the president of the board of directors of each district in the county shall meet together at some convenient place at the county seat, to be designated by the county superintendent, on the second Monday of April of each year, or at such other time or place as the superintendent of public instruction shall direct: *Provided*, he shall give at least fifteen days previous notice thereof to said county superintendent, and the latter shall give at least eight days previous notice to the presidents of the different districts. The county superintendent shall preside at such meeting, and a secretary shall be appointed, who shall keep a faithful record of the proceedings in a book to be provided for that purpose, which book shall be kept in the office of the county superintendent.

SEC. 46. **Objects of the meeting.** The said meeting, when organized, shall constitute a board, that shall take into consideration and recommend the various branches of instruction that should be introduced and taught in the different schools, the process and methods of teaching the same, the qualifications of teachers, the various kinds of school gov- [74] ernment, the kind of books that should be purchased to make up the district libraries, and also what kinds of apparatus are desirable, and what kinds of seats and desks are the most eligible, and all other such matters and things as are of general interest and importance in the common school system. The presidents of the several boards of directors of the districts are to receive no compensation for their services, but their actual expenses in attending these meetings are to be paid from the county treasury.

SEC. 47. **Co. Sup't to visit schools.** The county superintendent shall, at least twice in each year, visit personally and inspect each school in his county, and examine into the branches taught therein, the mode of instruction pursued, the text books used, the competency of the teachers to instruct, their general system of discipline, their compensation, the books contained in the district library and the regulations adopted and in force relating to the same. It shall be also his duty in case a new school house is to be built in any district, to examine the site and plan thereof, and if they are satisfactory, to give them his approbation, and to make such suggestions to the board of directors, teachers and schools, as may seem to him to be improvements in relation to any of the particulars just enumerated, and also as to any and all other matters connected with the general school system. He may also, at any and at all times, make such personal inspection of the different schools as he may deem proper, and he may also, at any time he thinks necessary, appoint a special committee to make such inspection as he may require, and report to him such facts and results as said committee have arrived at, and he shall entertain and decide all appeals taken from the district boards of directors—no such appeal to embrace any adjudication relative to the payment of money.

SEC. 48. **Conform to the instruction of state Sup't.** The county superintendent shall at all times conform to the instructions and directions of the superintendent of public instruction, as to all matters within his jurisdiction, and shall see that in the several districts in the county both teachers and district boards [75] of directors also conform to all such orders and directions as shall be transmitted to them, the said county superintendent being hereby made and constituted the several organs of communication between the superintendent of public instruction and the several district boards of directors, teachers and schools.

SEC. 49. **Report to state Supt.** Every county superintendent shall annually on the fifteenth day of October, forward to the superintendent of public instruction an extended report of the condition of the schools under

his charge, suggesting such improvements in the school system as he may deem useful, and giving such other information in regard to the practical operation of common schools and the laws relating thereto as may be deemed of public interest, to be accompanied by an abstract containing the items of the several particulars contained in the reports of the district secretaries.

SEC. 50. Penalty for neglect to report. Should he fail to make his report as required in the foregoing section, he shall forfeit the sum of fifty dollars, and shall besides be subjected to pay all the damages which shall be occasioned thereby, and suit shall be brought for the collection of the same by the district attorney.

SEC. 51. Transmit documents to directors. He shall transmit to the president of each school district in his county, on the requisition of the superintendent of public instruction, all such blank forms, circulars and other communications, as the latter may transmit to him for that purpose, and also all such as he may himself deem necessary and proper, to advance the general interest of education.

SEC. 52. Salary. The county superintendent shall receive from the county treasury as a compensation for his services, to be paid quarterly, a sum equal to one half the amount paid the clerk of the district court, and such further sum as shall be allowed him by the meeting of the district presidents, provided for in section forty-five, to be paid at the end of the year; but in no case shall his salary be more than one eighth greater than the salary of said clerk, nor less than fifty dollars, and it is hereby made the duty of the secretary of said [76] meeting to certify the amount of such further allowance to the county judge, who shall issue a county warrant in favor of the county superintendent for such sum.

SEC. 53. Election of Sup't of Pub. Inst. On the first Monday of April, A. D., 1860, and triennially thereafter, there shall be elected a superintendent of public instruction, who before entering upon his duties shall take and subscribe the usual oath of office, which shall be deposited with the secretary of state, and shall hold his office for three years, and until his successor is elected and qualified. Provided, that the board of education may at any time abolish the office of superintendent of public instruction, and transfer all the duties required by law of that office to the secretary of the board of education.

SEC. 54. To keep an office at the capitol. An office shall be provided for him at the seat of government, in which he shall file all papers, reports and public documents transmitted to him by the county superintendents of the several counties each year, separately, and hold the same in readiness to be exhibited to the governor, or to any committee of either house of the general assembly, or to the state board of education, at any time when required, and shall keep a fair record of all matters pertaining to the business of his office.

SEC. 55. Duties—to appoint a time and place for meeting the county Supts. The superintendent of public instruction shall be charged with the general supervision of all the county superintendents, and all the common schools of the state, and he shall see that the school system is as early as practicable carried fully into effect and put into uniform operation. With a special view to these general duties he shall, during each year of his term, appoint some suitable time and place, at which he will meet the several county superintendents, of which time and place he shall give due and sufficient notice to each county superintendent, and it is hereby made the duty of the several county superintendents to attend such meeting, the object of which shall be to accumulate valuable facts relative to common schools, to compare views, discuss principles, and in general to listen to all communications and suggestions, and enter into all discus- [77] sions relative to com-

pensation and qualifications of teachers, branches taught, methods of instructions, text books, district libraries, apparatus, and all other matters and things embraced in the common school system.

2. **To be present at meetings of Dist. presidents.** To be present each year at as many of the meetings in the counties at which the several district presidents meet together, as is practicable for him to attend. And with that view he may direct the times and places of said meetings to suit his convenience; provided he gives sufficient previous notice to the county superintendents to enable them to give notice to the respective presidents of the district boards of directors in their counties.

3. **To appoint commissioners to visit schools.** To appoint such and so many persons as he shall from time to time deem necessary to visit and examine into the condition of the common schools in the county where such persons may reside, and report to him on all such matters relating to the condition of such schools and the means of improving them, as he shall prescribe, but no allowance or compensation shall be made to the said visitors for such services.

4. **To visit schools.** To visit personally such schools as he may have it in his power to do, and witness the manner in which they are conducted.

5. **To decide appeals.** To entertain and decide all appeals relative to district schools that are taken before him from the decisions of the county superintendents.

6. **To recommend text books.** After examination, to recommend to the several county superintendents a uniform series of text books.

7. **To recommend books for libraries.** To recommend from time to time to the county superintendents such books as he shall think advisable to be purchased for the district school libraries, a list of which the said county superintendents shall immediately transmit to the respective presidents of the district boards of directors in their respective counties.

8. **To prepare forms and instructions for school officers.** To prepare and cause to be printed suitable forms for all reports required by this act, and all other school laws in force at this time, to be made by the district board of directors to the county superintendent of public in- [78] struction, and to transmit the same, with such instructions as he may deem proper in reference to filling up the same, and accompanied also, with such remarks and suggestions relative to the organization and government of the common schools, the courses of study to be pursued therein, and such other matters and things as he may deem advisable, to the several county superintendents.

9. **To make rules and regulations.** To make all further rules and regulations not inconsistent with any herein contained, that may be necessary to carry this act into full effect, according to its spirit and intent, which shall have the same force and effect as though the same were contained herein.

10. **To cause to be distributed copies of the school laws and report to the auditor the number of children.** He shall cause so many copies of this act, and all other school acts in force, with the forms, regulations and instructions herein contemplated, thereto annexed, to be from time to time printed and distributed among the county superintendents, as he shall deem expedient, directing the latter to distribute the same among the several district boards of directors in each county.—He shall annually, on the first day of January, report to the auditor of state the number of persons in each county of the state between the ages of five and twenty-one years.

SEC. 56. **Teachers Institutes.** Whenever reasonable assurance shall be given to the superintendent of public instruction, that a number of not less than thirty teachers desire to assemble for the purpose of holding a teachers' institute and to remain in session for a period of not less than six working days, the

said superintendent shall appoint such time and place for said meeting as the said teachers shall suggest and give due notice thereof, and for the purpose of defraying the charges for procuring teachers and lecturers for said institute, the said superintendent may receive from the state treasury a sum not exceeding one hundred dollars for any one institute, which he shall immediately transmit to the county superintendent in whose county the institute may be held, who shall pay out the same as the institute may direct, and for meeting the expense of teachers' institutes, one [79] thousand dollars per annum is hereby appropriated. The superintendent of public instruction shall, if practicable, attend these institutes.

SEC. 57. **To report to the board of education.** He shall make a report to the general assembly and board of education at each session thereof, which shall embrace:—

1. (1). **Condition of common schools.** A statement of the conditions of the common schools of the state, and shall contain the number of school districts therein, the number of schools in the state, the number of scholars between five and twenty-one years of age, as returned by the several county superintendents, the number of books in the district libraries, and the value of all apparatus in the schools.

2. (2) **Plans for their improvement.** Such plans as he may have matured for the management and improvement of the common school fund, and for the better and more perfect organization and efficiency of the common schools.

3. **Anything he may think expedient to communicate.** All such matters and things relating to his office, and to the common schools, as he shall deem expedient to communicate.

SEC. 58. **Salary and contingent expenses.** He shall receive annually the sum of one thousand five hundred dollars as a salary for the services required under the provisions of this act, and also all necessary contingent expenses for traveling, postage, books and stationery, pertaining to his office, to be audited and paid as the salaries and contingent expenses of other state officers are audited and paid. Provided, that the salary and traveling expenses shall not exceed seventeen hundred and fifty dollars.

SEC. 59. **Board of Pres'ts may establish high schools and elect trustees for the government of the same.** The board of presidents of school districts in any county may, at any regular meeting immediately following their election, determine whether a high school shall be established in such county, and in case they shall determine to establish such high school they shall elect by ballot nine trustees, residents of the county, who shall be divided into classes numbered one, two, three; class numbered "one" shall hold their office for one year; class numbered "two" for two years; class numbered "three" for three years, from the time of their election; the terms of service of those first elected to be [80] determined by lot, and thereafter, at every annual meeting of said board of presidents, there shall be elected three trustees for the term of three years from such election.

SEC. 60. **Sup't and trustees a body corporate.** The persons so elected, together with the county superintendent, shall be trustees of the high school of said county, and shall be and constitute a body corporate under the name and style of "the high school of the county of _____, state of Iowa," and as such shall have power to take, hold and dispose of property, make contracts, and do other corporate acts.

SEC. 61. **Organize a board—elect officers.** The said trustees, upon receiving notice of their election, shall immediately organize themselves into a board, electing a president, secretary and treasurer; the president to preside at its meetings, the secretary to keep a record of its proceedings, and the

treasurer to have charge of its funds and investments, and to give bond for the faithful performance of his duties, and to invest, account for, and when required to pay over, all moneys he may receive for such corporation—the same to be in such form, with such penalties and such sureties as the board shall direct.

SEC. 62. **Duties of trustees.** The said board of trustees shall be charged with the following duties:

1. **To provide a building for the high school.** To lease, or erect or furnish a suitable building or buildings for a high school.

2. **To provide libraries.** To provide suitable libraries and apparatus for the same.

3. **To prescribe the branches to be taught.** To prescribe the branches of science and learning to be taught therein, subject, however, in this particular, to the recommendation of the state board of education, in all cases where it may be given.

4. **To employ teachers and fix their salaries.** To employ all teachers it shall deem necessary or proper, at the salaries they may agree upon respectively. The said teachers to recommend the text books to be used. But the state board of education may recommend all such text books.

5. **To make by-laws.** To make such by-laws for the government of the board as it may deem necessary, and to alter or change the same at pleasure.

[81] 6. **To make rules admitting pupils.** To make such regulations as it may deem proper in regard to age, grade or attainment, and amount of knowledge of the students who may be admitted into such school and instructed therein, provided neither sex be excluded therefrom, and provided the instruction therein be free to all within such regulations as can be accommodated in said school.

7. **To have charge of the funds of the institution.** To be charged with the funds belonging to said institution, and to cause all such investments of the same to be made as the good of the institution may require.

8. **Five members to constitute a quorum.** To do all other acts and things not inconsistent with this act, which the good of the said school may require. Five of the trustees being sufficient to constitute a quorum for all ordinary business.

SEC. 63. **Sec'y to make an annual report to the Co. Supt.** The said board of trustees, through its secretary, shall make its annual report to the county superintendent at the same time that the secretaries of the several districts are required to make theirs, which report shall specify the sums expended in buildings, libraries and apparatus, respectively, the number of teachers employed, the average expense per month of the instruction given, the branches of learning or science taught, the text books made use of, the number of students attending, and between what ages and what average age, and what portion of males and females, what debts, if any, remain unpaid, what sums are invested, and how, and what is the interest or income from the same, and also all other matters and things which may be required by the county superintendent, of which said board may deem proper or expedient to report. The said high school shall be subject to the visitation of the county superintendent and the superintendent of public instruction.

SEC. 64. **Money to be raised by the county for the support high school.** In each county in which a high school shall be established, there shall be paid from the county treasury to the said board of trustees, for the purpose of erecting buildings for and sustaining such school, the sum of three thousand

dollars per year, for the six next succeeding years, and one thousand dollars annually thereafter, and it shall be the duty of the county judge [82] to include these sums in levying the tax for ordinary county revenue.

SEC. 65. **Co. judge may borrow money for the establishment of high school.** In order to insure an early completion of buildings necessary for the establishment of said high schools, the county judge of every such county is hereby authorized to borrow a sum of money not exceeding seven thousand dollars, at a rate of interest not exceeding ten per cent., to be paid to said trustees of the high school; but in case such sum shall be borrowed and paid to the trustees, the county judge shall deduct from the sums of three thousand dollars provided to be paid by section 61, to the trustees, each year, a sum sufficient to pay the annual interest on the loan, and to liquidate the whole debt in five years from the time it was contracted.

SEC. 66. **Scholarships in the university established.** For training and educating young men to become professors in the high schools herein established, there shall be constituted thirty six scholarships in the state university, and these scholarships shall be distributed by the superintendent of public instruction, to the different high schools of the state, but not more than four scholarships shall be assigned to any one school.

SEC. 67. **Selection of scholars.** It shall be the duty of the trustees of each high school, together with the professors thereof, at such times as they may judge expedient, to fill the scholarships assigned thereto, by selecting the best male students therein, of not less than sixteen years of age, for behavior, scholarship, attainments and capacity to teach, and grant to them certificates of scholarship.

SEC. 68. **Scholars entitled to rec've money from the state.** Any student thus selected shall be educated free of charge for tuition in the state university, and shall be entitled to receive from the state treasury at the end of each year for a period of not exceeding three years, seventy-five dollars, upon his producing from the chancellor of the university, a certificate that he has been, during the year, faithful in his studies, exemplary in his deportment, and that he ranks in scholarship among the first half of his class.

SEC. 69. **Scholars to become teachers.** Every person who shall have enjoyed a scholarship in the manner provided in section 67, shall [83] teach in some high or other school, for a term of time equal to that for which he shall have enjoyed such scholarship, and there shall be deducted from his compensation, seventy-five dollars each year for the same term, and the money thus deducted shall be paid into the state treasury; and in case he shall refuse so to teach, if in competent health, he shall pay into the state treasury at the rate of seventy-five dollars each year, for the time he shall refuse to teach, with interest from the time he received the money by virtue of his scholarship, which may be recovered by the treasurer in action at law.

SEC. 70. **Vacancies to be filled.** When any university scholarship shall become vacant during the term for which its scholar was selected, or by the expiration thereof, the vacancy may be filled in the same manner provided in section 66, for the original selection, and the board of trustees of the high school in which such vacancy shall occur, together with the professors thereof, shall take all necessary measures for filling such vacancy in the manner therein provided.

SEC. 71. **University.** The state university established at Iowa City, is hereby constituted a corporation under that name, possessing all the common law corporate powers, and also those conferred upon it by this act.

SEC. 72. **Building and lot granted to the university.** The public buildings at Iowa City, together with the ten acres of land on which the same are situated, are granted to the "state university of Iowa," to be used and appropriated only to university purposes, and to revert to the state whenever the same shall cease to be used for such purposes.

SEC. 73. **Two townships of land appropriated to the university.** The two townships of land granted by act of congress of July 20th, 1840, for the support of a university, and all proceeds and investments derived from the same, and hereby donated to the said state university, to be and constitute a perpetual fund, the interest and income of which shall be applied exclusively to the support of said university.

SEC. 74. **Objects of the University.** The object of the university shall be to provide the best and most effectual means of acquiring a thorough education, and a perfect knowledge of the [84] different branches of literature, the arts and the sciences, with their various applications.

SEC. 75. **Government of the university.** The government of the university shall be vested exclusively in a board of trustees, to consist of the chancellor of the university, who shall be president of the board, the governor, the superintendent of public instruction, and twelve trustees, who shall be elected as hereinafter provided.

SEC. 76. **Terms of first trustees—first trustees.** The trustees shall be divided into classes, numbered "one," "two," and "three." Class numbered "one" shall hold their offices for two years; class numbered "two" for four years, and, class numbered "three" for six years, from the first Monday of January, 1858; and every two years thereafter there shall be elected by the general assembly, four trustees to supply the vacancies made by the provisions of this section, and who shall hold their offices for six years respectively—Lauren Dewey, of Henry county; Edgar Wright, of Cedar county; Wm. Burris, of Scott county; W. F. Brannan, of Muscatine county; E. C. Lyon, Morgan Reno, H. D. Downey, W. H. Burris, of Johnson county; Lincoln Clark, of Dubuque county; J. B. Grinnell, of Poweshiek county; Geo. W. Drake, of Mahaska county and W. P. Davis, of Polk county—be and they are hereby appointed the first twelve trustees under this act, four of whom shall hold their offices for two years, four for four years, and four for six years, their several terms of office to be determined by lot, at the time of the first organization of the board under this act.

SEC. 77. **Vacancies in the board of trustees to be fill'd.** Whenever there shall be a vacancy in the office of trustee of the university, except in that of governor, superintendent of public instruction, and chancellor of the university, the board shall have the power, at any regular meeting, or at a special meeting called for that purpose, to fill any such vacancy for the unexpired term thereof.

SEC. 78. **Trustees to receive mileage—no other compensation.** The trustees of the university shall receive no compensation for their services as such trustees, but they shall be entitled to receive from the income of the [85] university fund, mileage at the rate of ten cents per mile for the distance necessarily traveled in attending any general or special meeting of the board.

SEC. 79. **University not to be sectarian.** The university shall never be under the exclusive control of any religious denomination whatever.

SEC. 80. **Cabinet.** In all cases where duplicates of specimens of natural history, and geological and mineralogical specimens which are, or may hereafter be collected by the state geologist of Iowa, or by any others appointed by the state to investigate its natural history, and physical resources are procured, one shall belong to and be the property of the state university, and

shall form a part of its cabinet or natural history, and its means of giving instruction in that department.

SEC. 81. **Trustees to appoint secretary, Treas'r and librarian.** The board of trustees shall appoint a secretary, a treasurer and librarian, and curator of the cabinet of natural history, who shall hold their respective offices during the pleasure of the board. It shall be the duty of the secretary to record all the proceedings of the board, and carefully to preserve all its books and papers. It shall be the duty of the treasurer to keep a true and faithful account of all moneys received and paid out by him, and before entering upon the discharge of any of his duties, he shall take and subscribe an oath that he will faithfully perform the duties of treasurer, and he shall also give a bond in the penalty of twenty-five thousand dollars, conditioned for the faithful performance of his duties as treasurer, and that he will at all times keep and render a true account of all moneys received by him as such treasurer, and of the disposition he has made of the same, and that he will at all times be ready to discharge himself of the trust, and to pay over when required; which bond shall have two good sureties, and shall be approved, as to its form and the sufficiency of its sureties, by the board of trustees, and also by the governor and secretary of state, and shall be filed in the office of the latter. The librarian and curator shall have charge of the library and cabinet of natural history.

[86] SEC. 82. **Enact laws for the government of the university.** The board of trustees shall have power and it shall be their duty to enact laws for the government of the university, to elect a chancellor, and shall also appoint, on the nomination of a chancellor, the requisite number of professors and tutors, and also such other officers as they may deem expedient, also to determine the amount of their respective salaries.

SEC. 83. **Departments—faculty.** The university shall consist of such departments as the board of trustees shall determine, subject to the provisions of this act, and the same may be altered or changed, as the board may prescribe. The immediate government of the several departments shall be entrusted to the faculty. The method and manner of instruction in each department shall be provided by the board of trustees, who shall also confer such degrees and grant such diplomas as are usually conferred and granted by other universities, or such others as it may think right and fitting.

SEC. 84. **Power of Remov'l.** The board of trustees shall have power to remove any officer connected with the institution, when in their judgment the interests of the institution require it.

SEC. 85. **Fees for tuition.** The board of trustees shall determine the amount of fees to be paid for tuition, subject to the provisions of this act.

SEC. 86. **Library and apparatus.** The board of trustees are authorized to expend such portion of the income of the university fund as it may deem expedient in the purchase of apparatus, library, and cabinets of natural history, in providing suitable means to keep and preserve the same, and in the procurement of all other means and facilities for giving instruction.

SEC. 87. **Meeting of the trustees.** Meetings of the board may be called in such manner and at such times as the board shall proscribe, and any seven of them, at any meeting regularly called, shall be a quorum for the transaction of business.

SEC. 88. **Duties of treasurer.** The treasurer of the university shall keep a set of books, in which he shall keep an accurate account of all transactions relative to the sale and disposition of the university lands and the management of [87] the fund arising therefrom, which said books shall exhibit what parts and portions of land have been sold, and at what prices, and to

whom, and how the proceeds have been invested, and on what securities, and what land still remains unsold, and where situated, and of what value, respectively.

SEC. 89. **Duties of Sec'y.** The secretary shall keep a book or books in which shall be entered all minutes of meetings, and all proceedings of the board, which shall always be open for inspection by all the trustees, at any time.

SEC. 90. **Sale of land and investment of funds.** No sales of lands belonging to the university shall hereafter take place, unless the same shall be decided upon at a regular meeting of the board, or at one called for that particular purpose, and then only in the manner, upon the notice and on the terms which the board shall proscribe, and no member of the board shall be either directly or indirectly interested in any purchase of such lands upon such sale. And it shall be lawful for the board to invest any surplus income which is not immediately required for the purposes of instruction, in the United States, or other interest paying state stocks, and to hold the same for the university, either as a perpetual fund, or as an income to defray current expenses, as said board may deem expedient.

SEC. 91. **Normal department.** There shall be a normal department to the university, in which shall be taught the theory and practice of teaching, and everything which enters into it as an art, including all the most approved methods and processes now in use in all the varieties of teaching.

SEC. 92. **Trustees to Rep't to the Gener'l assembly and board of education the condition of the university.** The board of trustees shall make a report to the general assembly, and the board of education at their sessions, which shall exhibit the state, condition and progress of the university in its several departments, the different courses of study pursued therein, the branches taught, the means and methods of instruction adopted, the number of professors and students, the situation and condition of the university fund, the income derived from the same, the amount of expenditures, and such other matters and things as the said board may deem proper to communicate.

[88] SEC. 93. **Penalty for not surrendering books.** Each and every officer created by the provisions of this act, who shall receive by virtue of his office, any books or papers, and shall refuse to deliver the same to his successor in office, or shall wilfully mutilate or destroy the same, or any part thereof, shall be liable to a fine of not less than fifty, nor more than two hundred and fifty dollars, to be recovered, with all damages occasioned thereby, by an action at law.

SEC. 94. **Same.** When any school officer is superceded by election or otherwise, he shall immediately deliver to his successor, all books, papers and moneys, pertaining to his office, taking a receipt therefor, which shall specify the particular class of books, papers and moneys thus transferred.

SEC. 95. **Acts repealed.** All acts and parts of acts which have heretofore constituted the school laws of the state of Iowa, except those relating to school lands and the school fund, and all acts and parts of acts heretofore in force relative to the state university, are hereby repealed, except that the officers created under those acts, and the power and authority under which they act, shall continue in force until the officers created by this act are filled, and the respective officers become qualified and enter upon the discharge of their respective duties, and all rights and liabilities, civil or criminal, which have accrued or been incurred under the act or acts hereby repealed, shall be in force in the same manner as if said act or acts were still in force.

SEC. 96. **Take effect.** This act to be in force from and after its publication in the Iowa State Journal, and the Iowa Weekly Citizen; and any news-

paper in this state publishing this act, and forwarding to the auditor of state a copy or copies containing the same, on or before the first Monday of April next, shall be entitled to receive from the state treasury, the sum of five dollars.

Approved March 12th, 1858.

I hereby certify that the foregoing Act was published in the Iowa State Journal on the 20th day of March, 1858, and in the Iowa Weekly Citizen, March 17th, 1858.

ELIJAH SELLS,
Secretary of State.

[89] CHAPTER 53.

PENITENTIARY APPROPRIATIONS.

AN ACT making appropriation for the Iowa Penitentiary, and defining the duties and salaries of certain of its officers.

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

SECTION 1. **\$42,000 appropriated for various purposes.** That the following sums of money be and the same are hereby appropriated out of any unappropriated money in the state treasury for the Iowa penitentiary, for general support, to wit:—lights, fuel, clothing, provisions, hospital expenses, incidentals, &c., until October 1st 1859, ten thousand dollars; for paying past indebtedness, thirteen hundred dollars, for refunding borrowed money for general support from the fund appropriated for improvements by act of the sixth general assembly, approved January 15th, 1857, four thousand dollars; for the construction of fifty cells, nine thousand dollars; for the completion of the wall and enlargement of the prison yard, twelve thousand dollars, for the erection of building for hospital, chapel, dining room, and kitchen, to be included in one building, six thousand dollars.

SEC. 2. **Warden superintend work—mon'y drawn upon estimates.** It shall be the special duty of the warden to superintend the work, and said sums of money may be drawn by him, upon the order of a majority of the inspectors, and shall be expended under his direction and superintendence. No money hereby appropriated for building purposes, shall be drawn except on estimates of work actually performed or materials furnished, provided further, that the cells to be constructed shall be of like character and form as those already commenced.

SEC. 3. **Warden, dep'y warden, clerk and chaplain's salary.** The salary of the warden shall hereafter be one thousand dollars, deputy warden five hundred dollars, the salary of the clerk five hundred dollars, and the salary of the chaplain three hundred dollars.

SEC. 4. **Conflicting laws repealed.** All laws and parts of laws contrary to this act are hereby repealed.

SEC. 5. **Take effect.** This act shall take effect from and after its [90] publication in the Iowa Weekly Citizen and Iowa State Journal.

Approved March 13th, 1858.

I hereby certify that the foregoing act was published in the Iowa Weekly Citizen on the 17th day of March, 1858, and in the Iowa State Journal on the 20th day of March, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 54.

NEWTON—JASPER COUNTY.

AN ACT to correct an error in an act entitled an act to incorporate the town of Newton, in Jasper county.

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

SECTION 1. **Change of boundary.** That section one of an act to incorporate the town of Newton, in Jasper county, passed at the sixth session of the general assembly of the state of Iowa, is amended so as to read in the third line eighty, north of range nineteen west in Jasper county.

SEC. 2. **Take effect.** This act shall take effect and be in force from and after its publication in the Jasper County Express and Iowa Weekly Citizen, without expense to the state.

Approved March 15th, 1858.

I hereby certify that the foregoing act was published in the Jasper County Express — 1858, and in the Iowa Weekly Citizen March 24th, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 55.

TAXES IN JACKSON COUNTY.

AN ACT for the relief of certain tax-payers in Jackson county, Iowa.

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

SECTION 1. **Co. judge may correct assessment.** [91] That the county judge of Jackson county be and hereby is authorized and required to so correct the tax list of said county for the year 1857, that the value of property listed or assessed by the owners and afterwards doubled by the assessor, (for the reason that said owners did not swear to their assessment) conform to the original valuation.

SEC. 2. **Tax so paid legal.** That taxes paid in conformity with the correction, contemplated in the first section of this act, shall be a full satisfaction for the taxes assessed for the year 1857, against property the value of which was so doubled by the assessor.

SEC. 3. **One half of tax returned.** That in all cases where the owner of property, the assessed value of which was doubled by the assessor, has paid the taxes on said property at the time of the correction above contemplated, the county judge shall, upon satisfactory proof of such fact, issue to said owner an order on the treasurer of said county, for one half the amount of the tax paid on said property.

SEC. 4. **Auditor gives the county credit.** The county judge of said county shall after completing said correction certify to the auditor of state the amount of state tax remitted by said correction, and the auditor shall credit the county treasurer with said amount.

SEC. 5. **Take effect.** This act shall take effect and be in force from and after its publication in the Maquoketa Excelsior and Maquoketa Sentinel.

Approved March 15th, 1858.

I hereby certify that the foregoing act was published in the Maquoketa Excelsior on the 30th day of March, 1858, and in the Maquoketa Sentinel on the 1st day of April, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 56.

COUNCIL BLUFFS.

AN ACT to legalize the election and official acts of the city of Council Bluffs.

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

SECTION 1. **Elections legalized.** That all elections held for city purposes, since the adoption of "an act to amend the charter of the city of Council Bluffs," approved January 23d, 1857, are hereby legalized; and all officers so elected, held to be duly qualified, and their official acts legalized.

SEC. 2. **Take effect.** This act to be in force and take effect from and after its publication in the Council Bluffs Bugle, Clarion, and Nonpareil, without expense to the state.

Approved March 15th, 1858.

I hereby certify that the foregoing act was published in the Council Bluffs Bugle on the 24th day of March, 1858, and in the Nonpareil on the 27th of March, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 57.

J. D. EADS.

AN ACT for the appointment of a commissioner to settle with the sureties of J. D. Eads.

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

SECTION 1. **Gov. appoint Com'rs to settle with sureties of J. D. Eads.** That his excellency, the governor, is hereby authorized to appoint a commissioner to settle with the sureties of J. D. Eads, late superintendent of public instruction, permitting said sureties to make an equitable apportionment among themselves of their liability, and securing the same by note and mortgage on five or eight years time, paying interest annually, in like manner as other loans of the school fund are required to be paid, or upon such other terms as shall best promote the interests of the state.

SEC. 2. **Gov. and Sup't Pub. Inst. approval.** The acts of said commissioner relative to the school fund or the pecuniary interests of the state shall not be binding in law without the approval of the governor and the superintendent of public instruction.

SEC. 3. **Take effect.** This act shall take effect and be in force from and after its publication in the Tri-Weekly Citizen and Tri-Weekly Iowa State Journal.

Approved March 15th, 1858.

I hereby certify that the foregoing act was published in the Tri-Weekly Citizen March 20th, 1858, and in the Iowa State Journal March 27th, 1858.

ELIJAH SELLS,
Secretary of State.

[93] CHAPTER 58.

FOETICIDE.

AN ACT for the punishment of foeticide.

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

SECTION 1. **Imprisonment and fine for this crime—penalty.** That every person who shall wilfully administer to any pregnant woman, any medicine, drug, substance or thing whatever, or shall use or employ any instrument or other means whatever, with the intent thereby to procure the miscarriage of any such woman, unless the same shall be necessary to preserve the life of such woman, shall upon conviction thereof, be punished by imprisonment in the county jail for a term of not exceeding one year, and be fined in a sum not exceeding one thousand dollars.

Approved March 15th, 1858.

CHAPTER 59.

PRACTICE IN THE SUPREME COURT.

AN ACT in regard to practice in the supreme court of Iowa.

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

SECTION 1. **Att'ys have the right to argue orally.** That in all causes now or hereafter pending in the supreme court of this state, that either the parties or their attorneys shall have the right to appear and argue their causes orally or in writing, as they may deem proper.

SEC. 2. **Parties shall be heard at the term for which their causes are set for hearing.** That the said court shall hear all the causes docketed from the several districts when not continued by consent of parties or for cause shown, and if the time allotted for hearing causes from any district shall not be sufficient, the same shall be heard in the time allotted for the succeeding district.

SEC. 3. **Take effect.** This act shall be in force from and after its [94] publication in the Tri-Weekly Citizen and Iowa State Journal.

Approved March 15th, 1858.

I hereby certify that the foregoing act was published in the Tri-Weekly Citizen March 20, 1858, and in the Iowa State Journal March 20, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 60.

LOAN TO KEOKUK MEDICAL COLLEGE.

AN ACT authorizing a loan from the school fund to the College Physicians and Surgeons, at Keokuk, known as the Medical Department of the University of the state of Iowa.

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

SECTION 1. **Treas'r authorized to loan \$15,000 from school fund.** That the treasurer of the state be and hereby is authorized to loan to the College of Physicians and Surgeons at Keokuk, known as the Medical Department of the University of the State of Iowa, the sum of fifteen thousand dollars out of the school fund for the term of ten years, at the rate of ten per cent. interest per annum, said interest to be made payable at his office on the first day of January in each year.

SEC. 2. **Loan secured by mortgage on real estate.** The said sum or any part thereof shall not be loaned until the payment of the money thus authorized to be loaned and the interest thereon, shall have been secured by promissory note executed by the loanee with two good sufficient sureties, and by mortgage on real estate of the clear unincumbered value of double the amount of the money to be thus loaned, and of the value of at least twenty thousand dollars exclusive of perishable improvements.

SEC. 3. **Appraisers appointed to value security.** The value of real estate proposed to be given in security for the money to be loaned as herein provided, shall be fixed by three appraisers under oath, to be appointed by the governor of the State of Iowa.

SEC. 4. **Title examined by Att'y Gen'l.** No real estate shall be received as security until the title to the same has been examined by the attorney general and found to be complete and perfect in the corporation or person executing the mortgage.

SEC. 5. **No expense to state.** Said appraisalment and examination shall be made without expense to the state.

SEC. 6. **Conflicting law repealed.** So much of the act entitled "An act providing for the distribution of the five per cent fund passed by the sixth general assembly and approved January 28th, 1857, as conflicts with this act, be and the same is hereby repealed.

SEC. 7. **Take effect.** This act shall be in force from its publication in the Tri-Weekly Citizen and Tri-Weekly Iowa State Journal.

Approved March 15th, 1858.

I hereby certify that the foregoing act was published in the Iowa Weekly Citizen on the 24th day of March, 1858, and in the Iowa State Journal on the 27th day of March, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 61.

GRAVE YARD IN BLOOMFIELD.

AN ACT to amend chapter 256 of the session laws of 1856-7, approved January 29th, 1857.

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

SECTION 1. **Appraisalment of lots repealed.** That so much of section five of said chapter as reads as follows, to-wit: "but in no case to be sold for less

than the appraised value thereof—such value to be fixed by three disinterested persons appointed by said judge for that purpose," be and the same are repealed.

SEC. 2. **Go into effect.** This act to be in force from and after its publication in *Ward's Own*, a weekly newspaper published in Bloomfield, Iowa, and in the *Appanoose Chieftain*, a weekly newspaper published in Centreville, Appanoose county, Iowa, without expense to the state.

Approved March 15th, 1858.

I hereby certify that the foregoing act was published in *Ward's Own* on the 25th of March, 1858, and in the *Appanoose Chieftain* on the 6th day of April, 1858.

ELIJAH SELLS,
Secretary of State.

[96] CHAPTER 62.

WOLVES, LYNX AND WILD CATS.

AN ACT allowing a bounty upon the scalps of certain animals.

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

SECTION 1. **Co. judge shall pay bounty for scalps.** That the county judge of any county in this state shall hereafter allow the following bounty upon scalps of the prairie wolf, lynx and wild-cat: one dollar and fifty cents on each scalp; the large species of wolves known as the timber wolf, three dollars each, said bounty in each case above named to be paid out of the county treasury of the county in which said scalp of wolf, lynx or wild-cat was taken.

SEC. 2. **Scalp produced in ten days—scalp defaced.** The person claiming a bounty, shall produce the scalp or scalps, with the ears thereon, within ten days after the same shall have been taken, to the county judge or justice of the peace of the county wherein such wolf, lynx or wild-cat may have been taken and killed. It shall be the duty of the county judge or the officer before whom such scalp was produced, to so deface the scalp when produced, as to prevent the use of the same to obtain the bounty herein provided for the the second time.

SEC. 3. **Statement made under oath.** No person shall receive any of the sums aforesaid, until he shall have sworn or affirmed to a statement of fact showing him entitled to such bounty.

SEC. 4. **Take effect.** This act to take effect from and after its publication according to law.

Approved March 15th, 1858.

CHAPTER 63.

THE DESCENT OF PROPERTY.

AN ACT to repeal sections 1410 and 1411 of the code prescribing the descent of property.

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

SECTION 1. **Provisions of code modified.** That sections 1410 and 1411 of the [97] code are hereby repealed, and that the descent of property as prescribed by these provisions of the code be modified as follows:

SEC. 2. **Estate to be divided between parents and wife.** If the intestate leave no issue, the one half of his estate shall go to his parents and the other half to his wife; if he leaves no wife, the portion which would have gone to her shall go to his parents.

SEC. 3. **Surviving parent takes the share of both.** If one of his parents be dead, the portion which would have gone to such deceased parent, shall go to the surviving parent, including the portion which would have belonged to the intestate's wife had she been living.

SEC. 4. **One half of the estate to go to the heirs of parents.** If both parents be dead, the portion which would have fallen to their share or to either of them by the above rules, shall be disposed of in the same manner as if they or either of them had outlived the intestate and died in the possession and ownership of the portion thus falling to their share or to either of them, and so on, through ascending ancestors and their issue.

SEC. 5. **Mother only to have a life estate—property to be divided equally among nearest relations.** If the mother be the surviving parent as contemplated in section three of this act, she shall take only a life estate in the intestate's property, and after her death it shall go to the children of her body, if there be any, had by her deceased husband, he being the father of the intestate. If there be no such children, nor issue of such children in the descending line, then the intestate's property shall be divided between the nearest heirs of the father and mother of the intestate, share and share alike, and after such distribution is made the same rules shall be applied to any further distribution thereof, as are prescribed in this act.

Approved March 15th, 1858.

CHAPTER 64.

DIVORCE AND ALIMONY.

AN ACT to amend the law in relation to divorce and alimony.

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

SECTION 1. [98] **Old law repeal'd.** That an act entitled "an act to amend the law in relation to divorce and alimony," approved January 24th, 1855, be and the same is hereby repealed.

SEC. 2. **A portion of the code revised.** That so much of chapter eighty-six of the code of Iowa, as was by said act repealed, be and the same is hereby revived, saving and excepting the eighth paragraph of section 1482 of said code, in said chapter eighty-six, which is not hereby revived.

SEC. 3. **Two years desertion cause of divorce.** That the fourth paragraph of said section 1482 be amended so as to read as follows, to-wit:—"When he wilfully deserts his wife and absents himself without a reasonable cause for the space of two years."

Approved March 15th, 1858.

CHAPTER 65.

ALIENS AND THEIR REAL ESTATE.

AN ACT respecting aliens.

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

SECTION 1. **Aliens may acquire and dispose of property as citizens.** That all aliens residing in the United States who shall have made a declaration of their intentions to become citizens of the United States, by taking the oath required by law, and all aliens residents of this state shall be capable of acquiring real estate in this state by descent or purchase, and of holding and alienating the same, and shall incur the like duties and liabilities in relation thereto as if they were citizens of the United States.

SEC. 2. **Aliens may acquire property by devise as citizens.** It shall be lawful for every alien who except for his alienage would be cable of acquiring real estate by devise descent from any person hereafter dying, capable at the time of the death, of holding real estate in this state, to acquire real estate in this state by devise or descent, from any person as aforesaid, hereafter dying, and of holding and alienating the same, and shall incur the like duties and liabilities in relation thereto, as if they were citizens of the United States.

[99] SEC. 3. **Aliens may acquire real estate by purchase—must sell it within ten years—previous purchases affected.** It shall be lawful for every alien who were it not for his alienage would be capable of acquiring real estate by purchase in this state, to purchase real estate in this state from any person capable at the time of holding an absolute title to real estate in this state, *Provided*, that such alien shall in good faith, sell and convey the same within ten years from the date of his said purchase, or taking effect of this act, to some person capable at the time of acquiring and holding an absolute title to real estate under the laws of this state, other than by virtue of this section, *Provided*, further that all such aliens who may have previous to the taking effect of this act, acquired any real estate by gift, devise, descent or purchase may hold the same according to the provisions of this act.

SEC. 4. **An alien wife entitled to divorce.** Every married woman whose husband hereafter dies, capable at the time of the death of acquiring and holding an absolute title, to real estate in this state, though she be an alien shall be entitled to the same rights of dower in her husband's lands as if she were a resident, of this state.

SEC. 5. **Alien's may acquire personal property as citizens.** All aliens who, except for their alienage, would be capable of acquiring personal property as a distributive share of an interstate estate in this state shall be capable of taking the same, and incur the like duties and liabilities in relation thereto as if they were citizens of the United States.

SEC. 6. **An alien non-resident may acquire property by devise by becoming a citiz'n.** If any person being a citizen of this state at the time of his decease shall have made a will bequeathing his property to a person who at the time of making such bequeath was an alien non-resident, but who subsequently to the making of such bequest, became a resident, such alien shall be capable in law of becoming a devisee of such property, as well as if he was a resident of this state at the time of making such devise.

SEC. 7. **Take effect.** This act shall take effect and be in force from and after its publication in the Iowa Citizen and Iowa State Journal, Staats Zei-

tung and National Demokrat printed at Dubuque Iowa, Der Demokrat at Davenport, Free Press and National Adler Eagle, at Bur- [100] -lington, and the German paper printed at Keokuk, Iowa.

Approved March 15th, 1858.

I hereby certify that the foregoing act was published in the Iowa Citizen on the 24th day of March, 1858, and in the Iowa State Journal on the 20th day of March, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 66.

LOANS TO A RAILROAD.

AN ACT to confirm the division of the rights and liabilities of the county of Webster since its division.

SECTION 1. Old county voted \$200,000—com'rs apportion'd loan after division. *Whereas*, The county of Webster did before the late division of said county, vote to subscribe for \$200,000 of the capital stock of the Dubuque and Pacific Railroad Company, and issue bonds of said county in payment therefor, and *Whereas*, the commissioners appointed by law to divide the property and liabilities of the counties formed out of said Webster county in its division have apportioned the amount of said stock and the liability to be incurred therefor, so that Webster county shall be entitled to receive \$90,000 of said stock, Hamilton county \$90,000 of said stock, and Humboldt county \$20,000 of said stock, and each of said counties to be liable to pay for said stock in proportion to the amount of the same taken by each of said counties.—Now, therefore,

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

The division submitted to the people. That the qualified electors of each of said counties, shall at the ensuing April election, to be held on the first Monday of April, A. D. 1858, have the right to vote at the several places of holding elections in each of said counties upon the question of rescinding the vote taken by Webster county before its division, to subscribe for \$200,000 of said stock.

SEC. 2. Form of vote and canvass. The form of the vote shall be "for rescinding" and "against rescinding," and the vote shall be [101] canvassed in each of said counties as all other votes are canvassed at said election.

SEC. 3. Counties releas'd from loan. If a majority of the legal votes cast in any one of said counties be "for rescinding," then said county so voting shall be released from any liability to take the amount so apportioned by said commissioners, and from all liabilities to issue bonds in payment therefor.

SEC. 4. Loan must be made if people so vote. If a majority of the legal votes cast in any one of said counties be "against rescinding," then the county so voting shall be required to take the stock, as apportioned, viz: the counties of Webster and Hamilton each \$90,000 of said stock, and the county of Humboldt \$20,000 of said stock, according to the terms and conditions of the original proclamation upon which the original vote was taken by the county of Webster before its division, and said apportionment shall be in every respect legal and the bonds issued by any one of said counties so voting shall be legal and valid against said county, according to the true intent and meaning of the code authorizing the vote taken by Webster county before its division.

SEC. 5. **Special election ordered if law is not published.** In case this act should fail to be published in the papers hereinafter mentioned ten days before said April election, then the county judges of each of said counties shall have authority to order a special election, by giving the notice required by law, and in case no special election shall be held, then said vote shall be taken at the next October election after the passage of this act.

SEC. 6. **Take effect.** This act to take effect from and after its publication in the Hamilton Freeman and Fort Dodge Sentinel, the counties of Webster and Hamilton to pay expense of said publication.

Approved March 15th, 1858.

I hereby certify that the foregoing act was published in the Hamilton Freeman April 1st, 1858, and in the Fort Dodge Sentinel — 1858.

ELIJAH SELLS,
Secretary of State.

[102] CHAPTER 67.

THE ADOPTION OF CHILDREN.

AN ACT to authorize and regulate the adoption of children.

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

SECTION 1. **Any person may adopt child.** Any person competent to make a will is authorized in manner hereinafter set forth, to adopt as his own, the minor child of another, conferring thereby upon such child all the rights, privileges and responsibilities which would pertain to the child, if born to the person adopting in lawful wedlock.

SEC. 2. **The consent of the parent, or the mayor, or the co. judge, must be obtained in writing.** In order thereto, the consent of both parents, if living and not divorced or separated, and if divorced or separated, or if unmarried, then the consent of the parent lawfully having the care, and providing for the wants of the child, or if either parent is dead, then the consent of the survivor; or if both parents be dead, or the child shall have been and remains abandoned by them, then the consent of the mayor of the city where the child is living, or if not in a city, then of the county judge of the county where the child is living, shall be given to such adoption, by an instrument in writing, signed by the parties or party consenting, and stating the names of the parents, if known, the name of the child if known, the name of the person adopting such child, and the residence of all if known, and declaring the name by which such child is hereafter to be called and known, and stating also that such child is given to the person adopting for the purpose of adoption as his own child.

SEC. 3. **Instrument of adoption acknowledg'd and recorded in the same manner as deeds.** Such instrument in writing shall be also signed by the person adopting, and shall be acknowledged by all the parties thereto in the same manner as deeds affecting real estate are required to be acknowledged, provided that when both parents of the child execute the same, the mother shall be examined apart from her husband, by the officer taking the same, and he shall certify whether or not she executed the same freely and without compulsion or undue influence of her husband, and if not the instrument shall not be valid; [103] and when duly acknowledged, the same shall be recorded in

the county where the person adopting resides, in the office and with the record of deeds of real estate, and shall be indexed with the name of the parent by adoption as grantor, and the child as grantee in its original name, if stated in the instrument.

SEC. 4. **The relations of child changed.** Upon the execution, acknowledgment and record of such instrument, the rights, duties and relations between the parent and child by adoption, shall thereafter in all respects, including the right of inheritance, be the same that exist by law between parent and child by lawful birth.

SEC. 5. **Mal-treatment subjects adopt'd parent to be deprived of child.** In case of mal-treatment committed or allowed by the adopted parent, or palpable neglect of duty on his part, toward such child, the custody thereof may be taken from him and entrusted to another at his expense if so ordered by the court, and the same proceedings may be had therefor, so far as applicable, as are authorized by law in such a case in the relation of master and apprentice, or the court may, on showing of the facts, require from the adopted parent bond with security, in a sum to be fixed by him, the county being the obligee, and for the benefit of the child, conditioned for the proper treatment and performance of duty toward the child, on the part of the parent; provided, that no action of the court or judge in the premises shall affect or diminish the acquired right of inheritance on the part of the child, to the extent of such right in a natural child of lawful birth.

SEC. 6. **Take effect.** This act shall be in force from and after the date of its publication in the Iowa Citizen and Iowa State Journal.

Approved March 16th, 1858.

I hereby certify that the foregoing act was published in the Iowa State Journal on the 28th day of March, 1858, and in the Iowa Weekly Citizen on the 24th day of March, 1858.

ELIJAH SELLS,
Secretary of State.

[104] CHAPTER 68.

LEVEE ON MUSCATINE ISLAND.

AN ACT to provide for levying a tax on certain lands to complete and keep in repair a levee on Muscatine Island, and for the election of a levee commissioner to superintend the same.

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

SECTION 1. **Prop'rtly on Muscatine Island taxed.** That all land, city and town lots on Muscatine Island, between the location of the levee, now begun, and the Muscatine slough, in Muscatine and Louisa counties shall be subject to an equal tax per acre annually, at a rate not to exceed eight cents, and the town and city lots at a rate not to exceed eighty cents each.

SEC. 2. **Property on the west side of Muscatine slough taxed.** All land, city and town lots, bordering on the west side of the Muscatine slough, in Muscatine and Louisa counties, that would be benefitted by a levee on Muscatine Island, shall be subject to the same tax as provided in the first section of this act, for land, city and town lots, on Muscatine Island.

SEC. 3. **Co. judges of Muscatine and Louisa counties to make levy.** The said tax to be levied by the county judge of Muscatine county, upon such land,

city and town lots as are situated in said county, and by the county judge of Louisa county for such land, city and town lots as are situated in Louisa county.

SEC. 4. Tax collected—surveyors to make plots of property taxed. The said tax shall be assessed and collected at the same time other taxes are assessed and collected, and not to be paid out, except as hereinafter provided: *Provided*, that no tax shall be levied until the county surveyor of Muscatine county, and the county surveyor of Louisa shall have made a survey and plat of all land, city and town lots, within the bounds described in the first section of this act, and such land, city and town lots, west of the Muscatine slough in Muscatine and Louisa counties as would be benefitted by a levee on Muscatine Island, and shall have filed a copy thereof, containing a description of such land, city and town lots as lie in Muscatine county with the county judge of said county, and a copy thereof containing a description of such land, city and town lots, as lie in Louisa county with the county judge of said county.

[105] **SEC. 5. Levee com'rs elected—qualification and election.** At the time fixed by law for the election of justices of the peace in this state, there shall be elected in Bloomington and Seventy six township in Muscatine county a levee commissioner, and in Port Louisa and Grandview townships in Louisa county, a levee commissioner: Said commissioners must reside on Muscatine Island; and in the election of said levee commissioners, no elector shall vote except he resides in the district subject to be taxed under the provisions of this act. Returns of such election shall be made in the same manner as now provided by law for the election of county officers, and the person receiving the largest number of votes shall be duly declared elected.

SEC. 6. Com'rs authorized to construct levee — Swamp lands applied to construction. Said commissioner when elected shall be authorized, after taking and subscribing an oath before the county judge of their respective counties for the faithful performance of their duty, to adopt a plan to complete and keep in repair said levee or levees on Muscatine Island, and to pay for the same, from taxes to be collected under the provisions of this act, and the proceeds of the sale of such swamp land on said Muscatine Island, and the borders of the Muscatine slough as may be conveyed by the United States to the state of Iowa, in conformity with an act of congress passed the twenty-eighth of September 1850, or so much thereof as has not been expended on said work, shall be applied to defray the expenses incurred by said levee commissioners in constructing and keeping in repair said levee or levees on Muscatine Island in their respective counties.

SEC. 7. Books and pap'rs relating to levee. As soon as said levee commissioners are elected and qualified, or either of them, he or they are hereby authorized to receive all books and papers properly appertaining to said levee or levees.

SEC. 8. Pay of com'rs. The said levee commissioners shall receive two dollars per day as a compensation for their services, for the time they are actually employed in their official capacity, to be approved by the county judge.

SEC. 9. A failure in one district not so affect the other. The county judge in one of the above named counties failing to comply with the provisions of this [106] act, shall in no manner affect the rights of the district in the other county.

SEC. 10. Conflicting laws repealed. All acts and parts of acts, inconsistent with this act are hereby repealed.

Approved March 16th, 1858.

CHAPTER 69.

NEW HAVEN, BUCHANAN COUNTY.

AN ACT to amend section two of an act entitled an act to change the name of New Haven in Buchanan county, approved January 27th, 1857.

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

SECTION 1. **Two years allowed to file a record of act.** That section two (2) of an act entitled an act to change the name of New Haven in Buchanan county, approved January 27th, 1857, be amended so as to read "within two years after the passage of this act a copy of the same shall be filed for record in the office of the recorder of deeds of Buchanan county, and from and after such filing in all conveyances of lots in any of the said additions the description shall be in accordance with the changes made by this act, *Provided*, that nothing in this act shall be so construed as to vitiate the title to any lot heretofore conveyed in the said New Haven or any addition thereto.

SEC. 2. **Take effect.** This act shall take effect from and after its publication in Independence Civilian and Quasqueton Guardian without expense to the state, papers published in Buchanan county, Iowa.

Approved March 16th, 1858.

I hereby certify that the foregoing act was published in the Quasqueton Guardian on the 22nd day of April, 1858.

ELIJAH SELLS,
Secretary of State.

[107] CHAPTER 70.

VOICE OF IOWA.

AN ACT authorizing school districts to subscribe for the Voice of Iowa.

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

SECTION 1. **Cl'k of the Dist. authorized to subscribe.** That the clerk of any school district in the state of Iowa, be and is hereby authorized to subscribe in the name of the district for one copy of the Voice of Iowa, the same being an educational journal and the organ of the state teacher's association of the state, and that he pay for the same out of any funds belonging to said districts.

SEC. 2. **The paper to be preserved.** Said journal shall be preserved by said clerk and his successors in office as the property of the district, and when a library shall be formed, shall be placed in the hands of the librarian for the use of the district.

SEC. 3. **Take effect.** This act shall take effect from and after its publication in the Des Moines Citizen and Cedar Valley Times, without expense to the state.

Approved March 16th, 1858.

I hereby certify that the foregoing act was published in the Des Moines Citizen on the 24th day of March, 1858, and in the Cedar Valley Times on the 1st day of April, of 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 71.

J. P., JACKSON TOWNSHIP, POWESHIEK COUNTY.

AN ACT to provide for the election of an additional justice of the peace in Jackson township, Poweshiek county, Iowa.

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

SECTION 1. **Additional Jus- of the peace.** That at the April election, A. D., 1858, and every two years thereafter, there shall be elected one additional justice of the peace in the township of Jackson, Poweshiek county, Iowa, who shall hold his office within the limits of the town of Montezuma.

[108] SEC. 2. **Election.** That said election shall be conducted and the returns made pursuant to the law regulating the elections of the justices of the peace.

SEC. 3. **Take effect.** This act shall take effect and be in force from and after its publication in the Iowa Weekly Citizen and the Montezuma Republican.

Approved March 16th, 1858.

I hereby certify that the foregoing act was published in the Iowa Weekly Citizen March 24th, 1858, and in the Montezuma Republican March 27th, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 72.

JUDICIAL SALES OF PROPERTY.

AN ACT regulating and defining the notice to be given in all cases of judicial sales of property.

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

SECTION 1. **The Sh'ff must give four weeks notice of sale.** That the sheriff must give four weeks notice of the time and place of selling real property, and the like notice of that of personal property in cases where the value of the same amounts to more than one hundred dollars, but where the value of the same is one hundred dollars or less, two weeks notice only, need be given.

SEC. 2. **Notice to be given in paper, and by posting—posting notices suffice.** In case of the sale of real property, or where personal property of the value of more than one hundred dollars is to be sold, such notice shall be given by publication in some newspaper published in the county, if there be one, for four consecutive weeks immediately preceding the day of such sale, and by posting up three written or printed notices in at least three public places in the county, one of which shall be at the place where the last district court was held, and one of said notices shall be put up in some public place in the township where such real estate is situated. Should there be no newspaper published in the county, the written or printed [109] notices required by this act only, shall be given, *Provided*, that the provisions of this act shall be construed to apply to all sales of real estate made under, or by virtue of any decree rendered by the courts of this state.

SEC. 3. **Notice of constable's sale.** In all sales made by constables, two weeks notice of the time and place of such sale shall be given by posting up three written or printed notices in at least three public places in the township where the judgment was rendered, and where the defendant resides; one of which shall be on the door of the justice's office.

SEC. 4. **Repeal of old law.** Sections 1905 and 1906 of chapter 110 are hereby repealed, and the foregoing shall take the place thereof.

Approved March 16th, 1858.

CHAPTER 73.

BUTLER COUNTY.

AN ACT to annex the county of Butler to the tenth judicial district, and prescribing the time for holding courts therein.

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

SECTION 1. **Annexed to tenth district.** That Butler county be, and the same is hereby attached to the tenth judicial district.

SEC. 2. **Time for holding court.** The time for holding court in said county shall be on the Thursday following the third Monday after the third Monday in May, and September, in each year.

SEC. 3. **Conflicting law repealed.** All acts or parts of acts conflicting with this act are hereby repealed.

SEC. 4. **Take effect.** This act to take effect from and after its publication in the Tri-Weekly Citizen and the Tri-Weekly Iowa State Journal.

Approved March 16th, 1858.

I hereby certify that the foregoing act was published in the Iowa Weekly Citizen March 24th, 1858, and in the Iowa State Journal March 27th, 1858.

ELIJAH SELLS,
Secretary of State.

[110] CHAPTER 74.

BOUNDARY OF SIOUX CITY.

AN ACT to amend an act approved January 16th, 1857, incorporating the city of Sioux City.

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

SECTION 1. **Territory embraced in city limits.** That section number one (1) of an act approved January 16th, 1857, incorporating the city of Sioux City, shall be so amended as to read (after the style of enactment,) "that the town of Sioux City, in Woddbury county, in this state, which is situated on the following described land, towit: The south half of section twenty (20), the south half of section twenty-one, fractional sections twenty-eight (28) twenty-nine (29), thirty-three (33) and thirty-four (34), section twenty-seven (27), and the south half of section twenty-two (22), township number eighty-nine (89), north range forty-seven (47), west is hereby declared to be a city by the name of Sioux City."

SEC. 2. **The city divided into wards.** Also that section number four (4) of the above mentioned act be so amended as to read: "The said city shall be divided into four wards, as follows, to-wit: That portion lying west of Pearl street shall constitute the first ward; that portion lying east of Pearl street, and in the west half of section number twenty-eight (28) and southwest quarter of section twenty-one (21), shall constitute the second ward. That portion lying in the east half of section number twenty-eight (28), the southeast quarter of section twenty-one (21), and fractional section number thirty-three (33), shall constitute the third ward; and that portion lying in the south half of section number twenty-two (22), section twenty-seven (27) and fractional section number thirty-four, shall constitute the fourth ward: *Provided*, That the said city council may change, unite or divide the said wards or any of them, whenever two-thirds of their body shall think it for the interests of the city.

SEC. 3. **Take effect.** This act shall take effect from and after its [111] publication in the Western Independent and Sioux City Eagle, without expense to the state.

Approved March 16th, 1858.

I hereby certify that the foregoing act was published in the Western Independent on the 25th of March, 1858, and in the Sioux City Eagle on the 27th of March, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 75.

COURT IN MARION COUNTY.

AN ACT to amend an act entitled an act to fix the time of holding courts in the eleventh judicial district.

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

SECTION 1. **The May term of court abolished.** That so much of an act entitled "an act to fix the time of holding courts in the eleventh judicial district," passed at the seventh general assembly of the state of Iowa, and approved January 22d, A. D., 1858, which provides for holding a court in the county of Marion, on the third Monday in May, A. D., 1858, be and the same is hereby repealed, and all other acts in conflict herewith, are hereby repealed.

SEC. 2. **Take effect.** This act to take effect and be in force from and after its publication in the Tri-Weekly Iowa State Journal, and the Tri-Weekly Iowa Citizen.

Approved March 18th, 1858.

I hereby certify that the foregoing act was published in the Iowa Weekly Citizen on the 24th day of March, 1858, and in the Iowa State Journal on the 20th day of March, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 76.

JURISDICTION IN SWAMP LANDS.

AN ACT to repeal part of the twelfth section of chapter 156, in relation to swamp lands, approved January 20th, 1855.

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

SECTION 1. **Repeal of law.** That the following words, "which [112] shall have final jurisdiction over the matter," in section twelve, chapter 156, of an act in relation to swamp lands be, and the same are hereby repealed.

SEC. 2. **Take effect.** This act shall take effect and be in force from and after its publication in the Iowa Weekly Citizen and Iowa State Journal.

Approved March 18th, 1858.

I hereby certify that the foregoing act was published in the Iowa Weekly Citizen on the 24th of March, 1858, and in the Iowa State Journal on the 20th of March, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 77.

BLAKESBURG.

AN ACT to repeal chapter 23 of the acts of the sixth general assembly.

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

SECTION 1. **Name changed.** That chapter 23 of the acts of the sixth general assembly be and the same is hereby repealed.

SEC. 2. **Take effect.** This act to take effect and be in force from and after its publication according to law.

This act having remained with the governor three days, (Sunday excepted) the general assembly being in session, has become a law this 18th day of March, A. D. 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 78.

KEOKUK AND DES MOINES VALLEY PLANK ROAD.

AN ACT in relation to the Keokuk and Des Moines Valley Plank Road Company.

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

SECTION 1. **Comp'ny authorized to lay railroad track into the city of Keokuk.** That the Keokuk and Des Moines Valley Plank Road Company be, and they are fully authorized and empowered to locate, establish, construct, [113] maintain and operate by horse or steam power, a railroad upon the track of the present plank road; and that they be further authorized to extend the track of said railroad down Main street, in the city of Keokuk, as far as the intersection of Main street and Second street in said city.

If the city assent. *Provided*, however, that said railroad track shall not be so extended until the assent of the proper authorities of said city is had and obtained by said company agreeing to said extension as above.

SEC. 2. **Compa'y authorized to issue stock.** That said Plank Road Company be and they hereby are authorized and empowered to raise the necessary money for the construction and operation of said railroad by the issuing of additional stock or the sale of bonds of the company, secured upon the corporate property thereof.

SEC. 3. **Take effect.** That this act shall be in force from and after its publication in the Keokuk Daily Post and Daily Gate City; which shall be done without expense to the state.

Approved March 18th, 1858.

I hereby certify that the foregoing act was published in the Daily Gate City on the 30th day of March, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 79.

DAYS OF GRACE.

AN ACT to designate Sunday and the holidays to be observed in the acceptance and payment of bills of exchange and promissory notes.

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

SECTION 1. **Notes falling due on Sundays and holidays, payable the next day.** That the following days, viz: The first day of the week, commonly called Sunday, the first day of January, the fourth day of July, the twenty-fifth day of December, and any day appointed or recommended by the governor of this state or the president [114] of the United States as a day of fast or thanksgiving, shall for all purposes whatsoever as regards the presenting for payment or acceptance, and of the protesting and giving notice of the dishonor of bills of exchange, bank checks and promissory notes, be treated and considered as falling due on the succeeding day.

Approved March 18th, 1858.

CHAPTER 80.

DIRECTORS OF DUBUQUE & PACIFIC R. R. CO.

AN ACT requiring two at least of the trustees of the Dubuque and Pacific Railroad Company to reside in the state of Iowa, and to regulate the issue and disposition of the construction bonds of said company.

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

SECTION 1. **Two directors must reside in the state, or office declared vacant.** That from and after the fifteenth day of March, A. D. 1858, two at least of the trustees appointed by the Dubuque and Pacific Railroad Company pursuant to authority heretofore given by the general assembly, shall reside in and be residents of the state of Iowa, and in case of their failure so to do, the

board of directors of the said company shall declare vacant the place of two of such trustees, naming those whose places are so declared vacant, and the said board of directors shall order an election to fill such vacancy.

SEC. 2. **Notice of the election to fill vacancy.** The secretary of the company shall cause at least ten days notice of such election to be given and published in at least two daily papers published in the city of Dubuque, which notice shall set forth its object and the time when and place where such election shall be held; and the stockholders of the company shall be entitled to vote at such election under the same conditions and prescriptions of the articles of incorporation of the company and of the by-laws as are prescribed and conditioned for the election of directors. Each hundred dollars of stock in the hands of *bona fide* holders shall be entitled to one vote at such election.

[115] SEC. 3. **Removal from state vacates the office.** A removal from the state shall work a forfeiture of the office of trustee, and in case of such removal the directors shall proceed to declare the place of such removed trustee vacant, and order an election to fill the same as herein elsewhere provided.

SEC. 4. **Company may issue bonds.** Said railroad company may issue a portion of the bonds secured by the mortgage and trust deed heretofore executed, in denominations of not less than fifty dollars each, and may make such bonds payable in land or in land and money, in the discretion of the company. Said bonds shall be valid if signed by the president and countersigned by the secretary and one trustee.

SEC. 5. **Bonds exchanged for stock.** The company may in its discretion give to each stockholder in exchange for his stock, bonds to the amount actually paid upon such stock including optional stock, but the stock so exchanged for bonds must be returned to the company, and when so returned, must be cancelled.

SEC. 6. **Take effect.** This act shall take effect and be in force from and after its publication in the Dubuque Express and Herald and Dubuque Tribune, without expense to the state.

Approved March 18th, 1858.

CHAPTER 81.

COUNTY SUPERINTENDENT.

AN ACT supplementary to an act for the public instruction of the state of Iowa, and relating to the election of county superintendents of common schools.

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

SECTION 1. **Counties not receiving law may elect in May.** That in case any county or counties of this state, shall for want of notice or other cause fail to elect a county superintendent on the first Monday of April next, as provided in said act for the public instruction of the state of Iowa, it shall be lawful, and is [116] hereby made the duty of such county or counties to hold an election for the election of said officers, on the first Monday of May next.

SEC. 2. **Co. judge shall give the notice.** The county judge of each county in which such special election shall be required, fifteen days previous to the day of said election, shall notify the clerk of each township in the county of said election, and said clerk shall cause five written or printed notices of said election to be posted in public places at least ten days previous to the day of said election.

SEC. 3. **Election and canvass.** Said election shall be conducted and the canvass of votes be had as in the election of other county officers.

SEC. 4. **Take effect.** This act to be in force from and after its publication in the Iowa State Journal and Iowa Citizen.

Approved March 19th, 1858.

I hereby certify that the foregoing act was published in the Iowa State Journal on the 24th day of April, 1858, and in the Iowa Weekly Citizen on the 24th day of March, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 82.

SUPREME COURT AT DAVENPORT.

AN ACT providing for argument terms of the supreme court of the state of Iowa, increasing the contingent fund thereof, allowing mileage to the county judges and additional pay to the clerk of said court.

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

SECTION 1. **Court held at Davenp'rt twice a year.** That the supreme court, shall hold an argument term at the city of Davenport, in the county of Scott twice in each year, to begin and commence on the first Monday in April and second Monday in October.

SEC. 2. **Counties from which causes are taken.** That all causes taken to the supreme court from the counties of Scott, Clinton, Jackson, Dubuque, Clayton, Alamakee, Winneshiek, Howard, Mitchell, Chickasaw, Floyd, Worth, Cerro Gordo, Tama, Bremer, [117] Butler, Blackhawk, Buchanan, Delaware, Fayette, Jones, Linn, Benton, Johnson, Cedar, Muscatine, Louisa, Washington, Des Moines, Henry, Lee and Van Buren, shall be taken to the supreme court which shall meet at Davenport, and all other counties not designated in this act, shall be heard at the regular terms of the supreme court held at Des Moines.

SEC. 3. **Causes may be heard at Des Moines.** In case any cause taken to the said supreme court to be held at Davenport, shall not be heard at the first term thereof, then either party may have the same heard at the next regular term of the supreme court to be held in Des Moines, on serving ten days notice of his intention and the time of meeting of said term of court.

SEC. 4. **Cl'k to arrange causes and publish.** It shall be the duty of the clerk of the supreme court, to arrange the causes pending, or which may probably be pending, from the different counties to be heard at said argument terms, giving such certain number of days for the causes from each county as in his judgment, and to publish the same in some newspaper at least four weeks, in some paper published in the city of Davenport, provided this section shall not apply to the April term, A. D. 1858.

SEC. 5. **Records to be kept at the capital.** The clerk of the supreme court now provided by law, shall keep the records thereof, permanently at the capital of the state provided he shall attend as clerk at the argument terms of said court.

SEC. 6. **Sh'ff of Scott co. to attend court.** The court when in session at the argument terms thereof, shall be entitled to the attendance of the sheriff of the county of Scott, as its ministerial officer, who shall be entitled as com-

compensation therefor, to the same fees as for the like services to the district court, as now provided by law.

SEC. 7. **Mileage allowed to judges.** There shall be allowed to the judges of the supreme court, the sum of ten cents per mile for each mile by them traveled in going to and returning from the argument terms of said court to be computed by the nearest and most practicable route.

SEC. 8. **Compensation of clerks.** The clerk of the supreme court shall be entitled to five dollars per day for each and every day [118] that said court may be in session during the argument term created by this act.

SEC. 9. **Rooms furnished free.** The state shall be at no expense for rooms to hold the supreme court in at Davenport.

SEC. 10. **Certain laws declared in force.** Sections 4, 5, 7, 9 and 10, of chapter 79 of the laws of the fourth general assembly, approved January 22nd, 1853, are not repealed by this act, but shall remain in full force.

SEC. 11. **Existing rules of the supreme court in force.** The existing rules of the supreme court as adopted at the December term, A. D., 1857, except the 24th rule, shall be in force at the argument terms established in this act, until the same shall be changed by said court, provided nothing in this section shall be construed to prohibit said court from limiting the time to be occupied by counsel, by rule.

SEC. 12. **Court has power to adjourn.** The supreme court shall have power to adjourn said argument terms, in their discretion, in case any contagious disease should prevail at the time and place of holding the same.

SEC. 13. **Take effect.** This act shall take effect and be in force from and after its publication in the Iowa Citizen and Iowa State Journal.

Approved March 20th, 1858.

I hereby certify that the foregoing act was published in the Iowa Citizen March 24th, 1858, and in the Iowa State Journal March 27th, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 83.

MISCHIEF TO LEVEES.

AN ACT fixing punishment for malicious mischief.

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

SECTION 1. **Fine and imprisonm'nt for breaking levee.** That if any person maliciously injure, break, or cause to be broken, any levee erected to prevent the overflow of land within this state, such person so offending shall upon conviction be punished by [119] imprisonment in the penitentiary not more than five years, or by fine not exceeding one thousand dollars, and imprisonment in the county jail not exceeding one year.

SEC. 2. **Take effect.** This act shall be in force from and after its publication in the Iowa State Journal and Iowa Citizen, published at Des Moines, Iowa.

Approved March 20th, 1858.

I hereby certify that the foregoing act was published in the Iowa State Journal on the 27th of March, 1858, and in the Iowa Citizen on the 31st of March, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 84.

DAM ON THE CEDAR RIVER.

AN ACT to amend an act entitled "an act to authorize John M. May and his associates to construct a dam across the Cedar River in Linn county." approved January 24th, 1855.

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

SECTION 1. **Law of 5th Gen'l assembly repealed.** That so much of section second of said act as follows the word "Provided," and all of section third of said act, be and are hereby repealed.

Approved March 20th, 1858.

CHAPTER 85.

RAIL ROAD COMPANIES.

AN ACT for the benefit of rail road companies.

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

SECTION 1. **Sec. 689 of the code not to apply to R. road companies.** That section numbered six hundred and eighty-nine of the code, shall not be deemed and construed to be applicable to railroad corporations and corporators, and stockholders in railroad compa- [120] -nies, shall be liable only for the amount of stock held by them in said companies.

SEC. 2. **Comp'ns authorized to borrow money on their property—bonds and their interest.** The said companies shall have the power, and are hereby authorized to mortgage or execute deeds of trust, of the whole or any part of their property, and franchises to secure money borrowed by them for the construction and equipment of their roads, and may issue their corporate bonds in sums not less than five hundred dollars secured by said mortgages or deeds of trust, payable to bearer or otherwise, and if payable to bearer, negotiable by delivery, bearing interest at the rate not to exceed ten per centum per annum, and convertible into stock or not, as may be deemed expedient, and may sell them at such rates or prices as they deem proper, and if said bonds shall be sold below their nominal or par value, they shall be valid and binding on the company, and no plea of usury shall be put in or allowed by said companies in any suit or proceeding upon the same.

SEC. 3. **Mortgages may cover property that may be acquired.** Said mortgages or deeds of trust may by their terms include and cover, not only the property of the companies making them at the time of their date, but property both real and personal which may thereafter be acquired by them, and shall be as valid and effectual for that purpose, as if the property were in possession at the time of the execution thereof.

SEC. 4. **Mortgages recorded—rolling stock a part of the road.** Said mortgages or deeds of trust, shall be recorded in the office of the recorder of each county through which the road mortgaged or deeded may run, or wherever it may hold lands, and shall be notice to all the world of the rights of all parties under the same, and for this purpose and to secure the rights of mortgages or parties interested under deeds of trust so executed and recorded, the

rolling stock and personal property of the company, properly belonging to the road and appertaining thereto, shall be deemed a part of the road, and said mortgages and deeds so recorded, shall have the same effect both as to notice and otherwise, as to the personal, as to the real estate covered by them.

SEC. 5. **Take effect.** This act shall take effect and be in force from [121] and after its publication in the Iowa Citizen and Iowa State Journal.

Approved March 20th, 1858.

I hereby certify that the foregoing act was published in the Iowa Citizen March 31st, 1858, and in the Iowa State Journal March 27th, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 86.

SENATORIAL APPORTIONMENT.

AN ACT to re-apportion the state into senatorial districts.

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

SECTION 1. **Ratio—17,200.** The ratio for the apportionment of the state into senatorial districts shall be one senator for each seventeen thousand two hundred inhabitants, or fraction thereof exceeding one half in each senatorial district.

SEC. 2. **1st Dist., 2.** The county of Lee shall constitute the first district and shall have two senators.

SEC. 3. **2d Dist., 1.** The county of Van Buren shall constitute the second district and shall have one senator.

SEC. 4. **3d Dist., 1.** The county of Davis shall constitute the third district and shall have one senator.

SEC. 5. **4th Dist., 1.** The county of Appanoose shall constitute the fourth district and shall have one senator.

SEC. 6. **5th Dist., 1—canvass in Decatur.** The counties of Wayne and Decatur shall constitute the fifth district and shall have one senator, and the votes for senator in said district shall be returned to the county seat of Decatur county.

SEC. 7. **6th Dist., 1—canvass in Marion.** The counties of Ringgold, Taylor, Adams, Union and Clarke shall constitute the sixth district and shall have one senator. The votes for senator in the sixth district shall be returned to the county seat of Union county.

SEC. 8. **7th Dist., 1—canv'ss in Mills.** The counties of Page, Fremont, Mills and Montgomery shall constitute the seventh district and [122] shall have one senator; the votes for senator in the seventh district shall be returned to the county seat of Mills county.

SEC. 9. **8th Dist., 1.** The county of Des Moines shall constitute the eighth district and shall have one senator.

SEC. 10. **9th Dist., 1.** The county of Henry shall constitute the ninth district and shall have one senator.

SEC. 11. **10th Dist., 1.** The county of Jefferson shall constitute the tenth district and shall have one senator.

SEC. 12. **11th Dist., 1.** The county of Wapello shall constitute the eleventh district and shall have one senator.

SEC. 13. **12th Dist., 1—canvass in Monroe.** The counties of Monroe and Lucas shall constitute the twelfth district and shall have one senator, and the votes for senator in the twelfth district shall be returned to the county seat of Monroe county.

SEC. 14. **13th Dist., 1.** The county of Louisa shall constitute the thirteenth district and shall have one senator.

SEC. 15. **14th Dist., 1.** The county of Muscatine shall constitute the fourteenth district and shall have one senator.

SEC. 16. **15th Dist., 1.** The county of Washington shall constitute the fifteenth district and shall have one senator.

SEC. 17. **16th Dist., 1.** The county of Keokuk shall constitute the sixteenth district and shall have one senator.

SEC. 18. **17th Dist., 1.** The county of Mahaska shall constitute the seventeenth district and shall have one senator.

SEC. 19. **18th Dist., 1.** The county of Marion shall constitute the eighteenth district and shall have one senator.

SEC. 20. **19th Dist., 1.** The county of Scott shall constitute the nineteenth district and shall have one senator.

SEC. 21. **20th Dist., 1.** The county of Clinton shall constitute the twentieth district and shall have one senator.

SEC. 22. **21st Dist., 1.** The county of Cedar shall constitute the twenty-first district and shall have one senator.

SEC. 23. **22d Dist., 1.** The county of Johnson shall constitute the twenty-second district and shall have one senator.

SEC. 24. **23d Dist., 1.** The county of Polk shall constitute the twenty-third district and shall have one senator.

SEC. 25. **24th Dist., 1.** The county of Jackson shall constitute the twenty-fourth district and shall have one senator.

[123] SEC. 26. **25th Dist., 1.** The county of Jones shall constitute the twenty-fifth district and shall have one senator.

SEC. 27. **26th Dist., 1.** The county of Linn shall constitute the twenty-sixth district and shall have one senator.

SEC. 28. **27th Dist., 2.** The county of Dubuque shall constitute the twenty-seventh district and shall have two senators.

SEC. 29. **28th Dist., 1.** The county of Clayton shall constitute the twenty-eighth district and shall have one senator.

SEC. 30. **29th Dist., 1.** The county of Warren shall constitute the twenty-ninth district and have one senator.

SEC. 31. **30th Dist, 1—canvass in Madison.** The counties of Madison, Dallas and Adair shall constitute the thirtieth district and have one senator, and the votes of said district cast for senator shall be canvassed at the county seat of Madison county.

SEC. 32. **31st Dist., 1—canvass in Pottawattamie.** The counties of Pottawattamie, Cass, Harrison, Shelby, Audubon and Guthrie shall constitute the thirty-first district and have one senator, and the votes cast for senator shall be canvassed at the county seat of Pottawattamie county.

SEC. 33. **32d Dist., 1—canvass in Webster.** The counties of Monona, Crawford, Carroll, Greene, Woodbury, Sac, Ida, Calhoun, Webster, Humboldt, Pocahontas, Buena Vista, Cherokee, Plymouth, Sioux, O'Brien, Clay, Palo Alto, Kossuth, Emmett, Dickinson, Osceola and Buncombe shall constitute the thirty-second district, and shall have one senator, and the votes

cast in said district for senator shall be canvassed at the county seat of Webster county.

SEC. 34. **33d Dist., 1—canvass in Poweshiek.** The counties of Iowa and Poweshiek shall constitute the thirty-third district and have one senator, and the votes cast shall be canvassed at the county seat of Poweshiek county.

SEC. 35. **34th Dist., 1—canv'ss in Jasper.** The counties of Jasper and Marshall shall constitute the thirty-fourth district and have one senator, and the votes cast therein for senator shall be canvassed at the county seat of Jasper county.

SEC. 36. **35th Dist., 1—canvass in Benton.** The counties of Benton and Tama shall constitute the thirty-fifth district and have one senator, and the votes cast for senator in said district shall be canvassed at the county seat of Benton county.

SEC. 37. **36th Dist., 1—canv'ss in Butler.** The counties of Grundy, Black Hawk, But- [124] -ler and Franklin shall constitute the thirty-sixth district and have one senator, and the votes cast therein for said officer shall be canvassed at the county seat of Butler county.

SEC. 38. **37th Dist., 1—canvass in Delaware.** The counties of Delaware and Buchanan shall constitute the thirty-seventh district and have one senator, and the votes cast in said district for senator shall be canvassed at the county seat of Delaware county.

SEC. 39. **38th Dist., 1—canvass at Fayette.** The counties of Fayette and Bremer shall constitute the thirty-eighth district and have one senator, and the votes cast for said office therein shall be canvassed at the county seat of Fayette county.

SEC. 40. **39th Dist., 1—canvass in Winneshiek.** The counties of Alamekee and Winneshiek shall constitute the thirty-ninth district and have one senator, and the votes cast for said office therein shall be canvassed at the county seat of Winneshiek county.

SEC. 41. **40th Dist., 1—canv'ss in Floyd.** The counties of Howard, Chickasaw, Mitchell, Floyd, Cerro Gordo, Worth, Hancock, Winnebago and Wright shall constitute the fortieth district and have one senator, and the votes cast in said district for said office shall be canvassed at the county seat of Floyd county.

SEC. 42. **41st Dist., 1—canvass in Story.** The counties of Story, Boone, Hardin and Hamilton shall constitute the forty-first district and have one senator, and the votes for said officer shall be canvassed at the county seat of Story county.

SEC. 43. **Representation of each district.** No district herein constituted shall be represented in the next general assembly by a greater number of senators than herein provided for.

Approved March 20th, 1858.

[125] CHAPTER 87.

AN ACT to incorporate the state bank of Iowa.

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

SECTION 1. **State B'k incorporated.** That the State Bank of Iowa be and the same is hereby incorporated with all the powers hereinafter granted, and by that name shall be capable of contracting and being contracted with, and

of prosecuting and defending actions as fully as natural persons, and of doing all other acts necessary to effect the objects contemplated in this act by the creation of said corporation.

SEC. 2. Five or more branches may organize—meet at Iowa City—elect pres't. That as soon as five or more branches of the State Bank of Iowa shall be organized as in this act is authorized, the directors of the said State Bank of Iowa appointed by such branches, shall meet in Iowa City at such time as shall be designated by the board of bank commissioners, who shall give ten days previous notice to each branch, of the time of such meeting, and provided two-thirds of the whole number of such directors shall be convened, they shall organize by taking an oath, diligently, faithfully, and impartially to perform the duties imposed upon them by by this act, a certificate of which oath, signed by each director, shall be filed and preserved in the office of the secretary of state, and by electing some one of their number as president, who shall preside at the meetings of the board and sign its official documents; and thereafter the directory of the State Bank shall be composed of one director, appointed by each branch of said bank, two-thirds of whom shall be a quorum; and other branches may be organized under such directory as is herein provided.

SEC. 3. Directors may elect a vice president and sec'y—office kept at Iowa City—open to inspection—furnish branch's with notes—exam'ne branches—may reduce circulation—publish abstrac of monthly reports—ex-committee'. The directors shall, when they deem it necessary, elect a vice president whose duty shall be prescribed by the by-laws. They shall appoint a secretary, who shall keep a fair and true record of the proceedings of the bank. They shall keep an office in Iowa City, which together with their books, papers, records, and accounts of every description, shall at all times be open to the inspection of any committee of the general as- [126] -sembly, or either branch thereof, and of any commissioner or commissioners specially appointed for that purpose by the general assembly, or either branch thereof, or by the governor of the state. They shall procure and furnish each branch with notes for circulation, and decide on the amount to be furnished from time to time to each, within the limits and agreeaby to the rules and restrictions prescribed by this act. They may prescribe rules for the settlement of balances between branches, revise their by-laws and regulations concerning charges for making collections, and cause both to be made uniform, or as nearly so as may be expedient. They shall have power by themselves, or by a committee of one or more members of their own body, or by a special agent appointed by them for that purpose, whenever, and as often as they shall think proper, to visit any branch, inspect its books, records and accounts, and all the evidences of debt due to and securities held by such branch, examine and ascertain the amount of money and other property held by such branch; examine on oath the president, vice president, and directors, and cashier, and all other officers, agents, clerks, or servants of the branch, touching its condition, means and liabilities, they shall have power to require any branch to reduce its circulation or other liabilities within such limits as they shall, after full enquiry into its condition, deem necessary to secure from loss either the dealers with such branch, or the other branches of the State Bank of Iowa. They shall, as soon after the first Monday of every month as practicable, publish in some newspaper printed at Iowa City, a consolidated abstract of the monthly reports of all the branches, showing their assets, liabilities and condition, which statements shall be recorded in a book or books to be kept for that purpose. They may appoint an executive committee of not less than three, of whom the vice president shall be one, to act in behalf of the bank in all such cases as shall be prescribed by the by-laws of said bank, not inconsistent with this act.

SEC. 4. Compensation of officers—expense of plates. The president, vice-president, secretary [127] and all officers and agents of the bank, shall each receive such compensation for their services as said bank shall allow, which shall be assessed upon the several branches of the State Bank of Iowa, in the ratio of their capital stock. The bank may also allow the executive committee such compensation as it may deem just and reasonable, to be paid by the several branches in the same manner; and the expenses of procuring plates and printing notes of circulation, shall be paid by the several branches in the ratio of the notes of circulation received by each.

SEC. 5. Appointment of directors—vacancies filled—ratio of voting—term of officers—take oath—give bond. Each director of the bank, appointed by the branches, shall continue in office until the first Monday in February next after his appointment, and until his successor shall be appointed and qualified. Vacancies in the board shall be filled by the branch by which the appointment vacated was made. In voting, each member shall be entitled to two votes, and to one additional vote for every fifty thousand dollars of the amount of capital stock paid into the branch represented by him over one hundred thousand dollars, at the time of such voting. The president and vice-president of the bank shall hold their offices for one year, and until their successors are appointed; but they may be removed by a resolution of the board. They and all other officers and agents of the bank shall take an oath faithfully, diligently, and impartially, to fulfill the duties of their appointments, and not knowingly violate any of the provisions of this act. They shall be required to give bond in such sum, and with such securities, as the bank shall prescribe, and all vacancies in said appointment shall be filled by the bank.

SEC. 6. State B'k to furnish branches with notes, register'd and numbered—worn and defaced notes exchanged and destroyed. All notes designed for circulation by the branches, shall be furnished by the State Bank of Iowa; but no notes shall be delivered to any branch until they are numbered and countersigned by some person authorized by the State Bank of Iowa to countersign the same as register, and a full record of such numbering and countersigning made in a book provided for that purpose; and all such notes shall have stamped or printed [128] on their face the words, "Registered by the State Bank of Iowa." All notes so worn, defaced, or mutilated, as to be unfit for circulation, shall be returned by the branch by which they were issued, to the bank and an equal amount of new notes received therefor; all such notes so returned by a branch, shall be credited, and all new ones delivered in their stead shall be charged to such branch on the books of said bank; and the notes so returned shall be burned to ashes in the presence of the president or vice president, and at least two of the directors of said bank.

SEC. 7. Branches to furnish stocks as security for notes—branches deposit stocks as a safety fund for the redemption of notes. Before the bank shall deliver to any branch, notes for circulation, it shall require such branch to pay over or deposit to the credit of said bank, as said bank shall order, either in money or United States stocks, or interest paying state stocks at their current value in the city of New York, but in no instance above their par value, an amount equal to twelve and one half per cent on the amount of the notes for circulation, which shall be delivered to such branch. And so from time to time as any branch, by the paying of an additional amount of its capital stock, or by not having received the amount of notes for circulation to which it was previously entitled, shall receive an additional amount of notes for circulation; such bank shall deposit with the bank twelve and one half per cent on the amount of notes so received; and the stocks and money so deposited shall be denominated the "Safety Fund," and shall be invested as

hereinafter provided, and held by the bank as the property of said branch, in trust for the benefit of the several branches of the State Bank of Iowa, and as a fund for the redemption of the notes of circulation of any one or more of said branches that may fail to redeem its notes, to be applied to that purpose in the manner pointed out in this act.

SEC. 8. Bank holds the stocks—branches receive the interest—insolv't branch's stocks first convert'd into money. All money so deposited or paid to the bank on account of the safety fund by any branch, shall be under the direction of said bank, invested either in interest paying stocks of states or of the United States. Each branch shall be entitled to receive the interest accruing on the stocks in which its portion of the safety fund shall have been invested, and in case of the insolvency of any branch, the stocks in which the money of such branch shall have been invested as aforesaid, if the proceeds of such stock shall be sufficient to redeem its outstanding notes of circulation, shall as far as practicable be first converted into money and applied to that purpose, before any part of the safety fund belonging to other branches, shall be so applied.

SEC. 9. Bank furnishes notes—twice the first hundred thousand—one and three fourths times the second hundred thousand—one and a half times the third hundred thousand—the per cent of small notes furnished each branch. The State Bank of Iowa shall not furnish to any branch, circulating notes to an amount bearing a greater proportion to the capital stock of said branch actually paid in and at the time remaining undiminished by losses, or withdrawal, than the proportion hereinafter specified, that is to say: On the first hundred thousand dollars, or any lesser amount of its capital, not more than twice the amount of such capital, on the second hundred thousand dollars, or part thereof, not more than one and three quarters the amount of such capital, over one hundred thousand; on the third hundred thousand dollars or part thereof, not more than one and a half the amount of such capital, over two hundred thousand; nor shall said bank furnish to any branch circulating notes of any other denomination than of one dollar, two dollars, three dollars, five dollars, ten dollars, twenty dollars, fifty dollars and one hundred dollars. Of the notes furnished to any branch not more than ten per cent of the amount shall be in notes of one dollar each, not more than ten per cent in notes of two dollars each, and not more than twenty-five per cent shall be in notes of all denominations under five dollars, and not more than fifty per cent in notes of all denominations under ten dollars.

SEC. 10. Branch refusing to redeem in specie declared insolvent, and State B'k takes possession—may redeem in silver only to amount of legal tender—notes to \$100 one demand. If any branch of the State Bank of Iowa shall refuse to pay its notes of circulation, or any of them, in gold or silver coin, the lawful currency of the United States, on which payment shall be lawfully demanded at its banking house or customary place of doing business, during the usual banking hours, such branch shall be deemed to have committed an act of insolvency, and thereupon all its property, credits, securities, liens and [130] assets of every description shall forthwith vest in and be the property, credits, securities, liens and assets of the State Bank of Iowa, for the uses and purposes declared in this act. And the said branch shall only be allowed to make payment of any such lawful demand in silver coin where the sum so demanded does not exceed the amount for which silver coin is a legal tender according to the laws of the United States, and when payment shall be demanded on more than one of its notes at the same time, the aggregate amount of such notes so presented for payment to the amount of one hundred dollars shall be considered but one demand.

SEC. 11. State Bank appoints an examining com. and receivers for insolvent branch—give public notice. The State Bank of Iowa, on receiving information that any branch has committed such act of insolvency, shall forthwith appoint a committee of one or more of its directors, or others, who shall make immediate enquiry into the truth of such information, and report thereon to the bank; and if the bank shall be satisfied from the report of the committee, that such branch has suspended the payment of its notes in gold and silver as provided in section ten, (10) it shall forthwith appoint a suitable receiver, or receivers, who shall take immediate possession of the books, records, money, choses in action and property of such branch, of every description, and hold the same for the joint use of the other branches of the State Bank of Iowa, and the creditors of the failing branch, and the State Bank of Iowa shall immediately provide money and place the same in such solvent branch or branches, as may be most convenient for the purpose of redeeming the notes of such failing branch, and shall give public notice thereof in some newspaper printed in the place where such failing branch is located, also in some newspaper of general circulation published in Iowa City.

SEC. 12. Solvent branch's make up losses of insolvent branch—reimbursed from safety fund. Each solvent branch shall contribute in the ratio of the circulation to which it is entitled, to the sum necessary for redeeming the notes of the failing branch, as provided in the preceding section, on the requisition of the State Bank of Iowa, and may be remunerated for such contribution from the safety fund, as soon as [131] money sufficient can be raised from that fund, by a sale or hypothecation of the stock, funds, or other securities belonging thereto.

SEC. 13. Receivers give bond. The receiver or receivers appointed as provided in the eleventh section, shall be required to give bond in such sum, and such securities as the State Bank of Iowa, or executive committee, shall judge sufficient, and under the direction of said bank, shall proceed to settle up the affairs of such branch, and convert its assets into money; the money so made shall be applied:

First: **Reimburse all moneys from branches.** To reimburse all moneys which shall have been advanced by the several branches, for the redemption of the notes and bills of the insolvent branch, and which may not have been previously reimbursed from the safety fund.

Second: **Reimburse the safety fund.** To reimburse all moneys advanced from the safety fund, other than moneys derived from that portion of the safety fund furnished by the failing branch.

Third: **Pay the liabilities of insolvent.** To the payment and discharge of all the remaining liabilities of such branch: And

Fourth: **Stockholders take what is left.** The residue shall be divided among the stockholders of the failing branch, in proportion to the stock by them respectively held.

SEC. 14. Branch may enjoin the State Bank—prove redemption in specie, and receive its assets from State B'k. If any branch against which the State Bank of Iowa shall have instituted proceedings on account of any supposed act of insolvency as prescribed by the eleventh section of this act, shall deny having committed such act of insolvency, such branch may apply to any court of competent jurisdiction for a writ of injunction to said State Bank of Iowa, to suspend all further proceedings against such branch as an insolvent bank; and such court, after citing said State Bank of Iowa to appear and show cause why such writ should not be granted, and after the finding of a jury that such branch has at all times continued, and still continues to redeem in gold and silver coin, its notes of circulation, shall make an order enjoining the State Bank of Iowa from all further proceedings against such branch

on account of the supposed act of insolvency on which such proceedings were instituted, and thereupon all the property [132] and assets of such branch shall be restored to its directors.

SEC. 15. If State B'k fails to proceed against insolvent any holder of notes may apply to a court for a writ to compel it. If the State Bank of Iowa shall, in any case, fail to proceed in the manner prescribed in the foregoing sections of this act, in providing for the payment of the outstanding notes of circulation, and in closing the affairs of any branch that shall have committed an act of insolvency, the holder of any of its notes of circulation, or other creditor of such branch, may, in case payment of such notes of circulation or other claim has been refused when lawfully demanded, and remains unpaid, apply to any court of competent jurisdiction for its writ, commanding the State Bank of Iowa so to proceed; and it shall be the duty of such court, after citing such bank to appear and show cause why such writ should not issue, and upon the finding of a jury that such act of insolvency has been committed, to issue their writ commanding said bank forthwith to proceed in the manner pointed out in the preceding sections of this act, to provide for the payment of the outstanding notes of such branch, close up its affairs, and make application of its assets.

SEC. 16. A branch refusing to reduce circulation, increase specie, pay in stock, or or obey the State B'k, may be enjoined by any district or higher court, on petition of B'k or any dist. thereof. That if any branch shall neglect or refuse to comply with any order of the State Bank of Iowa, requiring such branch to reduce its circulation or other liabilities, or provide a larger amount of specie or other means, or to pay in its stock, or to do, or to cause to be done any other matter or thing which said bank may deem necessary for the security of such branch, or any other branch or branches, said bank or any director thereof, acting for said bank, may apply to any judge of the supreme court or district court, or any judge of a superior court, or to any judge of any other court not inferior to the district court, by petition, in which the State Bank of Iowa shall be made petitioner, and the branch implicated defendant, setting forth the substance of such order, or orders, and such neglect or refusal on the part of the branch, its officers or agents, to comply therewith; and if the president, vice-president, or any director of the bank, shall make affidavit of the truth of the facts therein stated, it shall be the duty of [133] such judge to allow an injunction, and to enjoin such branch, its officers and agents and all others in its employ, or connected therewith, from doing, or suffering, or permitting to be done, any business whatever as a bank, and from intermeddling with, or in any manner disposing of, the books, papers, moneys, choses in action, assets, or property of the branch, until the further order of the supreme court as soon as an injunction is allowed.

SEC. 17. Injunction allowed, receiver takes possession of property of branch—Sh'ff gives him full possession and he proceeds according to this law. Upon the allowance of such injunction, the property, credits, securities, liens and assets of every description of such branch, shall forthwith vest in the State Bank of Iowa, who shall appoint a receiver to take possession of the same as provided in the eleventh section of this act. A certificate of appointment of such receiver, by the judge, or court, or clerk thereof, making the same, shall be sufficient authority to him to take possession of the books property and rights of every description of such branch, and shall be full authority to the sheriff of the county where the branch is located, to take and give full possession of such books, property, and rights, with the aid of the county, if required; and said bank receiver shall be governed by the provisions of this act as provided in cases of suspension; and upon the dissolution of such injunction, or a discontinuance of such suit by the bank, all the

rights and property of such branch shall be restored to and vest in such branch.

SEC. 18. **Not less than five persons may form a branch.** Natural persons, not less in number than five, may associate and form branches of the State Bank of Iowa, for the purpose of carrying on the business of banking, each at such place in this state as shall be designated in the certificate hereinafter required to be made, subject to the contingencies, restrictions, conditions and liabilities prescribed in this act.

SEC. 19. Persons associating to form a branch shall, under their hands and seals, make a certificate, which shall specify.

First: Certificate of name of branch. The name assumed by such branch and by which it shall be known in its dealings, in which name shall be included the name of the city, village or town in which its banking operations shall be carried on.

[134] *Second: Capital stock.* The amount of the capital stock of such branch and the number of shares into which the same is divided.

Third: Name, residence and shares of each stockholder and the date of incorporati'n. The name and place of residence and the number of shares held by each member of the company.

Fourth: The time when such company shall have been formed.

Certificate acknowledg'd and recorded—copy filed with Sec'y of state. Which certificate shall be acknowledged before a justice of the peace or notary public, and shall be recorded by the recorder of the county where such branch is to be established, in a book to be kept by him for that purpose, which shall at all times during office hours be kept open for the inspection of any person wishing to examine the same; one copy of which certificate, duly certified, shall be transmitted to the secretary of state, who shall record and carefully preserve the same in his office, and another to the bank commissioners in this act named, until the organization of the State Bank of Iowa, and thereafter to said bank.

SEC. 20. **Statement of names, residences and shares of stockholders, filed and posted up. Which shall be: Prima facie evidence in any suit.** The officers of each branch shall at the end of every month, cause to be prepared a statement of the number, names and place of residence of each stockholder in such branch, also the amount of stock owned by each, and the date of the transfers of any stock with the names of the transferer and transferee, one copy of which statement shall be posted up in some conspicuous place in the bank, and one copy shall be caused by the bank to be filed in the office of the recorder of deeds in the county wherein such branch is located, which last mentioned copy or a certified copy of the same under the hand of the recorder shall be prima facie evidence in any court of justice in this state in a suit between the branch or State Bank of Iowa and any third person.

SEC. 21. **Amount of capital stock.** No branch shall be permitted to commence or carry on the business of banking under this act, unless its capital stock shall be at least \$50,000, nor shall the capital stock of any such branch ever be increased to exceed \$300,000.

50 per cent in specie paid in at commenc'nt—remainder paid in. At least fifty per cent of the capital stock of each branch shall be paid in gold and silver coin, and shall be in the [135] actual possession and bona fide the property of the branch at the time of the commencement of its banking business, and the remainder of the capital stock of such branch shall be paid in gold and silver as aforesaid in installments, each of at least ten per cent on the whole amount of capital subscribed, as frequently as once in every four successive months, from the time of commencing business until the whole amount

of such capital shall be paid up. *Provided*, That the directors may postpone the payments of the deferred installments, or any part thereof, to the branches when satisfied that the public interest does not require them to be paid as frequently as above provided for.

SEC. 22. Any stockhold'rs failing to pay his installments, his stock sold after notice is given. If any shareholder or his assignee shall fail to pay any installment on his stock when the same shall be required to be paid, the branch may sell said stock at public auction having given three weeks previous notice thereof in a newspaper published in the county where the branch is located, (and having mailed a written notice to such delinquent shareholder or his assignee) to any person who will pay the highest price thereof, not less than the amount unpaid thereon; and the excess, if any, after paying the expenses of the sale, shall be refunded to the delinquent stockholder.

If stock cannot be sold it is forfeited to branch. If no bidder can be found who will pay for such stock, the amount unpaid thereon to the branch, and costs of advertisement and sale, the amount previously paid shall be forfeited to the branch, and such stock may be subsequently sold in such manner as the branch may order.

Record of shares kept in stock book—stock transferrable except when bank is invol'd or holder indebted o B'k. The capital stock of each branch shall be divided into shares of one hundred dollars each, and a stock book shall be kept by each branch bank, showing who are the stockholders, and what amount is held by each individual or company, which stock shall be assignable only on the books of the branch in such manner as its by-laws shall prescribe, but no shareholder shall have power to sell or transfer any shares held in his own right for the purpose of escaping liability when a bank is involved, or so long as he shall be liable either as principal, debtor, surety, or otherwise, to the branch for any [136] debt, nor shall such shareholder, when liable to the branch for any debt that is overdue, be entitled to receive any dividends, interest or profit on such shares so long as such liability shall continue, but all such dividends, interest or profits shall be retained by the branch and applied to the discharge of such liabilities.

SEC. 23. Loans secur'd by personal property only—no branch shall buy its own or any oth'r stocks. No branch shall take as security for any loan or discount, a lien on any part of its capital stock, or any other than personal security and the same security, both in kind and amount, shall be required of shareholders, as of persons not shareholders; and no branch shall be the holder or purchaser of any portion of its capital stock, or of the capital stock of any other incorporated company, unless such purchase shall be necessary to prevent loss upon a debt previously contracted in good faith, on security which at the time was deemed adequate to insure the payment of such debt, independent of any lien upon such stock; or in case of forfeitures of stock for the non-payment of installments due thereon, as provided in the twenty-second section; and stocks so purchased shall in no case be held by the branch so purchasing for a longer period of time than six months, if the same can be sold for what the stock cost, or at par.

SEC. 24. One vote to each share—proxies allowed, but no officer shall act as such. In all elections of directors, and in deciding all questions at meetings of the stockholders, each share shall entitle the owner thereof to one vote; stockholders may vote by proxies duly authorized in writing, but no officer, clerk, teller or book-keeper of the branch shall act as proxy, and no stockholder whose liability to the branch is past due and unpaid shall be allowed to vote.

SEC. 25. No. of directors and qualifications. The affairs of each branch shall be managed by not less than five nor more than nine directors.—Every director shall be a citizen of the United States, and shall during his whole term of service reside in this state.

Directors take oath—oath filed with Co. recorder. Each director shall take an oath that he will, so far as the duty devolves on him, diligently and honestly administer the affairs of the branch, and not knowingly violate or willingly permit to be violated any of the pro- [139] -visions of this act; that he is a bona fide owner in his own right, of the stock standing in his name on the books of the branch, and that the same is not hypothecated, or in any way pledged as security, for any loan obtained or debt owing; which oath, subscribed by himself and certified to by the officer before whom it is taken, shall be filed and carefully preserved in the office of the recorder of the county in which the branch is located; but no person shall be president or director of more than one branch at the same time.

SEC. 26. Stockholders collectively not to owe over three fifths of amount of paid-in capital—directors not more than one fifth. The stockholders collectively of any branch, shall at no time be liable to such branch, either as principals, debtors or sureties, or both, to an amount exceeding three-fifths part of the capital stock of such branch, then actually paid in, and remaining as capital stock, nor shall the directors, collectively, be so liable to an amount exceeding one-fifth part of the stock actually paid in, standing in their names, and of which they are, collectively, the bona fide owners in their own right.

SEC. 27. Electioa of directors and terms of office—vacancies—how filled. The directors of any branch, first elected, shall hold their places until the first Monday in January next thereafter, and until their successors shall be elected and qualified; all subsequent elections shall be held annually on the first Monday of January, and the directors so elected shall hold their places for one year, and until their successors are elected and qualified; any director removing from the state, or ceasing to be owner of the requisite amount of stock, shall thereby vacate his place. Any vacancy in the board shall be filled by appointment by the remaining directors; the director so appointed shall hold his place until the next annual election; and if, from any cause, an election of directors shall not be made at the time appointed, the branch shall not for that cause be dissolved, but an election may be held on any subsequent day, thirty days notice thereof having been given in a newspaper printed in the county where the branch is located.

SEC. 28. Each branch a corporate body till 1878—powers. Every branch authorized to carry on the business of banking under this act, shall be held and adjudged to be a body corporate, with succession, from [138] the date of its certificate of association until the first day of July, A. D. 1878, and thereafter until its affairs can be closed; and by its corporate name shall be competent to contract, prosecute and defend actions of every description, as fully as natural persons; and process against such branch may be served upon its president or cashier, or by leaving a copy thereof at its usual place of business, during the usual business hours.

May transact general bank'ng business—hold real estate. Each of said branches shall, during the term aforesaid, if so long it shall comply with the provisions of this act, have power to issue notes for circulation furnished it by the State Bank of Iowa, to loan money, buy, sell and discount bills of exchange, notes, and all other written evidences of debt, except such as it shall be prohibited by this act, from buying, selling and discounting; but no such loan shall be made on any note, bill of exchange or other evidence of debt having more than four months to run before maturity; shall have power to

receive deposits; buy and sell gold and silver coin and bullion; collect and pay over money, and transact all other business properly appertaining to banking, subject, however, to the provisions and restrictions of this act; may acquire, hold and convey such real estate as may be necessary for the convenient transaction of its business, and no more; but may, however, acquire title to any real estate pledged to secure any debt previously contracted, or purchased on an execution or order of sale, to satisfy any judgment or decree in its favor, or which shall have been conveyed to it in payment of any previous debt, but shall not hold any real estate so acquired longer than in the judgment of the board of directors, is necessary to save the said branch holding such real estate from loss, and it is hereby made the duty of the board of directors of each branch to offer any real estate so acquired for sale at least once in each year, first giving thirty days notice in some newspaper published in the county where such real estate is situated, of the time and place of such sale, if any newspaper be published in such county, and if not, then in some newspaper published the nearest thereto; and at such sale, if the amount [139] bid for such real estate be sufficient to reimburse the said branch in the amount for which such real estate was taken by the branch, with interest and costs, then it shall be the duty of the board of directors of such branch to sell and convey such real estate, but not otherwise, unless in their judgment it be deemed necessary for the interest of the said branch to do so.

SEC. 29. Branch shall not circulate any other notes than their own. No branch shall at any time issue or have in circulation any note, draft, bill of exchange, acceptance, certificate of deposit, or other evidence of debt, which from its character or appearance, shall be calculated or intended to circulate as money, other than such notes of circulation as are by this act described, and which such bank is by this act authorized to issue for the purpose of being circulated as money.

SEC. 30. The branches must take each other's notes at par. Each branch shall receive at par at the office or banking house of such branch, in payment of debts due at such branches, for notes of hand, bills of exchange, or other evidence of debt, discounted or purchased by, or belonging to such branch, the notes of circulation issued by any other branch of the State Bank of Iowa.

SEC. 31. Branch have 25 per cent specie on hand—shall not issue notes with a less amount in safe. Each branch shall at all times have on hand in gold and silver coin in its vault, an amount equal to at least twenty-five per cent. of the amount of its outstanding notes of circulation; and whenever the amount of its outstanding notes of circulation shall exceed the above named proportion, no more of its notes shall be paid out, or otherwise put in circulation by such branch, nor shall such branch increase its liabilities by making any new loans or discounts, other than discounting or purchasing bills of exchange, payable at sight, nor make any dividend of its profits, until the required portion between its outstanding notes of circulation and gold and silver coin on hand shall be restored.

SEC. 32. Branch keep 25 per cent of deposits on hand—no inter'st on deposits. Each branch of the State Bank shall be required to keep in its vaults over and above the amount required to be kept for the protection and redemption of its circulation, as required in the last preceding section, at least twenty-five per cent. of its current deposits, [140] and shall be prohibited from paying interest on current deposits.

SEC. 33. Branch must not be in debt over two-thirds of its capital stock. No branch authorized under this act shall at any time be indebted or in any way liable to an amount exceeding two-thirds of its capital stock at such

time actually paid in, and remaining as capital stock undiminished by losses or otherwise, except on the following accounts—that is to say:

- 1st. On account of its notes of circulation.
- 2nd. On account of moneys deposited with or collected by such branch.
- 3rd. On account of bills of exchange or drafts drawn against money actually on deposit to the credit of, or due to such branch.
- 4th. Liabilities to its stockholders on account of money paid in on capital stock, dividends thereon, and undivided profits.

Notes not to be exchanged for capital stock. Nor shall any branch, either directly or indirectly, pledge, hypothecate, or exchange any of its notes of circulation for the purpose of procuring money, to be paid in on its capital stock, nor pledge or hypothecate directly or indirectly, any of such notes to be used in its ordinary banking operation.

SEC. 34. Capital stock not withdrawn—dividends declared only on nett profits. No branch shall, during the time it shall continue its operations as a branch, withdraw or permit to be withdrawn, either in form of dividends or loans to stockholders, for a longer period of time than four months, or in any other manner, any portion of its capital stock; and if losses shall at any time have been sustained by any branch, equal to, or exceeding its undivided profits then on hand, no dividends shall be made, and no dividends shall ever be made by any branch while it shall continue its banking operations to an amount greater than its nett profits then on hand, deducting therefrom its losses and bad and suspended debts; and all debts due and unpaid for a period of six months, unless the same shall be well secured, and shall be in the process of collection, shall be considered bad or suspended debts, within the meaning of this section.

SEC. 35. Semi-annual dividends—cashier's bank statement showing. The directors of each branch shall semi- [141] -annually on the first Monday in May and November, declare a dividend of so much of the nett profits of the branch as they shall judge expedient and as shall be approved by the State Bank; and on each dividend day the cashier shall make a full, clear and accurate statement of the condition of the branch as it shall be on that day, after declaring the dividend, which shall be verified by the oath of the cashier, president, and two of the directors; and similar statements verified in like manner, shall also be made on the first Monday in each month in each year, which statement shall contain:

- 1st. **The capit'l stock,** The amount of capital stock actually paid in, and then remaining as the capital stock of the branch.
- 2d. **Bills in circulation,** The amount of the bills or notes of the branch then in circulation, specifying the amount of each denomination.
- 3d. **Greatest circulation at one time,** The greatest amount in circulation at any time since the making of the last previous statement, as shall have been exhibited by the weekly statements of the cashier, specifying the time when the same occurred.
- 4th. **The debts,** The amount of debts of every kind due to the branches of the State Bank of Iowa, the amount due to other banks of the state, and the amount due to banks not of this state.
- 5th. **The deposits,** The amount due to depositors.
- 6th. **The debts of all kinds,** The total amounts of debts and liabilities of every description, and the greatest amount since the making of the last previous statement, specifying the time when the same occurred, as exhibited by the weekly statement of the branch.

7th. **The dividends,** The total amount of dividends declared on the day of making the statement.

8th. **The gold and silver,** The amount of gold and silver coin and bullion belonging to such branch and in its possession at the time of making the statement, designating the amount of each.

9th. **The exchange,** The amount subject to be drawn at sight, then remaining on deposit with solvent banks, or bankers of the country, specifying each city or town, and the amount deposited in each.

[142] 10th. **The currency,** The amount then on hand, of bills or notes issued by branches of the State Bank of Iowa, the amount issued by other banks of this state, and the amount issued by banks not of this state.

11th. **The balances in banks,** The amount of balances due from branches of the State Bank of Iowa, the amount due from other banks of this state, and the amount due from the banks not of this state, excluding in the latter case, deposits in the cities of New York, Philadelphia, Boston, Baltimore, and other cities and towns, subject to sight drafts.

12th. **The bills receivable,** The amount on hand of bills, bonds, notes, and other evidences of debt, discounted or purchased by the branch, specifying particularly the amount of suspended debts, the amount considered good, the amount considered doubtful, and the amount in suit or judgment.

13th. **The b'king house and fixtures,** The value of real and personal property held for the convenience of the branch, specifying the amount of each.

14th. **The real estate,** The amount of real estate taken in payment of debts due the branch.

15th. **The undiv'd profits.** The amount of undivided profits of the branch.

16th. **The liabilities of directors.** The total amount of the liabilities to the branch by the directors thereof, collectively, specifying the gross amount of such liabilities as principal debtors, and the gross amount as endorsers or sureties.

17th. **The liabilities of stockholders.** The total amount of liabilities to the branch of the stockholders thereof, collectively specifying the gross amount of such liabilities as principal debtors, and the gross amount as endorsers or sureties; which statement shall be forthwith transmitted to the state bank of Iowa, and the auditor of state.

Statement published. An abstract of every statement, showing the condition of the branch, shall be immediately published by the branch in some newspaper printed in the county where such branch is situated, a copy of which statement shall be sent to each branch of the State Bank of Iowa.

SEC. 36. **Tax on B'k stock.** The general assembly shall never impose any greater tax upon property employed in banking un- [143] -der this act, than is or may be imposed upon the property of individuals.

SEC. 37. **Interest and discount at 10 per cent till 1863—B'k discount allowed—usury forfeits the whole debt—purchase of exchange not usurious—loan to director &c., not forfeited—rate of exchange.** Each branch may take, receive, or charge on any loan or discount made, or upon any note or bill of exchange, or other evidence of debt, discounted or purchased by them, interest at the rate of ten per centum per annum on the amount of any such note, bill of exchange, or other evidence of debt so discounted or purchased and no more, until the first day of January, 1863, after which time no more than eight per cent shall be so taken, received or charged. *Pro-*

vided, however, that interest may be reserved or taken in advance at the time of making the loan or discount, according to the usual rates of banking, or as calculated in Rowlet's tables; and the knowingly taking, reserving or charging on any debt or demand discounted or purchased by any branch, a rate of interest greater than that allowed by this section, shall be held and adjudged a forfeiture of such debt or demand, but the purchase of a bona fide bill of exchange or note payable at another place than the place of such purchase or discount, and the taking or reserving interest thereon at the rate aforesaid, from the time of such purchase or discount until the maturity of such bill or note, shall not be held usurious, although exchange on the place where it is made payable is at the time of such purchase or discount, worth a premium; nor shall the discount or purchase of a bona fide bill or note, payable at a place, between which and the place of discount or purchase, there may be a difference in exchange, and the taking in addition to the rate of interest aforesaid the rate of exchange between such places, be deemed usurious: *Provided*, that no loan to, or discount in favor of any director or stockholder in which more than such interest as is allowed in this section shall be taken, reserved, or charged, shall be forfeited, but the same shall be valid against such party: *Provided*, *further*, that in no case shall more than the current rate of exchange between such places, be taken.

SEC. 38. **No one person or firm can be indebted more than one-fourth of the circulation.** The total liabilities of any person, or of any company or firm (including in the liabilities of a compa- [144] -ny or firm, the liabilities of the several members thereof,) to any branch as acceptor or acceptors of bona fide bills of exchange payable out of this state, shall at no time exceed one-fourth of the amount of the notes which such branch is authorized to circulate, exclusive of liabilities as acceptor or acceptors, one-tenth, and exclusive of all liabilities on such bills of exchange one twentieth part of the amount of such notes.

No branch shall put doubtful notes into circulation. No branch shall at any time pay out on loans or discounts, or in purchasing drafts or bills of exchange, or in payment of depositors, nor shall it in any mode put in circulation the notes of any bank or banking company which notes shall not at that time be receivable at par in payment of debts by the branches so paying out or circulating such notes, nor shall it knowingly pay out or put in circulation any notes issued by any bank or banking company which at the time of such paying out or putting in circulation is not redeeming its notes in gold and silver.

Bills receivable, made payable to branch only. All notes, bills, and other evidences of debt, excepting bills of exchange, discounted by any branch, shall be made by the terms thereof, or by special endorsement, payable solely to such branch, and no such evidence of debt shall be assignable except for collection, or for the following purposes:

1st. **When assignable.** To pay and redeem the circulating notes of such branch.

2nd. To pay other liabilities of such branch, and after such liabilities shall have been discharged;

3rd. To divide among the stockholders on their stock.

No evasion of the usury law—legal costs allowed. No branch shall be permitted, in receiving payment at its banking house, or other places, than where the same was payable, of any note, bill, or other evidence of debt, due to such branch, and payable at a place other than its banking house, to receive in addition to the amount of such debt and the legal interest due thereon, any sum whatsoever as premium, exchange or damages. *Provided*,

that nothing in this section contained, shall prevent such branch from receiving damages allowed [145] by law upon any bona fide bill of exchange, duly protested for non-acceptance or non-payment.

SEC. 39. All transactions for preferred creditors, or for disposing of assets, declared null and void. All transfers of notes, bonds, bills of exchange, and other evidence of debt owing to any branch, or of deposits to its credit; all assignments of mortgages or other securities on real estate, or of judgments or decrees in its favor; all deposits of money, bullion, or other valuable thing for its use, or for the use of any of its stockholders or creditors; all payments of money made after the commission of an act of insolvency, or in contemplation thereof, with a view to prevent the application of its assets in the manner provided by this act, or with a view to the preference of one creditor to another, except in payment of its circulating notes, shall be held utterly null and void.

SEC. 40. Any violation of this act punished with forfeiture of privileges—directors individually responsible. If the directors of any branch shall knowingly violate, or knowingly permit any of the officers, agents or servants of such branch to violate any of the provisions of this act, all the rights, privileges and franchises of such branch shall thereby be forfeited; such violation shall, however, be determined and adjudged by a court of competent jurisdiction, agreeably to the laws of this state and the practice of such court, before the corporation shall be declared dissolved, and in case of such violation, every director who participated in, or assented to the same, shall be held liable in his personal and individual capacity for all damages which the branch, its stockholders, or any other persons, body politic or corporate shall have sustained in consequence of such violation.

SEC. 41. Dishonesty of bank officers punished. Every president, director, cashier, teller, clerk or agent of any branch, who shall embezzle, abstract, or wilfully misapply any of the moneys, funds, or credits of such branch, or shall without authority from the directors, issue or put in circulation any of the notes of such branch, or shall without such authority, issue or put forth any certificate of deposit, draw any order or bill of exchange, make any acceptance, sign any note, bond, draft, bill of exchange, mortgage, or other instrument of writing, or shall make any false entry on [146] any book, report or statement of the branch, with an intent in either case to injure or defraud such branch, or to injure or defraud any other company, body corporate or politic, or any individual person, or to deceive any officer or agent appointed to inspect the affairs of any branch, or shall make, or shall omit to make, or shall advise or consent to the making of any report or statement required by this act, in such manner as shall be designed to evade the provisions of this act, shall be deemed guilty of a felony, and upon conviction thereof, shall be confined in the penitentiary at hard labor not less than one nor more than twenty years.

SEC. 42. Stockholders individually liable—transfer of stock does not change liability. Stockholders in branches, shall each be individually and severally liable to the creditors of the branch of which they are the stockholders, over and above the amount of stock by them held, to an amount equal to their respective shares so held for all its liabilities, accruing while they remain stockholders and no transfer of stock shall effect such liability, and should any such branch become insolvent, and its assets be found insufficient to pay its debts and liabilities, its stockholders may be compelled to pay such deficiency in proportion to the amount of stock owned by each, and should the whole amount for which stockholders are individually responsible, as provided in this section, be found in any case to be inadequate to the payment of all the residue of the debts of any branch after the application of its assets to the pay-

ment of such debts, then, the moneys due from stockholders on account of their individual liabilities as such, shall be distributed equally among all the creditors of such branch, in proportion to the amount due to each; the personal liability in this section provided for, is over and above the stock owned by stockholders, and any amount unpaid thereon.

SEC. 43. **Stockholders defined—by proxy—guardian stockholders—trustees stockholders—responsibility of guardians.** The term stockholder or shareholder, as used in this act, shall apply not only to such persons as appear by the books of the association to be such, but also to every equitable owner of stock, although the same may appear on such books in the name of another person, and also to every person who shall have advanced [147] -ed the installments or purchase money of any stock in the name of any person under twenty-one years of age, and while such person remained a minor to the extent of such advance and also to every guardian or other trustee, who shall voluntarily invest any trust funds in such stock, and no trust funds in the hands of such guardian or trustee shall be in any way liable under the provisions of this act, by reason of any such investment, nor shall the person for whose benefit any such investment may be made, be responsible in respect to such stock until thirty days after the time when such persons respectively become competent and able to control and dispose of the same; but the guardian or other trustee making such investment as aforesaid, shall continue responsible as a stockholder, until such responsibility devolves upon the person beneficially interested therein, and in respect to stock held by a guardian or other trustee under a transfer of the same by a third person, or under positive directions by a third person for such investment, the person making such transfer or giving such directions, and his executors and administrators shall, for the purpose of this act be deemed a stockholder, and the estate of such person, if he be deceased, shall be responsible for the debts and liabilities chargeable on such stock according to the provisions of this act.

SEC. 44. **The legislature may alter and repeal.** The general assembly may alter or repeal this act at pleasure, in the manner provided in the constitution of this state, but no act altering or repealing this act, shall impose any injustice or wrong upon the stockholders of any branch.

SEC. 45. **By-laws of branches.** Every branch shall have power to make all necessary and proper by-laws for the management and control of its business, and to fix and regulate the rate of charges for making collections, subject to be controlled therein by the State Bank of Iowa.

SEC. 46. **Notes issued redeem'ble in specie—signed and countersigned—certificates made payable to order.** No branch shall issue any notes intended for circulation as money, except the notes furnished for that purpose by the State Bank of Iowa, and all such notes shall be payable at the branch by which they are issued, in gold and silver coin, the lawful currency of [148] the United States, as provided for in section ten of this act, on demand; they shall be signed by the president or vice president of the proper branch, and countersigned by the cashier thereof, made payable to bearer, and shall be negotiable by delivery; all other evidences of debt, issued by any branch, shall be negotiable or transferable in the same manner as if issued by a natural person, and shall be binding on the branch, whether under seal or not; and all such evidences of debt, other than notes of circulation, shall be payable to the order of some person therein named.

SEC. 47. **Special circulation of foreign bills prohibited.** No branch shall put in circulation in this state, the bills or notes of any bank or banking company out of the state, except such as are received in the usual course of business; nor shall any branch either directly or indirectly exchange its

bills or notes intended to circulate as money with any bank or banking company out of the state, or with the agents of such bank, for the bills or notes of such bank or banking company, with a view to circulate the same in this state.

SEC. 48. Persons forming a B'k shall give notice—stock books opened—subscription of stock regulated. When any number of persons shall have associated together for the formation of a branch as provided for in section nineteen, they shall give twenty days public notice in some newspaper published in the town or city where it is proposed to establish such branch, of their purpose to open a book for the subscription of the capital stock of said branch, specifying the time and place thereof; such book shall be kept open for two successive days, between the hours of ten a. m. and two p. m. of each day, under the control and direction of such association, and shall be accessible to every person desiring to subscribe to stock of the proposed branch. On the first day no person, company or business firm, composed of one or more individuals shall be permitted to subscribe to more than ten shares, and on the second day to no more than fifty shares, unless at the time for closing the book on that day the aggregate amount of stock subscribed shall not exceed the amount of capital authorized in section twenty-one.

[149] **SEC. 49. No. of branches—stock of each branch—aggregate capital.** The number of branches of the State Bank of Iowa shall not exceed thirty. The board of directors of the State Bank of Iowa may increase the capital stock of any branch whose capital does not equal three hundred thousand dollars, by authorizing such branch to receive at any time such additional subscription to its capital stock as will increase the same to any amount less than three hundred thousand dollars, if said board of directors shall be satisfied that such additional amount of capital is demanded by the public interest, and can be safely and profitably employed; but the aggregate capital of all the branches shall not exceed six millions of dollars. No branch shall be established in any town with a less population than five hundred, nor shall two branches be established in the same town or city.

SEC. 50. The branches continued to wind up—appropriation of assets. The branches shall continue to exist so long as necessary for the settlement of their affairs, notwithstanding the repeal of this act; and no law shall ever be passed diverting or appropriating the assets of any such branch to any person other than to the payment of its debts and liabilities, and the distribution of the residue among its stockholders, in proportion to the stock by them severally owned.

SEC. 51. Bank commissioners—qualification—vacancies filled—bank directors—compensation—terms of office—successors elected—eligibility. To carry into effect the provisions of this act, C. H. Booth, of Dubuque county, E. H. Harrison, of Lee county, Ezekiel Clark, Johnson county, J. W. Dutton, of Muscatine county, Wm. J. Gatling, of Polk county, C. W. Slagle, of Jefferson county, Elishu Baker, of Linn county, William S. Dart, of Mahaska county, L. W. Babbitt, of Pottawattamie county, and Edward T. Edgington, of Lucas Co., shall be and they are hereby appointed commissioners, and they, or a majority of them, after taking an oath diligently, faithfully and impartially to perform the duties assigned them by this act, a certificate of which oath shall be filed and carefully preserved in the office of the secretary of state, shall constitute a board, to be designated the board of bank commissioners, which board shall continue until the organization of the state bank of Iowa, as herein [150] provided for, and thereafter the duties which they are required to perform by this act shall be performed by the said bank; and if any of said commissioners shall refuse to serve, shall die or resign, his place

shall be filled by appointment by the governor. Hoyt Sherman, of Polk county, Benjamin Lake, of Clinton county, and Elias H. Williams, of Clayton county, are hereby appointed directors of the State Bank of Iowa, on the part of the state, who shall have the same powers as the directors on the part of the bank, and who shall be paid by the state, and shall receive three dollars per day for the time actually engaged in their duties, and mileage the same as members of the general assembly. The term of service of said directors shall be for two years and until their successors are elected and qualified. It shall be the duty of the general assembly to elect three directors of the State Bank of Iowa at each regular biennial session. No person shall be eligible to the office of state director who holds any office or appointment under any of the branches or owns any stock in the same, and the acceptance of any office of trust or profit from any branch, or the acceptance of any stock in any branch by a state director during his term of service shall be deemed a resignation, and the governor shall fill by appointment the vacancy.

Com'rs meet—choose Pres't—minutes of proceedings. Said commissioners shall meet at Iowa City, at such time, within thirty days after the adoption of this act, as shall be appointed by the governor, who shall notify each member of his appointment, and of the time and place of meeting. They shall, when met, appoint one of their number to be their president, who shall, under the order of the board, sign all official documents; and they shall cause a fair and true record of all their official proceedings to be kept in a book to be provided for that purpose, which shall be delivered by the president of said board to the State Bank of Iowa, as soon as the same shall be organized.

SEC. 52. Com'rs examine certificates of branches—appoint agent to examine condition of branch, stock paid in, character of managers, if the law is complied with, to take acknowledgement of statement—report to directors. The board of bank commissioners shall examine their certificates of the formation of branches transmitted to them, as required by this act, and shall, [151] by one of their own number, or other special agent appointed by them for that purpose, who shall not be a stockholder in any of the branches formed under this act, immediately proceed to examine the condition of each of the branches which shall have transmitted to said board the required certificate; and it shall be the special duty of such agent to carefully count and otherwise ascertain the amount of money paid in on account of its capital stock; to ascertain the name and place of residence of each of the directors of such branch, and whether their stockholders, directors and officers are men of responsibility and integrity, and entitled to the public confidence, and the amount of capital stock of which each is the bona fide owner; whether such branch has complied with all the requirements of this act, necessary to entitle the branch to engage in the business of banking; and shall cause to be made, and attested by the oath of a majority of the directors, and by the cashier of such branch, a statement of all the material facts necessary to enable the board of bank commissioners to determine whether such branch is lawfully entitled to commence the business of banking under the provisions of this act; and such agent shall immediately report to the board of bank commissioners such statement, and his proceedings in the premises.

SEC. 53. Com'rs report to governor—branches choose officers. If, upon a careful examination of the certificates of association, and the reports and statements of the special agents appointed to ascertain whether the branches so organized have complied with the provisions of this act, it shall appear that five or more such branches have been formed, and that their stockholders, directors and officers are men of responsibility and integrity, and entitled to public confidence, and that such branches are lawfully entitled to commence the business of banking, the commissioners shall certify

the same to the governor, and shall immediately notify each of said branches thereof; and within ten days after receiving such notice, each branch shall appoint, in such manner as the directors thereof shall prescribe, one person to be a director of the State Bank of Iowa.

[152] SEC. 54. **Governor issues proclamation—record evidence of organization.** The governor, if he be satisfied that the law has in all respects been complied with, shall issue his proclamation, setting forth that such branches are authorized to commence and carry on banking, at the places severally designated in their certificates of association; which proclamation shall be recorded in the office of the governor, and a copy of said record certified under the great seal of the state of Iowa, shall be prima facie evidence of the organization of such bank.

SEC. 55. **Compensation of Com'rs and agents.** The bank commissioners, and all agents appointed by them, shall each be entitled to receive for their services under this act, five dollars per day for every day necessarily employed in the discharge of their duties, and the same mileage as is received by the members of the general assembly, to be paid by the State Bank of Iowa.

SEC. 56. **A takes effect.** This act shall take effect and be in force from and after its approval by a majority of all the electors of this state voting for and against it, at an election provided by law, and not otherwise.

Approved March 20th, 1858.

CHAPTER 88.

CHARTER OF DAVENPORT.

AN ACT to amend an act entitled an act to incorporate the city of Davenport, and to amend the several acts amendatory thereto.

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

SECTION 1. **Portion of old charter repealed—municipal officers—aldermen—council—city council defined.** That so much of said act and the several amendments thereto, as provides for a city council consisting of a mayor and aldermen, requiring that the board of aldermen shall consist of two aldermen from each ward, is hereby repealed, and the terms of said several aldermen are hereby terminated. The said city council shall hereafter consist of a mayor, a board of councilmen, and a board of aldermen. The board of aldermen to consist of twelve (12) members, chosen from [153] twelve separate wards in said city annually, by the qualified electors of said city; the board of councilmen to consist of six members, representing three districts, two councilmen from each councilmen, after the first election herein provided for, to be elected annually, each to serve two years. Whenever the term "city council" shall occur in this act, the act to which this is amendatory thereto, the same shall be taken to mean and apply to the city council, as at present constituted in this section of this act, consisting of the mayor, board of councilmen, and board of aldermen; and whenever it is required by the act of incorporation of said city or otherwise, a commissioner, officer or person, to perform any act or duty under said act or other authority, shall be appointed or elected by the city council, when no other mode or manner shall be designated. It shall be lawful for each person, agent, or officer, to be designated on joint ballot, a majority of both boards being necessary to constitute a joint ballot, who shall assemble and conduct their deliberations according to ordinance.

SEC. 2. Eligibility of councilman—vacancies—mayor pro tem. To be eligible for councilman a person shall be a citizen of the United States, and possess, otherwise, the qualification required of a person to be eligible for mayor. In case of a vacancy in the office of mayor or councilman, it shall be filled by election, and in case of the mayor, and until such election shall be had, and the person elected and qualified, or absence from the city of the mayor, the president of the board of councilmen shall act as mayor *pro tem.*, and for that purpose, and for the purpose of having a presiding officer in case of absence of the mayor from the meetings of the board of councilmen at any time, the board of councilmen may, at any regular meeting, shortly after the annual election, elect a president who shall preside at their meetings in the absence of said mayor, and act as mayor, *pro tem.*

SEC. 3. Councilman shall be justice of the peace—laws repealed—jurisdiction of officers. Each councilman shall, by virtue of his office, be a justice of the peace, and so much of section [154] two hundred and thirty-nine (239), and two hundred and forty (40), of the code of Iowa on page forty-three (43) and forty-four (44), as requires at the April election of any year the election of two or more justices of the peace, so far as the same is applicable to Davenport township, lying within the corporate limits of the city of Davenport is hereby repealed. That from and after the first Monday in April, 1859, chapter 18, of the laws of the sixth general assembly of Iowa, entitled "An act providing for the election of an additional justice of the peace in Davenport township, Scott county," approved 22d December, 1856, be, and the same is hereby repealed. The provisions contained in sections (4), five (5), six (6) and seven (7) of the act to which this is amendatory, approved February 5th, 1851, shall be construed to read and apply to each of said councilmen, as well as to the said mayor. Said mayor and councilmen shall severally, as ex-officio justices of the peace, as such, in addition to other powers, have jurisdiction of all offenses less than felony, and in which the punishment does not exceed a fine of one hundred dollars, or imprisonment for thirty days, on information under oath, saving to defendant the right to appeal.

SEC. 4. Office of police magistrate abolished. Section twenty-six of an act entitled "An act to amend an act entitled an act to incorporate the city of Davenport, and amend the several acts amendatory thereto, approved January 23d, 1857, is hereby repealed, and the duties of such police magistrate shall devolve upon the several councilmen, whose election is herein provided for; and said councilmen, as such justices of the peace, shall have and possess all the powers and jurisdiction of other justices of the peace in Scott county, and concurrent jurisdiction with the mayor of said city, in all cases arising under the ordinance of said city, who shall take the same oath of office and qualify as other justices of the peace of Scott county.

SEC. 5. Duties of mayor—special meetings—notices served. It shall be the duty of the mayor to attend all meetings of the board of councilmen, and not of the board of aldermen; and when present, shall preside over their deliberations—shall have a casting vote [155] in their proceedings, and no other vote. The only persons authorized to call special meetings of the city council shall be the mayor or any three of the councilmen, which shall be done by notifying in writing each alderman, each councilmen, the mayor and the clerk of the city. The notice may be served personally, or left at the usual place of residence of those to be notified. The notice shall state the time and place of meeting, and the business to be transacted. A copy of such notice shall be spread upon the minutes of each board, and no other business at such meeting, than that expressed in the notice, shall be in order or transacted.

SEC. 6. First election—this act submitted to the people. On the first Saturday after the first Monday in April next, an election shall be held in each

ward of said city, for a mayor, for two councilmen for each council district, and one alderman for each ward, and forever thereafter, on the first Saturday after the first Monday in April, of each year, there shall be an election held for a mayor for the city, a councilman for each council district, and an alderman for each ward, and for such other officers whose election is provided for in this act, the act to which this is amenatory and the several amendments thereto, and the ordinances enacted in conformity thereto. And at said election in April next, a separate ballot may be given by every person having a right to vote at said election, to be deposited in a separate box; those in favor of the amendments shall have on their ballots the words "for amendments," those opposed to amendments shall have on their ballots "against amendments"—and if a majority of the ballots so cast be "against amendments" then the present charter of the city of Davenport shall be and continue in force as if this act had not passed.

SEC. 7. Duties defined—officers of election appointed—returns of election—canvass of votes—plurality elects—credentials—notice to persons elected—qualify for office—tie and contest of election—Clk acts instead Co. judge—election, officers and returns of election. At the first election under this act, which shall take place in April next, the present mayor and the clerk of the city of Davenport, together with H. B. Hoffman, C. G. Blood, Wm. Effy, Geo. G. Arndt and M. C. Davis, or a majority of them, may assemble together at some convenient time and place within said city, ten days before the time of holding such election, [156] and appoint three (3) discreet and proper persons possessing the qualification of electors in each ward, to conduct the election herein contemplated. Two of said persons so appointed in each ward shall act as judges, the other as clerk, who shall conduct said election according to the provisions of this act, the act to which this is amendatory, the several amendments thereto and the laws of the state of Iowa. Returns of said election shall be made to said mayor, a similar return to the clerk of the city of Davenport, and a similar return with poll books, ballots and tally list, to the clerk of the district court of Scott county, within five (5) days after such election, (Sunday included) to be by said clerk of the district court retained until after all questions as to the result of said election shall be determined and settled, when he shall pass over said poll books, tally lists and ballots, to the clerk of the city of Davenport, to be by him preserved as other poll books, tally lists and ballots are under the charter of said city. Within ten days after said election, it shall be lawful, and it is hereby made their duty, for the said mayor, clerk, H. B. Hoffman, C. G. Blood, Wm. Effy, Geo. G. Arndt, M. C. Davis, the clerk of the district court, and sheiff of Scott county or a majority of them, to assemble at the office of the mayor, of the clerk of the city of Davenport, or of the clerk of the district court, as they shall deem most convenient or proper, and when a majority shall be so assembled, examine said poll books, tally lists, (and if necessary, ballots) and determine the persons elected voted for at said election, and shall make out a certificate to that effect for each person so elected which shall be signed by a majority of the persons and officers above enumerated. The person having the greatest number of votes for any office is to be declared elected. The certificate so given shall be prima facie, that such person is the legally elected officer to the office therein mentioned, and by virtue thereof, he shall proceed and qualify as is in this act provided. In case there is no contest or dispute as to the result of such election about either one or more of the officers voted for ac- [157] -cording to the provisions of this act, then the clerk of the city of Davenport shall within eight days (Sunday included) after the issuing of the certificate as above provided, give to each person a notice of his election in conformity with said certificate, and the office to which he is elected, or such notice may be left at the person's place of residence entitled to the same. It shall be each

person's duty receiving such notice of his election, if he has not already done so, to qualify within ten days after the issuing of the certificate aforesaid, (Sundays included) and a failure to do so shall be deemed and taken as a refusal of such office, and such office shall be dealt with as if vacant. In case of a tie between any one or more of the officers voted for, or in case of contest on account of illegality of the election of any one or more of the persons voted for, for any one or more of the offices voted for the same shall be determined in the same manner as if it was a question of tie between two or more voted for a county office. The election may be contested for the same causes that are allowed by law where elections are contested for county offices, and trial had and decided in like manner, as near as practicable. The clerk of the district court of Scott county, however, acting in each and every case of tie or contest in the place and stead of the county judge, and chapter thirty (30) commencing on page fifty-nine (59) of the code entitled "Contesting Elections of County Officers," embracing section three hundred and thirty-nine (339) all intermediate sections to, and including section three hundred and sixty-seven (367,) shall apply with like power and authority conferred upon said clerk of the district court and with like effect. Thereafter in all city elections for the foregoing purposes in this section mentioned, the board of councilmen shall appoint said judges and clerks, and the returns shall be made to said board and to the board of aldermen, and the poll books, ballots and tally lists to the city clerk instead of the clerk of the district court, and the city council shall provide by ordinance for cases of tie and of contested elections, the board of al- [158] -dermen and the board of councilmen shall respectively determine the election returns and the qualifications of the members of their respective boards which shall be regulated by ordinance in conformity with this act: the councilmen of the election returns, and qualifications of the mayor and all other city officers, elected by the legal voters of said city, which shall also be regulated by ordinance in conformity with this act.

SEC. 8. Terms of office of councilmen—vacancy in office. At the first meeting of the board of councilmen or at some regular meeting thereafter, the councilmen shall be divided by lot into two classes, the seats of those of the first class shall be vacated at the expiration of the first year, and of the second class at the expiration of the second year, so that one-half of the members of the board shall be elected annually. If any councilman shall after his election remove from his district for which he is elected to represent, or be absent from the city of Davenport at any one time for two consecutive months, his office shall thereby become vacant, which shall likewise vacate all other offices, which by virtue of being councilman, such person was or might be entitled to enjoy or possess.

SEC. 9. Legislative authority—style of ordinance. The legislative authority of said city shall be vested in a city council, which shall consist of a board of councilmen, and a board of aldermen, selected as contemplated in this act. The style of every ordinance shall be, "Be it enacted by the city council of the city of Davenport;" the sessions of the city council shall be held in conformity to ordinance unless convened specially as provided for in section four (4). Each board may choose its own officers except clerks, and where it is otherwise provided in this act.

Quorum of aldermen. The board of aldermen shall choose their chairman from their own body. A majority of each board shall constitute a quorum to transact business but a smaller number may adjourn from day to day and may compel the attendance of absent members in such manner and under such penalties as such board may provide. Each board shall sit upon its own adjournments.

Powers of city council—protest—yeas and nays—documents of each board. The clerk of the city shall keep or cause to be kept a [159] journal of the proceedings of each board; said boards severally may cause the same to be published, determine the rules of proceedings, punish members for disorderly behavior, and with the consent of two-thirds, expel a member but not a second time for the same offense, but such expulsion shall be of no effect unless accompanied with a provision for a special election, within two weeks. The boards shall sit separately, and not necessarily at different times, but may do so at their option or convenience. Their deliberations shall be public at all times except when the public welfare shall require secrecy. Every member of the city council shall have the liberty to dissent from, or protest against any act or resolution which he may think injurious to the public, or any individual, and have the reasons for his dissent entered on the journals of the board of which he is a member. The yeas and nays of the members of either board, on any question shall at the desire of any two members present, be entered on the journals. The journals of each board shall be signed by the presiding officers respectively, and together with all papers, books, records, files, and other papers and documents belonging to either board preserved separately and in convenient order and style by the clerks, which shall at all reasonable hours be open to the inspection of the members of the city council, and electors of said city.

SEC. 10. Origin and passage of ordinances—qualification for member of council. Ordinances and legislation of any kind may originate in either board, and may be amended, altered or rejected by the other, and every ordinance having passed both boards shall be signed by the presiding officers of each board and approved by the mayor of the city, and dated the day of its approval. No ordinance or other subject of legislation by the city council shall be passed unless by the assent of a majority of the members elected to the board of councilmen, and a majority of the members elected to the board of aldermen, and the question upon the final passage of the same, shall be taken immediately upon its last reading in each board, and the yeas and nays entered upon the journal. No person who may hereafter be a collector or holder of [160] public moneys shall have a seat in either board, or be eligible to hold any office of trust or profit under the city council, the charter, and the several amendments thereto, or the ordinances passed in conformity thereto, until he shall have accounted for, and paid into the treasury of the city, or to such persons or parties entitled thereto, all sums he may be liable, and his duty to pay over, in conformity to ordinance or otherwise.

SEC. 11. Oath of office—oath administered and filed. Members of each board, together with the mayor, shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm, as the case may be,) that I will support the constitution of the state of Iowa, and that I will faithfully discharge the duties of councilman (or alderman, as the case may be) according to the best of my ability, that I will not become a party, in my own name or as member of a firm, to any contract wherein the city of Davenport shall be a contracting party, or liable in damages for the performance of the same, or required to pay money out of the treasury at law on mesne, final process or otherwise." Members of the city council are hereby empowered to administer to each other the said oath or affirmation, which said oath or affirmation shall be filed with and preserved by the city clerk.

SEC. 12. Mayor fill vacancy—salary of officers—fees as justice of the peace. When an office under the charter or ordinance of the city shall from any cause become vacant and no mode is provided for the filling of such vacancy, the mayor is hereby authorized to fill the same by writing under the seal of

the corporation, which shall expire at the next election by the people, or the next meeting of the city council; each member of the board of aldermen shall receive the annual salary now allowed by ordinance. The salary of the mayor, marshal, treasurer, city attorney, city clerk, assessor and street commissioner shall be fixed and regulated by ordinance, nor shall they in any instance receive fees or extra allowance for services done and performed by them in their official capacity. Councilmen may be allowed fees as justices of the peace, and the sexton such compensation for his labor and time as shall be reasonable and right; all other subordinate officers and employees of the city, such compensation as shall be allowed by joint resolution of the two boards. The salaries fixed by ordinance or those of the aldermen hereby established, shall not be increased or diminished except by ordinance, and such ordinance submitted to and approved by a majority of the legal voters of said city. Provided the members of the council shall receive the same compensation as an alderman over and above his regular fees as a justice of the peace.

SEC. 13. The police and their powers—council to make police regulations. The mayor shall be head of the police force, assisted by the marshal and policemen as the board of councilmen may authorize and appoint, from time to time, in conformity with any ordinance that may be passed by the city providing for a police force. The mayor and marshal shall have the same authority and power to make arrests and to summon the *posse comitatus* of the city to prevent violence of the city ordinances. Police regulations, city laws and the laws of the state of Iowa, as the sheriff of any county under the laws of said state in criminal cases; also to suppress riots, disperse mobs, prevent disorderly persons from assembling together, and generally to be conservators of the peace. The city council are hereby authorized and shall pass all ordinances necessary to carry out the provisions of this section, and provide for their due execution. All the powers and authority herein conferred upon said mayor, marshal, his deputies, and the police force under them, which shall secure the property, protect the lives, morals and comfort of the citizens of the city of Davenport, at all hours of the night and day, with sufficient penalties for the violation of such ordinances, by fine and imprisonment, in the judgment of the council, as will affect the object herein contemplated.

SEC. 14. Vacancies in office filled by election—notice of election—person elected qualifies. All vacancies occurring in the office of mayor, alderman, councilman, marshal or other elective office, by the votes of said city shall be filled immediately by another election, to be provided for by ordinance, until such provision shall be made. It shall be [162] lawful for the mayor, or in case of his neglect or refusal, any member of the board of aldermen, to give five days notice (ten after such vacancy shall occur) of the time and place of such election, in writing, posted in each ward of the city, and by causing a notice to be published in one of the daily city newspapers three (3) consecutive days, of the same, and said election shall be holden accordingly, the electors assembled at the time and place for holding said election, selecting the judges and clerks from their own numbers. The person elected in conformity with the above requirements shall be entitled to qualify and serve the balance of the term unexpired, as if said election had have been conducted in regular form; said election however shall be conducted in the same manner and places as near as practicable, as the election would have been for filling the office vacated in the first instance.

SEC. 15. Election of other city officers—qualification—officers appointed—impeachment. At the time and places for holding the election for mayor, a poll shall be opened for the election of city clerk, treasurer, city attorney and marshal, when and where all persons entitled to vote for mayor, may assem-

ble and vote for said officers. The election shall be conducted and the returns made in the same manner as is now or may hereafter be required for mayor. The persons elected shall qualify in manner and form as shall be prescribed by the city charter amendments thereto and the ordinances passed in conformity therewith on said subjects. All other city officers shall be appointed by the mayor, by and with the advice and consent of the board of councilmen. An individual once rejected by said board shall not again be presented for the same position until three months has expired. Appointed officers shall hold their offices during the pleasure of the board or officers appointing them. Elective officers above enumerated except the mayor, shall be removed by impeachment heard and determined by the board of councilmen. The board of aldermen shall have the sole power of impeachment and may be for misconduct or malfeasance in office, oppression or neglect of duty. No person shall be convicted without the concurrence of two-thirds of the members present. [163].

Punishment of impeached officers. Judgment in such cases shall extend only to removal from office and disqualification to hold any office of honor, trust or profit under the city government, but the party convicted or acquitted shall nevertheless be liable to indictment, trial and punishment, according to law; councilmen may be dealt with in like manner for like offenses as is provided for by law and as provided in section six, (6), article six (6) of the act of incorporation of the city of Davenport, approved February 5th, 1851, for misdemeanor and malfeasance by the mayor.

SEC. 16. Contracts and work given to lowest bidder—city officers cannot be contractors. All work to be done and all supplies to be furnished by the corporation involving an expenditure of two hundred dollars or more, shall be by contract founded on sealed bids or proposals made in compliance with public notice, for the full period of ten days; and all such contracts, when given, shall be given to the lowest bidder with adequate security. All such bids or proposals shall be opened by the mayor in the presence of the board of councilmen and such of the parties making them as may desire to be present. No additional allowance beyond the legal claim under any contract with the corporation, or for any service on its account or in its employment shall ever be allowed. No bids shall be accepted from, or contract awarded to the mayor or any member of the city council or an elective or appointed officer of the city personally, or to a firm of which they are members, or to another for their benefit. All such contracts if entered into knowingly or otherwise, shall be null and void, and all such officers so intrusted shall, upon conviction, be disqualified from holding any public office, trust or appointment, under the charter or ordinances of the city of Davenport, and shall forfeit their office; nor to any person who is in arrears to the corporation upon debts or contracts, who is a defaulter as security or otherwise upon any obligation to the corporation.

SEC. 17. Money drawn—city auditor—vouchers. No money shall be drawn from the treasury but in consequence of appropriation made by the city council. The city attorney shall be ex-officio auditor, and, as such officer, shall revise, audit and settle [164] all accounts in which the city is concerned as debtor and creditor; he shall keep an account of each claim for or against the corporation and of the sums allowed upon each and certify the same with reasons therefor to the mayor; the mayor shall report to the city council once in ninety days the name and decision of the auditor upon the same, together with the final action of the mayor thereon. All monies drawn from the city treasury shall be upon vouchers for the expenditure thereof, examined and allowed by the auditor and approved by the mayor.

SEC. 18. Bribery and corruption punished by fine and imprisonment—brib'd officers punished by fine and imprisonment—evidence of corruption.

Every person who shall promise, offer or give, or cause, or aid, or abet in causing to be promised, offered or given, or to be promised, offered or given to any member of the city council, mayor, city attorney, or to any other office of the corporation after his election as such member, or before or after he shall have qualified as such, any money, goods, rights in action or other property, or any thing of value, or any pecuniary advantage present or prospective with intent to influence his vote, opinion, judgment or action, on any question, matter, cause or proceeding which may be then pending or may by law be brought before him in his official capacity, shall, upon conviction, be disqualified from holding any public office, trust or appointment under the charter or ordinance of the city of Davenport, and shall forfeit his office and shall be punished by imprisonment in the penitentiary of Iowa not exceeding five years, or by fine not exceeding five thousand dollars for the use of said city, or by both such fine and imprisonment at the discretion of the court trying such offender. Every officer in this section enumerated who shall accept any such gift, or any promise, or undertaking to make the same, under any agreement or undertaking that his vote, opinion, judgment or action shall be influenced thereby, or shall be given in any particular way, or upon any particular side of any question, matter, cause or proceeding then pending, or which may by law be brought before him in his official capacity, shall, upon conviction, be disqualified [165] from holding any public office, trust or appointment under the charter or ordinances of the city of Davenport and shall forfeit his office, and shall be punished by imprisonment in the penitentiary of Iowa not exceeding five years, or by fine not exceeding five thousand dollars, for the use of said city, or by both such fine and imprisonment, at the discretion of the court trying such offender. Every person offending against either of the provisions of this section shall be a competent witness against any other person offending in the same transaction, and may be compelled to appear and give evidence before any grand jury or any court, in the same manner as other persons, but the testimony so given shall not be used in any prosecution or proceeding, civil or criminal, against the person so testifying.

SEC. 19. City treasurer and his duties. The treasurer of the city of Davenport shall be ex-officio collector of the revenue of said city, and shall do and perform all the duties enumerated and enjoined upon the marshal in section one (1), article five (5), and section (5) in article eight (8) of the act to which this is amendatory, approved February 5th, 1851, in the same manner and with the like effect as if said treasurer was specially named and therein required to perform the duties designated. Nothing in this section shall hereafter be so construed as to affect the proceedings had, or to be had under an act entitled "An act to amend an act to incorporate the city of Davenport and amend the several acts amendatory thereto," approved January 23d, 1857, or to abridge or interfere with said marshal in performing any of the duties therein required of him.

SEC. 20. Election, qualification and duties of street commissioner—assessment of taxes for revenue purposes. At the first election under this act, and annually thereafter, the qualified voters of each council district shall elect one person for such district as street commissioner, to hold his office for the term of one year, who shall qualify in such manner as shall be required of him by ordinance, and said commissioners shall have charge of all road matters, and the jurisdiction and authority conferred in sections four, five and six of chapter fifty-seven of the laws of the fifth general assembly, [166] approved January 22d, 1855, entitled "An act to amend an act entitled an act to incorporate the city of Davenport." Nor shall the city council have power to appoint

any other street commissioners than in this section contemplated. The street commissioners herein created shall from time to time account to the board of aldermen, under such regulations and penalties as may be provided by the ordinances now in force or hereafter to be enacted upon the subject. Any assessment of taxes for revenue purposes shall be levied on the basis of the general assessment for county purposes, so far as applicable, and no separate assessment and valuation shall be necessary to be had, and the council shall provide when and how said levies shall be made, and when the city clerk shall deliver to the treasurer the copy of assessment, together with the taxes due or assessed thereon for collection.

SEC. 21. Districts formed. The districts contemplated in this act for road districts, council districts and assessor districts, within which two councilmen shall be elected and reside and represent said district in the board of councilmen, shall be by metes and bounds as follows, to-wit:

1st district. First district to consist of all that part of the city of Davenport lying and being east of the west side of Farnam street and Farnam road.

2d district. Second district to consist of all that part of the city of Davenport lying and being east of Harrison street and west of Farnam street and Farnam road.

3d district. Third district to consist of all that part of the city of Davenport lying and being west of the east line of Harrison street.

SEC. 22. Wards formed. The wards, as established by ordinance, or otherwise, as they now exist in the city of Davenport, are hereby abolished. Hereafter there shall be twelve wards in said city, each ward to be represented in the board of aldermen by one alderman, who shall be a resident of said ward, and shall be elected annually.—The boundaries of a ward as herein established shall in no case be altered or changed unless by ordinance, and said ordinance submitted to and approved by a majority [167] of all the legal voters of said city. The metes and bounds of said wards shall be as follows, and within the following limits:—

1st ward. Ward number One—Of that portion of said city south of Locust street and east of that portion of said city known as Fulton's addition.

2d ward. Ward number Two—That portion of said city south of Locust street and embraced in that portion of said city known as Fulton's addition.

3d ward. Ward number Three—That portion of said city south of Locust street west of ward number two (2) and east of Farnam street.

4th ward. Ward number Four—That portion of said city north of wards numbered one (1), two (2) and three (3) and east of Farnam road.

5th ward. Ward number Five—That portion of said city south of Locust street west of ward number three (3) and east of Rock Island street.

6th ward. Ward number Six—That portion of said city south of Locust street west of ward number five (5) and east of Brady street.

7th ward. Ward number Seven—That portion of said city south of Locust street, west of ward number six and east of Harrison street.

8th ward. Ward number Eight—That portion of said city north of wards numbered five (5), six (6) and seven (7) west of ward number four (4) and east of Harrison street.

9th ward. Ward number Nine—That portion of said city south of Locust street, west of ward number seven (7) and east of a line drawn north and south through the middle of Western avenue from Locust street to the south line of said city.

10th ward. *Ward number Ten*—That portion of said city south of Locust street, west of ward number nine (9) and east of a line drawn north and south through the middle of Vine street, from Locust street to the south line of said city.

11th ward. *Ward number Eleven*—That portion of said city south of Locust street, west of ward number ten (10) to the western limits of said city.

[168] **12th ward.** *Ward number Twelve*—That portion of said city north of wards numbered nine (9), ten (10) and eleven (11) and west of ward number eight (8), Farnam road, is hereby declared a continuation of Farnam street. Locust street is hereby declared to be the section line dividing sections numbered twenty-four (24) from twenty-five (25) twenty-three (23) from twenty-six (26), of T. 78, R. 3, E.

SEC. 23. Re-apportionment of districts and wards after the next census. After the first enumeration of the inhabitants of said city, under the law of the state of Iowa, the city council may re-district said city into council districts and re-organize the wards of said city. In doing so each council district shall, as near as practical, contain one-third of the inhabitants, each district to contain four (4) wards, and each ward one-twelfth of the inhabitants of said city. In all instances the boundaries of districts and wards shall be streets, and the outer limits of the city, each of contiguous territory, and as compact as the streets and city limits will admit. All districting of said city, for the purposes aforesaid, shall be by ordinance, and said ordinance submitted to and approved by a majority of all the legal voters of said city, provided that nothing herein contained shall authorize the increase or a diminution of the members of councilmen, or of aldermen, except in the same ratio as fixed by this act, nor the increase or diminution of the districts and wards of said city, except in the same ratio as fixed by this act, and each district to contain four wards and no district to contain a fraction of a ward.

SEC. 24. Conflicting acts repealed—qualification of electors—judges of elect'n administer oath. All such parts of the act to which this is amendatory, and the several amendments thereto, or any act in any manner affecting the same, as inconsistent with this act, are hereby repealed; but so much, and such parts thereof, as are not inconsistent with the provisions of this act shall not be construed as repealed, altered or modified, or in any form affected thereby, but shall continue and remain in full force and effect. To be an elector, or qualified to vote under this act, under the act to which this act is amendatory, the several amendments thereto, or under any ordinance passed under and [169] in conformity thereto, shall be to be a citizen of the United States and of the state of Iowa, a citizen of Davenport, and an actual residence therein of three months, and actually reside in the ward at least thirty (30) days next preceding the day of the election at which such applicant presents himself to vote; and the judges and clerk of said election may, at their own discretion, require the best evidence of qualification to vote, and require the same to be sustained by oath administered to such applicant and witness in such manner as is most likely to elicit the truth, and not inconsistent with existing law.

SEC. 25. Acts of previous city council declared in force. All ordinances and resolutions passed by the city council of the city of Davenport previous to the passage of this act, shall remain in force until the same shall have been repealed by the city council, as constituted by this act; nor shall this act invalidate any act done by said city council previous to the passage of this act, unless so expressed, nor divest said city of any right which may have accrued to it prior to the passage; but the same shall inure to, and be enjoyed by said city, as if this act had never passed.

Repeal of acts. The repeal, however, of an ordinance, resolution, law, or act, of the city, shall take effect immediately, or at such time as the city council in such repeal shall designate.

SEC. 26. This act shall be published in the Davenport Daily Gazette, Daily Der Demokrat, and the Evening News, at the expense of the city of Davenport and shall take effect and be in force from and after its publication in any two of said papers.

Approved March 20th, 1858.

I hereby certify that the foregoing act was published in the Evening News, March 25th, 1858, and in Davenport Daily Gazette March 26th, 1858.

ELIJAH SELLS,
Secretary of State.

[170] CHAPTER 89.

BRIDGE OVER THE MISSISSIPPI.

AN ACT to authorize the Dubuque and Pacific Rail Road Company and others to bridge the Mississippi river at Dubuque.

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

SECTION 1. **R. R. company have a right to build.** That the Dubuque and Pacific Railroad company, or its assigns, shall have the right to construct a railroad bridge across the Mississippi river at Dubuque. Said bridge shall not be below the depot grounds now occupied by said company on the island in said city nor above Seventh Street.

SEC. 2. **Provide bridge for carriages—tolls fixed.** Said bridge shall, in addition to the railroad track, have a track for wagons and carriages, or track for foot passengers, or both. And in case of either, the city council may, from time to time fix the tolls to be received for the use of such wagon or foot track.

SEC. 3. **A draw.** Said bridge shall be constructed with a draw of not less than two hundred feet and in such a manner as not to obstruct the navigation of said river.

SEC. 4. **Time of construction.** Said bridge shall be commenced within three years and completed within five years from the first of April next.

SEC. 5. **Use of bridge by railroad companies.** Said bridge when constructed may be used by any railroad company connecting with either of the roads at either end of said bridge, by paying a reasonable compensation for such use.

SEC. 6. **Failure to build, vest rights in oth'r companies.** That if said Dubuque and Pacific Railroad company or its assigns shall fail to commence the construction of said bridge, and complete the same within the time by this act provided, then any other railroad company, having the termination of its road in Dubuque city, or having the right to run its train of cars into said city, is hereby authorized to construct such bridge, as is herein provided, and shall have the same length of time to commence and complete such bridge as is herein provided, which time shall commence running from the time there shall be a failure on the part of the Dubuque and Pacific Railroad company to comply with the terms of this act. [171]

SEC. 7. Take effect. This act shall be in force from and after its publication according to law.

This act having remained with the governor three days (Sunday excepted) the general assembly being in session, has become a law this twenty-second day of March, A. D. 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 90.

ASSESSMENT OF TAXES.

AN ACT to legalize the assessment of taxes made in the several counties of this state in the year 1855, 1856 and 1857.

Returns not made in time. *Whereas*, The county assessor of several counties in this state failed to complete their assessment of property in their respective counties, and return their "assessment book" to the office of the county judge of such counties by the first day of July, A. D. 1857, as they were required to do by the provisions of an act entitled an act in relation to the assessment of property, approved January 28th, 1857, and

Deputies appointed. *Whereas*, The said assessors in many instances appointed deputies to aid them in making said assessments; and

Board of equalization did not meet. *Whereas*, In consequence of the said "assessment book" not being returned by the time required by law, and the county judges having failed to hold a session for the correction of errors at the time fixed by law, the board of equalization failed to meet at the time appointed by law, and equalize the assessments; and

Judge did not place warrant upon tax book. *Whereas*, The county judge has in certain instances failed to place his warrant upon the tax book and order the treasurer to collect the taxes so levied; and

Unequal assessments. *Whereas*, Portions of certain counties were unequally assessed by the assessor or deputy of said county, and the board of equalization having failed to equal- [172] -ize the same at their session, and the county judge subsequently ordered such as was assessed too low to be raised; and

Errors and illegalities. *Whereas*, Other errors and illegalities are said to exist in relation to the assessment and collection of taxes for the year 1857, which cannot be herein pointed out and referred to; therefore,

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

SECTION 1. Taxes of 1857 legalized. That the taxes levied for the year 1857, in the several counties in this state shall not by reason of the several officers failing to do the acts herein recited at the time required by law, be held void, nor shall the same be held void by reason of any failure of said officers in and about the assessment, equalization, collection, or other matter connected therewith, but the taxes assessed during the year 1857 shall in all instances be held legal and binding, and the proper officers are authorized to collect the same as though no informalities ever existed.

SEC. 2. The Co. cl'k not liable for non-return of abstracts. That in all cases wherein the assessment books were not returned by the assessor in season for the abstract required by section fifteen of said act, if transmitted to reach the auditor of state in time for action to be had thereon, and in all cases wherein said clerk used the due diligence in transmitting the said ab-

stract after receiving the assessment books, the said clerk shall not be liable under the provisions of section eighteen of said act so far as the same relates to the transmission of said abstract.

SEC. 3. **Co. judge may ord'r assessm'nt for 1857.** The county judge of every county in this state wherein no assessment was made for the year 1857, is hereby authorized to appoint an assessor, who shall assess the property taxable for said year, in every respect, as the same should have been made, and the taxes shall be collected thereon in all respects as now prescribed by law.

SEC. 4. **Take effect.** This act shall take effect from and after its publication in the Iowa Weekly Citizen and Iowa State Journal.

Approved March 20th, 1858.

I hereby certify that the foregoing act was published in the Iowa Weekly Citizen March 31st, 1858, and in the Iowa State Journal on the 27th of March, 1858.

ELIJAH SELLS,
Secretary of State.

[173] CHAPTER 91.

AGRICULTURAL COLLEGE.

AN ACT to provide for the establishment of a state agricultural college and farm, with a board of trustees which shall be connected with the entire agricultural interests of the state of Iowa.

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

SECTION 1. **College established.** That there is hereby established a state agricultural college and model farm, to be connected with the entire agricultural interests of the state.

SEC. 2. **Board of managers.** Said college and farm shall be under the management of a board of eleven trustees, and the governor, the president of the state agricultural society, who shall be ex-officio members of said board.

SEC. 3. **Terms of office—trustees chosen—vacancies filled—official bond.** The board of trustees shall at their first meeting under this act determine by lot their several periods of service, five of whom serving for two years, and six serving for four years, and until their successors are elected and qualified. At the annual meetings in the fall before vacancies occur in this board, each county agricultural society in the state may nominate one person for trustee, from whom the general assembly shall choose trustees to fill vacancies every two years as they occur, discriminating so as to give, if possible, one trustee to each judicial district in the state. Any vacancy in the board of trustees, caused by death, resignation or removal from the state, may be filled by a vote of the majority of the members of said board. Each trustee is required to give a satisfactory bond to the state in such sum as may be required by the governor, for the faithful discharge of the duties imposed upon them.

SEC. 4. **President of college.** The president of the college shall be president of the board of trustees. It shall be his duty to preside at all meetings of the board. He shall control, manage and direct the affairs of the college and farm herein established, subject to such rules as may be prescribed by the trustees.

SEC. 5. **Powers of trustees.** Said board shall have power:

1st. **Elect officers.** To elect a president for the state agricultural college and farm, and in the absence of the president, [174] a president pro-tempore, a secretary and such other officers as may be required in the transactions of the business of the board.

2d. **Establish rules.** To make all necessary rules and regulations for the government of the college and farm.

3d. **Purchase lands.** To purchase lands and erect buildings thereon, in accordance with the further provisions of this act.

4th. **Keep a record.** To keep a full and complete record of all their proceedings, and do such other things as may be found necessary to carry out the intent and meaning of this act.

SEC. 6. **Compensation of trustees.** The trustees shall receive no compensation except for mileage in traveling to and from the meetings of the board, which shall be at the same rate and computed in the same manner as the mileage allowed to members of the general assembly; and the auditor of state is hereby authorized to audit and allow the claims for such attendance, upon not more than three meetings annually.

SEC. 7. **First session.** The first session of the board of trustees shall be held at the capitol of the state, on the second Monday in January, 1859.

SEC. 8. **Quorum.** A majority of the board of trustees shall be a quorum for the transaction of business.

SEC. 9. **Purchase suitable land.** Said board of trustees are hereby authorized to select and purchase suitable lands, not less than six hundred and forty acres, for the use and purposes of the college herein established.

SEC. 10. **Proposals of sale and advantages of location.** Said board shall receive proposals for sale of lands for the use of said college before purchasing the same, and in the purchase, the price, location, quality and variety of soil, advantages of water, timber, stone, et cetera shall be considered.

SEC. 11. **Land appropriated for building.** There is hereby appropriated the proceeds of the sale of five sections of land heretofore granted to the state of Iowa by congress for the erection of capitol buildings for the use and benefit of the college herein established: Provided congress diverts the same for this purpose; and also the proceed of the sale of all other lands granted or which may be granted by con- [175] -gress to the state of Iowa for the purposes contemplated by this act.

SEC. 12. **\$10,000 appropriated.** There is hereby appropriated out of any monies in the treasury of the state, not otherwise appropriated, the sum of ten thousand dollars for the purchase of lands as provided in section nine of this act, and the improvement of the same.

SEC. 13. **Deed of conveyance—auditor's warrants—purchase completed.** Upon the execution and delivery to the secretary of state of the proper conveyance or conveyances of the land purchased as hereinbefore provided, with a certificate of the attorney general of the state, that he has examined the title to the same and finds it unencumbered and perfect and in accordance with this act, and that the location has been approved by the trustees, the auditor of state shall draw his warrant or warrants on the state treasurer for the amount of such purchase in favor of the party or parties to whom such sum or sums may be due; said purchase or purchases to be made in the year eighteen hundred and fifty-nine previous to the first day of July of that year.

SEC. 14. **Buildings erectd.** If any monies remain unexpended after the purchase of said farm or lands, the trustees are hereby authorized to appropriate the same, or so much thereof as is needed for the erection of the necessary buildings for the college on the farm, and otherwise improving the same.

SEC. 15. **Studies pursued.** The course of instruction in said college shall include the following branches, to-wit: Natural philosophy, chemistry, botany, horticulture, fruit growing, forestry, animal and vegetable anatomy, geology, mineralogy, meteorology, entymology, zoology, the veterinary art, plain mensuration, levelling, surveying, book keeping and such mechanic arts as are directly connected with agriculture. Also, such other studies as the trustees may from time to time prescribe, not inconsistent with the purposes of this act.

SEC. 16. **Professorships.** The board of trustees shall establish such professorships as they may deem best to carry into effect the provisions of this act.

SEC. 17. **Tuition free—qualification for admission.** Tuition in the college herein established [176] shall be forever free to pupils from this state over fourteen years of age and who have been resident of the state six months previous to their admission. Applicants for admission must be of good moral character, able to read and write the English language with ease and correctness, and also to pass a satisfactory examination in the fundamental rules of arithmetic.

SEC. 18. **Hours of labor.** The trustees upon consultation with the professors and teachers shall, from time to time, establish rules regulating the number of hours, to be not less than two in winter and three in summer, which shall be devoted to manual labor and the compensation therefor; and no student shall be exempt from such labor except in case of sickness or other infirmity.

SEC. 19. **Book Keep'r elected—record of crops, &c.,** The board shall elect annually from the teachers or more advanced pupils, a competent book keeper, who shall keep an accurate account of the receipts and disbursements of said college and farm from all sources; he shall also keep a minute and accurate account with each field and of each crop, which shall embrace the time and manner of cultivation, the amount of seed and the product, condition of the field before planting and sowing, and after harvesting, and kind and amount of fertilizers used; also, a list of animals and the value thereof, kept on the farm and the treatment of the same; also, a daily register of the weather; of all of which he shall make an annual statement or synopsis of the same, to the secretary of the board of trustees.

SEC. 20. **Account with farm.** Said college and farm shall be charged with the amount of crops, the proceeds of sales, and the increase of animals raised on the farm.

SEC. 21. **Secretary chosen—he keeps minutes—preserves documents—attend to correspondence—encourage aggricultr'l societies—imported breeds—domestic manufactures—annual report.** The trustees shall elect at their first annual meeting in January, 1859, and every two years thereafter, a secretary from their own number, who shall hold his office two years, and until his successor is elected and qualified. He shall reside at the capital of the state and have an office in the legislative building. It shall be his duty to keep a record of the transactions of the board of trustees and college and farm, which shall [177] be open at all times to the inspection of any citizen of this state. He shall also have the custody of all books, papers, documents and other property which may be deposited in his office, including specimens of the vegetable and animal kingdom of the state or country; also, keep and file all reports which may be made from time to time by county and state agricultural and horticultural societies, and all correspondence of the office from other persons and societies pertaining to the general business of husbandry; address circulars to societies and the best practical farmers in the state and elsewhere, with the view of eliciting information upon the newest and best mode of cul-

ture of those products, vegetables, trees, etc., adapted to the soil and climate of this state; also, on all subjects connected with field culture, horticulture, stock raising and the dairy. He shall encourage the formation of agricultural societies throughout the state, and purchase, receive and distribute such rare and valuable seeds, plants, shrubbery and trees, as may be in his power to procure from the general government and other sources, as may be adapted to our climate and soils. He shall also encourage the importation of improved breeds of horses, asses, cattle, sheep, hogs and other live stock, the invention and improvement of labor saving implements of husbandry and diffuse information in relation to the same; and the manufacture of woolen and cotton yarns and cloths, and domestic industry in weaving, spinning, knitting, sewing, and such other household arts as are calculated to promote the general thrift, wealth and resources of the state. He shall make a report in writing to the general assembly at every session thereof, and to the governor in each year when the legislature is not in session, on the first day of February, of all the transactions of his office of a public character, including a full statement of the receipts and expenditures of the college and farm and of his own office, and at such other times as the governor or legislature may require. He shall give a bond in the sum of thirty thousand dollars, with good security, for the faithful discharge of the duties of his office.

[178] SEC. 22. **Seeds, &c., distributed—information published.** The seeds, plants, trees and shrubbery received by the secretary, shall be, as far as possible, distributed equally throughout the state, and placed only in the hands of those farmers and others who will cultivate them properly and return to the secretary's office, a reasonable proportion of the products thereof with a full statement of the mode of cultivation and such other information as may be necessary to ascertain their value for general cultivation in the state. All information in regard to agriculture, obtained by the secretary, of an important character, may be published by him from time to time in the newspapers of the state, provided it does not involve any expense to the state.

SEC. 23. **Agricultural statistics.** The secretary shall collect and file in his office the agricultural statistics of each organized county in the state.

SEC. 24. **Gov. appoints secretary.** That the farming interest of the state may derive immediate benefit from the duties imposed upon the secretary, the governor is hereby authorized and empowered to appoint a secretary on the passage of this act, from among the board of trustees named in this act, who shall hold his office for one year, and until his successor is elected and qualified, as provided in section twenty-one of this act.

SEC. 25. **His salary—contingent fund.** The secretary shall receive as a compensation for his services, a salary of one thousand dollars per annum, to be paid quarterly from the state treasury in the same manner as is provided by law for the payment of the salaries of other state officers, and the sum of one thousand dollars is hereby annually appropriated for that purpose; and the additional sum of one thousand dollars, or so much thereof as may be esteemed necessary by the governor, is also hereby annually appropriated to meet the expenses which may be incurred in the purchase and transportation of seeds, postage, stationery, and the other contingent expenses of the office of the secretary, to be paid out of the state treasury on the requisition of the governor through the auditor of state.

SEC. 26. **Treas'r chosen—his duties.** The board of trustees shall elect a treas- [179] -urer from their own number annually, at their meeting in Jan., who shall receive and keep all moneys arising from the sale of the products of the farm or other source, and give bonds in such sum as the board of trustees may require. He shall pay over all moneys upon the warrant of the president, countersigned by the secretary. He shall render annually in the

month of January, to the board of trustees, and as often as may be required by said board, a full and true account of all moneys received and disbursed by him.

SEC. 27. **First board of trustees.** That M. W. Robinson, of Desmoine county, Timothy Day, of Van Buren county, John D. Wright, of Union county, G. W. F. Sherwin, of Woodbury county, Wm. Duane Wilson, of Polk county, Richard Gaines, of Jefferson county, Suel Foster, of Muscatine county, J. W. Henderson, of Linn county, Clerment Coffin, of Delaware county, E. H. Williams, of Clayton county, and E. G. Day, of Story county, are hereby appointed and constituted the first board of trustees of the agricultural college and farm, who shall hold their office as may be determined under the provisions of the third section of this act.

SEC. 28. **Take effect.** This act shall be in force from and after its publication in the Iowa Farmer, Tri-Weekly Iowa State Journal and Tri-Weekly Citizen.

Approved March 22, 1858.

I hereby certify that the foregoing act was published in the Iowa Farmer on the 25th day of March, 1858, in the Iowa Weekly Citizen on the 31st of March, 1858, and the Iowa State Journal on the 27th of March, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 92.

UNCLAIMED GOODS.

AN ACT to regulate the sale of unclaimed goods, in the possession of forwarding and commission merchants, express companies, and other common carriers.

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

SECTION 1. **Goods subject to lien for charges.** [180] That all goods, wares, merchandise or other property which has been transported by, or stored with any forwarding and commission merchants, express companies, and other common carriers, shall be subject to a lien for the just and lawful charges for the transportation, advancing and storage of the same.

SEC. 2. **Goods on hands six months may be sold—notice given—goods described.** That if any goods, wares, merchandise, or other property, shall remain for six months in the possession, uncalled for or unclaimed, of any forwarding or commission merchant, express company, or other common carrier, with the just and legal charges unpaid thereon, the person or persons having the same in charge or possession shall give notice to the marshal of the city if there be a marshal, in which said person may reside, having such goods in store, charge or possession, and if there be no marshal, then such notice must be given to the sheriff of the proper county, which notice must be in writing, and must state when such goods, wares, or merchandise were received, the marks or brands by which such goods are designated if any, and if not designated by marks or brands, then by such other description or designation as may best answer the purpose of indicating what the goods are, and to whom consigned, also the charges paid upon such goods, accompanied by the original receipt for such charges, and by the bill of lading, also the other charges, if any, due and unpaid, which notice must be verified by oath or affirmation.

SEC. 3. **Officer examines goods—invoices made.** The marshal or sheriff, as the case may be, on receiving such notice, shall proceed to the place in which the goods, wares or merchandise contemplated in this act, shall be stored or held in possession, and shall in the presence of the person in whose store or possession such goods, wares or merchandise may be, examine such goods, wares or merchandise, examining minutely the contents of any close package, which may be necessary to be opened to ascertain the nature of its contents, and such marshal or sheriff shall then and there take and make an inventory or invoice of such goods, or separate invoices or inventories where such goods, wares or merchandise may appear to belong, or to be consigned to [181] different persons, each separate invoice or inventory to contain a description of the goods consigned or belonging to each separate individual or firm.

SEC. 4. **Goods advertis'd—form of advertisement.** The marshal, sheriff or constable so taking and making these invoices or inventories shall advertise the goods described in such invoice or inventory, in some newspaper of general circulation, published in the place where such goods, wares or merchandise may be in store, or held in possession, which advertisement must state that the goods, wares or merchandise so advertised have remained for six months uncalled for and unclaimed—that they are to be sold, specifying when and where—to defray the expense incurred upon the payment of the freight and the charges due and unpaid upon said goods, including the charge of advertising and selling such goods, which notice must be published in a weekly paper, if there be one in the place, if not, in the newspaper nearest to the place designated for six consecutive weeks, and one week in a daily, if there be a daily paper.

SEC. 5. **Goods sold at auction.** The marshal or sheriff advertising such goods, wares or merchandise as aforesaid, shall at the time and place designated in the notice, put up at auction for sale to the highest bidder, such goods, wares and merchandise in such parts and parcels, as to such marshal or sheriff may appear best to effect a profitable sale.

SEC. 6. **Perishable goods sold immediately—notice of sale.** Nothing contained in this act shall be so construed as to prevent the sale of perishable or damaged goods, immediately on their coming into the possession and being uncalled for, of any forwarding and commission merchant or other common carrier, but such sale must be made by a marshal or sheriff as contemplated in this act, only on the affidavit of the person having the possession thereof, that such property is perishable, and the longest possible notice must be given of such sale in a daily paper if there be one in the place, if not by such other publication as may carry out the intention and provisions of this act.

SEC. 7. **Charges paid—excess deposited in county treasury.** That said officer shall pay to the person or persons having a lien on said property the amount thereof, *Provided*, the proceeds of the property sold shall, [182] after paying the expenses of sale be sufficient for that purpose, and the excess shall be by him forthwith deposited with the county treasurer, subject to the order of the owner, said ownership being properly authenticated under oath, said officer shall also file with the county judge a schedule of the property, the sum realized from the sale of each separate package, describing the same, together with a copy of the advertisement as hereinbefore provided, and said officer shall be entitled to such fees therefor as are legal in cases of sale under execution.

SEC. 8. **No owner applying, proceeds go to the school fund—ten y'rs redemption.** Should the owner of the property sold, not make a demand upon the county treasurer for any money that may be in the treasury to his credit according to the provisions of this act, the sum so unclaimed shall be ac-

counted for by the county treasurer, and placed to the credit of the county in the next subsequent settlement made by the treasurer with the county, and should the sum so uncalled for or unclaimed, remain unclaimed and uncalled for during the period of one year, it shall then be paid into the school fund, to be distributed as other funds may be by law, which may be raised by a tax on the property of the county. But nothing herein contained shall be a bar to any legal claimant from presenting and proving his claim for such money at any time within ten years, and the claim being within that period presented and proved, it shall be paid out of the county treasury in which it was originally placed, without interest.

SEC. 9. **Take effect.** This act shall take effect and be in force from and after its publication in the Iowa Weekly Citizen and Iowa State Journal.

Approved March 22d, 1858.

I hereby certify that the foregoing act was published in the Iowa Citizen March 31st, 1858, and in the Iowa State Journal March 27th, 1858.

ELIJAH SELLS,
Secretary of State.

[183] CHAPTER 93.

THE CONSTRUCTION OF BRIDGES.

AN ACT authorizing the construction of bridges in the state of Iowa.

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

SECTION 1. **Persons wishing to build bridge must give notice.** That when any corporation, company, person or persons shall wish to construct a bridge across any navigable river in this state said corporation, company, person or persons shall give notice of the same in some newspaper published in the county in which said bridge is to be constructed, for four consecutive weeks, or if there is no such paper published in said county, then by posting up notices in five conspicuous places in said county, one of which shall be on the door of the house where the last district court was held.

SEC. 2. **What the notice must contain.** Said notice shall state where the said bridge is to be built, the name or names of the owner or owners of the land on both sides of said river, where the bridge is to be erected, the corporation, company, person or persons intending to erect the same, and the time necessary for the completion of the structure.

SEC. 3. **Company applies to district court.** Said notice shall inform the public, that at the next term of the district court in and for the county in which said bridge is to be built, provided four weeks intervene from the first publication or posting, the said corporation, company, person or persons will petition the district court for authority to build said bridge.

SEC. 4. **Petition filed—particulars stated.** Said petition shall be filed with the clerk of the district court at least ten days before the term at which it is to be heard, and shall contain the name or names of the owner or owners of the land as in the notice, the place where the bridge is to be built, the name of the corporation, company, person or persons designing to build the same, a description of said bridge and a prayer for authority to proceed.

SEC. 5. **Aggrieved party may defend.** Any person supposing himself about to be aggrieved, may become a party to the proceeding on application, and make defense.

SEC. 6. **Toll fixed—draw construct'd—rates of toll limited—navigati'n of rivers defined.** The court shall render such a decree as may [184] seem proper under the circumstances, and the said court shall fix the rate of toll; *Provided*, that no bridge shall be constructed without a suitable draw, or that shall in any way interfere with the navigation of the river, and *Provided*, that no rate of toll shall be established higher than the highest rates allowed by law to corporations, companies, person or persons under legislative charters heretofore granted for the construction of bridges over the navigable waters of the state, and *Provided*, that this section so far as it provides for a draw, shall not be held to apply to the Des Moines river above a point immediately below the bridge known as Scott's bridge, in Polk county, nor to the Iowa river at a point two miles below the junction of the Cedar and Iowa rivers, nor to the Cedar river above said point, said rivers not being deemed navigable above said points, nor to the town of Wapello in Louisa county, said rivers not being deemed navigable above said points.

SEC. 7. **Decree authorizing construction.** Said decree shall fully authorize the construction of said bridge, the power being herein conferred on said court, and shall be equal in force and obligation to bridge charters heretofore granted by the legislature.

SEC. 8. **Bond for paym't of damages — bond filed — suits for damage.** Said court shall have full power and authority to require of the petitioner a bond to be executed to the county in which the proceeding is had, in such penalty as the court may fix, conditioned to the payment of any damage that any person may sustain by reason of the construction of said bridge, which bond shall be filed in the office of the recorder of the county, and any person damaged as aforesaid, shall be privileged to institute suit on the same unless such person shall have made himself a party to the original petition, and no damage shall have been decreed, or unless said damage was sustained before the notice was given as aforesaid, and the person damaged failed to make himself a party to the original petition.

SEC. 9. **Notice in different counties.** Where the extremities of said bridge lie in different counties, the proceeding may be commenced in either county, but the same notice shall be given in both [185] counties, stating where and when the proceeding will be heard.

SEC. 10. **Co. judge may build bridge.** The county judge may cause the erection of a bridge over any stream in the county of which he is judge, where said stream is not navigable, *Provided*, the expense does not exceed five hundred dollars, and for that purpose he may enter into contract with one or more persons which shall be binding on the county.

SEC. 11. **County judge may contract—petition—notice.** Where the expense of the erection of any bridge is greater than five hundred dollars, the county judge may enter into a contract with any person or persons for the construction of the same, *Provided*, that one hundred of the qualified voters of the county petition the county judge for that purpose, said petition must state the place of building such bridge, and the stream, and shall be heard at the first regular term of the county court after the same is filed in the office of county judge, *Provided*, ten days have intervened.—Notice of the time when said petition shall be heard and the object shall be posted up in five conspicuous places in said county, one of which shall be on the door of the county court room.

SEC. 12. **Conflicting laws repealed.** All acts and parts of acts inconsistent with this are hereby repealed.

SEC. 13. **Take effect.** This act shall be in force from and after its publication in the Iowa Weekly Citizen and Iowa State Journal.

Approved March 22d, 1858.

I hereby certify that the foregoing act was published in the Iowa Weekly Citizen March 31st, 1858, and in the Iowa State Journal on the 27th of March, 1858.

ELIJAH SELLS,
Secretary of State.

[186] CHAPTER 94.

JUDICIAL DISTRICTS.

AN ACT creating eleven judicial districts and defining their boundaries.

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

SECTION 1. **State divided.** That the state is hereby divided into eleven districts for judicial purposes, as provided in the constitution.

District Number 1.

SEC. 2. **1st district.** The counties of Lee, Henry, Des Moines and Lucas shall constitute the first district.

District Number 2.

SEC. 3. **2d district.** The counties of Van Buren, Davis, Wapello, Monroe, Appanoose, Lucas and Wayne shall constitute the second district.

District Number 3.

SEC. 4. **3d district.** The counties of Clarke, Decatur, Union, Ringgold, Adams, Montgomery, Page, Mills, Fremont, Pottawattamie and Cass shall constitute the third district.

District Number 4.

SEC. 5. **4th district.** The counties of Harrison, Shelby, Monona, Crawford, Woodbury, Ida, Sac, Buena Vista, Cherokee, Plymoth, Clay, O'Brien, Sioux, Buncombe, Osceola, Dickinson, Emmett, Palo Alto, Pocahontas, Calhoun, Kossuth and Humboldt shall constitute the fourth district.

District Number 5.

SEC. 6. **5th district.** The counties of Carroll, Audubon, Greene, Guthrie, Adair, Madison, Dallas, Warren and Polk shall constitute the fifth district.

District Number 6.

SEC. 7. **6th district.** The counties of Jasper, Marion, Poweshiek, Mahaska, Keokuk, Washington and Jefferson shall constitute the sixth district.

District Number 7.

SEC. 8. **7th district.** The counties of Muscatine, Scott, Clinton and Jackson shall constitute the seventh district.

[187] *District Number 8.*

SEC. 9. **8th district.** The counties of Johnson, Iowa, Tama, Benton, Linn, Cedar and Jones shall constitute the eighth district.

District Number 9.

SEC. 10. **9th district.** The counties of Dubuque, Delaware, Buchanan, Black Hawk and Grundy shall constitute the ninth district.

District Number 10.

SEC. 11. **10th district.** The counties of Clayton, Alamakee, Fayette, Winneshiek, Howard, Chickasaw, Bremer, Mitchell, Floyd and Butler shall constitute the tenth district.

District Number 11.

SEC. 12. **11th district.** The counties of Hardin, Franklin, Hamilton, Wright, Hancock, Winnebago, Webster, Marshall, Story, Cerro Gordo, Worth and Boone shall constitute the eleventh district.

SEC. 13. **Courts till 1859.** Nothing in this act shall in any way interfere with the holding of courts in the district as now organized, before the first day of January, 1859.

SEC. 14. **Take effect.** This act shall be in force from and after its publication according to law.

Approved March 20th, 1858.

CHAPTER 95.

SALES OF REAL ESTATE.

AN ACT authorizing courts to set aside sales of real estate, where there was no title in the judgment debtor at the time of the levy.

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

SECTION 1. **Imperfect title sets aside sales—money returned.** That where any person has heretofore or shall hereafter purchase at sheriff's sale, any real estate on which the judgment on which the execution issued was not a lien at the time of the levy, and which fact was unknown to the purchaser, the district [188] court of the county shall set aside said sale on application, notice having been given to the debtor ten days before the sitting of said court, and a new execution may be issued to enforce the judgment, and upon the order being made to set aside the sale, the sheriff or judgment creditor shall pay over to the purchaser the purchase money.

SEC. 2. **Take effect.** This act to take effect and be in force from and after its publication in the Tri-Weekly Citizen and Tri-Weekly Iowa State Journal.

Approved March 22d, 1858.

I hereby certify that the foregoing act was published in the Iowa State Journal on the 27th day of March, 1858, and in the Iowa Weekly Citizen, March 31st, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 96.

LAWS TAKE EFFECT.

AN ACT fixing the time when laws published in newspapers shall take effect.

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

SECTION 1. **Take effect after date of publication.** That all laws enacted at the present (being the seventh) session of the general assembly, which provide for taking effect by publication in newspapers, shall take effect from and after the date of such publication. The provision of the code in chapter 3, section 21 to the contrary notwithstanding.

SEC. 2. **Take effect.** This act shall take effect from and after its publication in the Tri-Weekly Iowa Citizen and the Tri-Weekly Iowa State Journal.

Approved March 22d 1858.

I hereby certify that the foregoing Act was published in the Iowa Weekly Citizen on the 24th of March, 1858, and in the Iowa State Journal on the of March, 1858.

ELIJAH SELLS,
Secretary of State.

[189] CHAPTER 97.

DES MOINES COMMISSIONER.

AN ACT appointing a commissioner to procure the lands granted for improving the navigation of the Des Moines River, to be certified to the state.

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

SECTION 1. **Chas. Mason appointed—use efforts to procure lands.** That Charles Mason, of Des Moines county, is hereby appointed a commissioner, whose duty it shall be to do all acts in behalf of the state which may be necessary to procure the lands belonging to the grant made to the then territory of Iowa, by an act of congress, approved August 8th, 1846, for the improvement of the navigation of the Des Moines river, in said territory, to be certified and set apart to said state by the proper department of the general government, and any act or agreement as to the amount of land to which the state may be entitled under said act of congress made or concluded by said agent is hereby ratified and confirmed.

SEC. 2. **State not liable for expense.** That the state of Iowa shall not be liable in any manner for any damages growing out of any act or agreement of said agent hereby appointed, nor shall the state be held liable for any expense in any manner for the salary or *per diem* of said agent.

SEC. 3. **Take effect.** This act to take effect and be in force immediately after its publication in the Iowa State Journal and Iowa Weekly Citizen.

Approved March 22d, 1858.

I hereby certify that the foregoing act was published in the Iowa State Journal on the 10th day of April, 1858, and in the Iowa Weekly Citizen on the 14th day of 1858.

ELIJAH SELLS,
Secretary of State.

[190] CHAPTER 98.

LIMITED PARTNERSHIPS.

AN ACT for the formation of limited partnerships.

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

SECTION 1. Partnerships authorized. That limited partnerships for the transaction of any mercantile, mechanical or manufacturing business within this state, may be formed by two or more persons, upon the terms, with the rights and powers, and subject to the conditions and liabilities herein prescribed.

SEC. 2. General partners—special partners. Such partnerships may consist of one or more persons, who shall be called general partners, and who shall be jointly and severally responsible as general partners now are by law; and of one or more persons who shall contribute in actual cash payments, a specific sum as capital to the common stock, who shall be called special partners, and who shall not be liable for the debts of the partnership, beyond the funds so contributed by him or them to the capital.

SEC. 3. General partners transact business. The general partners only shall be authorized to transact business and sign for the partnership, and to bind the same.

SEC. 4. Certificate of partnership. The persons desirous of forming such partnership, shall make and severally sign a certificate, which shall contain,

1st. **Name of firm.** The name or firm under which such partnership is to be conducted.

2d. **Business.** The general nature of the business intended to be transacted.

3d. **Names of partners.** The names of all the general and special partners interested therein, distinguishing which are general and which are special partners, and their respective places of residence.

4th. **Capital.** The amount of capital which each special partner shall have contributed to the common stock.

5th. **Length of partnership.** The period at which the partnership is to commence and the period at which it will terminate.

SEC. 5. Certificate acknowledged. The certificate shall be acknowledged or [191] proved as to the several persons signing the same before some one authorized to administer oaths and take acknowledgements of deeds.

SEC. 6. Certificate recorded. The certificate so acknowledged, shall be filed in the office of the clerk of the district court, of the county in which the principal place of business of the partnership shall be situated, and shall also be recorded by him at large, in a book to be kept for that purpose, open to public inspection. If the partnership shall have places of business situated in different counties, a transcript of the certificate, and of the acknowledgement thereof duly certified by the clerk of the district court in whose office it shall be filed, under his official seal, shall be filed and recorded in like manner in the office of the clerk of the district court of every such county.

SEC. 7. Affidavit of capital paid in. At the time of filing the original certificate, with the evidence of the acknowledgement thereof, as before directed, an affidavit of one or more of the general partners shall also be filed in the

same office, stating that the sums specific in the certificate, to have been contributed by each of the special partners to the common stock, have been actually and in good faith paid in cash.

SEC. 8. Partnership illegal if certificate not filed. No such partnership shall be deemed to have been formal until a certificate shall have been made, acknowledged, filed and recorded, nor until an affidavit shall have been filed, as above directed, and if any false statement be made in such certificate or affidavit, all the persons interested in such partnership, shall be liable for all the engagements thereof as general partners.

SEC. 9. Terms of partnership published. The partners shall publish the terms of the partnership when registered, for at least six weeks immediately after such registry in two newspapers, to be designated by the clerk of the district court of the county in which such registry shall be made, and to be published in the senatorial district in which their business shall be carried on, and if such publication be not made the partnership shall be deemed general.

[192] **SEC. 10. Affidavit of publication filed.** Affidavits of the publication of such notice by the printers of the newspapers in which the same shall be published, may be filed with the clerk of the district court directing the same, and shall be evidence of the facts therein contained.

SEC. 11. Renewals acknowledged and recorded. Every renewal or continuance of such partnership beyond the time originally fixed for its duration, shall be certified, acknowledged and recorded, and an affidavit of a general partner be made and filed, and notice be given in the manner herein required for its original formation, and every such partnership which shall be otherwise renewed or continued, shall be deemed a general partnership.

SEC. 12. Alterations vitiate the partnership. Every alteration which shall be made in the names of the partners in the nature of the business, or in the capital or shares thereof, or in any other matter specified in the original certificate, shall be deemed a dissolution of the partnership, and every such partnership which shall in any manner be carried on after any such alteration shall have been made, shall be deemed a general partnership, according to the provisions of the last section.

SEC. 13. Names of firm specified. The business of the partnership shall be conducted under a firm in which the names of the general partners only shall be inserted, without the addition of the word "Company" or any other general term, and if the name of any special partner shall be used in such firm, with his privity, he shall be deemed a general partner.

SEC. 14. Suits against the firm. Suits in relation to the business of the partnership may be brought and conducted, by and against the general partners in the same manner as if there were no special partners.

SEC. 15. Special partner's capital not to be withdrawn. No part of the sum which any special partner shall have contributed to the capital stock, shall be withdrawn by him, or paid or transferred to him, in the shape of dividends, profits or otherwise at any time during the continuance of the partnership, but any partner may annually receive lawful interest on the sum so contributed by him, if the payment of such interest [193] shall not reduce the original amount of such capital, and if after the payment of such interest, any profits shall remain to be divided, he may also receive his portion of such profits.

SEC. 16. Special partner makes capital good. If it shall appear, that by the payment of interest or profits to any special partner, the original capital has been reduced, the partner receiving the same, shall be bound to restore the amount necessary to make good his share of capital, with interest.

SEC. 17. Special partner's powers. A special partner may, from time to time, examine into the state and progress of the partnership concerns, and

may advise as to their management, but he shall not transact any business on account of the partnership, nor be employed for that purpose as agent, attorney, or otherwise. If he shall interfere, contrary to these provisions he shall be deemed a general partner.

SEC. 18. **Gener'l partner's duties.** The general partners shall be liable to account to each other, and to the special partners, for their management of the concern, both in law and equity, as other partners now are by law.

SEC. 19. **A partner's fraud punish'd by fine and imprisonment.** Every partner who shall be guilty of any fraud in the affairs of the partnership, shall be liable civilly, to the party injured to the extent of his damage, and shall also be liable to an indictment for a misdemeanor, punishable by fine or imprisonment, or both, in the discretion of the court by which he shall be tried.

SEC. 20. **Firm cannot assign property or prefer creditors.** Every sale, assignment or transfer of any of the property or effects of such partnership, made by such partnership when insolvent or in contemplation of insolvency, or after, or in contemplation of the insolvency of any partner, with the intent of giving a preference to any creditor of such partnership or insolvent partner, over other creditors of such partnership, and every judgment confessed, lien created, or security given by such partnership, under the like circumstances, and with the like intent, shall be void, as against the creditors of such partnership.

SEC. 21. **Any partner cannot assign property or prefer creditors.** Every such sale, assignment, or transfer of any of the property or effects of a general or special [194] partner, made by such general or special partner, when insolvent or in contemplation of insolvency, or after or in contemplation of the insolvency of the partnership, with the intent of giving to any creditor of his own, or of the partnership a preference over creditors of the partnership, and every judgment confessed, lien created or security given by any such partner under the like circumstances and with the like intent be void, as against the creditors of the partnership.

SEC. 22. **Special partner's liabilities.** Every special partner who shall violate any provisions of the two last preceding sections, or who shall concur in or assent to, any such violation by the partnership or by any individual partner, shall be liable as a general partner.

SEC. 23. **Special partners not allowed as creditor.** In case of the insolvency or bankruptcy of the partnership, no special partner shall, under any circumstances, be allowed to claim as a creditor, until the claims of all the other creditors of the partnership shall be satisfied.

SEC. 24. **Terms of dissolution of partnership.** No dissolution of such partnership by the acts of the parties, shall take place previous to the time specified in the certificate of its formation, or in the certificate of its renewal, until a notice of such dissolution shall have been filed and recorded in the office of the clerk of the district court in which the original certificate was recorded, and published once in each week for four weeks, in a newspaper printed in each of the counties where the partnership may have places of business.

SEC. 25. **Take effect.** This act shall be in force from and after its publication according to law.

Approved March 22d, 1858.

[195] CHAPTER 99.

LAND GRANT TO THE DES MOINES VALLEY R. R.

AN ACT disposing of the grant of land made by an act of congress granting land to the territory of Iowa to aid in the improvement of the navigation of the Des Moines river.

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

SECTION 1. Des Moines river lands given to the railroad—lands of navigation company excepted. That all the lands granted to the then territory of Iowa by an act of congress, approved August eighth, eighteen hundred and forty-six, entitled an act granting lands to the territory of Iowa, to aid in the improvement of the navigation of the Des Moines river in said territory, and all lands and compensation which may be given in extension or in lieu of any portion thereof by the general government, and also all stone, timber and other material turned over to the state by the Des Moines Navigation and Rail Road Company in settlement with the state of Iowa, be and the same are hereby disposed of and granted to the Keokuk, Fort Des Moines and Minnesota Rail Road Company, a body corporate created, and existing under the laws of the state of Iowa, to aid in the construction of a railroad from the city of Keokuk, at the mouth of the Des Moines river, up and along the valley of said river by way of the city of Des Moines, to the northern line of the state, in the direction of the southern bend of the Minnesota or St. Peters river, excepting all the lands belonging to said grant heretofore sold by the state of Iowa, or which may hereafter be conveyed to the Des Moines Navigation and Railroad Company by virtue of a settlement now pending between the state and said company, and also so much of the said timber, stone and other material as may be used in the completion of the locks and dams at Croton, Plymouth, Bentonsport and Keosauqua, this grant to become operative as soon as congress shall assent to or permit a diversion or the title thereto shall become vested in the state so as to be subject to grant.

SEC. 2. Rail road company to pay liabilities of improvement Co., and of the state—Co. completes locks and dams—liabilities paid secures land—state preserved harmless. That the Keokuk, Fort Des Moines and Minnesota Rail Road Company, shall pay all liabilities [196] against said Des Moines River Improvement, and against the state of Iowa, growing out of said improvement whether by contracts between the state and other parties or between the Des Moines Navigation and Rail Road Company and other parties or between any parties whatever which have been assumed by the state in consequence of the proposed settlement with the Des Moines Navigation and Railroad Company, as contained in the joint resolution passed at the present session of the general assembly; and said company shall also complete the locks and dams at Croton, Plymouth, Bentonsport and Keosauqua, and fifty thousand acres of the lands which may hereafter be certified by the general government to the state of Iowa shall be set apart by the register of the state land office, which said lands shall be held for the purpose of securing the payment of said liabilities and the completion of said locks and dams, and that whenever said company shall pay thirty thousand dollars of said liabilities properly audited and allowed by the register of the state land office, or shall do thirty thousand dollars worth of work on said locks and dams to be certified and allowed by an engineer to be appointed by the governor to superintend said works, that then the register of the state land office shall issue to said company a certificate for ten thousand acres of said lands, so set apart for every thirty thousand dollars so paid or expended until said liabilities are

paid, and said locks and dams are completed and if any of said fifty thousand acres of land shall remain after the payment of said liabilities and the completion of said locks and dams, it shall be certified to said rail road company in the same manner provided in this act, *Provided*, that if the proceeds of the said fifty thousand acres of land shall at any time be found insufficient to discharge existing contracts for constructing or repairing the works at Keosauqua, Bentonsport, Plymouth and Croton and in all respects preserve the state harmless on account of any liabilities now existing against the state, or that has been assumed by the proposed settlement with the Des Moines Navigation and Rail [197] Road Company, or arising in any manner from the past improvement of the Des Moines river, or the payment of the officers or agents employed in and about said improvement, then the said Keokuk, Fort Des Moines and Minnesota Railroad Company shall be liable to pay the state the amount of such deficiency.

SEC. 3. One hundred twenty sections of land given for twenty miles of road—lands applied to rail road only—one fourth above Des Moines. When ever the president and chief engineer of said railroad company shall certify under oath to the register of the state land office that twenty miles of said railroad in a continuous line from the town of Bentonsport up the valley of the Des Moines River have been completed and the cars running thereon, the register shall issue to said company a certificate for one hundred and twenty sections of land, to be taken as nearly as practicable in a body from the remaining lands nearest to the completed part of said railroad, and the governor shall upon presentation of said certificate issue to said company a patent for said lands and so from time to time as twenty miles are completed until three fourths of said lands are exhausted, *Provided*, that the lands hereby granted and so certified to said company shall be exclusively applied in extending the construction of said railroad in a continuous line above Bentonsport, and shall be applied to no other purpose whatever; and, provided also, that one fourth in quantity of said land shall be applied by said company in the construction of said road above the city of Des Moines; the said one fourth to be certified in manner as herein provided from the completion of each twenty miles from the city of Des Moines up the valley of the Des Moines river.

SEC. 4. Seventy-five miles completed in three y'rs—whole line completed by 1868. The grant aforesaid is made to said company upon the express condition that in case such railroad company shall fail to have completed and equipped seventy-five miles of road up the valley of the Des Moines river, from the town of Bentonsport within three years from the first day of December next, thirty-three miles in addition in each year thereafter for five years, and the remainder of the whole line in three years thereafter on the first day of December, eighteen hundred [198] and sixty-eight, then in that case it shall be competent for the state of Iowa to reserve all rights to the lands hereby granted, then remaining uncertified to said company so failing to have the length of road completed in manner as aforesaid.

SEC. 5. This grant subject to all provisions of other railroad grants. That this grant is subject to all the provisions of an act of the general assembly of the state of Iowa, approved July fourteenth, eighteen hundred and fifty six, entitled an act to accept the grant and carry into execution the trust conferred upon the state of Iowa by an act of congress entitled an act making a grant of lands to the state of Iowa in alternate sections to aid in the construction of railroads in said state approved May 15th 1856, so far as the same are applicable and not inconsistent with the foregoing provisions of this act.

SEC. 6. **Take effect.** This act to take effect and be in force immediately after the publication thereof in the Iowa Weekly Citizen and Iowa State Journal, newspapers published at Des Moines, Iowa.

Approved March 22d, 1858.

I hereby certify that the foregoing act was published in the Iowa Weekly Citizen on the 7th day of April, 1858, and in the Iowa State Journal on the 3d day of April, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 100.

SWAMP LAND PRE-EMPTIONS.

AN ACT for the relief of swamp land pre-emptors.

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

SECTION 1. **Pre-emption prior to 1857, not forfeited—must prove up within six months.** That in all cases where any person had acquired a bona-fide pre-emption claim to any swamp land of this state, under the laws heretofore in force, and who was, in good faith residing on the same on the fifth day of September, 1857, such person shall not be held to have forfeited the same in consequence [199] of not having proved up such pre-emption in accordance with such law: *Provided*, he shall produce his evidence and prove up the same in accordance with the laws in force prior to the fifth day of September, 1857, and within six months from the day this act goes into force; and provided further that no certificate of pre-emption has been granted for the land so claimed to any other person.

SEC. 2. **Co. judge hear and determine—insure certificate.** It shall be the duty of the county judge when application is made for a pre-emption under this act, to hear and determine upon the same within thirty days from the date of the application, and shall notify the applicant at the time of his making his application, of the day upon which he will hear the testimony in the case. If the proof shall be deemed sufficient, the county judge shall issue a certificate of pre-emption in favor of the claimant to lands claimed, or to such portion of them as he shall have sustained his claim for a pre-emption to.

SEC. 3. **Co. judge quit-claims the interest of the county.** The several county judges, in all cases where any person now holds, or may hereafter fairly acquire certificates of pre-emption to swamp lands in accordance with the laws heretofore in force, or in accordance with this act, shall be required to quit-claim the county interest to the persons holding said certificates of pre-emption, or the lawful assignees under the same, on payment or tender of payment of the said county judge, the price per acre named in such certificate, at any time within six months from the passage of this act; or if said certificate is granted after the passage of this act, six months from the date thereof.

SEC. 4. **Take effect.** This act to take effect and be in force from and after its publication in the Iowa Weekly Citizen and Iowa State Journal.

Approved March 22d, 1858.

I hereby certify that the foregoing act was published in the Iowa Weekly Citizen on the 7th of April, 1858, and in the Iowa State Journal on the 3d of April, 1858.

ELIJAH SELLS,
Secretary of State.

[200] CHAPTER 101.

STOCK IN AGRICULTURAL COLLEGES.

AN ACT to authorize county judges to subscribe stock in agricultural colleges.

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

SECTION 1. **Co. judge may subscribe upon petition of voters.** That in any county in which an agricultural society shall have or may hereafter be organized under the laws of this state, the county judge of such county shall, upon being petitioned to that effect, by a majority of the legal voters of such county, as shown by the last election preceding for county officers, subscribe in the name of the county to the stock of such agricultural society, such sum as may be so petitioned for, not to exceed one thousand dollars, nor more than five hundred dollars in counties with less than four thousand inhabitants, to be expended in fitting up fair grounds.

SEC. 2. **Mon'y paid upon certificates of stock.** That the county judge upon the receipt of the certificate of such society, duly issued and authenticated, as directed by the articles of association of such society, shall issue orders on the treasury of the county for the amount, in such sums as shall seem best, and when the same is paid, such county shall hold such stock in the same manner and subject to the same rule as other share-holders, and the county judge shall represent the county in all meetings of the stockholders.

SEC. 3. **Money expended.** The money received by the associations from the county treasury, shall be expended under the direction of the board of directors of the association.

SEC. 4. **Money repaid in four years.** The amount so paid out of the treasury, shall be levied and collected as other taxes are—one-fourth of the amount in each year thereafter, until the same is all levied and collected.

SEC. 5. **Take effect.** This act shall take effect from and after its publication in the Iowa Weekly Citizen and Iowa State Journal.

Approved March 22d, 1858.

I hereby certify that the foregoing act was published in the Iowa Citizen on the 7th day of April, 1858, and in the Iowa State Journal on the 3d day of April, 1858.

ELIJAH SELLS,
Secretary of State.

[201] CHAPTER 102.

DISTRICT ATTORNEYS.

AN ACT providing for the election of district attorneys, prescribing their duties and fixing their compensation.

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

SECTION 1. **Elected in 1858—term of office.** That there shall be elected by the qualified electors of each judicial district on the second Tuesday in October, eighteen hundred and fifty-eight, and every four years thereafter, one district attorney, who shall hold office for four years, and until his successor is elected and qualified, and shall be qualified by the governor.

SEC. 2. **Conducting electi'n and canvass.** The manner of conducting said election, the return and canvass thereof, as also the manner of proceeding in case of contest, shall be the same as may be provided by law in relation to other state officers.—*Provided*, that the governor and lieutenant governor shall not for the purposes of this act be deemed state officers.

SEC. 3. **Duty to appear for state—furnish abstract of proceedings to att'y gen'l—further appears for state—other counsel may be employed.** It shall

SEC. 3. **Duty to appear for state—furnish abstract of proceedings to attorney general—further appears for state—other counsel may be employed.** be the duty of the district attorney to appear for the state and several counties comprising his district in all matters in which the state or any such county may be a party or interested, in the district court of his district, before any judge, on a writ of habeas corpus sued out by a person charged or convicted of a public offense, the prosecution being in his district. He shall in any of the above proceedings taken from his district to the supreme court, furnish to the attorney general a brief containing the substance of such proceeding, and the questions therein involved, on or before the day in the term of the supreme court at which such proceeding is set for hearing in that court. He shall also appear for the state or any county in any proceedings brought to his district from any other on change of venue, and he is authorized when he deems it advisable, to appear before justices of the peace in the initiatory proceedings in criminal cases. *Provided*, that nothing herein contained shall prevent the county judge whenever he may deem it necessary from employing [202] an attorney to appear to prosecute or defend in any case properly belonging to the duties of the district attorney.

SEC. 4. **Opinion in writing—drafts for contracts.** The district attorney shall, when requested, give his opinion in writing, without fee, upon all questions of law submitted to him by any county officer within his district, and which has reference to the official duty of such officer, and whenever requested by any such officer he shall prepare proper drafts for contracts, forms and other writings which may be wanted for the use of any county in his district, and he shall file in his office and preserve a copy of his opinions thus furnished.

SEC. 5. **Moneys paid ov'r.** All moneys received by the district attorney belonging to the people of the state or any county, shall immediately upon the receipt thereof be paid by him to the officer who by law is entitled to the custody thereof.

SEC. 6. **Qualifies by taking oath—bond executed.** Before entering upon the duties of his office, he shall take and subscribe an oath that he will support the constitution of the United States and of this state, that he will faithfully and impartially discharge the duties of his office, and shall execute to the state of Iowa a bond with good and sufficient sureties in the penal sum of ten thousand dollars, to be approved by the judge of the district court of his district, conditioned for the faithful discharge of his duties and the paying over of all moneys as provided in this act, which bond shall be filed in the office of the secretary of state, and said bond shall be renewed in a larger penal sum and with additional sureties whenever required by the district judge of the proper judicial district; such bond shall inure to and be for the benefit of the people of the state or any county or fund injured by a breach in the conditions thereof.

SEC. 7. **Enters upon duties.** The district attorneys elected under the provisions of this act, shall enter upon the discharge of their duties on the first day of January next succeeding their election. Should there be a failure in this respect, from any cause whatever, the office shall be deemed vacant.

[203] **SEC. 8. Vacancy—filled by governor—Pros. Att'y appears.** Should a vacancy occur in the office of district attorney at any time from any cause whatever, the vacancy thus occurring shall be filled by the governor by appointment, and the person so appointed shall hold said office until the next general election, when a successor shall be elected to fill the remainder of said unexpired term and until his successor is elected and qualified. And where any term or terms of the district court are holden between the day of election of district attorney and the first day of January, A. D. 1859, the present prosecuting attorney shall appear and prosecute on the part of the state.

SEC. 9. Salary. The several district attorneys shall receive for their services each the sum of eight hundred dollars per annum out of the state treasury, to be audited and paid as the salaries of other state officers.

SEC. 10. Fees for conviction. In addition to the above salary, he shall receive for every conviction procured by him during his term of service, for a misdemeanor five dollars, for a felony ten dollars, such fees to be allowed and paid by the county judge in each county in which the cause originated.

SEC. 11. Fees collected from defendant. In case of conviction contemplated in the preceding section, the following fees shall be taxed against the defendant, to-wit: In case of a misdemeanor five dollars; in case of felony ten dollars, which shall be collected by the district clerk and paid into the county treasury.

Approved March 22d, 1858.

CHAPTER 103.

COUNTY RECORDS.

AN ACT in relation to county records .

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

SECTION 1. Co. records may be transcribed. That the county judge of any organ- [204] -ized county in this state, whenever such county judge, clerk of the district court and recorder of the proper county, or a majority of them, shall deem it necessary and expedient, shall have authority to have transcribed, indexed and arranged any deed, probate or county record belonging to said county, or have made a complete index as contemplated by section numbered 1213 of the code of Iowa, of any such record.

SEC. 2. New counties may have records transcrib'd. Whenever any new county shall have been formed from other original and organized counties, or shall have been attached to another county, for judicial or other purposes, and shall afterwards be fully organized and detached, and when any records of the kind mentioned in section 1st of this act, are in the original county or counties, which properly belongs to such new county, the county judge of such new or detached county, shall, when the same is deemed best by the county judge, county clerk and recorder of such new county, or any two of them, have authority to have transcribed, indexed and arranged, such records, or any of them, for the use of such new county, and at the expense of such new county.

SEC. 3. Compensati'n for transcribing records. The county judge may employ any suitable person to perform said labor, the amount of the compensation thereof to be previously fixed by the person or persons whose duty it

may be to audit claims against the county, and provided that such compensation not exceeding six cents for each one hundred words of the records proper, and twelve and one half cents for each one hundred words of indexing—such compensation to be paid out of the treasury of the county for which the records are transcribed, and to be audited as other claims.

SEC. 4. Records compared and certified to. When any such records are so transcribed, the county judge of the county to which the original records belong, shall compare the copy so transcribed with the original, and upon the same being found to be correctly transcribed, such county judge shall make a written certificate in each volume or book of such transcribed records, under his official seal, certifying that [205] such transcribed records have been compared with the original by himself, and are true and correct copies of the original records.

SEC. 5. Transcribed records receiv'd as evidence. Such transcribed records, so certified, shall have the same force and effect in all respects, as the original records, and be admissible as evidence in all cases of equal validity with the original records.

SEC. 6. Conflicting acts repealed. All acts and parts of acts inconsistent with this act, are hereby repealed.

SEC. 7. Take effect. This act shall take effect from and after its publication in the Iowa Citizen and Iowa State Journal.

Approved March 22d, 1858.

I hereby certify that the foregoing act was published in the Iowa Citizen on the day of April, 1857, and in the Iowa State Journal on the 10th day of April, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 104.

ATTORNEY GENERAL.

An ACT to provide for the election of attorney general and defining his duties.

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

SECTION 1. Elected in 1858 for two years. That at the October election, A. D. 1858, and every two years thereafter, there shall be elected an attorney general, who shall hold his office for two years and until his successor is elected and qualified.

SEC. 2. Att'y gen'l appear for state. The attorney general shall appear for the state and prosecute and defend all suits and proceedings, civil and criminal, in which the state shall be a party or interested when requested to do so by the governor, secretary of state, auditor, treasurer or general assembly, and shall prosecute and defend for the state all causes in the supreme court in which the state may be a party, or interested.

SEC. 3. He gives opini'ns in writing—prepares drafts for contracts. The attorney general when requested, shall give his opinion in writing upon all questions of law [206] submitted to him by the general assembly or either branch thereof, governor, lieutenant governor, auditor, secretary of state, treasurer, superintendent of public instruction, register of state land office, and district attorneys; and when required he shall prepare proper drafts for contracts, forms and other writings which may be required for the use of the

state and shall report to the general assembly when requested, upon any business pertaining to his office.

SEC. 4. **Moneys p'd ov'r.** All moneys received by the attorney general belonging to the people of the state, shall be paid by him into the state treasury.

SEC. 5. **He keeps a register.** The attorney shall keep in proper books, a register of all actions and demands prosecuted and defended by him in behalf of the state, and of all proceedings had in relation thereto, and shall deliver the same to his successor in office.

SEC. 6. **Takes an oath and gives bond—bond filed.** Before entering upon the discharge of his duties, he shall take and subscribe an oath faithfully and impartially to discharge the duties of the same, and shall execute to the state of Iowa a bond with good and sufficient sureties in the sum of ten thousand dollars, to be approved by the governor, conditioned for the faithful discharge of his duties, and paying over all moneys as provided in this act, and which shall be filed with the secretary of state, and whenever required by the governor or general assembly he shall give additional and further security.

SEC. 7. **Salary—fees and mileage.** His compensation shall be one thousand dollars per annum, to be paid quarterly, and he shall further receive for his attendance on the supreme or inferior courts three dollars per day during his necessary attendance on business pertaining to his office, and fifteen cents per mile for his actual travel in going to or returning from such court by the nearest and most practicable route. *Provided*, his compensation shall not exceed fourteen hundred dollars per annum.

SEC. 8. **Office at the capital.** The secretary of state shall furnish a suitable office at the capitol, and such books of record and stationery as may be required for his office, and the at- [207] -torney general shall attend in person at the capital of the state during the session of the general assembly, and the supreme court.

SEC. 9. **Record of official opinions.** The attorney general shall keep in his office a book in which he shall record all the official opinions given by him during his term of office, which book shall be by him delivered to his successor in office.

SEC. 10. **Take effect.** This act to take effect from and after its publication in the Iowa Weekly Citizen and Iowa State Journal.

Approved March 22d, 1858.

I hereby certify that the foregoing act was published in the Iowa Weekly Citizen on the 7th day of April, 1858, and in the Iowa State Journal on the 10th day of April, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 105.

CORPORATION TAXES.

AN ACT concerning taxes levied by municipal authorities.

Inequalities stated. WHEREAS, By the charters and other acts granting to municipal corporations, the right to levy and collect taxes on real estate, the mode of said collection, the rate of interest, and the effect of the collector's deed are various, unequal, and in some cases unjust; and, whereas it is desir-

able to remedy such defects, and establish a uniform principle on the subject, therefore,

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

SECTION 1. Deed from city of same force as deed from county—rate of interest. That from and after the publication of this law, in all cases of the sale of real estate made by virtue of the laws and ordinances of any municipal corporation in this state, the purchaser shall receive a deed which shall have the same effect as the county treasurer's deeds under sales made by him, as provided in the code, and that the mode there provided for the purposes of making sales effective, and foreclosing the redemption, shall be purchased by the holder of [208] said corporation deed; and that no greater rate of interest than twenty-five per cent. per annum, shall hereafter be charged on any such deed or sale.

SEC. 2. Take effect. This act shall take effect and be in force from the date of its publication.

Approved March 22d, 1858.

CHAPTER 106.

ELECTION OF COUNTY SUPERINTENDENT.

AN ACT to amend section ninety-six of an act for the public instruction of the state of Iowa.

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

SECTION 1. Day of election. That section ninety-six of an act for the public instruction of the state of Iowa, approved March 13th, 1858, is hereby amended by striking out first Monday of April next, and inserting in lieu thereof the first Monday of May next.

SEC. 2. Take effect. This act shall be in force from and after its publication in the Iowa State Journal and the Iowa Weekly Citizen.

Approved March 22d, 1858.

I hereby certify that the foregoing act was published in the Iowa State Journal on the 3d day of April, 1858, and in the Iowa Weekly Citizen on the 7th day of April, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 107.

DELINQUENT COUNTY TREASURERS.

AN ACT requiring suit to be instituted and prosecuted against delinquent county treasurers.

Delinquent taxes. WHEREAS, It is shown by the report of the auditor of state, made to the general assembly at its present [209] session, that a large amount of revenue is due the state on taxes which should have been paid heretofore; now that the state may not suffer loss by reason of the delinquency or neglect of county treasurers in collecting or paying over the state revenue—

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

SECTION 1. **Gov. commence suit for collection.** That the governor of the state is hereby authorized and required to take such measures, either by suit at law or otherwise, as to him may seem effectual and expedient for the collection of all such moneys as may appear by the books of the auditor and treasurer of state, to be due the state from the county treasurers.

SEC. 2. **Suit commenced against sureties.** And be it further enacted, that when such delinquency appears to have occurred during the official term of any former county treasurer, the same authority is hereby given and required to be exercised in the collection from them or their sureties of all sums of money which may appear to be due the state from such former treasurers.

SEC. 3. **District attorneys assist—pay of counsel.** And be it further enacted, that for the purpose of carrying the intention of this act into effect, the governor may require the services of the attorney general and prosecuting or district attorneys to aid and assist in commencing and prosecuting to judgment such suit or suits as may be required to be instituted and prosecuted in carrying into effect this act, and that the governor have authority to employ such other aid as in his judgment may be required for the same purpose; provided, that the compensation paid for the services of such other aid or assistance shall not exceed the *per diem* compensation allowed by law to the attorney general when employed in the service of the state.

SEC. 4. This act shall take effect and be in force from and after its publication in the Iowa Citizen and Iowa State Journal.

Approved March 22d, 1858.

I hereby certify that the foregoing act was published in the Iowa Citizen on the 7th of April, 1858, and in the Iowa State Journal on the 3d day of April, 1858.

ELIJAH SELLS,
Secretary of State.

[210] CHAPTER 108.

NAMES OF TOWNS AND VILLAGES.

AN ACT to change the names of towns and villages not incorporated.

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

SECTION 1. **Petition for change—notice given—decree.** That any town or village desirous of changing its name shall petition the county court of the county where such town or village is situated, and if it shall appear to said court that a majority of the actual voters of such town or village are in favor of such change, he shall cause three notices to be posted up in three of the most public places of the town for at least thirty days previous to the next sitting of said court, which notice shall state the fact that a petition has been presented to said court by the citizens of said town or village, praying for a change of name of said town or village, also the name prayed for by said petitioners, and that unless those interested in the change of said name will appear at the next regular term of said court and show cause why said name shall not be changed there will be a decree rendered granting such change, which notice shall be signed by said court and attested by the seal thereof.

SEC. 2. **Decree rendered and recorded—majority governs.** If at the time fixed for the trial the court is satisfied there are still a majority in favor of such change of name, said court shall render a decree granting such change, attesting the same by his official name, together with the seal of his court, which decree shall be recorded in the office of the recorder of the county where such town or village is situated. The cost of such change and recording shall be paid by the petitioners of such town or village. But should it appear to said court that a majority of the citizens of such town or village are not in favor of such change, he shall dismiss the case and tax the cost of the proceedings against the petitioners.

SEC. 3. **Take effect.** This act to take effect from and after its publication according to law.

Approved March 22d, 1858.

[211] CHAPTER 109.

WITNESSES UPON INDICTMENTS.

AN ACT amending section 2913 of the code of Iowa in regard to the endorsing of the names of witnesses upon indictments.

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

SECTION 1. **Non-endorsme't does not prevent testimony—notice of testimony.** That nothing contained in section 2913 of the code of Iowa shall prevent the prosecuting or district attorney from introducing any witnesses upon the trial of any person upon an indictment hereafter found, whether his name shall be endorsed thereon or not, as required by said section; *Provided*, the prosecuting or district attorney gives to the person accused in said indictment, or his attorney, three days notice in writing before the commencement of the trial, that upon the trial of said indictment, he will introduce other witnesses, whose names shall be set out in said notice, than those endorsed upon the indictment, and said witnesses so called shall be entitled to full faith and credit.

SEC. 2. **Take effect.** This act shall take effect and be in force from and after its publication in the Iowa State Journal and the Iowa Weekly Citizen.

Approved March 22d, 1858.

I hereby certify that the foregoing act was published in the Iowa State Journal on the 10th of April, 1858, and in the Iowa Weekly Citizen on the 31st of March, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 110.

WEIGHT OF SEEDS.

AN ACT to determine the weight of certain seeds named therein.

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

SECTION 1. **Seeds specified.** The weight of a bushel of Hungarian grass seed shall be forty-five pounds; the weight of a bushel of millet seed shall be

forty-five pounds; the weight of a bushel of Osage orange seed shall be thirty-
[212] two pounds, and the weight of a bushel of the seed of the sorghum
saccharatum and of the broom corn shall be thirty pounds each.

SEC. 2. **Take effect.** This act to be in force and take effect from and after
its publication according to law.

Approved March 22d, 1858.

CHAPTER 111.

EQUALIZATION OF TAXES FOR 1857.

AN ACT to provide for the equalization of the assessment of real estate for the year
A. D., 1857.

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

SECTION 1. **County boards meet—aggregate assessment altered.** That the
several county boards for the equalization of the assessment roll as now con-
stituted by law, shall have a session of said board in their several counties on
the second Monday in May, A. D., 1858, at which session they shall proceed to
equalize the assessment of real property in their respective counties, and may
add to or deduct from the aggregate assessment of the whole county, for the
year 1857; and in doing so they shall take into consideration the relative de-
preciation of the several descriptions of real property in their several counties,
since said assessment and valuation was made.

SEC. 2. **Clerk to transmit abstract.** Each county clerk shall immediately
after the assessment of said board, make out and transmit by mail, or other-
wise, to the auditor of state, an abstract of the real property in the county,
as required by section fifteen of "an act in relation to the assessment of prop-
erty," approved January 28th, 1857, and also transmit therewith a statement
of the doings of the county board of equalization of this county.

SEC. 3. **State board meet.** The state board of equalization, as now consti-
tuted by law, shall hold a session on the first Monday in July, 1858, at which
they shall perform the du- [213] -ties required of them by section sixteen and
seventeen of the act aforesaid, and immediately after their work is performed,
the auditor of state shall transmit statements of their doings as required by
said section seventeen of said act.

SEC. 4. **Neglect of duty punished.** Any county clerk who shall neglect or
refuse to perform the duties herein required, shall be deemed guilty and liable,
as provided by section eighteen of said "act in relation to the assessment of
property."

SEC. 5. **Take effect.** This act to take effect from and after its publication
in the Iowa Weekly Citizen and the Iowa State Journal.

Approved March 22d, 1858.

I hereby certify that the foregoing act was published in the Iowa Weekly Citizen
on the 7th day of April, 1858, and in the Iowa State Journal on the 13th day of
April, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 112.

DUTIES OF ASSIGNEES.

AN ACT to amend section seven of chapter two hundred and fifty-four of the Laws of the sixth general assembly of the state of Iowa, approved January 29th, 1857, in relation to assignments.

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

SECTION 1. **Subject to order of Dist. court—render accounts.** That the assignee or assignees, in the execution of assignments, shall at all times be subject to the order and supervision of the district court when in session, or the district judge of said court when not in session, and the said court or the said judge may, by citation and attachment, compel the assignee or assignees from time to time to file reports of his or their proceedings, and of the situation and condition of the trust, and to proceed in the faithful execution of the duties required by the act of which this is amendatory, and to obey the order of such court when in session or the said judge when not in session, in relation to the complete and final settlement, distribution and paying over [214] of the proceeds derived from said trust, or any part thereof, until a final settlement and distribution is made.

SEC. 2. **Take effect.** This act shall be in force from and after its publication in the Weekly Citizen and, Weekly Journal, papers published in Des Moines, in the state of Iowa.

Approved March 22d, 1858.

I hereby certify that the foregoing act was published in the Weekly Citizen on the 31st of March, 1858, and in the Iowa State Journal on the 27th of March, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 113.

SALARIES OF STATE OFFICERS.

AN ACT amendatory of an act entitled an act fixing the salaries of the governor and state officers of the state of Iowa, approved January 29th, 1857.

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

SECTION 1. **Governor.** That the governor shall receive as a yearly compensation for his services, the sum of two thousand dollars.

SEC. 2. **Register of land office.** The register of the state land office shall receive as a yearly compensation for his services, the sum of fifteen hundred dollars, and their compensation as provided for in this act shall date from the commencement of the present session of the general assembly.

SEC. 3. **Made payable.** The salaries provided for in this act shall be paid for quarterly.

SEC. 4. **Conflicting acts repealed.** That so much of the act to which this is amendatory as conflicts with the provisions of this act be and they are hereby repealed.

SEC. 5. **Take effect.** This act to take effect and be in force from and after its publication in the Iowa Citizen and Iowa State Journal.

Approved March 22d, 1858.

I hereby certify that the foregoing Act was published in the Iowa Citizen on the 7th day of April, 1858, and in the Iowa State Journal on the 10th day of April, 1858.

ELIJAH SELLS,
Secretary of State.

[215] CHAPTER 114.

FREE BANKS.

AN ACT authorizing general banking in the state of Iowa.

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

SECTION 1. **Auditor procure notes engraved—notes countersigned and registered—proportion of small notes.** That the auditor of public accounts is hereby authorized and required to cause to be engraved and printed in the best manner to guard against counterfeiting, such quantity of circulating notes in similitude of bank notes in blank of different denominations not less than one dollar, as he may from time to time deem necessary, to carry into effect the provisions of this act, such blank circulating notes shall be countersigned, numbered and registered in proper books to be provided and kept for that purpose, in the office of the auditor and under his direction by such register or registers as the said auditor shall appoint for that purpose so that each such circulating notes shall bear the signature of such register, or one of such registers; of the notes furnished to any corporation organized under the provisions of this act, not more than ten per cent. of the amount shall be in notes of two dollars each, and not more than twenty-five per cent shall be in notes of all denominations under five dollars, and not more than fifty per cent. in notes of all denominations under ten dollars.

SEC. 2. **Bank may procure plates to be left with auditor.** Nothing herein contained shall be so construed as to prevent any corporation from procuring their own plate, dies and other materials for engraving and printing blank notes and furnishing them to the auditor and leaving them ever after in his custody and control, to be used and disposed of as though such auditor had procured them under the preceding section.

SEC. 3. **Stocks deposited—value in New York—circulating notes issued.** Whenever any corporation formed for the purpose of banking under the provisions of this act shall lawfully transfer to and deposit with the auditor any portion of the public stock issued, or to be issued by the United States or any state stocks on which full interest is annually paid, or the stocks of this state, said [216] stocks to be rated at ten per cent, below their average value in the city of New York, for thirty days next preceding the time when such stocks may be left on deposit with the auditor, and in no case shall the auditor issue bills for banking purposes on bonds of this or any other state on which not less than six per cent is regularly paid, such corporation shall be entitled to receive from the auditor an amount of such circulating notes of different denominations registered and countersigned as aforesaid, equal to the amount

of stock actually deposited, rating said rock at ten per cent. less than its average value as aforesaid.

SEC. 4. **Treasurer keeps records of notes.** A descriptive list of the circulating notes so registered and signed, shall be delivered to the treasurer, who shall copy the same in the book hereinafter required, to be kept by him, for recording descriptive lists of securities deposited with him for safe keeping.

SEC. 5. **Notes put in circulation—other circulation prohibited.** Such corporation is hereby authorized, after having executed and signed the circulating notes registered and countersigned as aforesaid, in the manner prescribed by this act, made payable on demand at the banking house of said corporation within this state, to loan and circulate the same according to the ordinary course of banking business, and no such corporation shall at any time, issue or have in circulation any note, draft, bill of exchange, acceptance, certificate of deposit or other evidence of debt, which from its character or appearance, shall be calculated or intended to circulate as money, other than such notes of circulation as are in this section provided for.

SEC. 6. **Lists of securities kept—stocks deposited with treasurer—stocks may be delivered up for cert'in purposes—auditor responsible.** Three descriptive lists of the securities transferred to the auditor as aforesaid, shall be made and signed by the auditor and persons making the transfer; one in a well bound book to be kept by the auditor for that purpose, and one in a like book to be kept by the treasurer, and one in a book to be kept by the corporation, which book shall at all times be open to inspection, and said securities shall then be delivered to the treasurer for safe keeping, who shall receipt to the auditor for the same, and who shall be responsible for any [217] loss or destruction thereof growing out of, or resulting from negligence or the want of reasonable precaution and care. The whole or any part of said securities may be re-delivered to the auditor for the purpose of being sold under the provisions of this act, or being used or disposed of under any order or decree of court, or of being returned to the owner in conformity with the provisions of this act, the auditor in either case giving a receipt upon the book kept by the treasurer aforesaid, specifying therein the purpose for which such re-delivery was made, which receipt shall discharge the treasurer from all further responsibility, but the auditor shall be liable in the same manner as the treasurer is while keeping or disposing of such security.

SEC. 7. **Bank may be established—capit'l stock limited—capital stock must be paid in cash—withdrawal of capital.** Any person may establish, or any number of persons may associate to establish offices of discount, deposit and circulation, and become incorporated upon the terms and conditions, and subject to the liabilities prescribed in this act; but the aggregate amount of the capital stock of any such corporation shall not be less than fifty thousand dollars; and the auditor of state shall not deliver to any incorporation, notes for circulation, until such corporation shall have deposited with and transferred to him the full amount of fifty thousand dollars worth of stocks as named in section three of this act, the same to be rated as provided in said section, and the capital stock as required in this section shall be paid up in cash and be and remain so much of the *bona fide* capital of such corporation. No portion of the capital stock paid in as aforesaid, shall be at any time withdrawn from such corporation so as to reduce the remaining paid up capital then actually held by and in the possession of such corporation below the estimated value of the stocks deposited with and then in the possession of the auditor or treasurer belonging to such corporation, which shall be paid up in cash, and be and remain so much of the *bona fide* capital of such corporation. No portion of the capital stock paid in shall be at any time or under any circumstance, withdrawn from such corporation, so as to reduce the remaining capital paid in

[218] actually and held by and then in the possession of such corporation below the estimated value of the stocks then held by and in the possession of the auditor or treasurer belonging to such corporation.

SEC. 8. Certificate of. Such person or persons under their hands and seals, shall, previous to their receiving from the auditor, the circulating notes as aforesaid, make a certificate which shall specify:

First: Name of bank. The name assumed to distinguish such corporation, and to be used in its dealings.

Second: Place of business. The place where the business is to be carried on, designating the particular city, town or village, and the county.

Third: Amount of capital stock. The amount of capital stock which shall be divided into shares of \$100 each.

Fourth: Names of shareholders. The names and residences of the shareholders and the number of shares held by them respectively.

Fifth: Length of incorporation—certificate filed and recorded—time of incorporations—powers of corporation. The period at which such corporation shall commence and terminate, which certificate shall be acknowledged and be recorded in the office of the recorder of the county where the office of such corporation shall be established, and a copy thereof shall be filed in the office of the secretary of state, and the auditor of state; and upon the recording of which certificate, the person or persons aforesaid shall become a body politic and corporate, by the name assumed as aforesaid, for and during the time fixed in the certificate, which shall not be more than twenty years, and by such name shall have power to make contracts, to grant and receive, to sue and be sued, to plead and be impleaded, in all courts and places wherein legal or judicial proceedings may be had; to have and to use a common seal and alter the same at pleasure; to have, hold, use and enjoy property, real, personal, and mixen with the rents, issues and profits thereof, as hereinafter provided, and to exercise all other powers conferred by this act and all grants or conveyances of real estate shall be under the seal of the corporation, signed by the president and countersigned by the cashier.

[219] **SEC. 9. Certificate used as evidence.** A copy of the certificate required by the eighth section of this act, duly certified by the recorder of the county and secretary of state, or by either of these officers, may be used as evidence in all courts and places, by any such corporation, or any person when such evidence may be necessary on any civil or criminal trial.

SEC. 10. Corporation do a gener'l banking business—time of discounts and security. Such corporations shall have power to carry on the business of banking by discounting bills, notes and other evidence of debt by receiving deposits, by buying and selling gold and silver bullion, foreign coins and bills of exchange, by loaning money on personal security, and by exercising such incidental powers as may be necessary to carry on such business, may choose one of their number as president, and appoint a cashier and such other officers and agents as their business may require; but no loans shall be made, nor shall any bill, note or other evidence of debt be discounted or purchased having more than four months to run before maturity; and in all cases, personal security shall be required.

SEC. 11. Shares transferable—rights of creditors cannot be impaired—taxes levied—valuati'n of property. The shares of such corporations shall be deemed personal property, and shall be transferable on the books of the corporation, only and in such manner as may be provided in the by-laws of such corporation; and every person becoming a share-holder by such transfer, shall, in proportion to his shares, succeed to all the rights of the share-holder or share-holders by whom the the transfer was made; no change shall be made

in the articles of association, or of the shareholders or members thereof, by which the rights, remedies or securities of its existing creditors may be impaired, such corporation shall not be dissolved by the death or insanity of any of the share-holders therein, when there is more than one share-holder in such association. Taxes shall be levied on and paid by the corporation, and not upon the individual stock-holders; the value of the property to be ascertained annually by the bank commissioners herein provided for; and the rate of taxation shall be the same as that required to be levied on other taxable property by the revenue laws of the state.

SEC. 12. Contracts made by officers of bank—suits not discontinued. Contracts made by any such corporation, [220] and all notes by them issued and put in circulation, shall be signed by the president and cashier thereof, and all suits, actions and proceedings brought or prosecuted by or in behalf of such corporation, may be brought or prosecuted in the name of the corporation; and no such suit, action or proceeding shall abate by reason of the death, resignation or removal from office of any president, but may be continued the same as if such death, resignation or removal from office had not taken place.

SEC. 13. Actions may be brought against corporation. Any person or persons having demands against any such corporation, may maintain action or actions against such corporation, which suits or actions shall not abate by reason of the death, resignation, or removal from office of any president or other officer, but may be continued and prosecuted to judgment against the corporation; and all judgments and decrees obtained against such corporation for any debt or liability of such corporation, shall be enforced against the property of the same, except such judgements or decrees as may be obtained against share-holders as herein provided.

SEC. 14. B'nk receives the interest on stocks—auditor may exchange stocks for circulating notes—bank bills destroyed—punishment for failure to destroy. The auditor shall give to any corporation so transferring stocks in pursuance of the provisions of this act, power of attorney to receive interests or dividends thereon, and apply the same to their own use; but such power may be revoked upon such corporation failing to redeem the circulating notes so issued, or whenever in the opinion of the auditor the principal of such stock shall become insufficient security; and whenever any such corporation shall go into liquidation, or in any other manner proceed to close up its affairs, the auditor shall, upon application of the owner or owners of such stock, re-transfer the same or any part thereof to such owner or owners upon receiving and cancelling an equal amount of such circulating notes delivered to him by such corporation in such manner that the circulating notes outstanding, shall always be secured in full by the pledge of stocks, which cancelled circulating notes after descriptive lists thereof have been made and recorded by the auditor and treasurer shall in presence of these officers be consumed by burning, and in case they shall [221] fail to so burn any notes returned to them for that purpose, they shall be deemed guilty of felony, and liable to a fine of not more than \$5,000 and imprisonment in the penitentiary not less than five nor more than twenty years.

SEC. 15. Should bank suspend the stocks are sold—state not responsible. In case such corporation shall fail or refuse to pay any bill or note on demand in the manner specified in the 28th section of this act, the auditor, after ten days notice given in two newspapers printed in the city of New York, shall proceed to sell at public auction in the city of New York, the public stock so pledged, or such portion as may be necessary, and out of the proceeds of such sale shall cancel and pay the said bill or note default in paying which shall have been made as aforesaid; but nothing in this act contained shall be considered as implying any pledge on the part of the state for the payment of said

bills or notes beyond the proper application of the securities pledged to the auditor for their redemption.

SEC. 16. **Public stocks applied to payment of liabilities.** The public stock deposited with the auditor by any such corporation shall be held, *first*, for the security of notes of such corporation put in circulation as money until the same are redeemed as herein provided, *second*, for the payment of depositors, *third*, for the payment of all other liabilities and the excess for the use of stockholders.

SEC. 17. **Auditor retains plates, &c.—state pays expense—bank reimburses.** The plate, dies and materials, which may be furnished by the auditor for the printing and marking of the notes provided for hereby, shall remain in his custody and under his direction, and the expense incurred in executing the provisions of this act shall be audited and settled by the auditor, and paid out of any money in the treasury not otherwise appropriated; and for the purpose of reimbursing the same, the said auditor is authorized and required to charge against and receive from such corporation applying for such circulating notes, such rate per cent thereon as may be sufficient for that purpose.

SEC. 18. **Countersigned notes limited—over issue punished.** It shall not be lawful for the auditor or other officer to countersign notes for any corporation, to [222] any amount in the aggregate exceeding the public stock deposited with the treasurer by such corporation, rated as provided in the third section of this act, and any auditor or other officer who shall violate the provisions of this section, shall upon conviction be adjudged guilty of a felony and shall be punished by a fine of not less than five thousand dollars, and be imprisoned not less than five years in the penitentiary.

SEC. 19. **Bank pays damages arising from suspension—record of shareholders made and filed—creditors allowed interest.** Every corporation under the provisions of this act shall be liable to pay the holder of every note put in circulation, the payment of which shall have been demanded and refused, damages for the non-payment thereof in lieu of interest at the rate of twelve and one-half per cent. per annum from the time of such refusal, until the payment of such debt and the damage thereon, *Provided*, that no damage shall be allowed on such demand after the bank has gone into liquidation. The president and cashier of every corporation formed pursuant to the provisions of this act, shall keep a true and correct list of the names of all the shareholders of such corporation, and shall file a copy of such list in the office of the clerk of the county where the office of such corporation may be located, and also in the office of the auditor on the first Monday in January in every year, but the holder of any claim against such bank or corporation payable on demand or due at the time of going into liquidation, shall be entitled to interest at the rate of ten per cent. per annum until paid, and all other claims shall bear the same rate of interest after maturity.

SEC. 20. **Notes payable at bank—place of transacting business.** It shall not be lawful for any corporation under this act to make any of its notes put in circulation as money, payable at any other place than at the office where the business of the corporation is carried on; every corporation which may be authorized under the provisions of this act, shall be located in some city, town or village having a population of not less than five hundred inhabitants, nor shall the office where the business of such corporation is transacted be at any other place than the city, town or village, wherein such corporation is located.

[223] SEC. 21. **Notes payable in specie on d'mand.** No corporation shall issue or put in circulation any notes of such corporation unless the same be made payable on demand, and every such corporation shall always keep on hand an amount of specie sufficient to redeem all such bills or notes as may be presented at the place of payment.

SEC. 22. **Amount of specie to be kept on hand.** Each corporation shall always keep on hand an amount (in addition to that required to be kept on hand by the provisions of the preceding section,) equal to twenty-five per cent. of the amount of specie deposits in specie, and the same proportion of its other deposits for the security of depositors; but no such corporation shall pay any interest on current deposits.

SEC. 23. **Circulation of foreign notes prohibited.** No corporation organized under the provisions of this act shall at any time pay out on loans or discounts, or in purchasing drafts or bills of exchange, or in payment of depositors, nor shall it in any mode put in circulation the notes of any bank or banking company, which notes shall not at that time be redeemable in specie at the place where such notes are made payable.

SEC. 24. **Bank cannot prefer creditors.** All grants, conveyances, assignments, transfers, sales or disposition of property, rights, credits or effects by any such corporation, for the purpose or with intent to secure the payment of one liability in preference to another or others, or in any manner to secure any priority or preference to any one or more creditors or which shall be intended to have such operation or effect, shall be void in respect to all other persons and creditors whose rights or remedies may be affected thereby.

SEC. 25. **Purchase of real estate—for banking house—to secure debts.** It shall be lawful for such corporation to purchase, hold and convey real estate for the following purposes: 1st, such as shall be necessary for its immediate accommodation, banking houses and buildings connected therewith, in the transaction of its business: 2d, such as it shall purchase at sales under judgments, decrees or mortgages held by such corporation and at sales under judgments and decrees in favor of others, where it is done with the sole view of securing and saving debts due or to become due to such corporation.

[224] SEC. 26. **Bank cannot buy real estate—conveyances.** The said corporation shall not purchase, hold or convey real estate in any other case or for any other purpose whatever; and all conveyances of such real estate shall be made to the corporation and which the president and cashier or either may sell, assign, grant or convey under direction of the corporation free from any claim thereon in favor of or against the share-holders, or any person claiming under them.

SEC. 27. **An examination of the affairs of the bank may be ordered by district judge.** Upon the application of the auditor or of any shareholder or shareholders whose shares shall amount to five thousand dollars or of any person or persons holding evidences of indebtedness against any such corporation to that amount, which application shall be set forth in full the facts and circumstances upon which it is made and shall be verified by affidavit, the judge of the district court of the county in which the business of the corporation may be conducted, may order an examination to be made by any competent person or persons to be by him appointed, of the affairs of such corporation for the purpose of ascertaining the safety of its investments and the prudence of its management and the result of such examination together with the opinion of the judge thereon shall be published in such manner as he shall direct, and who shall make such order in respect to the expense of such examination as he may deem proper.

SEC. 28. **Act of insolvency—refusal of specie payment—payment in silver—amount of notes in one demand—notes protested—protest filed and auditor notifies—stocks sold in case of refusal—powers of corporation cease after protest—bank continued for proceedings in court—receivers appointed—assets applied to redemption of notes, &c.—if auditor refuses creditor may proceed—bond of receiver.** If any corporation organized under this act shall refuse to pay any of its circulating notes in gold or silver coin, the lawful currency of

the United States, on which payment shall be lawfully demanded at its banking house or customary place of doing business, during usual banking hours, the holder of such note or notes making such demand may cause the same to be protested as hereinafter provided; such corporation shall only be allowed to make payment of any such demand in silver coin where the sum so demanded does not exceed the amount for which silver coin is a legal tender according to the laws of the United States; and when payment shall be demanded on more than one of its notes at the same time, the aggregate amount of such [225] notes to the amount of one hundred dollars shall be considered on demand when any notes the payment of which has been refused as aforesaid are sought to be protested. The notary public who presents the same for protest shall present at each time so many of said notes, (if so many there be,) as will amount in the aggregate to the sum of one hundred dollars, and protest the same in like manner as if said notes were but a note, and so in like manner for all such notes if they do not in the aggregate amount to one hundred dollars; and the auditor on receiving and filing in his office such protest, shall forthwith give notice in writing to the corporation, the maker or makers of such notes, to pay the same, and if he or they shall omit to do so, the auditor shall immediately thereupon, (unless such corporation shall satisfy him by affidavits, filed in his office, that they or he had a good defence as against the person presenting the same to a recovery thereof,) give notice in at least one paper printed (if any paper is so printed or published) at the place of business of such corporation so refusing payment of any notes, (and in one newspaper published at the seat of government of the state of Iowa,) that all the circulation issued by such corporation will be redeemed out of the trust funds belonging to the corporation which made and issued such protested note, to the payment *pro rata* of all such circulating notes, whether protested or not, and shall adopt such measures for the payment of such notes as will in his opinion most effectually prevent loss to the holders thereof; and as soon as any such note shall be protested as aforesaid, and a copy of such protest shall be delivered to the president, cashier or principal clerk, at the office or place of business of the corporation, the powers and duties of any such corporation over or with the same shall cease and determine, and all the officers connected with the same shall be prohibited from exercising any control over the same, unless by the decision or decree of the court in which proceedings may be had for the appointment of receivers and winding up of the affairs of the corporation it shall be determined that [226] such corporation was not bound to pay the note or bill protested as aforesaid, the protest thereof to the contrary notwithstanding, providing that the legal existence of the corporation shall continue for purposes of proceedings in courts for and against the same and of avoiding the loss of property of any kind, for want of a person in being to hold the same, but for no other purpose whatever, and it shall be the duty of the auditor to apply to any judge of the district court of this state, whose duty it shall be to appoint (a disinterested person or persons) a receiver or receivers who shall reside in the county in which the bank is situated, to take the assets and property of every such corporation into his or their possession, and collect and apply all such assets and property as may come into his or their possession under the direction of the district court of the county in which the corporation was located; 1st, to the redemption or payment of circulating notes; 2d, to the payment of deposits; 3d, to the payment of all other indebtedness; 4th, to the payment of stockholders. If the auditor shall not proceed to wind up the affairs of such corporation on the reception and filing by him of the protest aforesaid, the holder or owner of such protested note shall have such rights at law and equity against such corporation as any creditor has against his debtor according to the laws of this state. Receivers appointed under the provisions of this

act shall give bond and security as may be required by the judge or court appointing him.

SEC. 29. **Notes preferred to all liabilities.** That the distribution and application of all the means, assets and property of such corporation as shall come into the hands of any such receiver or receivers, or shall be in the hands of the auditor, shall first be applied in payment and satisfaction of all notes issued as and for a circulating medium by any such corporation.

SEC. 30. **Liability of stock holders—transfer of stock not affect liability—all debts paid—personal liability defined.** Stockholders or shareholders in corporations organized under the provisions of this act shall be individually and severally liable to the creditors of the corporation of which they are stock holders or share [227] holders over and above the amount of stock by them held, to an amount equal to their respective shares so held, for all its liabilities accruing while they remained stock holders, and no transfer of stock shall affect such liability, and should any such association become insolvent and its assets be found insufficient to pay its debts and liabilities, its stock holders may be compelled to pay such deficiency in proportion to the amount of stock owned by each, and should the whole amount for which stock holders are individually responsible, as provided in this section, be found in any case to be inadequate to the payment of all the residue of the debts of any corporation after the application of its assets to the payment of such debts, then the moneys due from stock holders on account of their individual liabilities as such, shall be distributed equally among all the creditors of such corporation, in proportion to the amount due to each. The personal liability, in this section provided for, is over and above the stock owned by stockholders and any amount paid thereon.

SEC. 31. **Statements made of—names of stockholders—No. of shares and all transfers—statements posted and filed—evidence of facts.** It shall be the duty of the officers having charge of any bank established under the provisions of this act, to cause to be made out on the first Monday of January and July of each year duplicate statements showing the names at length and place of residence of each stock holder of such bank, together with the amount of stock owned by each, and the transfer of all stock, the date of such transfer, the amount so transferred, and the persons by and to whom transferred, one of which statements shall be posted in some conspicuous place in the banking house, and shall be continually exposed to public inspection during banking hours. The other of said statements shall be caused by the bank to be filed with the recorder of deeds of the county in which such bank is located, and a copy of such last named statement duly certified by the recorder in whose office the same is filed shall be *prima facie* evidence of the facts therein contained in any court of justice in this state.

SEC. 32. **Act applies.** That each and all the provisions of this [228] act shall apply to and control in all respects any banker who shall conduct business under the provisions of this law, whether the word banker is or is not used in any such provision.

SEC. 33. **Election of commissioners—their duties—powers of commissioners—reports published—eligibility of commissioners.** There shall be elected at each regular biennial session of the general assembly, by the two houses thereof in joint convention assembled, three electors of the state as bank commissioners, whose duties shall be to make semi-annual examination, and as much oftener as they shall deem advisable, in respect to the affairs and business of associations incorporated under the provisions of this act, and in respect to the condition and management thereof, and the amount of specie on hand for the redemption of notes and percentage of deposits on hand, and also to inspect the securities filed with the auditor and treasurer so as to

be able to determine whether or not any change has been made in said securities, as well as in respect to the sufficiency of such securities to meet the liabilities of the corporation, and also to determine whether said bank complies with the provisions of this law, and to report thereon to the auditor and to each corporation. Such commissioners shall have power to examine all books, papers and documents appertaining to the business of the corporation, and to swear or affirm all officers, agents and others connected with the corporation in respect to any matter or thing about which they have the right to inquire, and their reports shall be published in some newspaper at the seat of government, and in a newspaper published in the county in which the bank does business, and if there be no paper published in such county, then in a newspaper published in the nearest county thereto:—*Provided*, that neither of the commissioners elected in accordance with the provisions of this section shall be engaged either directly or indirectly in banking under act, this either as stockholder, director or under officer, and should either of them so engage in banking, so elected, it shall be construed as a full resignation of his office as commissioner.

SEC. 34. **Commissioners qualify.** Such bank commissioners before entering [229] upon the duties of their office shall take and subscribe an oath or affirmation faithfully and impartially to perform all the duties enjoined upon and required to be performed by them, which said oath or affirmation shall be filed in the office of the secretary of state.

SEC. 35. **Stocks destroyed or depreciated must be replaced, or bills be refunded—failure to comply an act of insolvency—law non-complied with an act of insolvency.** If the said bank commissioners shall ascertain upon any examination which they may make that any change has been made in the securities deposited with the treasurer, or that any part thereof has been lost, destroyed or improperly withdrawn, or in any way or manner misused or misapplied, or that securities have from any cause become lessened in value or insufficient as security for the redemption of bills of circulation they shall notify the president and cashier of such corporation liable to be affected by any such state of facts of the discovery thereof, and require the transfer and deposit of other security of the like value with those originally transferred, to supply the place of those changed, lost, destroyed or improperly withdrawn, or which shall have become insufficient security as aforesaid, in a reasonable time to be fixed by said commissioners, or that said corporation surrender to the auditor a sufficient amount of bills to be burned to reduce the liability of such corporation to such sum as that the securities in possession of the treasurer will be sufficient for the redemption of all notes not so surrendered; and in case of any failure to comply with any such requisition the commissioners shall report the facts to the auditor, as well as to all the other corporations incorporated under the provisions of this act, and the auditor shall thereupon proceed to put such defaulting incorporation into liquidation as provided for in case of failure, to redeem or pay notes on demand. If the said bank commissioners shall ascertain upon any such examination that any bank has in any manner failed to comply with the provisions of this act, they shall immediately report the same to the auditor, who shall thereupon proceed to put such defaulting incorporation into liquidation, as provided for in case of failure to redeem or pay notes or bills on demand.

SEC. 36. **First board of commissioners appointed.** Thomas Hedge, of Des Moines county, [230] George L. Davenport, of Scott county, P. Gad. Bryan, of Warren county, Thomas A. Graham, of Tama county, and E. G. Potter, of Jackson county, shall be and they are hereby appointed bank commissioners, who shall hold their office until their successors are elected and qualified.

Said commissioners shall, during their term of office, perform the duties prescribed by this act.

SEC. 37. **Salaries of commissioners to be paid by banks.** The bank commissioners created by this act, shall each be entitled to receive for their services, for every day actually spent in making the semi-annual examination by this act required, the sum of five dollars per day, which said sum shall be apportioned among the said banks by the commissioners, in proportion to the amount of their capital, and when the said bank commissioners shall deem it necessary to visit any bank oftener than twice each year, and shall make such visitation, said bank shall pay each of said commissioners the sum of five dollars for every day actually spent in such visitation.

SEC. 38. **Examinations.** Said bank commissioners may cause such semi-annual or other examinations to be made by any one or more of their number as they may determine, but all action by them contemplated in section 35 of this act, shall be decided by a majority.

SEC. 39. **Quarterly statements of.** Every corporation who shall hereafter carry on banking business under the provisions of this act shall make out and transmit to the auditor of state, a full statement of its affairs, as they existed on the first Monday of January, April, July and October, of each year, verified by the oath of its president or cashier, which statement shall be deposited in the office of said auditor, by the 20th day of each of said months in each year, which statement shall be published quarterly in the nearest newspaper, and such statement shall contain:

First.—**Capital stock.** The amount of capital stock of the corporation paid in and invested according to law.

Second.—**Real estate.** The value of the real estate, specifying what portion is occupied by the corporation for the transaction of business.

[231] *Third.*—**Bills receivable.** The debts owing to the corporation, and the date and amount of each bill or note discounted, and when the same was made payable.

Fourth.—**Bills payable.** The amount of debts owing by the corporation, and the amount deposited with other banks.

Fifth.—**Circulation and liability of stock holders.** The amount of notes or bills then in circulation of said corporation, of loans or discounts and specie on hand; what amount of notes of other banks is held by such corporation, and the amount loaned to directors and stockholders in such corporation.

Sixth.—**Suspended debts and.** The amount of suspended debt held by such corporation.

Seventh.—**Deposits.** The amount of per centage of deposits on hand.

SEC. 40. **Statement not made an act of insolvency.** Every corporation that shall neglect or refuse to make out or transmit the statement required in the thirty-fifth section of this act, shall be restrained from the further prosecution of the banking business, and shall forthwith go into liquidation.

SEC. 41. **Method of closing.** Whenever any corporation desirous of relinquishing the banking business, shall have redeemed at least ninety per cent. of their circulating notes, and shall produce a certificate from the state treasurer, certifying that such corporation has deposited in his office, subject to the order of the auditor, a sum of money equal in amount to the notes of such corporation then outstanding, it shall be lawful for the auditor to receive the same and to give up all the securities theretofore deposited by such corporation, for the redemption of the notes issued, which sum so deposited with the state treasurer aforesaid, shall be appropriated solely to the redemption of the outstanding notes of such corporation, subject to the provisions hereinafter mentioned.

SEC. 42. **Fraud and false entries punish'd by fine and imprisonment.** Every officer, agent or clerk of any incorporation authorized by this act, who shall wilfully and knowingly subscribe or make any false statements or false entries in the books of such incorporation, or shall knowingly subscribe or exhibit false papers with the intent to deceive any persons authorized to examine as to the condition of such incorporation, or shall wilfully or knowingly [232] -ingly subscribe or make false reports, shall be deemed guilty of felony, and upon conviction thereof shall be fined not exceeding ten thousand dollars, and be imprisoned in the state prison not less than two nor more than fourteen years, and be forever after rendered incapable of holding any office created by this act.

SEC. 43. **Two years notice of final redemption of notes—end of bank.** Such corporation, after having complied with the provisions of the preceding sections of this act, may give notice for two years in a paper published at the seat of government, and also in at least one paper published in the county where the said corporation shall have been located, that all circulating notes issued by said corporation, must be presented at the auditor's office within two years from the date of said notice, or that the funds deposited for the redemption of the notes will be given up to the corporation, and on receiving satisfactory proof of the giving of such notice for the time aforesaid, the auditor shall surrender to the order of said corporation, any securities which he may hold for the payment of any unredeemed notes of the said corporation, and the treasurer shall deliver over to such corporation any moneys in his hands which have been deposited with him for such purpose, on the production of such certificate, such notice to be published at least three weeks in each six months of each year.

SEC. 44. **Ten per cent discount allowed 'till 1863—bank discount—usury punished.** Each corporation organized under the provisions of this act may take, receive, or charge on any loan or discount made, or upon any note or bill of exchange or other evidence of debt discounted or purchased by them, interest at the rate of ten per centum per annum on the amount of any such note, bill of exchange or other evidence of debt so discounted or purchased, and no more until the first day of January, A. D. 1863, after which time no more than eight per cent. shall be so taken, received or charged; *Provided*, however, that interest may be reserved or taken in advance at the time of making the loan or discount according to the usual rates of banking, or as calculated in "Rowlet's interest Tables," and the knowingly taking, reserving or charging on any debt or demand discounted or purchased by [233] any corporation a rate of interest greater than that allowed by this section, shall be held and adjudged a forfeiture of said debt or demand, but the purchase of a *bona fide* bill of exchange or note payable at another place, than the place of such purchase or discount, and the taking or reserving interest thereon at the rate aforesaid from the time of such purchase or discount, until the maturity of such bill or note shall not be held usurious, although exchange on the place where it is made payable is at the time of such purchase or discount, worth a premium, nor shall the discount or purchase of a *bona fide* bill or note payable at a place between which and the place of discount or purchase there may be a difference in exchange, and the taking in addition to the rate of interest aforesaid, the rate of exchange between such places be deemed usurious, *Provided*, that in no case shall more than the current rate of exchange between such places be taken.

SEC. 45. **Duration of charter.** No corporation organized under the provisions of this act, shall exist longer than twenty years.

SEC. 46. **Stockholders defined—trust funds not liable—guardians responsible.** The stockholder or shareholder as used in this act shall apply not only to such persons as appear by the books of association, to be such, but also to be equitable owner of stock, although the same may appear on such books in the name of another person, and also to every person who shall have advanced the instalment or purchase money of any stock in the name of any person under twenty-one years of age, and while such person remains a minor to the extent of such advance and also to every guardian or other trustee, who shall voluntarily invest any trust funds in such stock, and no trust funds in the hands of such guardian or trustee shall be in any way liable under the provisions of this act, by reason of any such investment, nor shall the person for whose benefit any such investment may be made, be responsible in respect to such stock, until thirty days after the time when such persons respectively become competent and able to control and dispose of the same, but the guardian or other trustee making such investment as aforesaid, shall continue responsible [234] -sible as a stockholder until such responsibility devolves upon the person beneficially interested therein, and in respect to stock held by a guardian or other trustee under a transfer of the same by a third person or under positive directions by a third person for such investment, the person making such transfer or giving such directions, and his executors and administrators shall for the purpose of this act be deemed a stockholder, and the estate of such person, if he be deceased, shall be responsible for the debts and liabilities chargeable on such stock according to the provisions of this act.

SEC. 47. **Circulation of foreign bills prohibited.** No corporation organized under the provisions of this act shall put in circulation in this state the bills or notes of any bank or banking company out of the state, except such as are received in the usual course of business, nor shall any corporation either directly or indirectly exchange its notes intended to circulate as money with any bank or banking company out of this state, or with the agents of such bank or banking company, for the notes of such bank or banking company, with a view to circulate the same as money.

SEC. 48. **Take effect.** This act to be in force from and after its approval by a majority of all the electors of this state, voting for and against it at an election provided by law, and not otherwise.

Approved March 22d, 1858.

CHAPTER 115.

INJURIES TO RAILROAD TRACKS.

AN ACT relating to the crime of placing obstructions on railroad tracks, or removing any rail therefrom, or committing any injuries to railroads.

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

SECTION 1. **The placing of obstructions on tracks punished.** If any person or persons shall wilfully and maliciously place any obstruction on the track of [235] any railroad in this state, or remove any rail therefrom, or in any other way injure such railroad, or do any other thing thereto, whereby the life of any person is or may be endangered, he or they shall be punished by confinement in the state penitentiary for life, or for any term not less than two years.

Approved March 22d, 1858.

CHAPTER 116.

OFFICERS OF STATE PRISON.

AN ACT to prohibit the inspectors, wardens, and other officers of the Iowa penitentiary, from being interested in contracts for furnishing such penitentiary with provisions, clothing or other necessaries, and from being concerned or interested in contracts for building or furnishing building materials for such penitentiary.

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

SECTION 1. **Officers cannot take contracts.** That no inspector, warden or other officer of the Iowa penitentiary, shall be interested directly or indirectly in contracts for furnishing such penitentiary with provisions, clothing or other necessaries, to be used in any manner by the inmates of such penitentiary, or for the use of such penitentiary, nor shall any or either of such officers be concerned or interested in any manner in contracts for buildings of any kind connected with such penitentiary, or for materials to be used in any such buildings.

SEC. 2. **Violation of this act punished by removal and fine.** Should any person, in the contemplation of section one of this act, of the Iowa penitentiary, be or become in any manner interested in contracts for furnishing provisions, clothing or other necessaries for the use of such penitentiary, or be or become in any manner interested in contracts for buildings, or the construction of buildings, of any kind, in any way connected with such penitentiary, or for furnishing material of any kind for the construction of such buildings, such officer so interested, shall, on proof being made of his being so interested, be removed from office, and shall forfeit any interest he may have in any such contract, and [236] on conviction of being so interested by a court of competent jurisdiction shall be fined in any sum not more than two thousand dollars nor less than five hundred dollars.

SEC. 3. **Attorney appointed to prosecute.** The prosecuting attorney of Lee county for the time being, and after the abolishment of the office of prosecuting attorney, the district attorney of the judicial district in which Lee county may be situated shall prosecute any complaint made against any officer or other person who may become subject to the provisions of this act.

SEC. 4. **Take effect.** This act shall take effect from and after its publication in the Iowa Tri-Weekly Citizen and Iowa State Journal.

Approved March 22d, 1858.

I hereby certify that the foregoing act was published in the Iowa Weekly Citizen on the 7th day of April, 1858, and in the Iowa State Journal on the 3d day of April, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 117.

DIVORCED PERSONS.

AN ACT for the relief of all persons heretofore divorced to whom the disability to marry again has been attached, either by the law under which the divorce was had, or by decree of the court granting the same.

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

SECTION 1. **Persons divorced allowed to marry again.** That all persons heretofore divorced under or by virtue of any law of this state, whether the

same may have been from the bonds of matrimony or from bed and board, and to whom by decree of the court granting such divorce or by virtue of the provisions of law under which such divorce may have been obtained, a disability to marry again may have attached, shall from and after the taking effect of this act, be restored to all the rights and privileges of an unmarried person.

Approved March 22d, 1858.

[237] CHAPTER 118.

SCHOOL DISTRICT IN BLACK HAWK COUNTY.

AN ACT to legalize the election and official acts of the officers of school district No. 5, Waterloo township, Black Hawk county, Iowa.

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

SECTION 1. **Election and acts legalized.** That the election and all official acts of the present school officers of School District No. 5 in Waterloo township, Black Hawk county, Iowa, are hereby declared legal and legalized as fully and completely as if the law had been in every respect complied with, and the records of said district properly made and preserved.

SEC. 2. **Take effect.** This act shall take effect and be in force from and after its publication in the Iowa State Register and Cedar Falls Banner, two newspapers published in Black Hawk county, in this state, the said publication to be without expense to the state.

Approved March 22d, 1858.

CHAPTER 119.

PUBLICATION OF LAW.

AN ACT to provide for the publication of the substitute for senate file No. 68.

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

SECTION 1. **In force by publication.** That the substitute for senate file No. 68, an act to authorize the counties to use the swamp lands to aid in the construction of railroads and other purposes shall be in force from and after its publication in the Iowa State Journal and Iowa Citizen.

SEC. 2. **Take effect.** This act shall be in force from and after its publication in the Iowa State Journal and Iowa Citizen.

Approved March 22d, 1858.

I hereby certify that the foregoing act was published in the Iowa State Journal on the 3d day of April, 1858, and in the Iowa Weekly Citizen on the 7th day of April, 1858.

ELIJAH SELLS,
Secretary of State.

[238] CHAPTER 120.

JUSTICE OF THE PEACE IN BUTLER COUNTY.

AN ACT authorizing the election of an additional justice of the peace in Butler township, Butler county, Iowa.

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

SECTION 1. **Additional J. P. elected.** That the qualified electors of Butler township, Butler county, Iowa, be, and they are hereby authorized to elect an additional justice of the peace in said township.

SEC. 2. **Day of election.** That it shall be the duty of the officers conducting the election on the first Monday in April, 1858, and every two years thereafter, to open a poll at said election for the purpose aforesaid.

SEC. 3. **Qualification and term of office.** The person elected at said election shall proceed to qualify in the same manner now provided by law for the qualification of other justices of the peace, and shall hold his office for the term of two years, and until his successor shall be elected and qualified.

SEC. 4. **Take effect.** This act to take effect and be in force from and after its publication in the Iowa State Journal and Iowa Weekly Citizen.

Approved March 22d, 1858.

I hereby certify that the foregoing act was published in the Iowa Weekly Citizen on the 7th day of April, 1858, and in the Iowa State Journal on the 3d of April, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 121.

FUNDS OF HAMILTON COUNTY.

AN ACT in relation to the funds of Hamilton county.

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

SECTION 1. **State tax diverted to county purposes.** That the county judge of Hamilton county is hereby authorized to divert the excess of tax collected in said county for state purposes, over and above the two mills required by law, to county purposes; and the same is hereby made a portion of the county funds of said county.

SEC. 2. **Take effect.** This act shall be in force and take effect from and after its publication in the "Hamilton Freeman" and Fort Dodge Sentinel" without expense to the state.

Approved March 22d, 1858.

I hereby certify that the foregoing act was published in the Hamilton Freeman on the 8th day of April, 1858, and in the Fort Dodge Sentinel on the 3d of April, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 122.

RELIEF OF JAMES PHILLIPS.

State sells land to Williams. WHEREAS, On the twelfth day of July, A. D. 1851, the state of Iowa, by her authorized agents, sold to Jesse Williams the north half of the southeast quarter of section 23 in township 78, north of range 24 west, the same being a part of the Des Moines river grant and

Again sells it to Phillips—consideration. WHEREAS, On the second day of June, A. D. 1853, the state again sold to James Phillips a portion of said land, to-wit: the north east quarter of the south east quarter of said section upon which said Phillips made certain improvements, and afterwards sold and conveyed the same by warrantee deed, to William Phillips, the consideration expressed in the deed being two hundred and two dollars, and

WHEREAS, The title of the said James Phillips and his grantee having failed, by reason of the state having no title to said premises at the time of the sale to James Phillips, and

WHEREAS, It is eminently just and equitable that said Phillips or his grantee should be kept harmless in the premises. Therefore,

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

SECTION 1. Treasurer authorized to refund—title made good. That the treasurer of state be and [240] he is hereby directed to pay to the person now claiming title to said premises, by or through the said James Phillips, out of any money in the treasury not otherwise appropriated, two hundred and two dollars; *Provided*, that the person claiming title to said premises as aforesaid, shall first satisfy the attorney general that he has a regular and valid claim of title from the state to said premises, and shall execute to the state to be approved by the said attorney general a quit claim deed to the premises aforesaid, which deed shall be filed by the attorney general in the office of the secretary of state.

SEC. 2. Certificate from the attorney general. Upon a compliance with the provisions of the first section of this act, the attorney general shall give to the person so complying, a certificate stating clearly and explicitly that the provisions of the first section of this act have been complied with and the name of the person so complying.

Upon the presentation of such certificate to the auditor, he shall issue a warrant on the treasurer for the sum aforesaid.

Approved March 22d, 1858.

CHAPTER 123.

COUNTY BOUNDARY.

AN ACT explanatory of certain parts 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.

Statement of facts. WHEREAS, by the ninth and tenth sections 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," ap-

proved 17th February, 1843, the counties of Benton and Tama were established, and their respective boundaries defined in such language that doubts purpose of explaining and further declaring the true intent and meaning of may arise as to true intent and meaning thereof. Therefore, for the [241] said ninth and tenth sections of said act,

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

SECTION 1. Boundary established. That the boundary line between the counties of Benton and Tama shall remain as intended by the ninth and tenth sections of said act, which is hereby declared to be the line between ranges twelve and thirteen west of the fifth principal meridian.

Approved March 22d, 1858.

CHAPTER 124.

REPRESENTATIVE DISTRICTS.

AN ACT determining the ratio of apportionment of the state into representative districts, and defining the boundaries thereof.

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

SECTION 1. Ratio of apportionment. That one representative to each seven thousand inhabitants or fraction thereof, exceeding one-half in each representative district, is hereby constituted the ratio of apportionment.

SEC. 2. 1st Dist.—4. Lee county is the first district and entitled to four representatives.

SEC. 3. 2d Dist.—2. Van Buren county is the second district and entitled to two representatives.

SEC. 4. 3rd Dist.—2. Davis county is the third district and entitled to two representatives.

SEC. 5. 4th Dist.—1. Appanoose county is the fourth district and entitled to one representative.

SEC. 6. 5th Dist.—1. Wayne county is the fifth district and entitled to one representative.

SEC. 7. 6th Dist.—1. Decatur county is the sixth district and entitled to one representative.

SEC. 8. 7th Dist.—1—canvass in Taylor. The counties of Ringgold and Taylor are made the seventh district, and are entitled to one representative, and the votes for representative therein [242] shall be canvassed at the county seat of Taylor county.

SEC. 9. 8th Dist.—1—canvass in Fremont. The counties of Page and Fremont are made the eighth district, and are entitled to one representative, and the votes for representative therein shall be canvassed at the county seat of Fremont county.

SEC. 10. 9th Dist.—3. Des Moines county is the ninth district and entitled to three representatives.

SEC. 11. 10th Dist.—2. Henry county is the tenth district and entitled to two representatives.

SEC. 12. 11th Dist.—2. Jefferson county is the eleventh district and entitled to two representatives.

SEC. 13. **12th Dist.—2.** Wapello county is the twelfth district and entitled to two representatives.

SEC. 14. **13th Dist.—1.** Monroe county is the thirteenth district and entitled to one representative.

SEC. 15. **14th Dist.—1.** Lucas county is the fourteenth district and entitled to one representative.

SEC. 16. **15th Dist.—1.** Clark county is the fifteenth district and entitled to one representative.

SEC. 17. **16th Dist.—1—canv's in Adams.** The counties of Union, Adams, Adair and Cass, are made the sixteenth district and are entitled to one representative, and the votes for representative therein shall be canvassed at the county seat of Adams county.

SEC. 18. **17th Dist.—1—canvass in Mills.** The counties of Montgomery and Mills are made the seventeenth district and are entitled to one representative, and the votes for representative therein shall be canvassed at the county seat of Mills county.

SEC. 19. **18th Dist.—1.** Louisa county is the eighteenth district and entitled to one representative.

SEC. 20. **19th Dist.—2.** Muscatine county is the nineteenth district and entitled to two representatives.

SEC. 21. **20th Dist.—2.** Washington county is the twentieth district and entitled to two representatives.

SEC. 22. **21st Dist.—2.** Keokuk county is the twenty-first district and entitled to two representatives.

SEC. 23. **22nd Dist.—2.** Mahaska county is the twenty-second district and entitled to two representatives.

SEC. 24. **23rd Dist.—2.** Marion county is the twenty-third district and entitled to two representatives.

[243] SEC. 25. **24th Dist.—1.** Warren county is the twenty-fourth district and entitled to one representative.

SEC. 26. **25th Dist.—1.** Madison county is the twenty-fifth district and entitled to one representative.

SEC. 27. **26th Dist.—1.** The county of Pottawattamie is the twenty-sixth district and entitled to one representative.

SEC. 28. **27th Dist.—3.** Scott county is the twenty-seventh district and entitled to three representatives.

SEC. 29. **28th Dist.—2.** Clinton county is the twenty-eighth district and entitled to two representatives.

SEC. 30. **29th Dist.—1.** Cedar county is the twenty-ninth district and entitled to one representative.

SEC. 31. **30th Dist.—2.** Johnson county is the thirtieth district and entitled to two representatives.

SEC. 32. **31st Dist.—1.** Iowa county is the thirty-first district and entitled to one representative.

SEC. 33. **32nd Dist.—1.** Poweshiek county is the thirty-second district and entitled to one representative.

SEC. 34. **33rd Dist.—1.** Jasper county is the thirty-third district and entitled to one representative.

SEC. 35. **34th Dist.—1.** Polk county is the thirty-fourth district and entitled to one representative.

SEC. 36. **35th Dist.—1.** Dallas county is the thirty-fifth district and entitled to one representative.

SEC. 37. **36th Dist.—1—canvass in Harrison.** The counties of Guthrie, Audubon, Shelby and Harrison are made the thirty-sixth district and entitled to one representative, and the votes for representative therein shall be canvassed at the county seat of Harrison county.

SEC. 38. **37th Dist.—2.** Jackson county is the thirty-seventh district and entitled to two representatives.

SEC. 39. **38th Dist.—1.** Jones county is the thirty-eighth district and entitled to one representative.

SEC. 40. **39th Dist.—2.** Linn county is the thirty-ninth district and entitled to two representatives.

SEC. 41. **40th Dist.—1.** Benton county is the fortieth district and entitled to one representative.

SEC. 42. **41st Dist.—1.** Tama county is the forty-first district and entitled to one representative.

[244] SEC. 43. **42nd Dist.—1.** Marshall county is the forty-second district and entitled to one representative.

SEC. 44. **43rd Dist.—1—canvass in Story.** The counties of Story and Hamilton are made the forty-third district and are entitled to one representative, and the votes for representative therein shall be canvassed at the county seat of Story county.

SEC. 45. **44th Dist.—1.** Boone county is made the forty-fourth district and entitled to one representative.

SEC. 46. **45th Dist.—1—canvass in Carroll.** The counties of Crawford, Monona, Carroll and Greene, are made the forty-fifth district and are entitled to one representative, and the votes for representative therein shall be canvassed at the county seat of Carroll county.

SEC. 47. **46th Dist.—4.** Dubuque county is the forty-sixth district and entitled to four representatives.

SEC. 48. **47th Dist.—1.** Delaware county is the forty-seventh district and entitled to one representative.

SEC. 49. **48th Dist.—1.** Buchanan county is the forty-eighth district and entitled to one representative.

SEC. 50. **49th Dist.—1.** Black Hawk county is the forty-ninth district and entitled to one representative.

SEC. 51. **50th Dist.—1.** Hardin county is the fiftieth district and entitled to one representative.

SEC. 52. **51st Dist.—1—canvass in Webster.** The counties of Humboldt, Webster, Pocahontas and Calhoun are made the fifty-first district and are entitled to one representative, and the votes for representative therein shall be canvassed at the county seat of Webster county.

SEC. 53. **52nd Dist.—2.** Clayton county is the fifty-second district and entitled to two representatives.

SEC. 54. **53rd Dist.—1.** Fayette county is the fifty-third district and entitled to one representative.

SEC. 55. **54th Dist.—1—canvass in Bremer.** The counties of Bremer and Chickasaw are made the fifty-fourth district and are entitled to one representative, and the votes for representative therein shall be canvassed at the county seat of Bremer county.

SEC. 56. **55th Dist.—1—canvass in Butler.** The counties of Franklin, Wright, Butler and Grundy are made the fifty-fifth district and are entitled to one representative, and the votes for representative therein shall be canvassed at the county seat of Butler county. [245]

SEC. 57. **56th Dist.—1.** Alamakee county is the fifty-sixth district and entitled to one representative.

SEC. 58. **57th Dist.—1.** Winneshiek county is the fifty-seventh district and entitled to one representative.

SEC. 59. **58th Dist.—1—canvass in Cerro Gordo.** The counties of Cerro Gordo, Worth, Winnebago, Floyd and the unorganized county of Hancock are made the fifty-eighth district and are entitled to one representative, and the votes for representative therein shall be canvassed at the county seat of Cerro Gordo county.

SEC. 60. **59th Dist.—1—canvass in Mitchell.** The counties of Mitchell and Howard are made the fifty-ninth district and are entitled to one representative, and the votes for representative therein shall be canvassed at the county seat of Mitchell county.

SEC. 61. **60th Dist.—1—canvass in Woodbury.** The counties of Woodbury, Ida, Plymouth, Cherokee, Sioux, O'Brien, Buncombe and Osceola are made the sixtieth district and are entitled to one representative, and the votes for representative therein shall be canvassed at the county seat of Woodbury county.

SEC. 62. **61st Dist.—1—canvass in Kossuth.** The counties of Dickinson, Sac, Buena Vista, Kossuth and the unorganized counties of Emmett, Clay and Palo Alto are made the sixty-first district and are entitled to one representative, and the votes for representative therein shall be canvassed at the county seat of Kossuth county.

SEC. 63. **Take effect.** This act to take effect and be in force from and after its publication in the Iowa Weekly Citizen and Iowa State Journal.

Approved March 22d, 1858.

I hereby certify that the foregoing act was published in the Iowa Weekly Citizen on the 7th day of April, 1858, and in the Iowa State Journal on the 3d day of April, 1858.

ELIJAH SELLS,
Secretary of State.

[246] CHAPTER 125.

ASYLUM FOR THE BLIND.

AN ACT to locate and provide for the erection of an institution for the education of the blind of the state of Iowa.

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

SECTION 1. **Com'rs appointed to locate.** That James C. Traer, of Benton county, John W. Jones, of Hardin county, and Hosea W. Gray, of Linn county, are hereby appointed a board of commissioners to locate and superintend the erection of a building, at or near the town of Vinton, in Benton county, to be used as an institution for the education of the blind of the state of Iowa.

SEC. 2. **Commissioners qualify—limits of site.** Before entering upon the discharge of their duties, the commissioners shall take and subscribe an oath before some officer competent to administer the same, faithfully to discharge their duties as such commissioners, and they shall not locate said institution on less than forty acres of land, within one mile of the plat of said town of Vinton, and when they have fixed upon a site, they shall receive from the

owner or owners thereof, a deed conveying the title to the same, without expense to the state of Iowa.

SEC. 3. **Plan determined.** When the location of the building is agreed upon, the commissioners are hereby authorized to employ an architect to draft a plan for the same, which plan shall contemplate for its execution, together with necessary out-houses and appurtenances, a cost not to exceed twenty thousand dollars;

SEC. 4. **Proposals advertised for—security of contractors.** When plans of said buildings are determined, the commissioners are authorized to advertise for proposals for the erection of said building, which shall be built of either brick or stone, or both, and provided suitable proposals are received by them, are authorized to contract for the erection thereof; *Provided*, also, that satisfactory security be given to said commissioners, by the contractors, for the faithful performance of their contracts.

SEC. 5. **Cost of building.** The commissioners shall not contract for [247] the erection of said building, together with necessary out-houses and other appurtenances at a cost exceeding the sum of twenty thousand dollars, which sum shall cover the entire cost of the completion of the building and out-houses and appurtenances aforesaid.

SEC. 6. **Appropriation—money drawn—donations.** The sum of fifteen thousand dollars is hereby appropriated for the erection of said building, out-houses and appurtenances, and no part of the appropriation herein provided for, shall be paid by the state treasurer, except on warrants of the auditor, who shall issue such warrants on the requisition of the commissioners only; *Provided*, also that said commissioners shall not authorize any money to be drawn except for expenditures actually incurred; but no part of the appropriation herein made, shall be so paid until the payment of the sum of five thousand dollars in money, exclusive of land donated by citizens of said county of Benton shall have been secured to the satisfaction of said commissioners, by bond or other writing obligatory.

SEC. 7. **Pay of commissioners.** The board of commissioners shall receive two dollars per day each for the time they are employed in the discharge of the duties hereinbefore imposed, and their necessary expenses shall also be paid from the treasury of the state.

SEC. 8. **Time of selecting site.** It shall be the duty of said board, or a majority of them, to proceed within six months from the taking effect of this act, to select such site, and advertise for proposals for the erection of said building, and report their proceedings to the next legislature.

SEC. 9. **Land sold for construction of buildings.** The commissioners shall have power to sell such portion of the land on which said building is located, as they may think proper, and the proceeds of such sale shall be used in the construction of said building.

SEC. 10. **Take effect.** This act shall be in force from and after its publication in the Iowa Citizen and Iowa State Journal, at Des Moines.

Approved, March 22d, 1858.

I hereby certify that the foregoing act was published in the Iowa Citizen on the 7th day of April, 1858, and in the Iowa State Journal on the 3d day of April, 1858.

ELIJAH SELLS,
Secretary of State.

[248] CHAPTER 126.

GENERAL ASSEMBLY.

AN ACT amending chapter two of the code.

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

SECTION 1. **Sections repeal'd.** That sections four, five and six, of chapter two of the Code are hereby repealed.

SEC. 2. **Sessions commence.** The regular sessions of the general assembly shall be biennial, and shall commence on the second Monday in January next ensuing the election of its members, and shall take place at the seat of government unless specially convened at some other place, and the governor may so convene them in times of pestilence or public danger.

SEC. 3. **Temporary organization.** At two o'clock in the afternoon of the day of the sitting of the general assembly, and at the place of the sitting of the houses respectively, the president of the senate shall call the senate to order; and some person claiming to be elected a member of the house of representatives shall call the house to order, and the persons present claiming to be elected to the senate shall choose a secretary, and those of the house of representatives, a clerk for the time being. In case of the absence of the president of the senate at the time of the convening of the general assembly, the senate may be called to order by any person claiming to be elected a member of that body, and a president *pro tempore*, shall be chosen from their own number, by the persons claiming to be elected senators.

SEC. 4. **Certificates of election.** The secretary and clerk so elected shall receive and file the certificates of election presented, each for his own house, and make a list of the names of the persons who appear by such certificates to be elected members of the respective houses.

SEC. 5. **Term of office.** The speaker of the house of representatives, shall hold his office, until the first day of the meeting of a regular session of the general assembly [249] next, after that at which he was elected. All other officers elected by the senate or house of representatives, shall hold their offices only during the session, at which they were elected.

SEC. 6. **Repeal.** Section eleven of said chapter is hereby repealed.

Approved, March 22d, 1858.

CHAPTER 127.

APPEARANCE TERM.

AN ACT to amend section 1763, of the code, and amendatory of the law providing when causes in courts of record shall be tried.

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

SECTION 1. **First term an appearance term.** That section seventeen hundred and sixty-three of the Code be amended as follows: "except when otherwise provided, causes shall be tried at the second term after they are commenced, unless reasonable cause for a continuance be shown."

SEC. 2. **Law in force till 1859.** From and after the first day of January, A. D. 1859, this act shall cease to be in force, and section seventeen hundred and sixty-three shall be in force and have the effect that the same had previous to the taking effect of this act, provided, that the provisions of section twenty-one (21) of the Code, shall not apply to this act.

SEC. 3. **Take effect.** This act shall take effect and be in force from and after its publication in the Iowa Weekly Citizen and Iowa State Journal.

Approved March 22d, 1858.

I hereby certify that the foregoing act was published in the Iowa Weekly Citizen on the 7th day of April, 1858, and in the Iowa State Journal on the 3d day of April, 1858.

ELIJAH SELLS,
Secretary of State.

[250] CHAPTER 128.

WITNESS FEES.

AN ACT requiring witness fees to be paid into the county treasury.

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

SECTION 1. **Statement of fees made out.** That it shall be and is hereby made the duty of the respective clerks of the district courts of this state, at the close of each term of the district court, to make a written statement of the fees charged by him in favor of witnesses during the term of the court then ended and to give such written statement to the county treasurer of the county in which the district court may have been held.

SEC. 2. **Fees paid into the treasury—treasurer pays witnesses.** The witness fees so charged shall when collected, be paid into the county treasury, for the use of the county, by the officer or person collecting or receiving the same, and the witnesses entitled to such fees, shall receive them from the county treasurer, upon a certificate from the clerk of the district court, specifying that such person is entitled to such fees and the amount of the same.

SEC. 3. **Justices pay fees into Co. treasury—receipts taken.** Any witness fees which may be received by justices of the peace for witnesses appearing before them, which shall not have been called for within one year after the date of collection, shall be paid into the county treasury for the use of the county, accompanied with a statement of the amount due each witness, but the witness entitled to such fees shall receive the same from the county treasury, upon a certificate from the justice of the peace before whom he may have appeared as such witness, or his successor in office, that he is entitled to such fees, and the amount of the same, and any person or officer paying any sum of money into the county treasury under the provisions of this act, shall take duplicate receipts from the treasurer therefor, one of which he shall file with the county judge, who shall charge the amount thereof to the treasurer as so much county revenue.

SEC. 4. **Penalty for not paying over fees.** Any failure to pay over to the county treas- [251] -urer witness fees, as contemplated by this act, shall subject the offender to all the pains and penalties of an act entitled an act defining the crime and punishing the offence of making false entries of fines and fees of dockets of courts or otherwise, and of failing or neglecting to pay over such fines or fees according to law.

SEC. 5. **Take effect.** This act shall take effect and be in force from and after its publication in the Iowa Citizen and Iowa State Journal.

Approved March 22d, 1858.

I hereby certify that the foregoing act was published in the Iowa Citizen on the 14th day of April, 1858, and in the Iowa State Journal on the 10th day of April, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 129.

PUBLIC SHOWS.

AN ACT to regulate public shows.

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

SECTION 1. **Shows prohibited without license—cost of license—cities may grant licenses.** That before any exhibitor or exhibitors of any traveling public show, not already prohibited by law, shall be allowed to exhibit or show any natural or artificial curiosity or exhibition of horsemanship in a circus or otherwise, for any price, gain or reward, he or they shall apply to the county judge of the county in which he or they intend to show or exhibit, for a permit, and the county judge shall give him or them a permit specifying the time, place or places he or they may be allowed to show or exhibit in the county, on the person or persons thus applying paying into the county treasury the amount said county judge may assess on him or them for the privilege of exhibiting or showing such show, which assessment shall in no case exceed one hundred dollars, nor less than ten, for each and every place at which such show shall be exhibited; *Provided*, it shall not be necessary for any exhibitor or ex- [252] -hibitors as aforesaid to obtain a permit from the county judge to show or exhibit in any incorporated town or city where by the laws or ordinances of such town or city such exhibitor or exhibitors may be required to obtain a permit or license from the municipal authority of such town or city.

SEC. 2. **Exhibitions without license punished.** That if any person or persons shall exhibit any public show without first having obtained the permit according to the provisions of this act, he or they shall, for every such offence, pay the sum of one hundred dollars to be recovered in an action of debt at the suit of the county judge or treasurer, or any citizen of the county, before any justice of the peace of the county in which the offence may be committed, and paid into the treasury of said county.

SEC. 3. **Fees for licenses go to school fund.** That all monies paid into the treasury of any county under the provisions of this act shall be appropriated to the support of common schools in said county, and it shall be the duty of the treasurer of such county annually to apportion the same to the respective school districts in his county, according to the number of youths therein, and to pay the same to the several districts of his county at the time the general school fund is paid and distributed.

SEC. 4. **Take effect.** This act shall take effect from and after its publication in the Iowa Weekly Citizen and Iowa State Journal.

Approved March 22d, 1858.

I hereby certify that the foregoing act was published in the Iowa Weekly Citizen on the 7th day of April, 1858, and in the Iowa State Journal on the 3d day of April 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 130.

CAPITOL SQUARE.

AN ACT to provide for fencing and improving the Capitol Square, in the city of Des Moines.

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

SECTION 1. [253] **\$1,500 appropriated for improvement—state does not waive rights.** That there be and hereby is appropriated out of any moneys in the state treasury not otherwise appropriated, the sum of fifteen hundred dollars for the purpose of fencing and otherwise improving the plat of ground known as the Capitol Square, in the city of Des Moines; *Provided*, that nothing in this act contained shall be construed into any waiver by the state of any right of the state by reason of any defect in the title to said plat of ground, if any such defect exist, nor into any waiver of any right of the state by reason of any objection to the action of the commissioners appointed to select and locate such plat of ground, if any such objections exist.

SEC. 2. **Sec'y of state to direct the work.** Said improvement shall be made under the direction of the secretary of state, who shall cause said work to be done in such maner as he may think best for the interest of the state, and he shall draw his warrant upon the auditor from time to time as the work may progress, but no draft shall be drawn except upon estimates of work done or material furnished.

SEC. 3. **Limit of expenditure.** Such work shall be executed upon such plan and to such extent as shall not involve the expenditure of a greater amount of money than is herein appropriated.

SEC. 4. **Take effect.** This act to take effect and be in force from and after its publication in the Iowa Citizen and Iowa State Journal.

Approved March 22d, 1858.

I hereby certify that the foregoing act was published in the Iowa Citizen on the 7th day of April, 1858, and in the Iowa State Journal on the 3d day of April, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 131.

INCORPORATION OF SOCIETIES.

AN ACT for the incorporation of benevolent, charitable, scientific or missionary societies.

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

SECTION 1. [254] **Society formed by certificate—acknowledged and filed.** That any three or more persons of full age, citizens of the United States, a majority of whom shall be citizens of this state, who shall desire to associate themselves for benevolent, charitable, scientific, religious or missionary purposes, may make, sign and acknowledge before any officer authorized to take the acknowledgements of deeds in this state and file in the office of the secretary of state, and also in the office of the recorder of the county in which the business of such society is to be conducted, a certificate in writing, in which

shall be stated the name or title by which such society shall be known in law, the particular business and objects of such society, the number of trustees, directors or managers to manage the same, and the names of the trustees, directors or managers of such society for the first year of its existence.

SEC. 2. **Incorporated—powers of corporation.** Upon filing a certificate as aforesaid, the persons who shall have signed and acknowledged such certificate, and their associates and successors shall thereupon, by virtue of this act be a body politic and corporate by the name stated in such certificate and by that name they and their successors shall and may have succession and shall be persons in law capable of suing and being sued, and they and their successors may have and use a common seal and the same may alter or change at pleasure; and they and their successors, by their corporate name shall in law be capable of taking, receiving, purchasing and holding real and personal estate, to make by-laws for the management of its affairs, not inconsistent with the constitution and laws of this state or of the United States, to elect and appoint the officers and agents of such society for the management of its business.

SEC. 3. **Trustees elected—vacancy.** The society so incorporated may annually or oftener elect from its members its trustees, directors or managers at such time and place in such manner as may be specified in its by-laws, who shall have the control and management of the affairs and funds of said society, a majority of whom shall be a quorum for the transaction of business, and whenever any vacancy shall [255] happen among such trustees, directors or managers, by death, resignation or neglect to serve, such vacancy shall be filled in such manner as shall be provided by the by-laws of such society.

SEC. 4. **Failure to elect not dissolve corporation.** In case it shall at any time happen that an election of trustees, directors or managers shall not be made on the day designated by the by-laws, said society for that cause shall not be dissolved, but it shall and may be lawful on any other day to hold an election for trustees, directors or managers, in such manner as may be directed by the by-laws of such society.

SEC. 5. **Name and style.** The provisions of this act shall not extend or apply to any association or individual who shall in the certificate filed with the secretary of state or with the recorder, use or specify a name or style the same as that of any previously existing incorporated society in this state.

SEC. 6. **Corporation may hold property—no person bequeaths more than one-fourth of property.** Any corporation formed under this act shall be capable of taking, holding or receiving any property real or personal, by virtue of any devise or bequest contained in any last will or testament of any person whatsoever; provided, no person leaving a wife or child or parent shall devise or bequest to such institution or corporation more than one-fourth of his or her estate, after the payment of his or her debts, and such devise or bequest shall be valid to the extent of such one-fourth.

SEC. 7. **Societies re-incorporated.** The trustees, directors or stockholders of any existing benevolent, charitable, scientific or missionary or religious corporations may, by conforming to the requirements of the first section of this act, re-incorporate themselves or continue their existing corporate powers, and all the property and effects of such existing corporation shall vest in and belong to the corporation so re-incorporated or continued.

Approved March 22d, 1858.

[256] CHAPTER 132.

SWAMP LANDS AND RAILROADS.

AN ACT to authorize the counties to use the swamp lands to aid in the construction for railroads and seminary buildings.

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

SECTION 1. Swamp lands diverted to R R's, &c.—submitted to the people. That it shall be competent and lawful for the counties owning swamp and overflowed lands, to devote the same or the proceeds thereof, either in whole or in part to the erection of public buildings for the purpose of education, the building of bridges, roads and highways, for building institutions of learning or for making railroads through the county or counties to whom such lands belong: *provided*; that before any of said land or the proceeds thereof shall be so devoted to any of the purposes aforesaid the question whether the same shall be so done shall be submitted at some general or special election to the people of the county.

SEC. 2. Officer may make conveyance. The proper officer or officers of any county may contract with any person or company for the transfer and conveyance of said swamp or overflowed lands, or the proceeds thereof or otherwise appropriate the same to such person or company or to their use, for the purpose of aiding or carrying out any of the objects mentioned in the first section of this act, which said contract shall be reduced to writing and signed by the respective parties or their lawful authorized agents.

SEC. 3. Notice of submitting the question to the people—contract made binding—company assumes the liability of county. Before such contract shall be of any force or validity the same shall be published for four weeks immediately preceding some general or special election in some newspaper published in the county and if there be none published therein, then three copies of the same shall be posted in three of the most public places in each township in the county for the length of time aforesaid together with a proclamation of the proper officer and directing how and where the vote thereon shall be taken, and returns made and canvassed and in what manner or form the people shall vote thereon and if it shall appear that a majority of the people in any county voting thereon are in favor of the [257] contract or proposition submitted to them, then and in that case such contract or proposition shall be binding upon the parties thereto, but if a majority of the people voting on such proposition are against the same then it shall be null and void: *Provided*, that no sale, contract or other disposition of said swamp or overflowed lands shall be valid, unless the person or company to whom the same are sold, contracted or otherwise disposed of to, shall take the same subject to all the provisions of the acts of congress of September the 28th, 1850, and shall expressly release the state of Iowa and the county in which the lands are situate, from all liability for reclaiming said land.

SEC. 4. Pre-emptions secured. It is further provided that this act shall be so construed as not to interfere with any pre-emption claim under the act of 1855, chapter 156; *Provided*, said claimant was an actual and bona fide settler upon such land as provided in section nine of said act and has not assigned his said pre-emption.

SEC. 5. Lands exempted. Nothing in this act shall be so construed as to authorize or allow the people of any county or officer thereof in any manner to contract or otherwise dispose of the swamp or overflowed lands belonging to any county attached thereto for election, judicial or other purposes.

Approved March 22d, 1858.

CHAPTER 133.

JURORS DRAWN.

AN ACT to amend chapter ninety-six of the code.

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

SECTION 1. **Two lists made annually.** That section 1633 of the code be, and the same is hereby amended, so as to read as follows: Two jury lists, one consisting of seventy-five persons, to serve as grand jurors, and one consisting of one hun- [258] -dred and fifty persons, to serve as petit jurors, and both lists composed of persons competent and liable to serve as jurors, shall be annually made in each county, from which to select jurors for the years commencing on the first day of January annually.

SEC. 2. **In September.** Section 1635 of the code is amended by striking out March and inserting in its place September.

SEC. 3. **Code amended.** Section 1636 of the code is hereby amended by striking out the word April and inserting in its place the word "general."

SEC. 4. **Lists return'd by canvassers.** Section 1637 of the code is hereby amended so as to read as follows: The judges shall thereupon make the requisite selection and return list of names as selected to the county judge, with the returns of election, and further, provided that in case the judges of election shall fail to make and return said lists as herein required, the county canvassers shall at the meeting to canvass the votes polled in the county, make such lists for the delinquent townships.

SEC. 5. **Jurors for 1858.** The persons selected as jurors at the April election in (1858) one thousand eight hundred and fifty-eight shall be required to serve only until January first, one thousand eight hundred and fifty-nine.

SEC. 6. **Illegal selections remedied.** Where from any cause the persons summoned to serve as grand jurors or petit jurors fail to appear, or when from any cause the court shall decide that the grand or petit jurors have been illegally elected or drawn, the court may set aside the precept under which the jurors were summoned, and cause a precept to be issued to the sheriff, commanding him to summon a sufficient number of persons from the body of the county to serve as jurors at the term of court when being holden, which precept may be made returnable forthwith or at some subsequent day of the term, in the discretion of the court.

SEC. 7. **Objection to panel.** All objections to the panel of the grand jury must be taken prior to the commencement of the trial before the petit jury.

Approved March 22d, 1858.

[259] CHAPTER 134.

COURT IN KEOKUK.

AN ACT to authorize the holding a special term in the district court in the city of

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

SECTION 1. **Special term ordered.** That the judge of the first judicial district in the state of Iowa is hereby authorized and it is made his duty to hold a special term of the district court in Keokuk, in Lee county, at such time as

he may deem expedient between the first day of April and first day of July of this year, for the trial of criminals, and for that purpose alone.

SEC. 2. **Take effect.** This act shall take effect and be in force from and after its publication in the Iowa State Journal and the Iowa Weekly Citizen.

Approved March 23d, 1858.

I hereby certify that the foregoing act was published in the Iowa State Journal on the 10th of April, 1858, and in the Iowa Weekly Citizen on the 14th of April, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 135.

RE-ENACTMENT.

AN ACT to re-enact all such acts as may have been repealed or suspended in their operation by the new constitution, but which are not in conflict herewith.

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

SECTION 1. **Acts revived.** That all acts which were in force at the time of the taking effect of the new constitution, and which have not been repealed thereby or by the acts of the general assembly now in session, be and they are hereby re-enacted and revised.

SEC. 2. **Take effect.** This act shall take effect and be in force from and after its publication in the Iowa Weekly Citizen and Iowa State Journal.

Approved March 23d, 1858.

I hereby certify that the foregoing act was published in the Iowa Weekly Citizen on the 7th of April, 1858, and in the Iowa State Journal on the 3d of April, 1858.

ELIJAH SELLS,
Secretary of State.

[260] CHAPTER 136.

PUBLICATION OF LAWS.

AN ACT to authorize the publication of certain laws in the Iowa Weekly Citizen and Iowa State Journal.

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

SECTION 1. **Laws published in weeklies valid.** That a publication of any laws provided for during the present session of the general assembly in the Tri-Weekly Iowa Citizen and Tri-Weekly Journal, may be published in the Iowa Weekly Citizen and Iowa State Journal, and such publication shall be valid as though published in the Tri-Weekly Iowa Citizen and Tri-Weekly Journal.

SEC. 2. **Conflicting acts repealed.** All acts and parts of acts inconsistent with this act are hereby repealed.

SEC. 3. **Take effect.** This act to be in force from and after its publication in the Iowa Weekly Citizen and Iowa State Journal.

Approved March 23d, 1858.

I hereby certify that the foregoing act was published in the Iowa State Journal on the 27th of March, 1858, and in the Iowa Weekly Citizen on the 31st day of March, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 137.

DEAF AND DUMB ASYLUM.

AN ACT making appropriations to meet the ordinary and contingent expenses of the deaf and dumb asylum.

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

SECTION 1. **Appropriation for 1859—deficiency of 1858.** That to meet the ordinary and contingent expenses of the institution of the deaf and dumb asylum, including rents, provisions, school apparatus, salaries, and, clothing of pupils when necessary, there be and hereby is appropriated the sum of eight thousand dollars for the year commencing on the first day of January A. D. 1859, said appropriation to be [261] audited and paid by the state treasurer out of any money in the treasury not otherwise appropriated, but the same shall not be drawn faster than is actually necessary for the maintenance of said asylum, and to be expended under the direction of the trustees of said institution. And the further sum of one thousand dollars is hereby appropriated to meet the deficiency in the appropriation heretofore made for the above purposes during the year commencing January first A. D. 1858, to be audited, and paid and expended as above directed.

SEC. 2. **Take effect.** This act to take effect and be in force from and after its publication according to law.

Approved March 23d, 1858.

CHAPTER 138.

THE CENSUS.

AN ACT to provide for taking the state census.

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

SECTION 1. **Assessor shall take census.** That the township assessor of each township in this state shall, at the time of assessing property in the years eighteen hundred and fifty-nine, eighteen hundred and sixty-three, eighteen hundred and sixty-five, eighteen hundred and sixty-seven, eighteen hundred and sixty-nine, and eighteen hundred and seventy-five, and every ten years thereafter, take an enumeration of the inhabitants in his township.

SEC. 2. **Return—abstract—statistics.** Said assessor shall make return on or before the first day of June, of such enumeration, to the clerk of the district court of the county, who shall make and forward to the secretary of state

on or before the first day of September in the current year, an abstract of said census return, showing the total number of males.

The total number of females.

The number of persons entitled to vote.

[262] The number of the militia.

The number of foreigners not naturalized.

The total number of children between five and twenty-one years of age.

The number of families and the number of dwelling houses.

The number of acres of improved and unimproved lands.

An enumeration of agricultural, mining and manufacturing statistics, including the value of the products of the farm, herd, orchard and dairy each, and the value of manufactured articles, and of mineral sold the year preceding the census.

The number of miles of railroad finished and unfinished.

The number of colleges and universities, with the number of pupils therein.

SEC. 3. Census board. The governor and secretary, auditor and treasurer of state, or any three of them, constitute a census board for the state.

SEC. 4. Other facts. The census board may require such other facts, in addition to those hereinbefore stated, to be ascertained and returned as they may deem expedient.

SEC. 5. Blanks prepared and furnished. The census board must prepare and cause to be printed suitable blank forms for this purpose, which together with such printed directions as will be calculated to secure uniformity in the returns, must be furnished to the respective clerks of the district court of the county, and by them to the township assessors on or before the first Monday in January of the year in which the census is to be taken.

SEC. 6. Abstracts filed and recorded. The secretary of state shall file and preserve in his office the abstracts received from the clerks of the district court, and cause an abstract thereof to be recorded in a book to be by him prepared for that purpose, and published in such manner as the census board may direct.

SEC. 7. Failure to return remedied. When any township assessor fails to make an accurate return of the census, as herein provided, the county court may, upon the request of the clerk of the district court, appoint some suitable person to take [263] the census according to the provisions of this act, and at as early a day as practicable, which shall be done at the expense of the county in which the service is performed.

SEC. 8. Returns made. The census board shall require any clerk failing to make returns as herein provided, to send up the return as soon as practicable, at the expense of the delinquent county.

SEC. 9. Journal. The secretary of state shall keep a journal of the acts of the census board.

SEC. 10. Conflicting acts repealed. All acts and parts of acts conflicting with this act are hereby repealed.

SEC. 11. Take effect. This act to take effect from and after its publication.

Approved March 23d, 1858.

CHAPTER 139.

PROCEEDS OF SALINE LANDS.

AN ACT to repeal section two of an act entitled an act for a further appropriation for the state insane asylum, approved July 14th, 1856.

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

SECTION 1. **Law repealed.** That section two of chapter 47 of the acts of the extra session of the fifth general assembly of the state of Iowa, which appropriated all moneys arising from the sale of saline lands for the construction of the insane asylum, be and the same is hereby repealed.

SEC. 2. **Take effect.** This act to be in force from and after its publication in the Iowa Weekly Citizen and Iowa State Journal.

Approved March 23d, 1858.

I hereby certify that the foregoing act was published in the Iowa Weekly Citizen on the 7th day of April, 1858, and in the Iowa State Journal on the 3d day of April, 1858.

ELIJAH SELLS,
Secretary of State.

[264] CHAPTER 140.

DRUGGED LIQUORS.

AN ACT to punish the selling of drugged intoxicating liquors.

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

SECTION 1. **Fine and imprisonment for selling drugged liquors.** That any person who shall wilfully sell or keep for sale intoxicating malt or vinous liquors which have been adulterated or drugged by admixture with any deleterious or poisonous substance, shall be deemed guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars or by imprisonment in the penitentiary not exceeding two years.

SEC. 2. This act to be in force from and after its publication according to law.

Approved March 23d, 1858.

CHAPTER 141.

ASYLUM FOR THE INSANE.

AN ACT for the government of the Iowa Insane Hospital, and the care of the insane and idiots.

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

SECTION 1. **Title and management.** That the insane hospital located at Mount Pleasant, shall be known by the title of the Iowa insane hospital, and shall be placed under charge of a board of seven trustees, four of whom shall constitute a quorum for the transaction of business.

SEC. 2. **First board—terms of office—vacancy.** That Samuel McFarland, Hoskin Riggs, Timothy Stearns, John B. Lash, of Henry county, John R. Allen, of Lee county, Lincoln Clarke, of Dubuque county, and J. M. Shaffer, of Jefferson, be and are hereby constituted a board of trustees provided for in the first section of this act, a majority of whom shall reside in the county of Henry. The two first named shall serve for two years, the second two shall serve for [265] four years, the last three for six years, and as their terms expire their successors shall be appointed for six years by the general assembly. All vacations occurring by death or otherwise shall be filled by the governor until the meeting of the general assembly and until their successors are appointed and qualified.

SEC. 3. **Qualify for office—expense paid—meeting.** The trustees before entering upon the duties of their office shall take and subscribe an oath or affirmation to support the constitution of the United States and of this state, and also faithfully to discharge the duties required of them by the provisions of this act, which duties shall be discharged gratuitously, provided they shall have their necessary expenses during the time they are actually engaged in the discharge of their official duties, such payment to be made out of the state treasury upon a warrant of the auditor of state. The trustees shall meet at any time after this act shall take effect and before the opening of the hospital for the admission of patients, and elect a president who shall preside at their meetings.

SEC. 4. **Powers of trustees—resident officers—regulation of officers.** The trustees shall have the general control and management of the hospital; they shall prescribe by-laws for the government of the same, and conduct its affairs agreeably to the laws in force, and such by-laws as they may establish; they shall appoint a medical superintendent and on the nomination of the superintendent, a steward and matron, and an assistant physician or physicians, who shall be styled the resident officers of the institution. Said trustees shall fix all salaries not otherwise determined by law. They shall also in connection with the superintendent, prescribe rules, regulations and by-laws for the government of the institution. They shall in their by-laws prescribe the duties of their respective officers, their tenure of office, and shall at their pleasure, remove any officer except the superintendent, and they may remove the superintendent for incompetency, wilful neglect or refusal to discharge any of his duties or for any misconduct on his part which might render it improper for him to continue longer in said office.

[266] SEC. 5. **Trustees visit asylum.** It shall be the duty of one or more of the board of trustees to visit the institution monthly, and all or a majority thereof quarterly, and at such monthly visits they shall, with the superintendent, examine the accounts of the steward and certify their approval or otherwise, on the page with his monthly balances. They shall also at the same time register their names in a book to be kept for that purpose at the hospital and note therein the general condition of the hospital.

SEC. 6. **Minutes and reports.** The board of trustees shall make a record of their proceedings at all meetings in a book kept for that purpose, and at their annual meetings shall make a report to the governor, of the condition and wants of the hospital which shall be accompanied by full and accurate reports of the superintendent and a detailed account of all moneys received and disbursed by the steward.

SEC. 7. **Annual and special meetings.** The board of trustees shall hold their annual meeting on the first Wednesday in December, in each year, at the office of the hospital which shall be in the hospital building. Special meetings

for the appointment of resident officers or for the transaction of general business, shall be held on the written request of the president or two members of the board, of which ten days' notice shall be given to each member in writing by the president, stating the object for which the meeting is called.

SEC. 8. **Trustee not interested in contracts.** No trustee or any officer of the institution shall be either directly or indirectly interested in the purchase of building material or any article of furniture or supply for the use of the hospital.

SEC. 9. **Trustee cannot be Supt.** No member of the board of trustees shall be eligible to the office of superintendent of the hospital during the term for which he was appointed, nor within one year after his term shall have expired.

SEC. 10. **Qualification and term of superintendent—his powers.** The medical superintendent of the hospital shall be a physician of acknowledged skill and ability in his profession. He shall be the chief executive officer of the hospital and shall hold his office for six years unless sooner removed by the trustees as provided [267] -ed for in the fourth section of this act. Before entering on the duties of his office he shall take and subscribe to an oath or affirmation faithfully and diligently to discharge the duties required of him by law. He shall have the entire control of the medical, moral and dietetic treatment of the patients, and he shall see that the several officers of the institution faithfully and diligently discharge their respective duties. He shall employ attendants, nurses, servants and such other persons as he may deem necessary for the efficient and economical administration of the government of the hospital, assign them their respective places and duties, and may at any time discharge any of them from service.

SEC. 11. **Seal—reports.** The superintendent shall provide an official seal for the hospital upon which shall be the words "Iowa Insane Hospital, Mount Pleasant." He shall make reports to the trustees as provided for in section six of this act.

SEC. 12. **Assistant physician.** The assistant physician shall be a medical man of such character and qualifications as to be able to perform the ordinary duties of the superintendent during his absence.

SEC. 13. **Steward and his duties.** The steward under the direction of the superintendent and not otherwise, shall make all purchases for the hospital where they can be made on the best terms, keep the accounts, make engagements with, pay and discharge those employed in and about the hospital, have a personal superintendence of the farm, garden and grounds, and perform such other duties as may be assigned him.

SEC. 14. **Steward gives bond.** The steward shall execute a bond, with such securities as the board of trustees shall approve, in the penal sum of ten thousand dollars conditioned that he will faithfully perform the duties of his office and pay over and account for all money that shall come into his hands belonging to the state.

SEC. 15. **Matron and her duties.** The matron under the direction of the superintendent and not otherwise shall have the general supervision of the institution and do what she can to promote the comfort and restoration of the patients.

[268] SEC. 16. **Trustees may receive bequests.** The trustees of the hospital and their successors in office shall have the power to receive and hold in trust for the use and benefit of the hospital any grant or devise of land or any donation or bequest of money or personal property to be applied to the maintenance and support of insane persons or to the general use of the hospital.

SEC. 17. **Steward draws money—account rendered.** The treasurer of the state may, from time to time, advance to the steward on his own order, appended, or endorsed by the superintendent, and two of the trustees, on a warrant from the auditor of state, a sum not exceeding one thousand dollars to meet current expenses. The steward shall keep an accurate account in detail in a proper book always open to the inspection of the superintendent and trustees of all expenses paid out of the sums so advanced by the treasurer and shall settle the same with the superintendent and trustees monthly or oftener if required, and shall account for the whole sum of one thousand dollars before another is approved.

SEC. 18. **Hospital open.** The hospital when completed shall be open to all the insane of the state subject to the provisions of this act.

SEC. 19. **Admission of patients.** No person shall be admitted into the hospital except he be a citizen of the state of Iowa, and an inhabitant of the county from which he or she may be sent, and no person shall be considered an inhabitant in the sense of this act, who has not resided within this state six months next preceding the date of his or her application, and no person shall be entitled to the benefit of the provision of this act except persons whose insanity or lunacy has occurred during the time such persons shall have resided in the state. No idiot shall be admitted into the hospital and no lunatic under the age of seven years. All patients admitted into the hospital shall be maintained therein at the expense of the state, except such as are provided for in the twentieth section of this act.

SEC. 20. **Terms of admission of foreign patients.** Any two of the trustees with the superintendent may receive into the hospital any patient of [269] whose insanity they may be satisfied after personal examination without an inquest as provided for in this act, *Provided*, such patient is not to be supported at the expense of the state. They shall fix the price of keeping such patient, shall require not less than six months cost of such keeping to be paid in advance and shall require a bond with such security and in such an amount as they may approve for any claim beyond the amount so paid in advance for the further support of said patient. Any moneys received from such source shall go into the treasury of the hospital and be accounted for as other moneys are, as provided in this act. Any amount of money received for the support of such patient remaining after they shall from any cause be removed from the hospital shall be refunded to the person authorized to receive it.

SEC. 21. **Form of affidavit to county judge.** For the admission of patients into the hospital the following proceedings shall be had, viz., some resident citizen of the proper county shall file with the probate judge of such county an affidavit which shall be substantially as follows:

The State of Iowa, _____ county S. S.

The undersigned a citizen of _____ county, Iowa, being sworn says that he believes _____ is insane, that he or she should not be at large, that he is an inhabitant of said county in the sense required by this act. Dated this _____ day of _____ A. D. _____ A. B.

SEC. 22. **Insane person arrested and evidence summoned.** When the affidavit aforesaid shall be filed the probate judge shall forthwith issue his warrant to some suitable person commanding him to bring the person alleged to be insane before him on a day in such warrant which shall not be more than five days after the affidavit shall have been filed, and shall immediately issue subpoenas for such witnesses as he shall deem necessary (one of whom shall be a respectable physician) commanding the persons in such subpoenas named to appear before said judge on the return day of the subpoena, and if any person shall dispute the insanity of the party charged the probate judge shall

issue sub- [270] -pœnas for such person or persons as shall be demanded on behalf of the person alleged to be insane.

SEC. 23. **Investigate case—certificate of facts.** At the time appointed (unless for good cause the investigation shall be adjourned) the judge shall proceed to examine the witnesses in attendance and if upon the hearing of the testimony such judge shall be satisfied that the person so charged is insane he shall cause a certificate to be made out by the medical witness in attendance which shall set forth the following: *First*, that the patient is free from any infectious disease and vermin. *Second*, the age of the patient and concise history of the case. *Third*, the duration of the disease dating from the first symptom. *Fourth*, the supposed cause of the disease, whether it is hereditary. *Fifth*, whether the patient has been subject to epilepsy. *Sixth*, whether the patient has made any attempts to commit violence on himself or others. *Seventh*, the medical treatment pursued in the case as near as the same can be ascertained, to which the witness shall add any other information or circumstances known to him which may tend to throw light upon the subject.

SEC. 24. **Certificate sent to asylum—patient received—warrant issued.** The probate judge upon the certificate of the medical witness made out according to the twenty-third section of this act, shall forthwith apply to the superintendent of the hospital. He shall at the same time transmit copies under his official seal of the certificate of the said medical witness and of his finding in the case; upon receiving the application and said certificate the superintendent shall immediately advise the probate judge whether the patient can be received and if so, at what time. The probate judge when advised that the patient can be received shall forthwith issue his warrant to the sheriff or any other suitable person, commanding him to forthwith take charge of and convey such insane person to the hospital. If the probate judge shall be satisfied from proof that an assistant is necessary, he may appoint one person as such assistant. The warrant of the probate judge shall be substantially as follows:

[271] The State of Iowa, ——— County, SS.
The Probate Judge of said county to ———.

Form of warrant. All the proceedings prescribed by law to entitle ——— to be admitted into the hospital having been had, you are commanded forthwith to take charge of and convey said ——— to the hospital, and you are authorized to take ——— as assistant. After executing this warrant you shall make due return thereof to this office.

Witness my hand and official seal this ——— day of ———, A. D. ———

Probate Judge.

Upon receiving such patient the superintendent shall endorse upon said warrant a receipt substantially as follows:

Mount Pleasant, ——— A. D. — }
Iowa Insane Hospital, ——— }

Endorsed. Received this ——— day of ——— the patient named in the within warrant.

Superintendent.

Relatives may convey—may retain charge. This warrant, with the receipt thereon, shall be returned to the probate judge who issued the same, and shall be filed by him with the other papers relating to the case. In all cases the relations of the insane person shall have a right, if they choose, to convey such insane person to the hospital, and in such case the warrant shall be directed to one of such relations, directing him to take another of such relations as his assistant; *Provided*, that in case the medical witness shall not state in

his certificate that the patient is free from any infectious disease, and from vermin, it shall be the duty of the probate judge to refuse to make the application to the superintendent as hereinafter provided, until such certificate is furnished. The relations of any person charged with insanity, or who shall be found to be insane under the provisions of this act, shall in all cases have the right to take charge of and keep said insane person or persons charged with insanity, if they shall desire so to do, and in such case the probate judge before whom the inquest shall have been held, shall deliver such insane person [272] or persons to the person or persons desiring to take charge of them.

SEC. 25. Patient supplied with clothing—clothing specified. When a patient is sent to the hospital it shall be the duty of the probate judge to see that the patient is supplied with proper clothing, and if not otherwise furnished, the probate judge shall furnish such clothing, and in such case the same shall be paid for upon the certificate of the probate judge, and the order of the county auditor, out of the county treasury. For a male patient the clothing shall be a coat, vest, and two pairs of pantaloons, all of woolen cloth, two pairs of woolen socks, two pocket handkerchiefs, two dark colored cravats, one hat or cap, one pair of shoes or boots, two cotton shirts and an overcoat or other outside garment, sufficient to protect him in severe weather. For a female patient such clothing shall be two substantial gowns or dresses, two flannel petticoats, two pairs of woolen stockings, one pair of shoes, two handkerchiefs, a decent bonnet, two cotton chemises and a large shawl or cloak. In both cases the clothing shall be new, or as good as new, and the woollens of dark color. Such clothing shall be delivered in good order with the patient, or the superintendent shall not be bound to receive the patient.

SEC. 26. Person not admitted to hospital taken care of in the county—relatives furnish clothing. If any person found to be insane, cannot for any cause be admitted into the hospital, the probate judge shall direct the sheriff of the county or some other suitable person, to take charge of such lunatic until such case shall be removed and if necessary may direct the confinement of such lunatic in the county poor house or jail, as the case may require, and if all things needful be not otherwise supplied he shall furnish them, and in such case the same shall be paid for out of the county treasury on the certificate of the probate judge and the order of the county auditor; *Provided*, that such judge shall not in any case furnish anything either in the way of clothing as provided in section twenty-five of this act, or for any other person who is not a poor person as understood in the sixty-first section of this act, and, *provided further*, no lunatic shall [273] be confined in with a person charged with or convicted of a crime.

SEC. 27. Dangerous lunatics not permitted to be at large. Where a lunatic not entitled to admission into the hospital shall be at large, and his being so at large shall be dangerous to himself or others, upon such facts being established to the satisfaction of the probate judge, he shall immediately order such lunatic to be confined and provided for as directed by the twenty-sixth section of this act, and when any person be so confined and the attending physician shall certify that such person is restored to reason, or that it is not necessary longer to confine such person, or if the friends of such person shall agree to take the care of such person, the probate judge shall immediately order his discharge.

SEC. 28. Patient discharged from hospital—manner and warrant for discharge. Any patient may be discharged from hospital upon the application of the superintendent to one of the trustees, and order of such trustees. Incurable and harmless patients may be discharged whenever such discharge is necessary to make room for a recent case from the same county, and whenever an order shall be made for the removal of a patient from the hospital,

the superintendent shall forthwith give notice under seal of the hospital to the probate judge of the county from which such patient was sent, and thereupon such probate judge shall forthwith issue his warrant to the sheriff or some other suitable person (giving the relations of the patient the preference) which warrant shall be substantially as follows:

The State of Iowa, _____ County, SS.
Office of the Probate Judge of said county.

The proper authority having directed that _____ a patient from the county in insane hospital at Mount Pleasant, be removed from said hospital, you are commanded to forthwith remove said patient, and return him to _____ township, in _____ county, of which he is an inhabitant. Witness my hand and official seal this _____ day of _____, A. D. _____.

A. B. Probate Judge.

Upon the receipt of such warrant it shall be the duty [274] of the person to whom it is directed to forthwith execute the same and return it to the probate judge by whom it was issued.

SEC. 29. **Money given to patients.** When a patient is discharged or cured, the superintendent may furnish such patient with suitable clothing and such sum of money as he shall deem fit, not in any case exceeding twenty dollars.

SEC. 30. **Order of preference if hospital is crowded.** That if at any time it may become necessary for want of room or other cause, to discriminate in the general reception of patients into the hospital, a selection shall be made as follows: *First*—Recent cases, i. e. cases, of less than one year's duration shall have the preference over all others. *Second*—Chronic cases, i. e., where the disease is of more than one year's duration, presenting the most favorable prospects of recovery shall be next preferred. *Third*—Those for whom application has been longer on file, other things being equal, shall be next preferred, and *Fourth*—Where cases are equally meritorious, in all other respects, the indigent shall have preference.

SEC. 31. **Number of patients from each county.** Each county shall be entitled to send patients to the hospital in proportion to the number of insane persons in the county, and in case that all the insane who may apply for admission, cannot for some cause be accommodated, then in the selection of patients, the provisions of this section shall be regarded in selecting such as may be admitted, subject to the provisions of section thirty of this act.

SEC. 32. **Recurrence of insanity provided for.** When any patient discharged from a hospital as cured, shall become insane, and any respectable physician shall file with the probate judge of the county, of which said insane person shall be an inhabitant, an affidavit setting forth the fact of the recurrence of the disease, and such other facts relating thereto as he may deem proper, the probate judge shall forthwith transmit a copy of such affidavit, authenticated by his official seal, to the superintendent of the hospital, and thereupon the same proceeding shall be had as provided in this act for persons found to be insane, upon inquest held for that purpose.

[275] SEC. 33. **Writ of habeas corpus allowed.** All persons confined as insane, shall be entitled to the benefit of the writ of habeas corpus, and the question of insanity shall be decided at the hearing, and if the judge shall decide that the person is insane, such decision shall be no bar to the issuing of the writ a second time, whenever it shall be alleged that such person has been restored to reason.

SEC. 34. **Idiots supported by county.** Pauper idiots and lunatics, not within the meaning of this act, and those discharged from the hospital, shall be provided for in the same manner as other poor.

SEC. 35. **Record made & papers filed.** In all cases of inquest held under the provisions of this act, the probate judge shall file and carefully preserve all papers filed with him, and shall make such entries upon his docket as will, together with the papers filed as aforesaid, preserve a perfect record of each case tried by him.

SEC. 36. **Proceeding in case of death.** In all cases in which any patient shall die in the hospital, it shall be the duty of the superintendent to immediately give notice to the relations of such deceased patient, if known to him, and if not so known, he shall immediately notify the probate judge of the county from which such patient was sent, who shall forthwith cause a notice of the death of such patient to be published in the two leading newspapers of his county, or if there be no newspaper published in said county, a written notice shall be posted in two public places, one of which shall be at the court house in said county.

SEC. 37. **Proceeding in case of escape.** If any patient shall escape from the hospital, and return to the county from whence he was committed, it shall be the duty of the sheriff of said county, when notified by the superintendent, to forthwith arrest such patient and return him to the hospital, for which service the sheriff shall be allowed and paid such fees as shall be allowed by law for the commitment of insane persons to the hospital, which fees shall be paid out of the state treasury on the certificate of the superintendent, and warrant of the auditor of state.

SEC. 38. **Friends may procure discharge.** If the friends of any patient shall ask the discharge of such patient from the hospital, the super- [276] -intendent may in his discretion require a bond to be executed to the state of Iowa, in such sum and such sureties as he may deem proper, conditioned for the safe keeping of such patient, *Provided*, that no patient who may be under the charge of or conviction of homicide, shall be discharged without the consent of the superintendent and the board of trustees having the charge of the hospital.

SEC. 39. **Actions at law.** For all debts due the hospital, an action may be maintained in the name of the superintendent of the hospital to which such debt may be due, and in such action the plaintiff shall be styled the superintendent of the Iowa insane hospital, and all suits against the hospital shall be brought against him as defendant.

SEC. 40. **Counsel employed.** He shall employ an attorney who shall attend to any suit instituted in behalf of or against the hospital, who shall be entitled to a compensation of five per cent on all sums collected for the hospital, and such fees may be agreed upon for defending any suits brought against the hospital.

SEC. 41. **Fees allowed.** The taxable costs and expenses to be paid under the provisions of this act, shall be as follows. To the probate judge, with whom the affidavit was filed, the sum of two dollars for holding an inquest under the provisions of this act. To the medical witness who shall make out the certificate required in the twenty-third section of this act, two dollars and witness fees such as are allowed by law in other cases. To the witnesses and constable the same as are allowed by law for like services in other cases. To each person employed by the probate judge to commit a lunatic to the county poor house, seventy-five cents per day. To the sheriff or other person than an assistant, for taking an insane person to the hospital, or removing one therefrom upon the warrant of the probate judge, mileage at the rate of five cents per mile, going and returning, and one dollar per day for the support of each patient on his journey to or from the hospital, and to each assistant, five cents per mile, and nothing more, the number of miles to be [277] computed in all cases by the nearest route traveled, and costs specified in this sec-

tion, to be paid out of the county treasurer upon the certificate of the probate judge and the order of the county auditor.

SEC. 42. Guardians appointed for idiots. The probate judge upon satisfactory proof that any person who is an inhabitant of the county in which he may be found, is an idiot or lunatic, and that it is necessary in order to preserve the property of such idiot or lunatic, shall appoint a guardian, which guardian shall by virtue of such appointment be the guardian of the minor children of his ward, unless the court shall appoint some other person their guardian.

SEC. 43. Wife of idiot appointed guardian. That when any person having a wife shall be declared to be an idiot or lunatic, it shall be lawful for the probate judge to appoint the wife of such person his guardian, if it be made to appear to the satisfaction of the judge that she is competent to perform the duties of such appointment, and any married woman appointed such guardian, shall in her said capacity, have power to enter into official bonds, and her sureties thereon shall be liable in the same manner and to the same extent as though said bond was executed by a sale.

SEC. 44. Laws governing guardians. All laws relating to guardians for minors and their wards, and all laws pointing out the duties, rights and liabilities of such guardians and their sureties in force for the time being, shall be applicable to guardians for idiots and lunatics and their children, so far as the same are in conformity with the provisions of this act.

SEC. 45. Power of guardian in law. Such guardian may sue in his own name describing himself as guardian of the ward for whom he sues, and when his guardianship shall cease by his death or removal otherwise, or by the decease of his ward, any suit, action or proceeding then pending shall not abate, but his successor or guardian, or such idiot or lunatic, if he be restored to his reason, or the executor or administrator of such idiot or lunatic as the case may require, and shall be made party to the suit or other proceedings, in like manner as is or may be provided by law for making an executor or administrator party to a [278] proceeding of a like kind, when the plaintiff dies during its pendency.

SEC. 46. Idiot's real estate may be sold. Whenever the sale of the real estate of such ward is necessary for his support, or the support of his family, or the payment of his debts, or such sale will be for the interest of the estate of such idiot or lunatic or his children, the guardian may sell the same under like proceedings as is or may be required by law to authorize the sale of real estate by the guardian of a minor.

SEC. 47. Guardian completes idiot's contracts. The guardian of any idiot or lunatic, whether appointed by a court in this state or elsewhere, may complete the real contracts of his ward, or any authorized contracts of a guardian who has died or been removed, in like manner, and by like proceeding as the real contract of a decedent may under an order of court, be specially performed by his executor or administrator.

SEC. 48. Insolvent estate of idiots settled. If the estate of the idiot or lunatic is insolvent, or will probably be insolvent, the same shall be settled by the guardian in like manner, and like proceedings may be had as is or may be required by law for the settlement of the insolvent estate of a deceased person.

SEC. 49. The conditions on which foreign guardians may act in this state. The foreign guardian of a foreign idiot or lunatic appointed in any other state of the United States or the territories thereof, may possess, manage or dispose of the real and personal estate of his ward, situated in this state in like manner and with like authority as guardians of idiots or lunatics appointed by the courts of this state, after complying with the following requisitions:

1st. An authenticated copy of the foreign commission of idiocy or lunacy proved, allowed and recorded in the county where such estate is situated, in like manner as is or may be provided by law for the admission to record of an authenticated copy of a will made in any other of the United States.

2d. Evidence satisfactory to the court here, before whom such foreign commission is approved, that such idiocy or lunacy still continues.

[279] 3d. The foregoing guardian shall file his bond with sureties residing in this state or elsewhere to the acceptance of the court, conditioned for the faithful administration of his guardianship.

SEC. 50. **Restored lunatics freed from guardianship.** Whenever the probate judge shall be satisfied that a lunatic is restored to reason, or that letters of guardianship have been improperly issued under this act, he shall make an entry upon the records of his court that said guardianship terminate, and the guardianship shall thereupon cease, and the accounts of the guardian shall be settled by the court.

SEC. 51. **Insane criminals provided for.** If any person in prison charged with a crime of misdemeanor, whether in needy circumstances or not, shall at any time before indictment is found against him, at the request of any citizen be brought before an examining court in the manner provided by law, and if it shall be found by the court that such person was an idiot or insane when he committed the offence, the said court at their discretion shall proceed and the prisoner shall be dealt with in like manner as other idiots and lunatics are required to be after inquest.

SEC. 52. **Indicted criminals becoming insane, provid'd for—restored criminals answer for crime.** If any person in prison shall, after the commission of an offence, and before conviction become insane, whether he be in needy circumstances or not, and whether indicted or not, at the request of any citizen, an inquest may be instituted as provided for in this act, and if such court shall find that such person became insane after the commission of the crime or misdemeanor of which he stands charged, or indicted, and is still insane, the said court shall proceed, and the prisoner shall for the time being and until restored to reason, be dealt with in like manner as other lunatics are required to be after inquest had. *Provided, however,* that if such lunatic be discharged, the bond given for his support and safe keeping shall also be conditioned that said lunatic shall when restored to reason, answer to said crime or misdemeanor, and abide the order of the court in the premises, and any such lunatic may, when restored to reason, be prosecuted for any offence committed by him previous to such insanity.

[280] SEC. 53. **Restored crimin'l chang'd from hospital to jail.** If the lunatic mentioned in the preceding section shall be confined in the hospital, the superintendent in whose charge he may be, shall as soon as such lunatic is restored to his reason, give notice thereof to the district attorney of the proper county, and retain such lunatic in custody for such reasonable time thereafter as may be necessary for said attorney to cause a *capias* to issue and to be served, and no longer, and such *capias* may be issued upon precept filed by said attorney with the clerk of the district court, by virtue whereof the said person so restored to reason, shall be again returned to the jail of the proper county, to answer to the offence alleged against him.

SEC. 54. **Acquittal for insanity.** When a person upon indictment for any crime or misdemeanor shall be acquitted on the sole ground that he was insane, the fact shall be found by jury in their verdict, and the prisoner shall be dealt with as provided in the two following sections.

SEC. 55. **Insane prisoner provided for.** If the prisoner is not in needy circumstances, and the court is satisfied from the nature of the offence or other-

wise that it would be unsafe to permit the prisoner to go at large, such prisoner shall be dealt with in the manner provided in the twenty-fifth section of this act.

SEC. 56. **Poor prisoner provided for.** If the prisoner is a poor person, the probate judge shall proceed, and the prisoner shall be dealt with in like manner as other insane persons are required to be after inquest had, as provided in the twenty-first section of this act.

SEC. 57. **Convicted crimin'l becoming insane removed to hospital.** If any person, after being convicted of any crime or misdemeanor, and before the execution in whole or part of the sentence of the court, becomes insane, it shall be the duty of the governor of the state to inquire into the facts, and he may pardon such lunatic, or commute or suspend for the time being the execution in such manner and for such a period as he may think proper, and may by his warrant to the sheriff of the proper county or warden of the Iowa penitentiary, order such lunatic to be conveyed to the hospital and there kept until restored to reason. If the sentence of any such [281] lunatic be suspended by the governor, the sentence of the court shall be executed upon him after such period of suspension hath expired, unless otherwise directed by the governor.

SEC. 58. **Oth'r insane convicts provided for.** When any other person than those described in the seven preceding sections shall be confined in jail and shall be insane, they may be proceeded against by the probate judge and sent to the hospital, poor-house or jail, or discharged upon bond being given for their safe keeping and support, or otherwise as in other cases.

SEC. 59. **Neglect of duty punished.** If the probate judge, sheriff or any other person charged with duties under this act, shall refuse or neglect to perform any such duties, he shall forfeit a sum not exceeding fifty dollars, to be recovered with cost by an action in any court of competent jurisdiction in the name of the superintendent of the hospital, or shall be removed from office in the same manner as for any other neglect of duty. And if any insane person shall be conveyed to the hospital before the superintendent shall have given notice that he can be received as hereinbefore provided, no fees or compensation whatever shall be paid to those by whom he was so conveyed.

SEC. 60. **Allowance for support of idiot.** The county judge may allow any sum not exceeding fifty dollars per year, to be paid out of the county treasury for the support of any idiot or lunatic living or inhabitant of said county, who is not supported by the county in the jail or poor-house.

SEC. 61. **Insanity—idiocy—family—poor single person—poor married person.** The term insane as used in this act includes every species of insanity or mental derangement. The term idiot is restricted to persons foolish from birth, one supposed to be naturally without a mind. A person with a family is one who has a wife and child or either. The words poor person, wherever it occurs in this act, it is understood, when applied to a person without a family, shall mean one whose estate after payment of his debts and excluding from the estimate such part of the estate as is exempt from execution, is worth less in cash than five hundred dollars; and the same words, when applied to a person having a family, shall mean one whose estate estimated as aforesaid, is worth less in cash, after pay- [282]- ment of his debts, than one thousand dollars. *Provided*, that when the said words are applied to a married woman, her estate, and that of her husband, shall be estimated as aforesaid, and the amount shall determine the question as aforesaid, whether she be in needy circumstances or not, within the meaning of the act.

SEC. 62. **Notice of op'ning.** The trustees shall so soon as the hospital is ready for the reception of patients, prepare and transmit a copy to each county judge in the state, a circular announcing said readiness.

SEC. 63. **Salaries of officers.** The salaries of the present officers of the hospital named in section fourth of this act, shall be as follows:

Of the superintendent	\$1500.00
and residence in the hospital.	
Of the assistant physician	\$400.00
and residence in the hospital.	
Of the steward	\$500.00
and residence in the hospital.	
Of the matron	\$250.00
and residence in the hospital.	

These salaries to be paid quarterly by draft upon the treasurer of state upon the auditor's warrant.

SEC. 64. **Conflicting acts repealed.** That chapter 50 of the Code and all acts and parts of acts in regard to the care of the insane and idiots, which are inconsistent with the provisions of this act, be and are hereby repealed.

Approved March 23d, 1858.

CHAPTER 142.

JUDGE OF POTTAWATTAMIE.

AN ACT legalizing the acts of the county judge of Pottawattamie county in purchasing real estate for a poor house farm, and in drawing drafts on the treasury of said county for the purchase money.

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

SECTION 1. **Act legalized.** That the purchase of real estate by [283] the county judge of Pottawattamie county for a poor house farm is hereby legalized and approved.

SEC. 2. **Farm paid for.** The orders drawn by said county judge on the treasury of said county to pay for said farm are hereby legalized, and the same shall be paid out of any money in the treasury not otherwise appropriated.

SEC. 3. **Take effect.** This act to take effect from and after its publication in the Tri-Weekly Citizen and the Tri-Weekly Iowa State Journal, and Council Bluffs Clarion, without expense to the state.

Approved March 23d, 1858.

I hereby certify that the foregoing act was published in the Iowa Weekly Citizen on the 7th day of April, 1858, and in the Iowa State Journal on the 3d day of April, 1858, and in the Council Bluffs Clarion on the 1st day of April, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 143.

NATIVE WINES, BEER AND CIDER.

AN ACT to amend section nine of chapter 157 of the acts passed at the regular ses-of the sixth general assembly, approved January 28th, A. D. 1857.

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

SECTION 1. **Manufacture of wine, beer and cider allowed.** That section nine of chapter 157, of the laws passed at the regular session of the sixth

general assembly be amended so as to read thus, "Wherever the words intoxicating liquors occur in this act or the act to which this is amendatory, the same shall be construed to mean all spirituous and vinous liquors, *Provided* that nothing in this act shall be so construed as to forbid the manufacture and sale of beer, cider from apples or wine from grapes, currants or other fruits grown in this state.

SEC. 2. **Act repealed.** So much of said section nine referred to in the foregoing section as is inconsistent with this act is hereby repealed.

SEC. 3. **Act amended.** That section one of said chapter 157 be amended to read as follows:

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

[284] That all that part of section first after the word provided, in the eleventh line and sections fourth, third and sixteenth are hereby repealed.

SEC. 4. **Drunk'n men discharged by giving information.** That the following words, when they occur in section twelve of the "act for the suppression of intemperance," approved January 22d, 1855, to-wit: the words "and order the prisoner to be discharged whenever he shall become satisfied that the object of this law and the good of the public, and the prisoner will be advanced thereby, be and they are hereby repealed;" and there is enacted in lieu thereof the following words: "and order the prisoner to be discharged upon his giving information under oath stating when, where and of whom he purchased or received the liquor which produced the intoxication, and the name and character of the liquor obtained."

SEC. 5. **Selling of mixed liquors punished.** That any person who shall mix any intoxicating liquor with any beer, wine or eider by him sold, and shall sell or keep for sale, as a beverage, such mixture shall be deemed guilty under section six of the said "act for the suppression of intemperance," and shall be punished accordingly.

SEC. 6. **Take effect.** This act shall take effect and be in force from and after its publication in the Iowa Weekly Citizen and Iowa State Journal.

Approved March 23d, 1858.

I hereby certify that the foregoing act was published in the Iowa Weekly Citizen on the 7th of April, 1858, and in the Iowa State Journal on the 10th day of April, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 144.

ELECTION IN WORTH COUNTY.

AN ACT to legalize an election held in Worth county, Oct. 13th, 1857.

Officers elected. WHEREAS, At the election held in Worth County on the [285] 13th day of October, A. D. 1857, at which time the said county was organized, and James Keeler was elected county judge, Chaney Lane, recorder and treasurer, Benjamin K. Walker clerk of the district court, Stanley Wadsworth school fund commissioner, Amos Bentley prosecuting attorney, Loring Lenure sheriff, Edmund Cole county surveyor, Warren Caswell coroner, and

Illegal call. WHEREAS, It was found that the county judge issued the order for this election in Worth county, three days before the date of the governor's proclamation for an election in this state, from which a question has arisen in regard to the legality of the said election, now, therefore,

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

SECTION 1. **Election legalized.** That the election holden in Worth county on the 13th day of October, 1857, shall be declared legal, and all acts and parts of acts transacted by the parties then elected in their official capacity, shall have the same force and effect in law as they would have had been if the order for said election had been issued three days later, or after the issue of the governor's proclamation.

SEC. 2. **Take effect.** This act shall be in force and take effect from and after its publication in the Hamilton Freeman and Cedar Falls Banner.

Approved March 23d, 1858.

I hereby certify that the foregoing act was published in the Hamilton Freeman on the 1st day of April, 1858, and in the Cedar Falls Banner on the 6th day of April, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 145.

ASSESSMENT OF PROPERTY.

AN ACT to amend "an act in relation to the assessment of property," approved January 28th, 1857.

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

SECTION 1. [286] **Assessment of 1857 made the basis.** That the county clerk of each organized county in this state, in making out the tax-list for the year 1858, provided for in section 486 of the Code of Iowa, as modified by the act to which this is amendatory, shall embrace in said list not only the personal property assessed in said year of 1858, but also the real estate assessed in the year 1857, as shown by the assessment roll of 1857, and subsequently modified by the county and state boards of equalization.

SEC. 2. **Take effect.** This act to go into force from and after its publication in the Weekly Iowa Citizen and Weekly Iowa State Journal.

Approved March 23d, 1858.

I hereby certify that the foregoing act was published in the Weekly Iowa Citizen on the 14th day of April, 1858, and in the Weekly Iowa State Journal on the 10th day of April, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 146.

AN ACT ordering a special election for the purpose of submitting to the people certain acts therein named, regulating the business of banking.

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

SECTION 1. **Day appointed for submitting the acts.** That there shall be held at all the usual places of holding elections in the state on the fourth Mon-

day of June, one thousand eight hundred and fifty-eight, a special election at which shall be submitted to the people the question whether or not an act entitled "An act authorizing general banking in the state of Iowa," passed at the regular session of the seventh general assembly of the state of Iowa, shall go into effect or in any manner be in force, and also the question whether an act entitled "An act to incorporate the State Bank of Iowa," passed at the regular session of the seventh general assembly of the state of Iowa, shall go into effect or in any manner be in force.

SEC. 2. **The form of ballot.** Every person voting at said special election shall have the right to use a ticket or ballot with the [287] words written or printed thereon, "for the general banking law," or "against the general banking law," and also the right to use a ticket or ballot with the words written or printed thereon, "For the State Bank of Iowa" or "Against the State Bank of Iowa."

SEC. 3. **The manner of canvass.** In canvassing and counting the votes cast at such special election, each clerk of the said election shall carefully mark down the votes given upon said question in separate columns prepared for that purpose, headed, "For the general banking law," "Against the general banking law," "For the State Bank of Iowa," "Against the State Bank of Iowa," and the judges of said election shall in the certificate required to be given of the result of the said election, include and separately specify the number of votes given for and against each of the said banking systems.

SEC. 4. **Abstract of votes made out and transmitted.** In making the abstract of votes given at said election, as now required by law, the proper officers shall make separate abstracts of the votes given under the provisions of this act, which shall be on one sheet, and which shall be transmitted to the office of the secretary of state within the time and in the same manner as is now required in the election of state officers. Said abstract shall be endorsed "Abstract of votes for and against the banking systems," or in words clearly indicating the contents of the paper, and the abstracts so transmitted shall be opened and the votes canvassed in the time and manner and by the officers provided for in relation to the elections of state officers.

SEC. 5. **State canvassers make out certificate of votes.** If on such canvass it should appear that a majority of the votes cast for and against the general banking law at such special election, are for the general banking law as aforesaid, or if it should appear that a majority of the votes cast for and against the general banking law at such special election are against the general banking law, and if, on such canvass it should appear that a majority of the votes cast for and against the State Bank of Iowa at such special election, are for the State Bank of Iowa, or if it should appear that a majority of the votes cast for and against the State [288] Bank of Iowa at such special election are against the State Bank of Iowa, the officers canvassing the votes shall, under their hands, make a certificate of the facts, stating the number of votes given for and against each of said laws, and file the same in the office of the secretary of state.

SEC. 6. **General banking law goes into effect.** If it should appear from such certificate that a majority of all the votes cast at such election "For the general banking law," and "Against the general banking law," has been cast "For the general banking law," the governor shall immediately and within ten days from the filing of such certificate in the office of secretary of state, issue his proclamation declaring such result of said election, and upon the issuing of such proclamation, the said act entitled "An act authorizing general banking in the state of Iowa," shall go into effect and be in full force and not otherwise.

SEC. 7. **State Bank law goes into effect.** If it shall appear from such certificate that a majority of all the votes cast at such election "For the State Bank of Iowa," and "Against the State Bank of Iowa," has been cast "For the State Bank of Iowa," the governor shall immediately and within ten days from the filing of such certificate in the office of the secretary of state issue his proclamation declaring such result of said election and upon the issuing of such proclamation, the said act, entitled "An act to incorporate the State Bank of Iowa," shall go into effect and be in full force and not otherwise.

SEC. 8. **Take effect.** This act is to take effect from and after its publication in the Iowa Weekly Citizen and Iowa State Journal.

Approved March 23, 1858.

I hereby certify that the foregoing act was published in the Iowa Weekly Citizen on the 31st day of March, 1858, and in the Iowa State Journal on the 3d day of April, 1858.

ELIJAH SELLS,
Secretary of State.

[289] CHAPTER 147.

GAME.

AN ACT to amend "an act entitled 'an act to protect game.'"

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

SECTION 1. **Time extended for protection.** That so much of an act entitled "an act to protect game," approved January 12th, 1857, be and is hereby amended so far as it relates to "any wild deer, elk or fawn, wild turkey, prairie hen or chicken, grouse or quail," to read as follows, to-wit: between the first day of January and the fifteenth day of August, in each and every year.

Approved March 23d, 1858.

CHAPTER 148.

DES MOINES RIVER PATENTS.

AN ACT to authorize the register of the state land office and governor of Iowa to issue patents to the purchasers of Des Moines river improvement lands.

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

SECTION 1. **Register authorized to issue.** That it is hereby made the duty of the register of the state land office to issue patents to the purchasers of Des Moines River Improvement Lands purchased prior to the ninth day of June, A. D. 1854.

SEC. 2. **Governor sign.** It is made the duty of the register to present said patents to the governor, whose duty it shall be to sign them.

SEC. 3. **Patents record'd.** The register shall record each patent and shall endorse on the same a marginal certificate of the book and page in which the same is recorded.

SEC. 4. **Fee for patent.** The register shall deliver to each person entitled to a patent the same by said person paying the register the sum of one dollar.

SEC. 5. **Conflicting act repealed.** So much of chapter one hundred and fifty-three of the acts of the fifth general assembly of the [290] state of Iowa as conflicts with this act be and the same is hereby repealed.

SEC. 6. **Take effect.** This act shall be in force from and after its publication in the Iowa Weekly Citizen and Iowa State Journal.

Approved March 23d, 1858.

I hereby certify that the foregoing act was published in the Iowa Weekly Citizen on the 7th day of April, 1858, and in the Iowa State Journal on the 3d day of April, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 149.

STATE ROADS.

AN ACT defining the mode of laying out, establishing, changing and vacating state roads.

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

SECTION 1. **Petition to county judge.** That all state roads, shall hereafter be established by petition to the county court, as hereinafter provided.

SEC. 2. **Points designated.** All petitions for any state road shall specify the place of beginning, the intermediate points, if any, and the place of termination of said roads.

SEC. 3. **Com'r appoint'd.** On application by petition, signed by at least twenty freeholders of each county, through which it is proposed to establish any state road, the county court of each of said counties shall appoint one disinterested freeholder of his county as commissioner to view and survey said road.

SEC. 4. **Bond given for expenses.** Previous to granting an order on any petition presented as aforesaid, one of the parties in each county through which such road may pass, shall execute a bond with two or more responsible freeholders in said county, as securities to the satisfaction of the county court, payable to the state of Iowa, and conditioned for the payment of all expenses which may accrue in the location of said road, in case the same shall not be established a public highway.

[291] SEC. 5. **Com'rs meet—employ surveyor—qualify.** On the filing of a petition and bond, agreeable to the provisions of this act, which shall be at the same term of court in all the counties interested in the location of the road, the county court of each county, shall issue an order directing the commissioner by them appointed, to meet the commissioners of the other counties or county (as the case may be,) at the place of the beginning of said road, on the first Wednesday of the month then next ensuing, and the commissioners when met as before directed, shall employ a competent surveyor, chain-carriers and a marker, and other assistants, if necessary, and proceed to discharge the duties of their appointments, respectively; *Provided*, that each commissioner, surveyor and chain-carrier, shall, before entering on the duties of his appointment, take an oath or affirmation to discharge his duties faithfully, and according to law.

SEC. 6. **Routes determined—gardens cannot be divided.** Each state road shall be laid out from the place of beginning to the place of termination on the most practicable route, always having regard to suitable ground, improvements already existing, section lines and intermediate points, if any, and all state roads that shall hereafter be established, agreeable to the provisions of this act shall be opened and considered public highways, sixty-six feet wide. *Provided*, that no road shall be laid out through any garden, orchard or ornamental grounds, contiguous to a dwelling house, or so as to cause the removal of any dwelling house or other building without the consent of the owner.

SEC. 7. **Manner of survey—certificate and plat made out and recorded.** The commissioner appointed to lay out and establish any state road, shall cause the same to be correctly surveyed and marked, through the whole distance, and at each angle of the same, and note the courses and distances thereof, and at the crossing of each road or stream, and at the end of each mile, shall mark the number thereof, on a tree or monument erected by them for that purpose. And the commissioners and surveyors of each ward, shall make a certified return of the survey and plat of the whole length of said road, specifying in said return the distance the same may have been [292] laid out in each county, and whether in their opinion the public convenience requires the establishment of said road or any part thereof. One complete copy of which return shall be signed by a majority of the commissioners and surveyor, and immediately deposited in the office of the county judge of each county in which any part of said road shall be laid out, and the judge of the said county shall file the same in his office.

SEC. 8. **Co. judge determines the road upon notice by publication—written notices may be given.** In case the commissioners report in favor of the establishment of such road, the county court of the respective counties shall, at their next regular term after the filing of said report, cause a notice thereof to be published in one or more newspapers published in the county, or having a general circulation therein for six consecutive weeks before the term at which the matter will be heard, notifying all the parties interested in the establishment of the same, that the respective county court of the said counties, will hear the parties in favor of, or against the establishment of said road, and the application for damages of any person on account of the location of said road through his or their lands, *Provided further*, that written notices, posted in one or more of the public places near the line of said road, in each township through which the road may pass, and one such on the door of the court house of said county shall be given in all cases of publication under this act where no newspaper is established within the county.

SEC. 9. **Aggrieved party indemnified—jury appointed to assess damages—jury report.** If any person or persons shall consider themselves aggrieved by the location of said road through his or their lands, such person or persons shall file with the county judge of the proper county, a petition in writing, setting forth the premises on which they claim damages before the term of court designated in the publication of the notice provided in the preceding section, and said judge shall appoint a jury of three disinterested freeholders of the county, whose duty it shall be, after having taken an oath or affirmation, to faithfully and impartially discharge the duties imposed upon them by this act, to proceed to view the said road the [293] entire distance, the same may have been located through the premises of the complainant or complainants, and of minors, idiots, lunatics or insane persons, and to assess the compensation to be paid in money for the property sought to be appropriated, without regard to the benefits resulting from the location of said road, and they shall report to the next regular term of said court, their doings in the premises, set-

ting forth the amount of damages by them adjudged due to each person or company, and the description of such person or company's land so damaged.

SEC. 10. Co. may pay damages—petitioners pay damages—road establish'd. If the county court shall be satisfied the amount so assessed and determined by the jury aforesaid be just and equitable, and that said road or any part thereof, will in their opinion, be of sufficient importance to the public to cause the damages to be paid by the county, they shall order the same to be paid the petitioner, from the county treasury, but if in their opinion the said road is not of sufficient importance to the public to justify the payment of the same by the county, they may refuse to establish the same a public highway, unless the damages and expenses are paid by the petitioners. But if there be no application of damages or the damages are paid by the county or petitioners, then and in either case, the court shall establish the same a public highway, and record the same in the proper record.

SEC. 11. Compensation of surveyor, &c.—paid by county. The following persons required to render services under this act shall receive compensation for each day they shall necessarily be employed, as follows, to-wit: Commissioners, two dollars per day, the surveyor three dollars, and chain-carriers, markers and other assistants, one dollar and fifty cents each, to be charged as costs and expenses, and such costs and expenses when so adjudged, shall be paid by the several counties in proportion to the length of time occupied on such road in each county.

SEC. 12. Right of appeal—security given for costs—transcript of proceedings—plaintiff and defendant. An appeal from the final decision of the county court on any petition for damages sustained by the location of any state road, as provided by this act, [294] shall be allowed to the district court of the county in which the land lies; but notice must be given of such appeal within twenty days after said decision was made, and no appeal shall be allowed until the appellant shall have filed a bond, with sufficient security, approved by the county judge, for the payment of all costs occasioned by such appeal, in case he does not obtain a better or more favorable judgment in said court than he obtained of the county court, and the county judge shall, within ten days from the time such appeal was taken, deliver to said court a full transcript of all proceedings had before the county court, and on the receipt of such transcript, the court or clerk shall notify four of the petitioners whose names appear first upon the petition asking said road, that can be found in the county, and such notices may be served in the same manner as notices of appeal in other cases, and in such suits the appellant shall be plaintiff, and if the county court has ordered the damages to be paid from the county treasury, then the county shall be defendant, if not then the four petitioners above mentioned shall be defendants, and the final decision of said court shall be certified to the county judge, and by him recorded, which decision shall be final except as hereinafter provided.

SEC. 13. Appellant pays costs. In all cases of appeal from the final decision of the county court, as provided in the twelfth section of this act, the appellant or appellants shall pay all costs that may accrue in consequence of said appeal, unless the judgment in the district court shall exceed in amount the award rendered by the jury appointed by the county court.

SEC. 14. Excessive costs stops the road—portion of the road establish'd. If upon the reception of the decision obtained in the district court, the county court shall not deem such road of sufficient importance to cause the expenses incurred and damages assessed in the district court, to be paid by the county, he may refuse to establish the same unless the parties interested in the location of said road, shall pay or cause to be paid, before the opening of said road, to the satisfaction of the [295] county court, in case said road is estab-

lished a highway, all expenses incurred and damages assessed; *Provided*, however, it shall be lawful for the county court, if in their opinion a part only of said road will be of public utility, to record and establish such useful part, and reject the residue, in case it be capable of division.

SEC. 15. **Highway established.** In case such expense and damages are paid or secured to be paid as aforesaid, or the county court order the same to be paid out of the county treasury, then, and in either case, he shall enter an order that said road be established a public highway.

SEC. 16. **Fees.** For their services required by the twelfth and thirteenth sections of this act, the officers and other persons required to perform services shall each be entitled to the same fees as they are entitled to by law for like services in other cases, to be taxed in the bill of costs in court.

SEC. 17. **Reducing the width of roads—road viewers appointed.** It shall be lawful for the county court of any county in this state, on notice given in one or more newspapers in general circulation in the county, for four consecutive weeks and on petition being presented to the county court, signed by at least twelve freeholders of the county, for lessening or reducing the width of any state road, which now is or hereafter may be laid out and established, if the court shall deem just and proper so to do, to reduce the width of any such road or part thereof, to any width not less than thirty three feet, and shall make a record of the same; *Provided*, that the county court shall, previous to making an order lessening or reducing the width of any state road as provided by this section, appoint three disinterested citizens of the county, to view and report to them under oath or affirmation, and at the expense of the petitioners as to the utility or inutility of such proposed change, and also the width which in their opinion is necessary.

SEC. 18. **Time of laying out extended.** The time for laying out and establishing state roads, provided for by special acts of the sixth general assembly, is hereby extended to the first day of December, A. D. 1858.

[296] SEC. 19. **State roads considered county roads—roads discontinued.** The portion of a state road lying within any county, shall, from the time the same is established, be regarded and treated in all respects as a county road, and may be changed or altered in the same manner as provided by law in case of county roads, and may be discontinued by the concurrent action of the county courts of the several counties in which the same may be situated.

Approved March 23d, 1858.

CHAPTER 150.

TIMES OF HOLDING COURTS.

AN ACT to define the time of holding courts in the several judicial districts in this state.

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

SECTION 1. **Court held in.** That the district courts of the several judicial districts of this state shall be held at the times and places hereinafter designated.

SEC. 2. **1st Dist., Keokuk. Ft. Madison.** In the first district, commencing at Keokuk, Lee county, Iowa, on the first Monday in February and September of each year, and at Fort Madison, in said county, on the third Monday in May and first Monday in December of each year.

Burlington. At Burlington, in Des Moines county, on the first Monday in January, first Monday in October and third Monday in April each year.

Mt. Pleasant. At Mount Pleasant, in Henry county, on the second Mondays of March, June and November each year.

Wapello. At Wapello, in Louisa county, on the first Monday in April and fourth Monday in October each year.

SEC. 3. **2d Dist., Bloomfield.** In the second judicial district, commencing at Bloomfield, in Davis county, on the first Mondays in March and September each year.

Ottumwa, At Ottumwa, in Wapello county, on the second Monday after the first Monday in March and September each year.

[297] **Keosauqua.** At Keosauqua, in Van Buren county on the fourth Monday after the first Monday in March and September each year.

Centerville. At Centerville, in Appanoose county, on the sixth Monday after the first Monday in March and September each year.

Corydon. At Corydon, in Wayne county, on the eighth Monday after the first Monday in March and September each year.

Chariton, At Chariton, in Lucas county, on the tenth Monday after the first Monday in March and September each year.

Albia, And at Albia, in Monroe county, on the twelfth Monday after the first Monday in March and September and September each year.

SEC. 4. **3d Dist., Lewis.** In the third judicial district, commencing at Lewis, in Cass county, on the last Monday in January and July each year.

Council Bluffs, At Council Bluffs City, in Pottawattamie county, on the first Monday in February and August each year, and at such special times as may be provided and called by the judge of said district.

Glenwood, At Glenwood, in Mills county, on the third Monday in February and August each year.

Sydney, At Sidney, in Fremont county, on the first Monday in March and September each year.

Frankford, At Frankfort, in Montgomery county, on the third Monday in March and September each year.

Quincy. At Quincy, in Adams county, on the fourth Monday in March and September each year.

Afton, At Afton, in Union county, on the first Monday after the fourth Monday in March and September each year.

Osceola, At Osceola, in Clarke county, on the second Monday after the fourth Monday in March and September each year.

Leon, At Leon, in Decatur county, on the fourth Monday after the fourth Monday in March and September each year.

Mt. Ayr. At Mount Ayr, in Ringgold county, on the sixth [298] Monday after the fourth Monday in March and September each year.

Bedford, At Bedford, in Taylor county, on the seventh Monday after the fourth Monday in March and September.

Clarinda, At Clarinda, in Page county, on the eighth Monday after the fourth Monday in March and September each year.

SEC. 5. **4th Dist., Woodbury.** In the fourth judicial district, commencing in Woodbury county on the first Mondays in February and August each year.

Monona, In Monona county on the third Mondays in February and August.

Harrison, In Harrison county on the first Mondays in March and September.

Crawford, In Crawford county second Monday in March and September.

Shelby, In Shelby county on the third Mondays in March and September.

Sac, In Sac county on the first Mondays in April and October.

Calhoun, In Calhoun county on the second Mondays of April and October.

Humboldt, In Humboldt county on the first Mondays in May and November.

Cherokee, In Cherokee county on the second Mondays in May and November.

Dickinson, In Dickinson county on the first Mondays in June and December.

Plymouth. In Plymouth county on the third Monday in June.

And in the other counties of the district at such times as may be designated by the district judge of said district.

SEC. 6. **5th Dist., Warren.** In the fifth judicial district, commencing in Warren county on the second Mondays in February and August each year.

Polk, In the county of Polk on the first Monday of March and the fourth Monday of August in each year.

Dallas, In the county of Dallas on the first Monday in April and fourth Monday in September each year.

Madison, In the county of Madison on the second Monday in [299] April and first Monday after the fourth Monday in September each year.

Adair, In the county of Adair on the fourth Monday in April and the third Monday after the fourth Monday in September each year.

Audubon, In the county of Audubon on the first Monday after the fourth Monday in April, and fourth Monday after the fourth Monday in September each year.

Greene, In the county of Greene on the second Monday after the fourth Monday in April, and the fifth Monday after the fourth Monday in September each year.

Guthrie, In the county of Guthrie on the third Monday after the fourth Monday in April, and the sixth Monday after the fourth Monday in September each year.

SEC. 7. **6th Dist., Knoxville.** In the sixth judicial district, commencing at Knoxville, in Marion county, on the second Monday of February and second Monday of September each year.

Oskaloosa, At Oskaloosa, in Mahaska county, on the first Monday in March and fourth Monday in September each year.

Newton, At Newton, in Jasper county, on the third Monday in March and the second Monday in October each year.

Montezuma, At Montezuma, in Poweshiek county, on the first Monday of April and the fourth Monday of October each year.

Washington, At Washington, in Washington county, on the Tuesday following the second Monday of April and second Monday of November each year.

Fairfield, At Fairfield, in Jefferson county, on the fourth Tuesday of April and the fourth Tuesday of November each year.

Sigourney, At Sigourney, in Keokuk county, on the second Tuesday of May and second Tuesday of December each year.

SEC. 8. **7th Dist., Muscatine.** In the seventh judicial district, commencing at Muscatine on the second Monday in January, third Monday in April, third Monday in August, and first Monday in November in each year.

Davenport, At Davenport, in Scott county, on the fourth Monday in January, first Monday in May, first Monday in September, and second Monday in November in each year.

DeWitt, At DeWitt, in Clinton county, on the first Monday in [300] June, first Monday in October and second Monday in December in each year.

Bellevue, At Bellevue, Jackson county, on the third Monday in March, third Monday in June, third Monday in December each year.

SEC. 9. **8th Dist., Iowa City.** In the eighth judicial district, commencing at Iowa City, in Johnson county, on the second Monday in January, fourth Monday in May, and first Monday in November each year.

Marengo, At Marengo, in Iowa county, on the first Monday in February and second Monday in August each year.

Toledo, At Toledo, in Tama county, on the third Monday in February and fourth Monday in August each year.

Vinton, At Vinton, in Benton county, on the first Monday in March and first Monday in September each year.

Marion, At Marion, in Linn county, on the third Monday in March and the third Monday in June and first Monday in December each year.

Tipton, At Tipton, in Cedar county, on the second Mondays in April and October each year.

Anamosa, At Anamosa, in Jones county, on the first Monday in May and third Monday in September each year.

SEC. 10. **9th Dist., Dubuque.** In the ninth district, commencing at Dubuque, in Dubuque county, on the first Mondays of February and August and November, and second Monday in May each year.

Delhi, At Delhi, in Delaware county, on the first Mondays of April and September in each year.

Independence, At Independence, in Buchanan county, on the first Thursday after the second Monday in April and September each year.

Waterloo. At Waterloo, in Black Hawk county, on the fourth Monday in April and September in each year.

Grundy—special term in Grundy—June term in Dubuque. In Grundy county on the first Monday after the fourth Monday in April, whether the same shall be in April or May each year. *Provided,* that the judge of the district court of said county may, upon petition of legal voters of said county, hold a special term in said county at such time as suits the convenience of the people.—*Provided,* that the judge of said ninth district may [301] by rule establish, if deemed advisable, the August term of the court in Dubuque county, an issue term, for hearing equity cases, and such other matters as may not demand the attendance of a jury, and after such order or rule shall be established, no person shall be required to attend at said term of court.

SEC. 11. **10th Dist., Clayton.** In the tenth district, commencing in Clayton county, Iowa, on the third Monday of January, May and September each year.

Alamakee, At Waukon, in Alamakee county, on the first Monday after the third Monday in May and September each year.

Winneshiek, At Decorah, in Winneshiek county, on the second Monday after the third Monday in May and September.

Fayette, At West Union, in Fayette county, on third Monday after third Monday in May and September each year.

Howard, In Howard county on the fifth Monday after the third Monday in May and September each year.

Mitchell, In Mitchell county on the sixth Monday after the third Monday in May and September.

Floyd, At St. Charles, in Floyd county on the seventh Monday after the third Monday in May and September each year.

Butler, At Clarkeville, in Butler county on the eighth Monday after the third Monday in May and September each year.

Bremer, At Waverly, in Bremer county on the ninth Monday after the third Monday in May and September each year.

Chickasaw, At Bradford, in Chickasaw county on the tenth Monday after the third Monday in May and September each year.

SEC. 12. **11th Dist., Marshall**. In the eleventh judicial district in the county of Marshall, on the second Monday of April and third Monday of October.

Story, In the county of Story on the third Monday of April and fourth Monday of October.

Boone, In the county of Boone on the fourth Monday of April and first Monday after the fourth Monday of October.

Webster, In the county of Webster on the first Monday after [302] the fourth Monday of April, and second Monday after the fourth Monday of October.

Hamilton, In the county of Hamilton on the second Monday after the fourth Monday of April, and the third Monday after the fourth Monday of October.

Hardin, In the county of Hardin on the third Monday after the fourth Monday of April, and the fourth Monday after the fourth Monday of October.

Franklin, In the county of Franklin on the fourth Monday after the fourth Monday of April, and the fifth Monday after the fourth Monday of October.

Wright, In the county of Wright on the fifth Monday after the fourth Monday of April.

Winnebago, In the county of Winnebago on the sixth Monday after the fourth Monday of April.

Cerro Gordo, In the county of Cerro Gordo on the seventh Monday after the fourth Monday of April.

Hancock—Worth. The county of Hancock is hereby attached to the county of Winnebago, and the county of Worth is attached to the county of Cerro Gordo for judicial purposes.

SEC. 13. **Court held in 1859**. No courts shall be held under this act till after the first day of January 1859, but all courts up to the said day shall be held as if this act had not been passed.

SEC. 14. **All proceedings combined**. All writs, pleadings, process and proceedings pending in or returnable to any district court of any county before and on the first day of January 1859, shall be deemed pending in and returnable to the terms hereby fixed by this act, and no suit, plea, process, recognizance, indictments, or other proceeding, shall be quashed or held invalid by reason of this act or by reason of any change of the terms of court hereby made.

SEC. 15. **Court held at county seat**. In any county which shall change the location of her county seat, the terms of the district court shall be held at the county seat notwithstanding any provision herein contained.

SEC. 16. **Jurors appear**. The judges of said district may, if deemed advisable by them, order the jurors summoned to at- [303] -tend any term of the court in said districts, to appear on the first or some subsequent day of the term.

SEC. 17. **Special terms allowed.** Should the causes pending in the district court of either of said counties remain undisposed of for want of sufficient time, being allowed for the term of court in such county under this act, the judges of any of said districts may order and hold a special term for the disposition of such pending cases, but not so as to interfere with any regular term as fixed by law.

SEC. 18. **Take effect.** This act to be in force from and after its publication according to law.

Approved March 23d, 1858.

CHAPTER 151.

AN ACT providing for the publication of certain laws in the several counties of the state.

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

SECTION 1. **Laws forwarded to each county judge.** That the secretary of state shall as soon as possible after the adjournment of the present session of the general assembly, and within sixty days from that date, forward to each county judge in this state, a copy of all the general laws passed at said session. It shall be a sufficient compliance with the provisions of this section if the secretary of state shall forward to each county judge newspapers printed at Des Moines City, containing said laws printed by order of the general assembly.

SEC. 2. **Future general laws ordered distributed.** At each future session of the general assembly, the secretary of state shall procure from one of the newspapers printed at Des Moines City, in which the general assembly shall order any general law to be printed, so many of such newspapers or printed slips, containing such laws, as shall be sufficient to furnish two such newspapers or slips to each county judge in the state, and it shall also be his duty as soon as possible, within sixty days after the adjournment of each future session, to furnish to each county judge one copy of [304] all general laws not ordered to be printed in the newspapers at Des Moines City.

SEC. 3. **Publish'd in each county—price paid.** It shall be the duty of the county judge of each county to cause such of said general laws as he may consider of interest to the people of his county, to be published in two weekly newspapers published in his county, if so many be therein published; and if but one weekly newspaper be published in his county, then in such newspaper, *Provided*, that not more than thirty-five cents per thousand ems, shall in any case be allowed for publishing such laws.

SEC. 4. **Accounts sworn to and audited.** The accounts for such printing shall be audited and allowed the same as other accounts against the county, *Provided*, that all accounts for such printing shall first be sworn to by some one acquainted with the correctness thereof.

SEC. 5. **Papers filed, bound and preserved.** It shall be the duty of the county judge of such county to keep and preserve at least one number of each paper of his county in which any law may be published under the provisions of this act, and whenever he has fifty-two numbers of such paper, he shall cause the same to be bound in a substantial form, and place the same in his office where it shall remain for future reference; and if such laws shall be published in two weekly newspapers in his county, then fifty-two numbers of each shall be bound in the same volume.

SEC. 6. **Polk Co. excepted.** Nothing in this act contained shall be so construed as to require or authorize the publication in the county of Polk of any such general laws as have been published in two newspapers of that county by order of the general assembly.

SEC. 7. **Take effect.** This act shall be in force from and after its publication in the Iowa Weekly Citizen, Iowa Weekly State Journal and Iowa Farmer.

Approved March 23d, 1858.

I hereby certify that the foregoing act was published in the Iowa Weekly Citizen on the — day of March, 1858, and in the Iowa State Journal on the 27th day of March, 1858, and in the Iowa Farmer on the — day of March, 1858.

ELIJAH SELLS,
Secretary of State.

[305] CHAPTER 152.

AN ACT in relation to revenues.

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

SECTION 1. **Taxes levied.** That each county board of equalization shall annually as hereinafter provided levy the following taxes upon the assessed value of the taxable property in the county:

State tax. For state revenue three mills on a dollar, when no rate is directed by the census board;

Co. tax. For ordinary county revenue, including the support of the poor, not more than six mills on a dollar, and a poll tax of fifty cents;

School tax. For support of schools not less than one nor more than two and a half mills on a dollar;

Bridge tax. For making and repairing bridges not more than one mill on the dollar, whenever such tax is established by a vote of the people of the county, upon the question being submitted to them according to law.

SEC. 2. **Exemption.** The following classes of property are not to be taxed, and they may be omitted from the assessments herein required.

U. States and state property. The property of the United States and that of this state, including the university, agricultural college and school lands, and including all property leased to the state during the existing of such lease.

Public buildings. The property of a county, township, incorporated town or school district, when devoted to the public use and not held for pecuniary profit.

Squares and cemeteries. Public grounds, by whomsoever devoted to the public, including all places for the burial of the dead.

Fire apparatus. Fire engines and implements used for extinguishing fires, with the grounds used exclusively for their buildings and for the meetings of fire companies.

Property of library and religious institutions. All grounds and buildings of literary or scientific institutions incorporated under the laws of this state, also the grounds and buildings of benevolent, agricultural and religious institutions or societies, devoted solely to the appropriate objects of these institutions, not exceed- [306] -ing forty acres in extent, and not leased or otherwise used with a view of pecuniary profit.

Student's books. The books and papers, furniture and apparatus pertaining to the above institutions and used solely for the purposes above contemplated, and the like property of students in any such institutions used for their education.

Charity funds. Money and credits belonging exclusively to such institutions, and devoted solely to sustaining them, but not exceeding in amount or income the sum prescribed by their charter.

Produce, bedding & clothing. Animals not specified in the next section, the wool shorn from sheep, of the person giving the list, and his farm produce harvested within one year previous to the listing, private libraries not exceeding one hundred dollars in value, and family pictures; the libraries of the clergymen, the kitchen furniture of each family, the beds and bedding required for each family, one bed and the bedding thereof for each single person not a member of another's family, the apparel of every family and person actually used for wearing, with all food provided each family; but no person from whom a compensation for board or lodging is received, or expected, is to be considered a member of a family, within the intent of this clause.

Poor man's mite. The polls, or estates, or both, of persons who, by reason of age or infirmity may, in the judgment of the assessor, be unable to contribute to the public revenue, such opinion being subject to reversal by the county court.

Mutual insurance companies.

Utensils. The farming utensils of any person who makes his livelihood by farming, the tools of any mechanic, not in either case to exceed one hundred dollars in value.

SEC. 3. Schedule of taxable property. All other property, real and personal, within this state, is subject to taxation in the manner herein directed; and this section is intended to embrace lands, and lots in towns, including lands bought from the United States and from this state, and whether bought on credit or otherwise.

[307] Ferry franchises and toll bridges, which for the purposes of this act are considered as real property.

Horses and neat cattle, mules and asses, sheep and swine.

Money, whether in possession or on deposit, and including bank bills.

Money, property or labor due from solvent debtors on contract or on judgment.

Mortgages and other like securities, and accounts bearing interest.

Property situated in this state belonging to any bank or company incorporated or otherwise, and whether incorporated by this or any other state.

Public stocks or loans.

Household furniture, including gold and silver plate, musical instruments, watches and jewelry.

Private libraries for their value over one hundred dollars.

Carriages, stages, hacks, wagons, carts, drays, sleighs and sleds and every description of vehicle.

Farming utensils, machines and machinery and mechanics' tools for their aggregate value over one hundred dollars.

Boats and vessels of every description, wherever registered or licensed, and whether navigating the waters of this state or not, if owned either wholly or in part by persons who are inhabitants of this state, to the amount owned in this state.

Annuities, but not including pensions from the United States, or any of them, nor salaries or payments expected for services to be rendered.

SEC. 4. Every citizen must list. Every inhabitant of this state, of full age and sound mind, shall assist the assessor in listing all property subject to taxation in this state, of which he is the owner or has the control or management in the manner hereinafter directed.

Guardian. The property of a ward is to be listed by his guardian.

Parent. Of a minor having no other guardian, by his father [308] if living, if not, then by his mother if living, and if not, then by the person having the property in charge.

Wife. Of a married woman by herself or her husband.

Trustee. Of a beneficiary for whom property is held in trust by the trustee, and the personal property of a decedent by the executor.

Officer. Of a body corporate, company, society, or partnership, by its principal accounting officer, agent or partner.

Mortgagor. Property under mortgage or lease is to be listed by and taxed to the mortgagor, or lessor, unless it be listed by the mortgagee or lessee.

SEC. 5. Commission merchants owner. Commission merchants and all persons trading and dealing on commission, and assignees authorized to sell, when the owner of the goods does not reside in the county, are for the purposes of taxation to be deemed the owners of the property in their possession.

SEC. 6. Property of another—property of heirs. Any person required to list property belonging to another shall list it in the same county in which he would be required to if it were his own (except as herein otherwise directed,) but he shall list it separately from his own, giving to the assessor the name of the person or estate to whom it belongs, but the undivided property of a person deceased belonging to his heirs, may be listed as belonging to his heirs without enumerating them.

SEC. 7. Shares in corporations taxed—non-resident shareholders taxed in one. The property of corporations or companies constructing canals, railways, plank roads, graded roads, turnpike roads and similar improvements, shall be taxed through the shares of the stockholders, and when any such stockholders are non-residents, their interests shall be taxed in the county in which is situated their principal business office within this state, and to that end the assessor shall require the secretary or clerk, (or whatever officer of corresponding duties there may be) to render under oath a list of the names and residence of such non-resident stockholders, with the number of shares of each, and both the par value and the market value of such stock, but if such secretary or other corresponding officer do not reside in this state, the assessor [309] may require the same of any officer residing in the state, and if such officer refuse, the shares of non-residents shall be assessed to the company or corporation, and may be ascertained in the best manner within the power of the assessor.

SEC. 8. Non resident tax apportioned. In the cases specified in the preceding section, the county receiving the tax upon the property of non-resident stockholders as therein specified, shall distribute and pay over to the several counties in which any part of such improvement shall be situated, in February in each year, their share of said tax, dividing the same in proportion to the portion of such improvements situated in the several counties.

SEC. 9. Business in different counties taxed in one. When a person is doing business in more than one county, the property and credits existing in any one of the counties shall be listed and taxed in that county, and the credits not existing in nor pertaining especially to the business in any one county shall be listed and taxed in that where the principal place of business may be. Any individual of a partnership is liable for the taxes due from the firm.

SEC. 10. **Agents of insurance companies taxed.** Insurance companies of every description, (except mutual insurance companies,) existing in other states and operating in this, shall be taxed one per cent. for county purposes, and one per cent. for state purposes upon the amount of the premiums taken by them during the year previous to the listing in the county where the agent conducts that business, and the agent shall render the list and shall be personally liable for the tax, and if he refuses to render the list or to swear as herein required, the amount may be assessed according to the best knowledge and discretion of the assessor.

SEC. 11. **The owner in Jan'y taxed.** All personal property shall be listed, assessed and taxed in the name of the owner thereof on the first day of January of the then current year, and each owner shall be required to pay taxes thereon, but if the owner resides out of the county, it shall be listed by the agent or person having charge of the same.

SEC. 12. **Tax each year—real estate valued every second year.** All taxable property shall be taxed each year, and personal property shall be listed and assessed [310] each year. Real property shall be listed and valued in the year 1859 and each second year thereafter, and shall be assessed at its true value in money at private sale, having regard to its quality, location, natural advantages, the general improvement in the vicinity, and all other elements of its value. In each year in which real estate is not regularly assessed, it shall be the duty of the assessor to list and value any real property not included in the previous assessment.

SEC. 13. **Depreciated property assessed.** Depreciated bank notes and corporations or companies may be assessed at their current value or rate. Credits shall be listed at such sum as the person listing them believes will be received or can be collected, and annuities at the value which the person listing believes them to be worth in money.

SEC. 14. **Net property only taxed—the same defin'd.** In making up the amount of money and credits which any person is required to list or have listed and assessed, he will be entitled to deduct from the gross amount the amount of all bona fide debts owing by him, but no acknowledgement of indebtedness not founded on actual consideration, and no such acknowledgement made for the purpose of being so deducted shall be considered a debt within the intent of this section, and so much only of any liability of such person as security for another shall be deducted as the person making the list believes he is equitably or legally bound to pay, and so much only as he believes he will be compelled to pay on account of the inability of the principal debtor, and if there are other sureties able to contribute, then so much only as he in whose name the list is made, will be bound to contribute; but no person will be entitled to any deduction on account of any obligation of any kind given to any insurance company for the premiums of insurance, nor on account of any unpaid subscription to any institution, society, corporation or company.

SEC. 15. **Personal property assessed at average value for the previous year.** Any person owning or having in his possession or under his control within this state, with authority to sell the same, any personal property, purchased either in or out of this state, with a view of its [311] being sold at an advanced price or profit, or which has been consigned to him from any place out of this state for the purpose of being sold within the same, shall be held to be a merchant for the purposes of this act. Such property shall be listed for taxation, and in estimating the value thereof, the merchant shall take the average value of such property in his possession or under his control during the year next previous to the time of assessing, and if he has not been engaged in that business so long, then he shall take the average during such time as he shall have been

so engaged, and if he be commencing, he shall take the value of the property at the time of assessment.

SEC. 16. **Manufacturers list raw material.** Any person who purchases, receives, or holds personal property of any description, for the purpose of adding to the value thereof by any process of manufacturing, refining, purifying, or by the combination of different materials, with a view of making gain or profit by so doing and by selling the same, shall be held to be a manufacturer for the purposes of this act, and he shall list for taxation the average value of such property in his hands, estimated as directed in the preceding section, but the value shall be estimated upon the materials only, entering into the combination or manufacture.

SEC. 17. **Election of township assessor.** That there shall be elected at the general election in each year, by the qualified voters of each township in this state, one township assessor, who shall hold his office for one year, and until his successor is elected and qualified.

SEC. 18. **Assessor gives bond.** Each assessor, before entering upon the duties of his office, shall give bond with two or more sureties to the approval of the township trustees, or in counties not organized into townships, of the county judge, in the sum of five hundred dollars, payable to said trustees or county judge, conditioned for the faithful and impartial discharge of the duties of his office, which bond shall be filed and preserved by the township clerk or county judge.

SEC. 19. **Vacancy—how filled.** If any assessor shall fail to give the bond [312] and surety as required in the preceding section, or shall fail to take the oath of office as required by the constitution, on or before the first Monday of January following his election, the office shall be considered vacant, and in all cases of vacancies in such office, the trustees or county judge, as the case may be, shall appoint some suitable person to fill the vacancy, which appointee shall hold said office until the next succeeding election, and until his successor is elected and qualified.

SEC. 20. **Oath of office.** Any person elected or appointed an assessor as herein provided, shall take and subscribe on his bond an oath, as required by the constitution of the state of Iowa, and in substance the same as the condition of his bond.

SEC. 21. **Suit brought against assess'r.** Suit may be instituted against the assessor on his bond, in the name of any person injured for any neglect or failure on his part to properly discharge the duties of his office, before any tribunal having jurisdiction of the same, and in such suit the sureties shall be made parties defendant, and judgment may be rendered against them with the principal.

SEC. 22. **Compensation.** The assessor shall be allowed two dollars for each day he shall have been faithfully and necessarily employed in the discharge of the duties of his office, to be paid out of the county treasury.

SEC. 23. **Assessors meet to equalize.** The several assessors in each county shall meet at the office of the county judge of their county on the second Monday of January in each year, and classify the several descriptions of property to be assessed for the purpose of equalization of such assessments.

SEC. 24. **Books furnished.** On or before the second Monday of January in each year, the county judge shall furnish each assessor in his county with suitable books, in duplicate, properly ruled and headed, in which to enter the following items:

1st. **Name.** The name of the individual, corporation, company, society, partnership or firm to whom any property shall be taxable.

2d. **Lands and lots.** His or their lands, by township, range, section or part of section, and when such part is not a congress- [313] -ional division or subdivision, some other description sufficient to identify it; and town lots, naming the town in which they are situated, and their proper description by number and block, or otherwise, according to the system of numbering in the town.

3d. **Personal property enumerated.** Personal property in the following particulars:

Number of neat cattle.

Number of horses.

Number of mules.

Number of sheep.

Number of swine.

Number of carriages and vehicles of every description, with a separate column for the value of each.

Amount of capital employed in merchandise.

Amount of capital employed in manufacture.

Amount of money and credits.

Amount of taxable household furniture.

Amount of stocks or shares in any corporation or company, not required by law to be otherwise listed and taxed.

Amount of taxable farming utensils or mechanics tools.

Amount of all other personal property not enumerated.

And the number of polls, and a column for remarks.

SEC. 25. **Assessment commenced—plats furnished.** Each assessor shall enter upon the discharge of the duties of his office within six days after the second Monday of January of each year, and shall, with the assistance of each person assessed, or who may be required by law to list property belonging to another, enter in the books furnished him for that purpose, the several items specified in the preceding section, entering the names of the persons assessed in alphabetical order, so far as practicable, by allotting to each letter its requisite number of pages in each said books. He shall also be furnished with a suitable plat of his township, on which to check the several parcels of land and each town or city lot by him assessed, to avoid omissions or double assessments.

SEC. 26. **Persons and property listed—fine for refusing oath.** It shall be the duty of the assessor to list [314] each and every person in his township, and to assess all the property, personal and real therein, and any person who shall refuse to assist in making out a list of his property, or of any property which he is required by law to assist in listing, or shall refuse to make the oath of affirmation required by this act, shall forfeit the sum of five dollars, to be recovered in the name of the county for the use of the common schools therein.

SEC. 27. **Assessors administer oaths—double assessm't for refusal.** The assessor is hereby authorized, and it made his duty, to administer an oath of affirmation to each person assessed to the effect that he has given in a full, true and correct inventory of all the taxable property owned by him, and all such property as may be held by him as agent, guardian, or otherwise, and which he is required by law to list, and in case any one refuse to make such oath or affirmation, the assessor shall note the fact in the columns of remarks opposite such person's name, and should it afterwards appear that such person so refusing has not given a full list of his property, or of that under his

control and which he was by law required to list, any property so omitted shall be entered on the book at double its ordinary assessable value, and taxed accordingly.

SEC. 28. Books returned. Each assessor shall on or before the first Monday of April in each year, return one of the assessment books of his township to the office of the county judge, with the several columns of numbers and values correctly footed up, and the amount of personal property of each person carried forward into a column under the head of total personal property, and the other book he shall on or before the first day of April of each year, deliver to the township clerk of his township, to be used by the trustees of the township as the township tax book, for the levy of taxes for township revenue and road purposes.

SEC. 29. Owner's real property in the county assessed by one assessor. Any person may list or have listed by the assessor for his township, all the real property owned by him, or for which he has the agency, situated in the county, but such as is without the limits of his township, shall be listed on a sheet separate from the township as- [315] -essment list, which shall be returned by the assessor so taking it, to the assessor of the township in which the reality is located, who shall enter the same upon the list or book for his township, and assess the value thereof, and for the purpose of making returns above specified, and completing the several township assessment books, the several assessors are required to meet at the county seat on the last Saturday of March in each year.

SEC. 30. Unknown owners listed. When the name of the owner of any real estate is unknown and the assessor finds it impracticable to obtain the same, it shall be proper and lawful to assess such real estate without connecting therewith any name, but inscribing at the head of the page the words, "owners unknown," and such property, whether land or town lots, shall be listed as near as practicable in the order of the numbers thereof, and in assessing landss no one description shall contain more than eighty acres.

SEC. 31. Co. board of equalization meet. The county judge, county surveyor and county treasurer of each county shall constitute a board for the equalization of the assessment, and shall meet at the county seat on the first Monday of April in each year, and proceed to equalize the assessments of the several townships of the county, substantially in the same manner as is required of the state board of equalization, to equalize among the several counties of the state, so far as applicable; and they shall add to said assessment any taxable property in the county, not included in the assessments as returned by the assessors, placing the same in the list of the proper township, and assess the value thereof.

SEC. 32. Over assessments remedied. Any person who may feel aggrieved at any thing in the assessment of his property, may appear before the board of equalization, either in person or by agent, at the time and place mentioned in the preceding section, and have the same corrected in such manner as to said board shall seem just and equitable.

SEC. 33. Clk's abstracts. Each county clerk shall, on or before the first day of May in each year, wherein real property is assessed, make out and transmit it to the auditor of state [316] by mail or otherwise, an abstract of the real property in his county, in which he shall set forth:

1st. Acres and value. The number of acres of land in his county, and the aggregate value of the same, exclusive of town lots returned by the assessors, as corrected by the county board of equalization.

2d. Lots and value. The aggregate value of real property in each town in the county, returned by the assessor as corrected by the county board of equalization.

3d. **Personal property.** The aggregate value of personal property in his county.

SEC. 34. **State board of equalization meet—auditor act as clerk.** The census board constitute the state board of equalization, and shall meet at the seat of government on the first Monday of June in each year in which real property is assessed, and shall take an oath faithfully and impartially to discharge the duties of their office. The auditor of state shall be ex-officio clerk of the board, and shall lay before it the abstracts transmitted to him by the county clerks, as required by this act, and then the board shall proceed to equalize the valuation of real property among the several counties and towns in the state, in the following manner:

1st. **County valuation raised.** They shall add to the aggregate valuation of real property of each county which they shall believe to be valued below its proper valuation, such per centum in each case as will raise the same to its proper valuation.

2d. **Co. valuation reduced.** They shall deduct from the aggregate valuation of real property of each county which they shall believe to be valued above its proper valuation such per centum in each case as will reduce the same to its proper valuation.

3d. **Valuation of any property raised or reduced.** If they believe that right and justice require the valuation of real property of any town or towns, in any county, or of the real property of such county, not in towns, to be raised or reduced without raising or reducing the other real property of said county, or without raising or reducing it in the same ratio, they may in every such case, add to or take from the valuation of the real estate in any one or more of such towns, or of real estate [317] not in such towns, such per centum as they shall believe will raise or reduce the same to its proper valuation.

SEC. 35. **Auditor transmits statements to clerk—cl'k may change valuation.** Said board shall keep a full record of their proceedings, and when they shall have finished their business, the auditor of state shall transmit to each county clerk, a statement of the per centum to be added to or deducted from the valuation of real property in his county, specifying the per centum to be added to or deducted from the valuation of the real property of each of the several towns, and of the real property not in towns, in case an equal per centum shall not be added to or deducted from each, and also the rate of state tax which is to be levied and collected, which shall not exceed three mills on the dollar. The county clerk shall add to or deduct from the valuation of each tract or parcel of real property in his county, the required per centum on the same, and if the result shall in any case show a fraction of a dollar, such fraction, if less than fifty cents, shall be registered, and if fifty cents or over, shall be counted as one dollar.

SEC. 36. **Cl'k punish'd for neglect of duty.** If any county clerk shall neglect or refuse to transmit to the auditor of state the abstract of the assessment of the real property in the county, or to add or deduct the per centum fixed by the state board of equalization, as required by this act, such county clerk shall be deemed guilty of an offence, for which he shall be prosecuted by indictment in the district court, and if found guilty, shall be fined in any sum not more than one thousand dollars, and shall also be liable to an action on his official bond to any injured person.

SEC. 37. **Suitable records furnished to clerk—cl'k transcribe assessments—corrects all errors—finds sums total.** The county judge shall furnish to the clerk of each county a suitable book, properly ruled and headed, with distinct columns in which to enter the names of tax payers, descriptions of lands, number of acres and value, number of town lots and value, and value of personal property, and each description of tax, also with two columns in which to note

delinquencies, one for polls and one for payments, into which book the clerk, as soon as practicable after equalization as hereinbefore transcribe provided, shall from the assessment [318] books of the several townships, the names of tax payers, with the description of lands, (no one description containing more than a quarter section,) the number of acres, and value, town lots and value, and value of personal property, *Provided*, that in the years in which real property is not listed and valued, the value and description shall be transcribed from the previous years' tax book. He shall carefully compare the numbers thus transcribed, with the assessment returned, and also with the plats of the several townships to see that no lands are omitted or assessed twice, and in case of double assessments he shall reject all but the correct one, and shall insert any real estate in the county not included, and assess the value of the same. He shall add up the several columns of value, and the number of polls, and carry the amount forward, showing the total amount of taxable property, and the number of persons entitled to pay poll tax, in the county. In making out said tax book the property in each civil township shall be kept separate, and the names of the owners thereof arranged in alphabetical order.

SEC. 38. **Tax levied—total of tax found.** As soon as practicable after the summary required in the preceding section shall be completed, the board of equalization shall levy the requisite taxes for the current year in accordance with law, and shall record the same in the proper book, and it shall be the duty of the county clerk, as soon as practicable, to complete the tax list by carrying out in a column by itself, the amount of each different tax, and after adding up each column, he shall carry forward the several amounts, showing a summary of the total amount of each district tax.

SEC. 39. **Errors in assessment corrected.** The county clerk may correct any clerical or other error in the assessment of tax book, and when any such correction affecting the amount of tax is made after the book shall have passed into the hands of the treasurer, he shall report to the county judge, who shall charge the treasurer with all sums added to the several taxes, and credit him with all deductions therefrom.

SEC. 40. **Warrant attached to tax levy—taxes due.** An entry shall be made upon the tax list [319] showing what it is, and for what county and year it is, and the county judge shall attach thereto a warrant under his hand and office seal in general terms, requiring the treasurer to collect the taxes therein levied according to law; and no informality in the above requirement, shall render any proceedings for the collection of taxes illegal. The county judge shall cause the tax book to be delivered to the treasurer of the county by the first day of November, and his receipt taken therefor, and such list or book shall be full and sufficient authority for the collector to collect taxes therein contained.

SEC. 41. **Delinquent tax entered.** The treasurer, on receiving the tax book for each year, shall enter upon the same in separate columns opposite each parcel of real property, or person's name, on which, or against whom any tax remains unpaid for either of the preceding years, the year or years for which such delinquent tax so remains due and unpaid.

SEC. 42. **Treas'r collects tax.** The treasurer, after making the above entry, shall proceed to collect the taxes, and the list and warrant shall be his authority and justification against any illegality in the proceedings prior to receiving the list; and he is required to attend at his office during the time intervening the receiving the tax book and the 15th day of January following, and he is also authorized and required to collect so far as practicable the taxes remaining unpaid on the tax books of previous years.

SEC. 43. **Warrants received in payment.** Auditor's warrants shall be received by the county treasurers in full payment of state taxes, and county warrants shall be receivable at the treasury of the proper county for the ordinary county tax, but money only shall be receivable for the school tax. Road taxes may be discharged and road certificates of work done, received as provided by law.

SEC. 44. **Warrants cancelled.** When a state or county warrant is received by the treasurer, he shall endorse on the face of it the amount for which it was received, and the date of reception, and from that date the warrant shall be regarded as cancelled, and cannot be re-issued, but when the warrant amounts to more than is to be paid by the per- [320] -son presenting it, the treasurer shall give him a certificate of the remainder due him as directed in chapter 18 of the code, relating to the treasurer.

SEC. 45. **Each pers'n pays his taxes—neglect punished by sale.** No demand of taxes shall be necessary, but it is the duty of every person subject to taxation to attend at the office of the treasurer (unless otherwise provided) at some time during the time mentioned in a previous section of this act, and pay his or her taxes, and if anyone neglects to pay it before the fifteenth day of January following the levy of the tax, the treasurer is directed to make the same by distress and sale of his or her personal property, excepting such as is exempt from taxation, and the tax list alone shall be a sufficient warrant for such distress.

SEC. 46. **Sale of personal property—adjournment of sale.** When the treasurer distrains goods he may keep them at the expense of the owner, and shall give notice of the time and place of their sale, within five days after the taking, in the manner constables are required to give notice of the sale of personal property under execution, and the time of sale shall not be more than twenty days from the day of the taking; but he may adjourn the sale from time to time not exceeding five days, and shall adjourn at least once when there are no bidders, and in case of an adjournment he shall put up a notice thereof at the place of sale. Any surplus remaining above the taxes, charges of keeping, and fees for sale, shall be returned to the owner, and the treasurer shall, on demand, render an account in writing of the sale and charges.

SEC. 47. **Punishment for resisting or impeding sale.** If the treasurer be resisted or impeded in the execution of his office, he may require any suitable person to assist him therein, and if such person refuse the aid he shall forfeit a sum not exceeding ten dollars, to be recovered by civil action in the name and to the use of the county; and the person resisting shall be liable as in the case of resisting the sheriff in the execution of civil process.

SEC. 48. **Delinquent taxes—lien on property—real property not sold.** On the 15th day of January, the unpaid taxes of whatever description for the preceding year shall become delinquent, and shall draw interest at the [321] rate of twenty-five per centum per annum; and taxes upon real property are hereby made a perpetual lien thereupon against all persons except the United States and this state, and taxes due from any person upon personal property, shall be a lien upon any real property owned by such person, or to which he may acquire a title. The treasurer shall in no case sell real property for delinquent tax when personal property not exempt from taxation, belonging to the individual can be found in the county, unless the owner shall in writing designate what piece of real property he prefers having sold rather than the personal property.

SEC. 49. **Delinquent taxes paid.** The treasurer shall continue to receive payment of taxes after they have become delinquent, upon the above terms until paid by distress and sale.

SEC. 50. **Manner of giving notice of sale.** Before the first day of September in each year, the treasurer shall offer at public sale at the court house in his county, all lands or other real property on which taxes of any description shall have been delinquent and remained due and unpaid for a longer time than two years, and such sale shall be made for and in payment of the total amount of taxes of the preceding three years due and unpaid on such real property. Such sale shall be valid if made after the day above named.

SEC. 51. **Charges.** The treasurer shall give notice of the sale of real property by publication thereof for four successive weeks in a newspaper in his county, if there be one, to be designated by the county judge, and by a notice posted on the door of the court house or building used therefor, for four weeks before the sale; and if there be no newspaper published in the county, the like notice shall be given by posting one notice in a public place in each civil township in which any land to be sold is situate, and one on the court house door. Such notice shall contain a description of the several parcels of property to be sold, the amount of tax, interest and charges against each parcel, and the names of the owners when known, or persons if any to whom taxed. The treasurer shall charge and collect thirty cents in addition to tax and interest on each parcel of real property so adver- [322] -tised for sale, which shall be applied to the payment of publication and other charges; and the remainder, if any, shall go into the county treasury.

SEC. 52. **Time of day fix'd.** Such sale shall take place between the hours of nine o'clock in the forenoon and five o'clock in the afternoon, and may be adjourned from day to day so long as there are bidders, or until the taxes are all paid.

SEC. 53. **Returns of sale filed.** At the September settlement with the county judge, the treasurer shall file with the judge a return of the sale of real property, (retaining a copy on file in his office) showing the land or other property sold, the names of the owners so far as known, the names of purchasers, and the sums paid by them severally, and also a copy of the notice of the sale, with a certificate of the service verified by an affidavit, and such certificate shall be evidence.

SEC. 54. **Smallest portion of land has preference in sale—division—homestead exemption.** The person who offers to pay the amount of taxes due on any parcel of land for the smallest portion of the same is to be considered the purchaser; and when such portion constitutes a half or more of the parcel, it shall be taken from the east side thereof, dividing it by a line running north and south, except that town or city lots are to be divided in such case lengthwise by a line parallel with the proper lines of the lots. If the portion taken be less than one half of the tract, it is to be taken from the south-east corner in a square form as nearly as the form of the land will conveniently permit. The preceding provisions of this section are subject to the following qualifications: the homestead is liable to be sold for tax save that which is due on itself exclusively, and the above directions concerning the division of a tract of land shall be modified so as to meet this requirement, and to that end the quantity of land bid may be obtained by drawing the division line in any direction or form so as to avoid the homestead; and when the homestead constitutes part of the tract sold and is not yet ascertained, the court may, at the suggestion of either party, cause a proceeding to be had similar to that required in relation to mechanics' liens, for the ascertainment of the homestead; and in all cases [323] of such sales it may take the requisite order and proceedings to ascertain the land sold, or to set it apart from the homestead.

SEC. 55. **Land re-sold—bids recovered.** Should any person so bidding fail to pay the amount due, the treasurer may again offer the land for sale if that

sale has not closed; and if it has closed, he may again advertise it, specifying by one written notice posted for two weeks in the civil township in which the land lies, and one such notice on the court house; or the treasurer may recover the amount bid by civil action, brought in the name of the county in the township where the county seat is situated.

SEC. 56. **Treas'r gives deed—tax deed, a lien on land.** The purchaser will be entitled to a deed for the land so purchased by him, upon the payment of the proper amount, which deed shall run in the name of the state of Iowa, and be signed and acknowledged by the treasurer in his official name, and shall be recorded in the proper record of titles to real estate, and will convey the title to the land, and shall be the presumptive evidence of the regularity of all prior proceedings. The purchaser, from the time of filing such deed for record in the proper office, acquires the lien of the tax on the land, and if he subsequently pays any taxes levied on the same, he shall have the same lien for those and may add them to the amount paid by him in the purchase.

SEC. 57. **Fee for deed.** The treasurer is required to demand fifty cents for each deed made by him on such sales, but any number of parcels of land bought by one person may be included in one deed, as may be desired by the purchaser.

SEC. 58. **Redemption of real property—payment made to.** Real property so sold shall be subject to redemption as follows: At any time before the expiration of two years from the date of sale it may be redeemed, by paying the amount paid by the purchaser, including costs, and any other taxes on the property paid by such purchaser, with twenty-five per centum per annum thereon. Such payment may be made to the purchaser, his agent or attorney, or to the treasurer, who shall enter a memorandum of the redemption, stating date and the amount paid, in the list of sales, and [324] give a certificate thereof to the redemptioner, and hold the money paid to the use of the purchaser, and shall enter satisfaction on the record as in case of mortgages when so redeemed by the proper record or bona fide owner.

SEC. 59. **Claimant on real estate has the right of redemption.** Any owner, partner incumbrancer or party having a lien on or interest in any real estate so sold, shall have the right to redeem the same by paying to the possessor of the title acquired by such sale, or to the treasurer, the whole amount of tax paid by such purchaser, including all cost and interest as herein before stated, and the person so redeeming shall be entitled to receive from such purchaser a quit claim deed, which shall in like manner be recorded.

SEC. 60. **Take possession in two years—absolute title in five years.** If real property sold at such sale be not redeemed within two years from the date of the sale thereof, at any time thereafter, the holder of the title conveyed by the treasurer's deed may enter upon such real estate and use, enjoy and improve the same, as the owner thereof, and acquire all the rights and be subject to all the provisions of the law in relation to occupying claimants, so far as the same are applicable, and if such property be not redeemed by the proper owner thereof within five years from the day of sale, the title thereto shall become absolute, and vest in fee simple in the record owner of the title conveyed by the treasurer's deed to the purchaser at such tax sale, subject to the provisions of the statute of limitations.

SEC. 61. **Treasurers deed transferable.** The title conveyed by the treasurer's deed as herein provided, shall be transferable by deed or otherwise, and the person holding such title shall have priority of right to pay all taxes subsequently levied upon the real estate described in such deed.

SEC. 62. **Pleas of delinquents.** In all questions of right and in all suits arising under the provisions of this act, no plea shall be sufficient to affect the rights of the bona fide possessor of such tax title as herein provided; except:

1st. **Taxes paid.** That the taxes for which the property was sold, were paid before the sale by the treasurer for such taxes, and such plea shall not affect the occupant's rights to [325] pay for all improvements passing with the land, and made in good faith without notice.

2d. **Plea by notice.** Any plea of which substantial notice in writing was given to the treasurer aforesaid before the execution of the deed to the purchaser.

3d. **Plea take effect.** Any plea of which substantial written notice was given to the purchaser or his agent or assignee, which shall, however, only have effect from and after the time of such notice, and shall affect subsequent assignees also, they having recourse on their assignors, unless such notice is passed with the assignment or transfer of title.

SEC. 63. **Co. held harmless from mistake of Treas.** When by mistake or wrongful act of the treasurer, land has been sold on which no tax was due at the time, the county is to hold the purchaser harmless by paying him the amount of principal and interest and costs to which he would have been entitled had the land been rightfully sold, and the treasurer and his sureties will be liable to the county for the amount on his official bond; or the purchaser or his assignee may recover directly of the treasurer.

SEC. 64. **State tax upon peddlers.** A tax for state purposes shall be levied upon peddlers of watches, jewelry and clocks, dry goods, fancy articles, notions, patent medicines, or other merchandise not manufactured in this state, for a license to peddle throughout the state for one year, as follows:— Upon each peddler of watches or jewelry, or either of them, thirty dollars; upon each peddler of clocks, fifty dollars; upon each peddler of dry goods, fancy articles, notions or patent medicines, as follows; upon each foot peddler thereof, ten dollars; upon each peddler who pursues his occupation with a vehicle drawn by one animal, twenty-five dollars; if drawn by two and less than four animals, fifty dollars; if drawn by four or more animals, seventy-five dollars.

SEC. 65. **License obtained.** Such license may be obtained from the judge of any county upon paying the proper tax to the treasurer thereof, and license may issue for a less period than one year for the proportionate amount of tax, and all such license shall state the date of the expiration of the same, and any person so peddling without a license, [326] or after the expiration of his license, is guilty of a misdemeanor, and the person actually peddling is liable whether he be the owner of the goods or not.

SEC. 66. **Co. responsible for state tax.** Each county is responsible to the state for the full amount of tax levied for state purposes, excepting such amounts as are certified to be unavailable, double or erroneous assessments, as hereinafter provided.

SEC. 67. **Co. pays defalcations.** If any county treasurer prove to be a defaulter to any amount for state revenue, such amount shall be made up to the state within the next three coming years, by additional levies in such manner as to annual amounts, as the county judge may direct. In such cases the county can have recourse to the official bond of the treasurers for indemnity.

SEC. 68. **Interest receipt'd on warrant.** When interest is due and allowed by the treasurer of any county or the state treasurer on redemption of auditor's warrants, or county warrants, the same shall be receipted on the warrants, by the holder of the same, with the date of the payment, and no interest shall be allowed by the auditor of state or county judge except such as is thus receipted.

SEC. 69. **Punishment for discounting warrants.** If the state treasurer or county treasurers discount auditor's warrants at less than the amount due

thereon, either directly or indirectly, through third persons, they shall be liable to a fine not exceeding one thousand dollars, for the benefit of common schools, to be prosecuted as other fines, and the payee of the warrant may be a witness on the trial.

SEC. 70. **Treasurer liable for loaning out funds.** County treasurers shall be liable to a like fine for loaning out or in any manner using for private purposes state funds in their hands, and the state treasurer shall be liable to a fine of not more than ten thousand dollars for a like misdemeanor, to be prosecuted by the attorney general in the name of the state, for the benefit of common schools.

SEC. 71. **Treas'r settled with—report forwarded.** On the fifteenth day of January and September of each year, the county judge shall make a full and complete settlement with the county treasurer, as now required by the Code, and he shall make and certify to the auditor of state, all credits to the treasurer [327] for double or erroneous assessments, and unavailable taxes, also all dues for state revenue, interest on delinquent taxes, sales of land peddler's license, and other dues if any; also the amount collected for these several items, and revenue still delinquent, each year to itself. Said reports shall be forwarded by mail.

SEC. 72. **Co. Treas'r pay over to state treas'r.** The county treasurer shall make and transmit to the auditor of state on or before the tenth day of every month a statement under oath, showing the amount of money in his hands due the state on the last day of the preceding month, and he shall each year, unless otherwise directed by the state auditor, pay into the city treasury on or before the tenth day of February, all the money due the state remaining in his hands on the fifteenth day of January, and on or before the tenth day of October, all the money due the state remaining in his hands on the fifteenth day of September. He shall also at any time when directed by the auditor of state, forthwith pay into the state treasury, to the treasurer of any other county, or to any bank incorporated under the laws of the state, any or all the money due the state and remaining in his hands, or to hold the same subject to his order.

SEC. 73. **Manner of making payments.** The state auditor may require any county treasurer to make his payment through any other county treasurer, or through any banking house chartered by law, but any payment made in pursuance of such requirement of the auditor, shall be a release to the county of its liabilities to the state to the amount so paid.

SEC. 74. **Inte collecte.** County treasurers shall in all cases collect the interest on delinquent taxes as fixed by law, for which, if uncollected, the county judge shall charge him in account removable only for good cause.

SEC. 75. **Duplicate recp'ts signed by county judge.** Tax payers, upon payment of taxes, shall take duplicate receipts, which shall show the amount of each district tax and the interest on each, and upon which shall be written or printed the words "one receipt to be left with the county judge," and the words "duplicate surrendered." They shall present them to the [328] county judge, who shall retain and file one, and charge the several amounts therein to the treasurer in separate accounts. On the other receipt he shall sign the words, "duplicate surrendered," and deliver the same to the tax payer, and no receipt for taxes shall be held as evidence of the payment thereof, without such signature of the county judge.

SEC. 76. **Co. officer takes receipts.** When any officer or other person pays the county treasurer any sum of money for revenue or school purposes, he shall likewise take duplicate receipts, specifying to what fund the payment was made, one of which he shall deposit with the county judge, as provided in the preceding section.

SEC. 77. **Auditor transmit account.** The state auditor shall make and transmit to each county judge on the first day of September of each year, a statement of the county treasurer's account with the state treasury, and if the county judge finds the same to be incorrect in any particular, he shall forthwith certify the facts in relation to the same to the auditor of state.

SEC. 78. **Co. treasurer makes full settlement—accounts squar'd for successor.** When a county treasurer goes out of office he shall make a full and complete settlement with the county judge, and deliver up all books, papers, moneys, and all other property appertaining to the office, to his successor, taking his receipt therefor. The county judge shall make a statement (so far as state dues are concerned) to the auditor of state, showing all charges for whatever purposes, which have been created against the treasury during his term of office, and all credits which have been made; the delinquent taxes and other unfinished business charged over to his successor, and the amount of money paid over to his successor, showing to what year and to what accounts the amount so paid over belongs. He shall also see that the books of the treasurer are correctly balanced, before being passed into the possession and control of the treasurer elect.

SEC. 79. **Duplicate rec'pts given by state treasurer.** When any officer or other person pays the state treasurer any sum of money for revenue or school purposes, he shall take duplicate receipts therefor, one of which he shall file with the auditor of state, who [329] shall charge the same to the treasurer in account of the proper fund.

SEC. 80. **Separate funds accounted for.** The state treasurer shall keep each distinct fund coming into his possession as public money in a separate apartment of his safe, and each quarterly settlement with the state auditor, he shall count each fund in the presence of the auditor, to see if the same agrees with the balance found on the books. The total amount acknowledged to belong to each fund shall be exhibited before the count, and the county treasurer shall account with the county judge in like manner.

SEC. 81. **Neglect of duty punished.** Any county judge neglecting or refusing to comply with this act, shall be liable to a fine in any sum not exceeding one thousand dollars, to be prosecuted by the attorney general or district attorney, for the benefit of common schools.

SEC. 82. **Money deposited in safe and no where else.** The treasurer of state shall keep in the safe in his office all moneys received by him as such treasurer until the same is withdrawn therefrom upon warrants issued by the auditor of state in accordance with law. The treasurer shall not deposit any of the moneys received by him as treasurer with or lend any portion thereof to any person or persons or associations of persons whatever, or to company incorporated or unincorporated, nor shall he in any manner whatever, allow said moneys or any part thereof to be withdrawn from said safe, or used in any manner whatever otherwise than may be provided by law.

SEC. 83. **Violation of above punished.** Should the treasurer of state at any time violate any of the provisions of section eighty-one of this act, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than five thousand dollars, nor more than twenty thousand dollars, and imprisoned in the county jail not less than one year nor more than five years, or both at the discretion of the court.

SEC. 84. **Conflicting acts repealed.** All acts and parts of acts conflicting with this act are hereby repealed so far as they conflict with this act.

Approved March 23d, 1858.

[330] CHAPTER 153.

AN ACT to amend chapter 80 of the code of Iowa.

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

SECTION 1. **Judgment paid within three years.** That in all cases where judgments have been or may hereafter be rendered in any of the courts of this state under the provisions of chapter 80 of the Code of Iowa, in favor of an occupying claimant or claimants for the amount of his, her or their improvements, the owner of the title to the land may at any time within three years after the date of such judgment, pay the amount of the same, and he shall immediately upon the payment of the same, have the right to the possession of the land for which purpose a writ shall be issued by the clerk of the court where the judgment was rendered upon the application of the owner of the title aforesaid.

SEC. 2. **Judgment paid by execution.** If the owner of the title does not within three years from the date of judgment pay the amount of the judgment and take possession of the land, then owner of the improvements may cause to be issued an execution against the property of the owner of the title for the amount of his judgment, which execution shall be satisfied in the same manner as in any other case; and when the execution is satisfied all claims of the occupying claimant upon the land, and improvements shall cease, but said execution may be levied upon the lands or any other property not exempt from execution of the owner of the title.

SEC. 3. **Conflicting acts repealed.** So much of chapter 80 of the Code of Iowa as comes in conflict with this act is hereby repealed.

Approved March 23d, 1858.

CHAPTER 154.

AN ACT to provide for the making and repairing of public highways, and prescribing the duties of township officers in certain cases.

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

SECTION 1. [331] **Road districts formed.** That the township trustees of the several townships of this state shall meet on the first Monday of October, A. D. 1858, and every subsequent year thereafter, and divide their respective townships into such number of road districts as they may deem necessary for the public good.

SEC. 2. **Election of supervisor.** There shall be elected at the general election in the fall of 1858, and annually thereafter, one supervisor for each road district within the several townships of this state, who shall hold his office for one year, and until his successor is elected and qualified. Said supervisor must reside in the district for which he was elected, and in the election of said supervisor no elector shall vote for more than one supervisor, and none other than the one residing in the district where such elector resides, but no person shall be required to serve as supervisor who is exempt by this act from performing labor on the highway.

SEC. 3. **Supervisor notified and qualified.** Said election shall be conducted as other elections, and it shall be the duty of the township clerk to notify said supervisor elect, within five days after said election, and said supervisor

elect, thus notified, shall appear before the township clerk within ten days thereafter, and give bond and take the oath of office as required by the constitution of the state of Iowa.

SEC. 4. Penalty for refusing to qualify. Any supervisor elect, after having been notified as required in section three of this act, who shall fail to appear before said township clerk (unless prevented by sickness) within the specified time, and give bond and take the oath of office as required by this act, shall forfeit and pay the sum of five dollars, and in case of his failing or refusing to pay the same, it shall be the duty of his successor in office to collect the said amount by suit or otherwise, and apply the same to the repairing of roads in his district.

SEC. 5. Supervisor gives bond—vacancy. Each supervisor so elected shall be required to give bond in such sum and with such security as the township clerk may deem requisite, conditioned that he will faithfully and impartially perform all the duties devolving upon him, and appropriate all moneys that [332] may come into his hands by virtue of his office according to law, which bond shall be kept by the township clerk among the papers of his office. And in the event of a vacancy occurring in any road district within his township, it shall be the duty of the township clerk to fill such vacancy by appointment as soon as notified of the same.

SEC. 6. Men required to work on road. Each supervisor shall require all the able bodied male residents of his district between the ages of twenty-one and forty-five to perform two days labor upon the public highway between the first day of April and the first day of July of each year as hereinafter provided.

SEC. 7. Notice of commencement—tools brought. The supervisor shall be required to give at least three days notice previous to the day or days designated to work the roads to all persons in his district subject to work, as required in section six of this act, what day he will superintend the work on the roads within his district, and all persons so notified must meet said supervisor or at such time and place, and with such tools, implements and teams as said supervisor may designate, and shall labor diligently under the direction of the supervisor, for eight hours each day, and for such two days labor performed, the supervisor shall give to the person a certificate, which certificate shall be evidence that such person has performed labor on the public highway as required by section six of this act, and shall exempt such person from performing labor in payment of road poll tax in that or any other road district within this state for the same year. *Provided*, that any person furnishing a good team, consisting of two horses or their equivalent, shall be allowed the same for the team that is allowed for able bodied men per day.

SEC. 8. Penalty for absence, idleness and disobedience. Each person made liable to perform labor on the public highway by section six of this act, who shall fail or neglect to attend either in person or by satisfactory substitute at the time and place appointed with the designated tool, implement or team, having had three days notice thereof, or having attended, shall spend his time in idleness, or disobey the supervisor, or fail to fur- [333] -nish to said supervisor within five days thereafter some satisfactory excuse for not so attending, shall forfeit and pay to said supervisor the sum of one dollar and twenty-five cents for each days delinquency, and in case of a failure to pay such forfeit within ten days, it is hereby made the duty of such supervisor to recover the same by action of debt in the name of the supervisor, before any justice of the peace in the proper township, which money when collected shall be immediately expended on the public highway.

SEC. 9. The pay of supervisor. The supervisor shall perform the same amount of labor as is required of an able bodied man, for which he shall be

allowed the sum of one dollar and fifty cents per day, including the time necessarily spent in notifying the hands and making out his returns, which sum shall be paid out of the road fund after deducting his two days work required by section six of this act, and road tax for that year. *Provided*, that where there is no money in the hands of the clerk with which to pay the said supervisor, he shall be entitled to receive a certificate from the township clerk for the amount of labor performed, after deducting as above required, which certificate shall be received in payment of his own road tax for any succeeding year.

SEC. 10. Maps of roads furnished—plat of new road furnished. For the purpose of enabling the supervisors to determine the precise location of the various roads in their respective districts, it is hereby made the duty of the county judge of each county of this state to furnish each of the township clerks of his county within three months after the taking effect of this act, with a map on a scale of not less than two inches to the mile, of their respective townships, on which map shall be plainly marked all roads which are at the time of making such map legal roads, which map shall be carefully preserved among the papers of his office. And it is further made the duty of the county judge immediately after the establishing of any new road, to notify the township clerks of the townships in which said road has been located, of the location of the same, and also to furnish a copy of the field notes thereof, and the clerk [334] shall immediately mark the same on the map in his office.

SEC. 11. Maps of districts furnished. The township clerk shall furnish each supervisor of his township with a map of his district, which map shall contain all the legal roads in said district, and when any new road shall have been established, it shall be the duty of the township clerk to notify each of the supervisors whose district is affected by said new road, and also to furnish a copy of the field notes of the same, which new road shall be immediately marked on the map of said district in his possession.

SEC. 12. Road tax determined. The township trustees of each organized township, shall, at an annual meeting to be holden on the second Monday of April in each year, or as soon thereafter as the assessment book is received by the clerk, determine upon the additional amount of property tax to be levied for roads, bridges, plows and scrapers, and levy the same, which shall not be less than one nor more than three mills on the dollar on the amount of the township assessment of that year. *Provided*, that when incorporated cities are by act of incorporation heretofore passed and made road districts, this act shall not interfere with such districts, but the same shall be under control of such city.

SEC. 13. Tax lists for each district made out. The township clerk shall within four weeks after such levy make out a tax list for each road district in his township, which list shall be in tabular form and in alphabetical order, having distinct columns for lands, town lots and personal property, and carry out in a column the amount of the tax on each piece of land and town lot, and on the amount of personal property belonging to each individual, and to enable the township clerk to make out such tax list, it is hereby made the duty of the assessor to furnish the township clerk of each township in the several counties of this state, on or before the first day of April of each year, with a correct copy of the assessment lists of said township for that year, which list shall be the basis for such tax list. It shall be the duty of the county judge to furnish the several township clerks of his county with printed [335] blanks necessary to carry into effect the provisions of this act.

SEC. 14. Supervisor authorized to collect tax—lists delivered. The township clerk shall make an entry upon such tax list showing what it is, for what road district and for what year, and shall attach to the list his warrant under

his hand, in general terms requiring the supervisor of such district to collect the taxes therein charged as herein provided, and no informality in the above requirements shall render any proceedings for the collection of such taxes illegal. The clerk is hereby required to cause such lists to be delivered to the proper supervisors of his township by the 1st day of May next after the levy, take his receipt therefor, and such list shall be full and sufficient authority for the supervisor to collect all taxes therein charged against resident property holders in his district.

SEC. 15. Road tax posted. The supervisor shall within ten days after receiving such tax list, post up in three conspicuous places within his district written notices of the amount of road tax assessed to each tax payer in said district.

SEC. 16. Price of labor. The township trustees shall at their annual meeting on the second Monday of April in each year determine the sum that will be allowed for a day's labor, and also the sum that will be allowed for a man and team per day, and the township clerk shall immediately notify each of the supervisors in his township of such determination.

SEC. 17. Notice of time to work roads—penalty for non-attendance. The supervisor shall be required to give at least three days notice previous to the day designated to work the roads to all persons in his district charged with a road tax, of the day or days he will superintend the work on the roads within his district, and all persons so notified must meet said supervisor at such time and place with such tools, implements and teams, as said supervisor may designate, having such tools and implements in his possession, and in case of a failure to attend either in person or by satisfactory substitute at such time and place, or send a reasonable excuse within five days thereafter for not so doing, the supervisor shall immediately commence suit for the collection of the tax [336] which such person is liable to pay, and expend the same as soon as collected on the public highways in his district.

SEC. 18. Annual receipt of the supervisor. The supervisors of the several districts of each township shall report to the township clerk on the first Monday of October in each year, which report shall embrace the following items:

1. The names of all persons in his district required by section six of this act to perform labor on the public highway, and the amount performed by each.

2d. The names of all persons against whom suits have been brought, as required by section eight of this act, and the amount collected of each.

3d. The names of all persons who have paid their property road tax in labor, and the amount paid by each.

4th. The names of all persons against whom suits have been brought for the collection of road taxes, and the amount collected from each.

5th. The names of all persons who have paid their road tax in money, and the amount paid by each.

6th. A correct list of all non-resident lands and town lots on which the road tax has been paid, and the amount paid on each.

7th. A correct list of non-resident lands and town lots on which the road tax has not been paid, and the amount of tax on each piece.

8th. The amount of all moneys coming into his hands by virtue of his office and from what sources.

9th. The manner in which the moneys coming into his hands by virtue of his office have been expended, and the amount, if any, in his possession.

10th. The number of days he has been faithfully employed in the discharge of his duty.

11th. The condition of the roads in his district, and such other items and suggestions as said supervisor may wish to make, which report shall be signed and sworn to by said supervisor and filed by the township clerk among the papers of his office.

SEC. 19. **Non-resident road tax collected—penalty for neglect to make return.** The township clerk shall immediately after [337] the filing of the report as required in the foregoing section, make out a correct list of all non-resident land and town lots on which the road tax has not been paid, and the amount of tax charged on each piece of land and town lot, designating the district in which said land or town lot is situated, and transmit a certified copy of the same to the county judge of the proper county, which shall be immediately placed in the hands of the county treasurer, who shall collect the same in the same manner that county taxes are collected, and in case of the clerk failing or neglecting to make such return, he shall forfeit and pay to the use of the township for road purposes, a sum equal to the amount of tax on said land, which may be collected by suit on his official bond, commenced in the name of the township by the trustees thereof before any court having competent jurisdiction.

SEC. 20. **Time of working roads.** The supervisor shall cause two-thirds of the property tax in his district to be worked out between the first day of May and the first day of July of each year, and the remaining one-third whenever he thinks the condition of the roads demands it, but in all cases before the first day of October of that year.

SEC. 21. **Neglect of supervisor punished.** Any supervisor failing or neglecting to perform the several duties required by this act, shall forfeit and pay for the use of the road fund in his district, the sum of one hundred dollars; and it is hereby made the duty of the township clerk in case of such failure or neglect, to commence suit in his name for the collection of the same before any justice of the peace within the proper township.

SEC. 22. **Timber may be taken—shade trees protected—pay for timber.** The supervisor is authorized to take timber or other material for the use of the road from any unenclosed lands in the neighborhood of which the road passes, but he is not permitted to cut down or injure any tree growing by the wayside which does not obstruct the road, and which stands in front of any town lot or enclosure or cultivated field, or any ground reserved for any public use, where such tree is intended to be preserved for shade or ornament by the proprietor of the land on or adjacent to which the tree is so [338] standing, and the person owning such timber or material thus taken, shall be paid out of any of the road fund in the hands of the supervisor, a fair value therefor, and in case there be no money in the hands of such supervisor, then such supervisor shall give him a certificate stating the amount, kind and value of such material taken, which certificate shall be received for the payment of his road tax for that or any succeeding year, to the amount thereof.

SEC. 23. **Damage for unsafe bridges.** When notified in writing that any bridge or other portion of the public road is unsafe or impassable, the supervisor thus notified shall be liable for all damage resulting from the unsafe or impassable condition of the road or bridge, after allowing a reasonable time for repairing the same.

SEC. 24. **Persons summoned to repair bridge.** For making such extraordinary repairs, the supervisor may call out any or all the able bodied men of the district in which they are to be made, but not more than two days at any one time without their consent, and persons so called out shall be entitled to receive a certificate from the supervisor certifying the number of days of labor performed, which certificate will be received for road tax for that or any succeeding year, at the rate per day established for that year.

SEC. 25. **Fine for neglect to attend.** If any able bodied man when duly summoned for any such purpose, fails to appear and labor diligently by himself or his substitute, or send satisfactory excuse therefor, he is liable to a fine of ten dollars, to be recovered by suit before any justice of the peace in the name of the district and for the use of the road fund of such district. *Provided*, in all cases, the person so notified shall have the privilege of paying the value of such work immediately in money.

SEC. 26. **Obstructions removed.** It is the duty of the supervisor to remove obstructions in the public highways caused by fences or otherwise, but he must not throw down or remove fences which do not directly obstruct the travel upon the highway, until not to exceed six months notice has been given to the owner of the land enclosed in part by such fence.

[339] SEC. 27. **Provisions for growing hedges.** When any owner or occupant of land adjoining and abutting upon any road or highway, may desire to plant a hedge upon the line of any road, he shall be allowed to build or remove his fence upon such road or highway, *Provided*, he shall not build or remove his fence more than ten feet within the outer line of said road, and that unless the said road be sixty feet wide the fence shall not be built or removed upon both sides at the same time. Such owner or occupant shall not be allowed to occupy such highway as aforesaid for more than five years, and not more than one year before such hedge shall be planted, and at the expiration of such time he shall remove such fence, upon the order of the supervisor of the district where such road is situated.

SEC. 28. **Condition of roads.** It shall be the duty of the supervisor to keep the roads in as good condition as the funds at his disposal will permit, and to place guide boards at the forks of the roads in his district, and shall be furnished with money to do the same.

SEC. 29. **Fine for not giving half the road.** Persons meeting each other on any of the public highways of this state, shall give one-half of the same by turning to the right. All persons failing to observe the provisions of this section shall be liable to pay all damages resulting therefrom, together with a fine not exceeding five dollars, to be appropriated to the repairing of roads in the district where the violation occurred.

SEC. 30. **Annual settlement of supervisor—pay of clerk.** The supervisors are hereby required to meet the township trustees at their regular meeting on the first Monday in October of each year, and have a final settlement of all their accounts connected with the road fund and with the affairs of their office as supervisor; and after the payment of the supervisor, the trustees shall order the distribution of the road fund in the hands of the township clerk as they may deem expedient for road purposes, and the township clerk shall pay the same out as ordered by the trustees. The township clerk shall be entitled to five per cent, on all moneys coming into his hands by virtue of his office, and [340] shall be required at least once in each year to make settlement with the county judge, producing vouchers for all moneys paid out by him, specifying for what, and to whom paid.

SEC. 31. **Clerk gives bond and draws money.** The township clerk of each township shall be required by the county judge of his county to give bond, to be approved by the judge in the sum of twice the amount of the road tax in his township, when the county judge shall give an order to said clerk on the county treasurer for all moneys collected by him as road taxes upon all property within and for his township, upon the payment of which by the treasurer, he shall take from said township clerk duplicate receipts for the sum thus paid him, one of which receipts said treasurer shall deliver over to the county judge to be filed by him among the papers of his office, and said judge shall charge the same to the account of the said clerk upon the road book.

SEC. 32. **Pay of clerk.** The township clerk shall be allowed the sum of one dollar and fifty cents per day for all days necessarily employed in the discharge of the duties of his office, which account after being signed and sworn to, shall be audited and paid out of the county treasury as other accounts are audited and paid.

SEC. 33. **Election of supervisors.** Supervisors elected at the April election of 1858, shall hold their office until the second Tuesday of October, 1858, and until their successors are elected and qualified.

SEC. 34. **Conflicting acts repealed.** All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved March 23d, 1858.

CHAPTER 155.

BOARD OF EDUCATION.

AN ACT providing for the election of the members of the board of education, and fixing the times of meeting of said board.

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

SECTION 1. [341] **Election of members.** The members of the board of education shall be elected, one from each judicial district in the state, in accordance with the provisions of the constitution, upon the second Tuesday of October, A. D. 1858, and the votes for said members shall be canvassed as provided for the election of district judges. Said board shall hold their first meeting in December, A. D. 1858, as provided by the constitution of the state.

SEC. 2. **Sessions held.** The board of education shall hold a session at the capitol of the state on the first Monday of December, A. D. 1859, and every second year thereafter.

Approved March 23d, 1858.

CHAPTER 156.

PRE-EMPTIONS OF SCHOOL LANDS.

AN ACT for the relief of certain claimants and pre-emptors of school lands.

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

SECTION 1. **Claims secured by purchase upon appraisem't—counties may purchase sites of county seats.** That any person having a bona fide claim upon the lands known as the 500,000 acre grant reported by the selecting agent of the state upon the lists of selections returned by him, and any person who shall have settled upon or improved any of said lands under a claim or pre-emption supposed by said person at the time to be legally acquired by the payment of money to the late superintendent of public instruction or other person having charge of the books and papers at his office, and any person who shall have made a bona fide settlement and improvement upon any section sixteen since the survey thereof, and prior to the passage of this act, shall upon making proof thereof as hereinafter provided, be permitted to purchase the same upon the same terms of payment as other school lands sold at auction; *Pro-*

vided, That where any county seat has been located on any of the lands mentioned in this section, the several counties in which said county seats are [342] situate shall have and be entitled to purchase said lands to the amount of one hundred and sixty acres at the appraised value thereof, exclusive of improvements.

SEC. 2. **Statement of claim filed.** Before any such claimant or pre-emptor shall be permitted to purchase any of said lands under the provisions of this act, he shall file with the school fund commissioner of the county in which the lands are situated, a statement under oath of the date and character of his claim, within sixty days after the taking effect of this act.

SEC. 3. **Purchase of lands permitted—price limited.** If there be but one claimant to any tract of said land, and the school fund commissioner shall be satisfied that said claim is of the character contemplated by this act, and that the same was made in good faith, he shall require no further proof, but permit the claimant to purchase the said lands at the appraised value; *Provided*, That if the appraised value of any of said lands is less than two dollars and fifty cents per acre, the same shall be sold at two dollars and fifty cents per acre, and provided further, that all of said lands which have not been appraised, or the appraisal thereof not officially in the possession of such school fund commissioner, he shall cause the same to be appraised as provided by law.

SEC. 4. **Conflicting cl'ns settled—provisions for Iowa county.** If it shall appear that any of said lands are claimed by two or more adverse claimants, the school fund commissioner shall immediately after the expiration of the sixty days provided in the second section of this act, fix a time for hearing each case, and notify the claimants thereof, which notice shall be served upon each party at least ten days before the day fixed for hearing, unless waived by him upon hearing the proofs and allegations of the parties, the school fund commissioner shall decide the cases and permit the purchase of the disputed tract by the party entitled thereto; *Provided*, however, that I. L. Terry, of Washington county, and William C. Rayburn of Poweshiek county, be and they are hereby appointed commissioners to sit with the school fund commissioner of Iowa county, and the three shall constitute a board of commissioners to hear [343] all conflicting case under the provisions of this act in the county of Iowa, a majority of whom shall have power to decide any or all of said cases, and the school fund commissioner of said county is hereby required to carry into effect the decision of said board as provided in this act.

SEC. 5. **Appeal allowed.** An appeal may be taken to the district court of the district in which the lands are situated, from any decision made under the provisions of this act, and the school fund commissioner shall conform his official action, in case of appeal, to the decision and direction of said court.

SEC. 6. **Pay of commissioners.** The commissioners appointed by this act shall be entitled to the sum of three dollars per day as a compensation for their services, which shall be paid by the purchasers of said lands, in proportion to the number of acres purchased by each, before the execution of the contract of purchase.

SEC. 7. **Take effect.** This act to take effect and be in force from and after the publication thereof in the Iowa Weekly Citizen and the Iowa State Journal.

Approved March 23d, 1858.

I hereby certify that the foregoing act was published in the Iowa Citizen on the 14th day of April, 1858, and in the Iowa State Journal on the 10th day of April, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 157.

CITIES AND TOWNS.

AN ACT for the incorporation of cities and towns.

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

SECTION 1. Corporation limited—application of law. That no town or city shall hereinafter be incorporated in the state of Iowa, in any other manner than as herein provided. None of the provisions of this act shall apply to cities or towns already incorporated in this state, otherwise than as herein provided, save and except section sixty-one of this act.

[344] **SEC. 2. Petition presented—contents.** When the inhabitants of a part of any county not embraced within the limits of any city, or incorporated town, shall desire to be organized into an incorporated town, they may apply by petition in writing signed by not less than thirty of the qualified voters, residents of the territory to be embraced in the proposed incorporated town, to the county court of the proper county, which petition shall describe the territory proposed to be embraced in such incorporated town, and have annexed thereto an accurate map or plat thereof, shall state the name proposed for such incorporated town, and shall also name the person or persons authorized to act in behalf of the petitioners in prosecuting said petition.

SEC. 3. Petition filed—day of hearing—notice of hearing. Where any such petition shall be presented to the county court, the same shall be filed in the office of the county judge, to be there kept subject to the inspection of any person or persons interested, until the time appointed for the hearing thereof; the said judge shall at or before the time of such filing, fix and communicate to such petitioners or their agents, a time and place for the hearing of such petition, which time shall not be less than fifty days after the time of such filing, and thereupon the petitioners or their agents shall cause a notice to be published in some newspaper of general circulation in the county, (if one is published in the county) not less than four consecutive weeks, and a copy of said notice to be posted at some public places within the limits of the said proposed incorporated town, not less than four weeks previous to the time of such hearing, which notice shall contain the substance of said petition, and state the time and place for hearing thereof.

SEC. 4. Hearing public—mode of conducting. Every such hearing shall be public, and may be adjourned from time to time, and any person interested may appear and contest the granting of said petition, and upon demand shall have the right to a jury of six men to hear and decide the case, and affidavits or other testimony in support of or against said petition, which may be prepared and submitted, shall be examined and heard by said court or jury, and the court may permit the [345] agent or agents named in the original petition, to change or amend the same, but no amendment shall be permitted whereby territory not before embraced shall be added, or the character or extent of said proposed incorporated town materially changed, without appointing another time for hearing, and requiring new notice to be given as above provided.

SEC. 5. Facts proved—organization ordered—petition filed and recorded. If the court or jury, after hearing such petition, shall be satisfied that at least fifty qualified voters actually reside within the limits described in the petition, and that said petition has been signed by a majority of the voters within said limits, that said limits have been accurately described and an accurate plat or map thereof made and filed, that the name proposed for said town is proper

and sufficient to distinguish it from others in the state, and it shall moreover be deemed right and proper in the judgment of the court or jury, that said petition should be granted, the court shall make and endorse on said petition an order to the effect that the incorporated town as named and described in the petition, may be organized, which order the court shall sign and deliver, together with the plat or map, to the recorder of the county, whose duty it shall be to record the same as soon as practicable in the proper book of records, and to file and preserve in his office the original papers, having certified thereon that the same have been properly recorded, and it shall be the duty of said recorder to make out and certify two transcripts of said record, one of which he shall forward to the secretary of state, and the other he shall deliver to the agent or agents of said petitioners, with a certificate thereon, that a similar transcript has been forwarded to the secretary of state as above provided.

SEC. 6. Beginning of incorporation. So soon as said record shall be made and said transcripts certified and forwarded and delivered, the inhabitants within the limits described in the petition, shall be deemed an incorporated town, to be organized and governed under the provisions of this act, in like manner as if specially named herein, and so soon as said incorporated town shall be actually organized, by an [346] election of its officers as hereinafter provided, notice of its existence as such shall be taken in all judicial proceedings in the state.

SEC. 7. Delay in organization—injunction may be issued—complaint heard—records annul'ed. Two months shall elapse from the time such transcripts are forwarded and delivered, before notice shall be given for an election of officers in any such town, and any person interested may at any time within said two months, make complaint in writing, in the nature of an application for an injunction, to the district court of the county, or to the judge thereof in vacation, having given a least five days notice thereof, and furnished a copy of the complaint to the agent or agents of the petitioners, for the purpose of having the organization of such proposed town prevented. It shall be the duty of such judge or court to hear such complaint in a summary manner, receiving such answers, affidavits and proofs as may be deemed pertinent, and if it shall appear that the proposed town does not contain the requisite number of inhabitants, or that a majority of them have not signed the petition, or that the limits of said town are unreasonably large, or small, or are not properly and sufficiently described, then the said court or judge shall order that the record of said town shall be annulled, and it shall be the duty of the county recorder to endorse on the record the order so made, and to certify and transmit to the secretary of state a copy thereof, but such proceeding shall in no manner bar a subsequent petition to the county court.

SEC. 8. Provisions for first election—township officers conduct. Unless the agent or agents of the petitioners shall, within two months after the transcript shall be delivered as above provided, be notified of a complaint having been made to the district court, or judge thereof, then at the end of said two months, or after the dismissal of said complaint, the said agent or agents shall give public notice by posting the same at three or more of the most public places within the limits of said town, of the time and place of holding the first election for officers of said town, which election shall be conducted and the officers elected and qualified in the manner prescribed by law in like cases, the clerk and other officers [347] of the township in which said proposed town is situated presiding at said election in the same manner as at township elections, and making the same returns. *Provided,* The officers so

elected shall continue in office only until the time of the regular election of said officers, and until their successors are elected and qualified.

SEC. 9. Contiguous territory annexed. When the inhabitants of a part of any county contiguous and adjoining to any city or town, shall desire to be annexed to such city or town, they may apply by petition in writing to the county court of the proper county, signed by the inhabitants so applying, to be in number not less than a majority of the electors, which petition shall describe the territory proposed to be annexed, and be accompanied by an accurate map or plat thereof, and shall name the person or persons in prosecuting said petition.

SEC. 10. Proceedings to secure annexation. When any such petition shall be presented to the county court, the same shall be filed, and like proceedings shall be had for a hearing thereon as is prescribed by the third, fourth, and fifth sections of this act, and should the said petition be granted, the judge shall endorse on said petition an order to the effect that the territory described in the petition may be annexed to, and become a part of the city or town named in said petition, and the petition, together with the map or plat, shall be delivered to the clerk or recorder of such city or town.

SEC. 11. Proceedings in opposition to annexation. No further action shall be taken on such order for the space of two months, and within that time any person interested, may in like manner as provided in the seventh section of this act, institute a proceeding to have the proposed annexation prevented, and if it shall appear to the court or judge hearing such proceeding, that a majority of the electors aforesaid actually residing within the limits described in such petition, have not signed the same, or that the territory proposed to be annexed is unreasonably large, or that said territory is not properly described, he shall make an order to restrain any further action under the order of the county court and annulling the same, but such pro- [348] -ceeding shall not bar any subsequent petition to the county court.

SEC. 12. After decision of court—the question submitted to the people—petition and plat recorded and filed. When any complaint shall be made as before provided, to prevent an annexation of territory, notice thereof shall be given as well to the proper authorities of such city or town as to the agent or agents of the petitioners, and if no such notice shall be given within two months after the delivery of the order to the clerk or recorder of said city or town, then at the end of said two months and within one year, and in case of any such complaint, and after the dismissal of said complaints, and within one year thereafter, the proper authority of such city or town shall provide by ordinance or resolution for the submission to the electors at the next annual election of municipal officers, of the question whether such annexation shall be made, and if a majority of the electors of such city or town voting at such election, shall vote in favor of such annexation, then on the return of such vote to the proper authority of such city or town, a resolution or ordinance shall be adopted or passed declaring that the territory described in the petition has been annexed to, and is a part of such city or town, and it shall be the duty of the clerk or recorder of the said city or town to make out two copies of the petition, plat, order of the county court, abstract of votes and resolutions or ordinances in relation to such annexation, with a certificate that the same are correct, attested by the seal of such city or town, and he shall deliver one of said copies to the recorder of the county, whose duty it shall be, having first made a record thereof in the proper books of record, to file and preserve the same, and the other of said copies shall be forwarded by the clerk or recorder of said city or town, to the secretary of state.

SEC. 13. **Annexation completed.** So soon as said resolution or ordinance declaring such annexation has been adopted, and said copies transmitted, delivered and recorded, the said territory shall be deemed and taken to be a part and parcel of the said city or town, and the inhabitants residing therein, shall have and enjoy all the rights and privileges of the inhabitants within the original limits of such city or town.

[349] SEC. 14. **Corporation desiring to annex territory—submitted to people of city—submitted to people of territory—time of annexing.** When any municipal corporation shall desire to annex any contiguous territory thereto, not embraced within the limits of any city or town, it shall be lawful for the trustees or council of the corporation, by an ordinance passed for that purpose, at least one month before the regular annual election to submit the question of said annexation to the qualified voters of such corporation, and if a majority of the electors of the corporation voting on the question, shall vote in favor of such annexation, the officers of said corporation shall present to the county court, a petition praying for such annexation, which petition shall describe the territory proposed to be annexed to such municipal corporation, and have attached thereto an accurate map or plat thereof, and like proceedings shall be had upon said petition, as are provided in the third, fourth, fifth, sixth and seventh sections of this act, so far as the same may be applicable, but it shall be lawful for the voters residents upon the territory thus proposed to be annexed, or any of them to appear at said hearing, and show cause why said annexation should not be made, and if it appear by remonstrance or otherwise that a majority of the legal voters in said district so proposed to be annexed are opposed to such annexation, said annexation shall not be allowed, and if within two months as above provided, no notice of a complaint against such annexation shall be given, according to the provisions of this act, then at the end of said two months, and after the dismissal of said complaint, the said contiguous territory proposed to be annexed shall be in law deemed and taken to be included in and shall be a part of said municipal corporation and the inhabitants thereof shall, in all respects be citizens thereafter of the said municipal corporation.

SEC. 15. **Corporations joining—question submitted—commissioners to arrange terms—agreement filed—transcript of proceedings fil'd.** When any municipal corporation, the territory of which shall be contiguous to and adjoining that of another municipal corporation, shall desire to be annexed thereto, it shall be lawful for the trustees or council of the corporation proposing such annexation, [350] to submit the question to the electors of the corporation, by an ordinance passed for the purpose, at least one month before the annual election the trustees or council of the municipal corporation to which the annexation is proposed to be made, may in like manner submit the question to its electors, if a majority of the electors of each of the two corporations voting on the question at the same general election, shall vote in favor of such annexation, the trustees or council of each corporation may appoint three commissioners who shall arrange the terms and conditions of the annexation, and submit the same to the trustees or council of the respective corporations, and the same being duly approved, by an ordinance passed for the purpose by each corporation, certified copies thereof signed by the presiding officer of the trustees or council of each corporation, and the clerk or recorder, and attested by its corporate seal, shall be filed in the office of the clerk of the corporation to which such annexation shall be proposed to be made, and it shall be the duty of such clerk or recorder, under the direction of such corporation to make out and certify two transcripts of all ordinances, abstracts of the returns of the votes, and other papers relating to such annexation, one of which shall be filed in the office of the county recorder, who having made

a record thereof, shall file and preserve the same, and the other of said copies shall be forwarded by said clerk or recorder, to the secretary of state.

SEC. 16. **Annexation completed by ordinance—existing rights not impaired.** So soon as said transcripts shall be certified and delivered, and forwarded, the said annexation shall be deemed complete, and it shall be lawful for the corporation to which the annexation has been made, to pass such ordinances as will carry into effect the terms of such annexation, so far as the same shall not be inconsistent with this act, and with the regular and proper government of such corporation under the provisions thereof, and any part of such terms so inconsistent shall be deemed void, but their nullity shall in no manner affect such annexation, and the two former corporations shall thereafter be governed as one, embracing the ter- [351] -ritory, shall have equal rights and privileges; *Provided*, such annexation shall not affect or impair any rights or liabilities existing at the time of such annexation either in favor or against said corporations, and suits founded upon such rights and liabilities may be commenced, and pending such suits prosecuted and carried to final judgment and execution, the same as though such annexation had not taken place.

SEC. 17. **Complete record by secretary of state.** It shall be the duty of the secretary of state, to receive and preserve in his office, all papers transmitted to him in relation to the incorporation of cities or towns, or the annexation of territory to the same or the consolidation of municipal corporations, and shall keep an alphabetical list of said cities and towns, in a book provided for that purpose, in which shall be entered the name of the town or city, the character of the same, whether town or city, and if a city, whether of first or second class, the county in which situated and the date of organization under this act.

SEC. 18. **Powers of corporation enumerated.** Cities and towns, organized or to be organized under this act, are hereby declared to be bodies politic and corporate under the name and style of the city of ——— or town of ———, as the case may be, capable to sue and be sued, to contract and be contracted with, to acquire and hold property real and personal, to have a common seal, and to change and alter the same at pleasure, and to have such other privileges as are incident to municipal corporations of like character or degree not inconsistent with this act, or the laws of this state.

SEC. 19. **Territory taken from a corporation—petition court.** When the inhabitants of a part of any city or town, shall desire to have the part of the territory of such city or town in which they reside, severed from or stricken out of the limits of such city or town, they may apply by petition in writing, signed by a majority of the resident property holders of such part of the territory of such city or town as they desire to have so severed from or stricken out of the limits of such city or town, to the district court of the county, which pe- [352] -tition shall describe the territory proposed to be thus severed or stricken out of the limits of such city or town, and have attached thereto, an accurate map or plat thereof, and shall also name the person or persons authorized to act in behalf of the petitioners in the prosecution of said petition.

SEC. 20. **Petition filed and notice given.** When any such petition shall be presented to the clerk of the district court, he shall file the same and docket the case in its proper place, said petition shall be subject to the inspection of any person interested in the subject matter thereof, and notice of the filing of the same shall be given by publication in a newspaper published in said city or town, or by posting a notice of the same in five public places in said city or town, four weeks previous to the succeeding term of said court, which notice shall contain the substance of said petition, and state the term of court at which he hearing thereof will be had.

SEC. 21. **Petition heard—amended.** The hearing of such petition may be had by the court, or either party may demand a jury, and the proper authorities of such city or town, or any person interested in the subject matter of said petition may appear and contest the granting of the same, and affidavits in support of or against said petition which may be prepared and submitted, shall be examined by the court or jury, and the court may in its discretion permit the agent or agents named in the petition to amend or change the same, except that no amendment shall be permitted whereby the territory embraced in said petition shall increase or diminish, without continuing the case to the next term and requiring new motion to be given as above provided.

SEC. 22. **Evidence examined—terms adjusted by commissioners.** If the court or jury, after hearing the petition and evidence bearing upon the subject matter thereof, shall be satisfied that said petition has been signed by a majority of the property holders residing within the limits of the part of the city or town described in the petition and plat, and that the limits have been accurately described and a correct map or plat thereof made and filed, and if the court or jury shall be further satis- [353] -fied that justice and equity require that the prayer of the petitioners should be granted, the court shall appoint three disinterested persons commissioners to settle and adjust the terms upon which such part shall be so stricken out as to any debts or liabilities of such city or town that have accrued during the connection of such part with such corporation.

SEC. 23. **Com'rs qualify, hear and report—judgment rendered.** The commissioners so appointed shall take and subscribe an oath or affirmation that they will faithfully and impartially perform their duties as such, and shall at a time ascertained by them fixed, hear the agent or agents named in said petition, and also the proper authorities of the city or town, in regard to the subject matter to them submitted, and report to the next succeeding term of said court their doings and judgment in the premises, and upon the filing of said report the court shall order, adjudge and decree in accordance therewith and with the prayer of said petition. *Provided*, That for good and sufficient cause and upon a proper showing, the court may reject or set aside said report, and appoint new commissioners, and continue the cause for further action to be had thereon.

SEC. 24. **Decree filed and recorded.** The clerk of said court, as soon as practicable, shall file a certified transcript of such decree, together with the petition and map or plat, in the office of the recorder of the county, and the same disposition shall be made thereof as is provided by section five of this act, in the organization of a corporation under this act.

SEC. 25. **Completion of separation—costs.** So soon as said record shall be made, and said transcript certified and forwarded and delivered as provided in said section five, the inhabitants residing within the limits described in said petition and plat or map, shall be deemed and taken to be no part of such corporation, and the territory described in such petition and map shall be deemed no part of such city or town, the costs shall be paid by the petitioners, but when witnesses are called in such cases, each party shall pay their own witness fee.

SEC. 26. **Town lots only annexed.** In no case shall territory which is not [354] laid out into town or city lots or blocks, be annexed to, or retained as a part of a city or town without the consent of the majority of the resident owners thereof.

SEC. 27. **Powers and privileges of corporation.** All municipal corporations organized or to be organized under this act, shall have the general powers and privileges, and be subject to the rules and restrictions granted and prescribed in the succeeding section of this act.

SEC. 28. **Enumeration of powers.** They shall have power to prevent injury or annoyance within the limits of the corporation, from anything dangerous, offensive or unhealthy, and to cause any nuisance to be abated, to regulate the transportation and keeping of gunpowder or other combustibles, and to provide or license magazines for the same, to prevent and punish fast or immoderate riding or driving of horses through the streets, to establish and regulate markets, to provide for the measuring or weighing of hay, coal, or any other article of sale, to prevent any riots, noise, disturbance or disorderly assemblages, to suppress and restrain disorderly houses, houses of ill-fame, billiard tables, nine or ten pin alleys, or tables and ball alleys, and to authorize the destruction of all instruments or devices used for purposes of gaming, and to protect the property of the municipal corporation and its inhabitants, and preserve peace and order therein.

SEC. 29. **Regulations against fires.** They shall have power to make regulations for the purpose of guarding against danger from accidents by fire, and on petition of the owners of two-thirds of the grounds included in any square or block, to prohibit the erection thereon of any building, or any addition to any building, unless the outer walls thereof be made of brick and mortar or of iron, or stone and mortar, and provides for the removal of any building or additions erected contrary to such prohibition.

SEC. 30. **Power to erect water works.** They shall have power to provide a supply of water by the construction and regulation of wells, pumps, cisterns, reservoirs, or water works, to prevent the unnecessary waste or the pollution of water and injuries to the water works, and for the purpose of establishing or supplying water works, any municipal corpo- [355] -ration may go beyond its territorial limits and its jurisdiction to prevent or punish any pollution or injury to the stream or source of water, or to the water works, shall extend five miles beyond its corporate limits, and they shall have power to assess and collect, from time to time in such manner as they shall deem equitable upon each and every tenement supplied with water, a water rent of sufficient amount to defray the expenses of conducting and repairing the water works, and for the creation of a sinking fund for the the liquidation of the debts incurred by said corporation in the erection of the same, and the amount so collected shall be applied to the above named purpose and none other.

SEC. 31. **Pow'r to regulate cemeteries.** They shall have power to regulate the burial of the dead, to provide without the limits of the corporation, places for the interment of the dead, and to prevent any sub-interments within such limits, and to carry into effect any prohibition of interments within the limits of the corporation, may not only impose proper fines and penalties, but shall have power to cause any body interred contrary to such prohibition to be taken up and buried without the limit of the corporation.

SEC. 31. **Power to impound animals.** They shall have power to restrain and regulate the running at large of cattle, horses, swine, sheep and other animals within the limits of the corporation, and to authorize the detaining, impounding and sale of the same, for the penalty incurred and costs of proceeding to prevent the running at large of dogs and injuries therefrom, and to authorize the destruction of the same when at large contrary to any prohibition to that effect.

SEC. 32. **Pow'r to regulate shows.** They shall have power to regulate or prohibit all theatrical exhibitions of whatever name or nature for which

money or any other reward is in any manner demanded or received, *Provided*, that lectures on scientific, historical or literary subjects shall not come within the provisions of this section.

SEC. 33. **Pow'r to regulate actions, taverns and liquors.** They shall have power to regulate or prohibit all theatrical exhibitions of whatever name or nature for which money or any other reward is in any manner demanded or received, *Provided*, that lectures on scientific, historical or literary subjects shall not come within the provisions of this section.

SEC. 33. **Power to regulate actions, taverns and liquors.** They shall have power to regulate or prohibit the sale of horses or other domestic animals at public auction, in the streets, alleys or highways, to regu- [356] late all carts, wagons, drays, coaches, omnibuses, and every description of carriages which may be kept for hire, to regulate taverns, and houses for the public entertainment, and to regulate or prohibit sale of intoxicating liquors subject to the provisions of the law relating thereto.

SEC. 34. **Pow'r to regulate and light str'ts.** They shall have power to lay off, open, widen, straighten or to narrow or vacate, or to extend and establish, to improve, keep in order and repair, and to light streets, alleys, public grounds, wharves, landing places and market places, to open and construct, keep in order and repair sewers and drains, to enter upon and take for such of the above purposes as may require it, land or material, and to assess and collect, or on the lots or lands through or by which a street, alley, or public highway may pass for the purpose of defraying the expenses of constructing, improving, repairing or lighting such street, alley or public highway in such proportion as to them shall seem just and equitable.

SEC. 35. **Private property taken for public purposes—application published—jury to assess damages—guardian—jury sworn—return—second jury.** When it shall be deemed necessary by any municipal corporation to enter upon or take private property as above provided, an application in writing shall be made to the county judge, which application shall describe as correctly as may be the property to be taken, the object proposed, and the owners of the property, and of each lot or parcel thereof, known notice of the time and place of such application shall be given, either personally in the ordinary manner of serving legal process or by publishing a copy of the application with a statement of the time and place at which it is to be made, for three weeks next preceding the time of the application in some newspaper of general circulation in the county, if it shall appear to the county judge, that such notice has been served five days before the application, or has been published as above provided, the time may be set for the inquiry into, and assessment of compensation, and the county judge shall appoint three disinterested persons who shall act as a jury to assess the compensation, which assessment shall be made at the time set as above provided; the said jurors having first ex- [357] -amined the premises or property so proposed to be appropriated, unless for good cause continued to another day to be specified, if at the time of such application it shall appear that any of the owners of property are infants or insane, a guardian ad litem shall be appointed, and the municipal corporation may be required to file a more accurate description of the property to be taken, and the object proposed, and maps, plats and surveys if necessary or proper. The assessment shall be made so that the amount payable to each owner may be ascertained either by allotting it to each owner by name, or on each lot or parcel of land, and the inquiry and assessment, shall in other respects be made by the jurors under such instruction as shall be given by the court. The jurors shall be sworn or affirmed to make the whole inquiry and assessment, but may be allowed to return a verdict as to part, and be discharged as to the rest in the discretion of

the court, and in case they shall be discharged from rendering a verdict in whole or in part, another jury shall be empanelled, at the earliest convenient time, who shall make the whole inquiry and assessment on the part not made as the case may be. But in making said assessment the jury shall not take into consideration any advantages that may result to said owner or owners on account of the improvement for which the property is taken.

SEC. 36. Damages paid—possession—costs paid—money deposited. So soon as the amount of compensation which may be due to the owners of the property to be taken, or any of them, shall be ascertained, the court shall make such order as to its payment, or its deposit as shall be deemed right and proper, and the proportion payable to each, and may require adverse claimants to any part of the money or property to interplead, so as fully to settle their rights and interests according to equity and justice, the court may direct the time and manner in which the possession of the property, shall be taken or delivered, and may if necessary enforce any order giving possession. But none of the property shall be actually taken or occupied until the compensation thus ascertained shall have been paid or secured to be [358] paid. The costs occasioned by the inquiry and assessment shall be paid by the corporation and as to the other costs, which may arise, they shall be charged or taxed as the court in its discretion may direct, no delay in making an assessment of compensation or in taking possession, shall be occasioned by any doubt which may arise as to the ownership of the property, or any part thereof, or as to the interests of the respective owners, but in such cases the court shall require the deposit of the money allowed as compensation for the whole of the property, or the part in dispute and in all cases as soon as the corporation shall have paid the compensation assessed or secured its payment by a deposit of money under the order of the court, possession of the property may be taken, and the public work or improvement progress.

SEC. 37. Right of appeal—proceedings in dist. court—security for damages. Any party interested in any such inquiry and assessment, who shall feel aggrieved by the finding of the jury or the order of the court may have the part thereof in which such party may be interested and feel aggrieved, reviewed in the district court, by filing a petition for that purpose within ten days after the finding or decision complained of shall have been made, and it shall be the duty of the court to report in the nature of a bill of exceptions, the facts necessary to show the ground of the finding, or decision, and said petition and report shall be filed in the district court, on or before the first day of the next term thereof, and the matter shall be heard and determined by said court, and if the court shall find that right and justice has not been done, a new assessment may be ordered by a jury in said court or the judgment of the court below affirmed. When such petition shall be filed, the court may suspend the execution of any order which may have been made, on such terms as may be deemed proper, and may require a bond with security for the payment of any damages or costs which may be thereby occasioned, but in all cases when the municipal corporation shall pay or secure by deposit of money the compensation assessed, and shall give such surety as shall be deemed adequate [359] to pay any further compensation and all damages and costs which may be adjudged in the district court the right to take and hold the property condemned shall not be affected by such review.

SEC. 38. The assessment of lots—tax collected—pleadings—non-residents notified—proceed against. Each municipal corporation may by a general by-law or ordinance, prescribe the mode in which the charge on the respective owners of lots or lands, and on the lots or lands shall be assessed and determined, for the purposes authorized by this act, such charge when assessed shall be payable by the owner or owners at the time of the assessment per-

sonally, and shall also be a lien upon the respective lots or parcels of land in the possession of any owner from the time of the assessment, such charge may be collected, and such lien enforced by a proceeding in law, or in equity, either in the name of the municipal corporation, or of any person to whom the municipal corporation shall have directed payment to be made, in any such proceeding at law where pleadings are required, it shall be sufficient to declare generally for work and labor done, and materials furnished on the particular street, alley or highway, and in proceedings in equity, when the owner of any lot shall be a non-resident of the county, or unknown notice shall be given by publication in the manner prescribed by law for notices upon absent defendants returned not found, but a publication for one half the usual time, shall be deemed sufficient, proceedings at law or equity may be instituted against all the owners, or against each or any member of them, as to enforce the lien against all the lots or land, or each lot or parcel or any number of them embraced in any one assessment, but the judgment or decree shall be rendered separately for the amount properly chargeable, any proceeding may be served, in the discretion of the court for the purpose of trial, review or appeal.

SEC. 39. Tax enforced by court—costs paid—interest on delinquent taxes. In any such proceeding where the justice of the peace or the court trying the same, shall be satisfied that work has been done or materials furnished, which according to the true intent of the act would be properly chargeable upon the lot or land through or by [360] which the street, or alley highway improved or repaired or lighted may pass, a recovery shall be permitted, or a charge enforced, to the extent of the proper proportion of the value of the work or materials which would be chargeable on such lot or land notwithstanding any informality, irregularity or defect in any assessment on the part of such municipal corporation, or any of its officers, but in such case the justice or court may adjudge as to costs as may be deemed proper, and in cases where an assessment shall have been regularly made and payment shall have been neglected or refused at the time when the same was required, any municipal corporation shall be entitled to demand, and recover in addition to the amount assessed and interest thereon at ten per cent., from the time of the assessment, five per cent. to defray the expenses of collection which shall be included in any judgment or decree which may be rendered.

SEC. 40. Lots raised and nuisances abated—owner to have it done—lien on the lots—expense recovered. Municipal corporations shall have the power to cause any lot or lots of land within their limits on which or part of which, water at any time become stagnant, to be raised and filled up or drained, and to cause all putrid substances whether animal or vegetable to be removed from such lot or lots and may for such purposes from time to time direct that such lot or lots be raised, filled up or drained or that such putrid substances be removed from such lot or lots by the owner or owners thereof respectively in such manner as may be directed by a resolution of the proper authority of any municipal corporation, and it shall be the duty of such owner or owners his, her or their agent or attorney, after service of a copy of the same resolution or after a publication of the same in some newspaper of general circulation in such municipal corporations for two successive weeks, to comply with the directions of such resolution within the time therein specified, and in case of a failure or refusal to do so, it may be done at the expense of said municipal corporation, and the amount of money so expended shall be a debt due to said municipal corporation from the owner or owners of said lot or [361] lots according to the amount expended by him, her or them respectively, to be recovered before a justice of the peace or any other court of competent jurisdiction, and shall moreover from the time of the adoption of such resolution

be a lien on such lot or lots, which may be enforced if need be, either after or without a previous proceeding at law, by a suit in equity in the district court of the proper county and like proceedings may be had as herein before directed in relation to the improvement of streets, or as in other cases at law or in equity.

SEC. 41. Power to make ordinances—ordinances published. Municipal corporations shall have power to make and publish from time to time by-laws, or ordinances, not inconsistent with the law of the state for carrying into effect, or discharging the powers and duties conferred by this act, and it is hereby made the duty of municipal corporations to make and publish such ordinances or by-laws as shall be necessary to secure such corporation from 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, and they shall have power to make and publish such by-laws and ordinances as to them shall seem necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort and convenience of such corporation and the inhabitants thereof.

SEC. 42. Ordinances enforced by penal ies. By-laws and ordinances of municipal corporations may be enforced by the imposition of fines, forfeitures and penalties, and any person or persons offending against or violating such by-laws or ordinances or any of them, and the fines, penalties or forfeiture may be prescribed in each particular by-law or ordinance or by a general by-law or ordinance made for that purpose, and municipal corporations shall have power to provide in like manner for the prosecution, recovery and collection of such fines, penalties and forfeitures.

SEC. 43. Fines regulated—heavy fines modified. Fines penalties and forfeitures which shall [362] not exceed the sum of twenty dollars, for any one specified offence or violation of the by-law or ordinance, or double that sum for each repetition of each offence a violation of which shall not exceed the sum of ten dollars for each day, where a thing prohibited or rendered are lawful and in its return continuous in respect to time shall be deemed reasonable and proper. But where in any by-law or ordinance a greater fine, or forfeiture is imposed than as above specified it shall and may be lawful in any suit or recovery thereof, to reduce the same amount as shall be deemed reasonable and proper and to permit a recovery or render judgment accordingly.

SEC. 44. Fines may be enforced. Fines, penalties and forfeitures may in all cases, and in addition to any other mode provided be recovered by suit or action before a justice of the peace, or other court of competent jurisdiction in the name of the proper municipal corporation and for its use, and in any such suit or action. Where pleading is necessary it shall be sufficient to declare generally for the amount claimed to be due in respect to the violation of the by-law, or ordinance referring to its title, and the duties of its adoption or passage, and showing as near as may be the transaction of the alleged violation.

SEC. 45. Time of commencing suits for fines. All suits or prosecutions for the recovery of any such fines, penalties or forfeitures or for the commission of any offence made punishable by any by-law or ordinance, of any municipal corporation as hereinafter provided shall be commenced within one year after the violation of the ordinance or commission of the offence and not afterwards.

SEC. 46. Copies of ordinances made evidence—transcripts by the clerk. The printed copies of the by-laws or ordinances of any municipal corporation, published by its authority and transcripts of any by-laws or ordinances, or of any act or proceeding of municipal corporation, recorded in any book, or

entrie, on any minutes or journals kept under the direction of such municipal corporation and certified by its clerk shall be received in evidence for any purpose for which the original ordinances, books, minutes or journals would be received, and [363] with as much effect. It should be the duty of the clerk, to furnish such transcripts, and he should be entitled to charge therefor, at the rate that the clerk of the district court is entitled to charge for transcripts of records from that court.

OF THE CLASSES OF MUNICIPAL CORPORATIONS.

SEC. 47. **Cities classified.** In respect to the exercise of certain corporative powers, and duties of certain officers, municipal corporations are and shall be divided into the classes following: Cities of the first and cities of the second class, and incorporated towns.

SEC. 48. **First and second classes defined by population.** All cities which at the last federal census, had or now have a population of fifteen thousand inhabitants, shall be deemed cities of the first class, and all other cities shall be deemed cities of the second class; all cities which at any future federal census, or at any census which may be taken in pursuance of the laws of this state shall have a population exceeding fifteen thousand inhabitants, shall also be deemed cities of the first class, and any incorporated town, which at any future federal census, or at any census taken under the authority of the state, as aforesaid, shall have a population exceeding two thousand and less than fifteen thousand, shall be deemed a city of the second class.

SEC. 49. **Cities change from second to 1st class—statement of cities published—election of officers.** It shall be the duty of the governor, auditor and secretary of state, or any two of them, within six months after the census contemplated by this act, has been filed in the office of the secretary of state, to ascertain what cities of the second class are entitled to become cities of the first class, and what incorporated towns are entitled to become cities of their proper class. And the governor shall cause a statement thereof to be prepared by the secretary of state, which statement he shall cause to be published in some newspaper published in the city of Des Moines, and also in some newspaper printed in each of the cities and incorporated towns, the grade of which shall have been so advanced, and a copy of said statement shall also be transmitted by the sec- [364] -retary of state, to the next general assembly, and any such city or incorporated town, shall at the next regular annual period for the election of municipal officers, proceed to organize, according to its new grade, by the election of officers properly belonging thereto, and on their election and qualification the term of service of any former officer shall expire.

SEC. 50. **Proper ordinances made and published.** So soon as the statement shall be published as above provided, showing that any city or incorporated town, will be entitled at the next regular annual period for the election of municipal officers, to be organized into a city of the first or second class as the case may be, it shall and may be lawful for the proper corporative authority of such city or incorporated town, to make and publish such by-laws or ordinances as may be necessary to perfect such organization, in respect to the election, duties and compensation of officers or otherwise.

OF INCORPORATED TOWNS.

SEC. 51. **Officers of incorporated towns—council.** The corporate authority of incorporated towns, organized or to be organized for general purposes shall be vested in one mayor, one recorder, and five trustees, who shall be qualified

electors, residing within the limits of the corporation, and shall hold their offices for one year; and until their successors are elected and qualified, and such mayor, recorder and trustees, shall constitute the council of the incorporated town, any five of whom shall be a quorum for the transaction of business.

SEC. 52. **Duties of the recorder.** The mayor, or in case of his absence, the recorder shall preside at all meetings of the council; the recorder shall also be and act as clerk of the corporation, and shall attend all meetings of the council, and make a fair and accurate record of all their proceedings, laws, rules and ordinances made and passed by the council, and the same shall at all times be open for the inspection of the electors of the corporation.

SEC. 53. **Vacancies filled.** The council shall have power to order special elections to fill vacancies which may happen in [365] the board, from the qualified electors of the corporation, who shall hold their offices until the next annual election, and until their successors are elected and qualified, and in the absence of the mayor and recorder, from any meeting of the council, the council shall have power to appoint any two of their number to perform the duties of mayor and recorder for the time being.

SEC. 54. **Subordinate officers provided—terms of office.** The council of any incorporated town shall have power to provide, by any by-law or ordinance, for the election of a treasurer, marshal and such subordinate officers as they may think necessary for the good government of the corporation, or the fees they shall be entitled to receive for their services, or to require of them an oath of office, and a bond with surety for the faithful discharge of its duties. The period for the election of any such officer, shall be fixed at the time of the regular annual election, and no appointment of any officer shall endure beyond the period of the term of office of the council making the appointment, and one week after the qualification of the members of the succeeding council.

SEC. 55. **Mayor acts as justice of the peace.** The mayor of the corporation shall be a conservator of the peace throughout its limits, and shall have within the same all the power and jurisdiction of a justice of the peace, in all matters civil and criminal arising under the laws of this state, to all intents and purposes whatever, and for crimes and offences committed within the limits of the corporation, his jurisdiction shall be co-extensive with the county, and the said mayor shall perform all the duties required of him by the laws and ordinances of the corporation, and appeals may be taken in the same manner as from decisions of justices of the peace, he shall keep a docket, and shall be allowed and receive the same fees that justices of the peace are, or may be allowed for similar services.

SEC. 56. **Marshal and his duties.** The marshal shall be the principal ministerial officer of the corporation, and shall have the same power that constables have by law, and his jurisdiction shall be co-extensive with the county, for offences com- [366] -mitted within the limits of the corporation, he shall execute the process of the mayor, and receive the same fees for his services that constables are allowed in similar cases.

SEC. 57. **Removal from office.** By the concurrent vote of five members of the council, the mayor, recorder or any member of the council, or any officer of the corporation may be removed from office, but no such removal shall be made without a charge in writing being made, and an opportunity of hearing being given, unless the officer against whom the charge is made, shall have removed out of the limits of the corporation, and when any officer shall cease to reside within the limits of the corporation, it shall be deemed a good ground for a removal from office.

SEC. 58. **Arrests for violation of ordinances.** It shall be lawful for any council to provide for the immediate arrest, by the proper officer of the corporation, of any person found violating the ordinances made to preserve the peace and good order of the corporation, and any person so arrested shall be taken forthwith before the mayor or some justice of the peace of the county, for trial, the council may also provide, that when any fines are imposed for the violation of any ordinance, the offender may be committed until the fine and costs of prosecution be paid or until there shall be a discharge in due course of law.

SEC. 59. The corporation shall be allowed the use of the jail of the county for the confinement of such persons as may be liable to imprisonment under the laws and ordinances of the corporation; and all persons so imprisoned shall be under the charge of the jailor as in other cases.

OF CITIES.

SEC. 60. **Corporate authorities defin'd.** The corporate authorities of cities organized under this act, shall be vested in one principal officer, to be styled the mayor, in one board of trustees to be denominated the city council, together with such officers as are within this act mentioned, or as may be created under its authority.

[367] SEC. 61. **Election of mayor—qualification and duties.** The mayor, shall be elected biennially in cities of the first class, and annually in cities of the second class, on the first Monday of April by the qualified voters of the city, he shall be a qualified voter and reside within the limits of the city, and shall hold his office for the term for which he shall have been elected and qualified, he shall keep an office at some convenient place in the city, to be provided by the city council, and shall keep the corporate seal of the city in his charge, he shall sign all commissions, licenses and permits, granted by the authority of the city council, and such other acts as by the law or ordinances may require his certificate.

Vacancy—powers of mayor enumerated—salary. In case of the death, disability, resignation or other vacation of his office, the city council shall order a special election as soon as practicable to fill the vacancy for the remainder of the time of office, and may appoint some qualified voter to act as mayor until such special election. The mayor of the city shall be its chief executive officer and conservator of the peace, and it shall be his special duty to cause the ordinances and regulations of the city to be faithfully and constantly obeyed; he shall supervise the conduct of all the officers of the city, examine the grounds of all reasonable complaints made against any of them, and cause all the violations of their duty, or their neglects, to be promptly punished, or reported to the proper tribunal for correction; he shall have and exercise within the city limits the powers conferred upon the sheriffs of counties, to suppress disorders and keep the peace; he shall also perform such other duties compatible with the nature of his office, as the council may from time to time require; he shall receive such salary payable quarterly out of the city treasury, as may be provided by ordinance, but the amount of such salary shall neither be increased nor diminished during any incumbents term of office.

SEC. 62. **Wards defined—new wards may be created.** That until otherwise provided for by the city council constituted by this act, the numbers, divisions and boundaries of the several wards of the cities heretofore incorporated shall remain as fixed by ordinance, on the first Monday of March, A. D. one thousand eight hundred and fifty eight; *Provided*, that the city council created by this act may at any time create new wards, and the boundaries thereof, and those now established, alter in such manner as may

be deemed expedient, and provided further, that in each city classified in this act as a city of the second class, the city council shall within three months after the taking effect of this act, divide such city into not less than four, nor more than seven wards; the number of wards shall not at any time be decreased nor shall the number ever be increased beyond seven.

SEC. 63. Election of ward trustees,—terms of office—organization of council—duties of council—city clerk. That the qualified voters of each ward within the several cities shall on the first Monday of March in each year, elect by a plurality of votes, two trustees who shall be residents of the wards in which they shall be elected, and who shall at the time be qualified voters therein, and when the city council elected under this act shall have been organized as hereinafter provided, they shall proceed and determine by lot the term of service, of each trustee so elected, so that one of the trustees from each ward shall serve for two years, and the other for the term of one year, and at every succeeding annual city election, one trustee shall be elected by the qualified electors of each ward, who shall possess the qualifications hereinbefore required and whose term of service shall be two years, so that the terms of service of the two trustees from each ward shall always expire on different years, and the persons thus chosen shall hold their offices until their successors shall be elected and qualified. The trustees elected for each city shall on the next ——— after their election assemble together and organize the city council, a majority of the whole number of trustees shall be necessary to constitute a quorum for the transaction of business, they shall be judges of the election returns, and qualification of their own members, they shall determine the rules of their own proceedings and keep a journal thereof, which shall be open to the inspection and examination of any citizen, and may compel the [369] attendance of absent members, in such manner and under such penalties, as they shall fit think to prescribe; they shall elect from their own body a president *pro tempore*, they shall also appoint from the qualified voters of the city, a city clerk, who shall have the custody of all the laws and ordinances of the city, and shall keep a regular and correct journal of the proceedings of the council, and shall perform such other duties as may be required by the ordinances of the city. The clerk in office at the expiration of the term of service of any council, shall continue in office until his successor shall be appointed and qualified.

SEC. 64. City seal—clerks fees. Each city council shall cause to be provided for the clerk's office, a seal, in the centre of which shall be the name of the city, and around the margin the words "city clerk," which shall be affixed to all transcripts, orders or certificates which it may be necessary or proper to authenticate under the provisions of this act, or of any ordinance of the city. For all attested certificates and transcripts other than those ordered by the city council, the same fees shall be paid to the clerk, as are allowed to county officers for the same services.

SEC. 65. Powers of the city council—finances—meetings—officers elected—duties and term—pay of city officers. The city council shall possess all the legislative powers granted in this act, and other corporate powers of the city, not herein, or by some ordinance of the city council, made in pursuance to this act, conferred on some officer of the city, and they shall have the management and control of the finances, and all the property, real and personal, belonging to the corporation, they shall provide the times and places of holding their meetings, which shall at all times be open to the public, and the mayor or any three trustees may call special meetings, by notice to each of the members of the council, personally served or left at his usual place of abode, they shall appoint, or provide by ordinance that the qualified voters of the city, or of the wards or districts, as the case may require, shall elect, all such city

officers as may be necessary for the good government of the city, and for the due exercise of its cor- [370] -porate powers, and which shall have been provided for by ordinance, as to whose election or appointment provision has not herein been made, and all city officers whose term of service is not prescribed, and whose powers and duties are not defined by this act, shall perform such duties, exercise such powers and continue in office such term of time, not exceeding one year, as shall be prescribed by ordinance; but all officers to be elected, shall be elected at the regular annual election for municipal corporations. The officers of all municipal corporations shall receive such compensation and fees, for their services as the trustees shall by ordinance prescribe *Provided*, that the compensation of the council or trustees shall not exceed one dollar to each member for every regular or special meeting of the board, and not to exceed to each, fifty dollars in any one year.

SEC. 66. Board of health—police—fire companies—markets—farmers not charged—marketing regulated. The city council shall have power to establish a board of health, to invest it with powers, and impose upon it such duties, as shall be necessary to secure the city and the inhabitants thereof, from the evils, distresses and calamities, of contagious, malignant and infectious diseases, provide for the proper organization and the election or appointment of the necessary officers thereof and make such by-laws, rules and regulations for its government and support, as shall be required for the enforcing of the most prompt and efficient performance of its duties, and the lawful exercise of its powers, they shall have power to establish a city watch or police, to organize the same under the general supervision of the mayor, marshal or other officer of the police, prescribe its duties and define its powers in such manner as will most effectually preserve the peace of the city, secure the inhabitants thereof from personal violence, and their property from fire and unlawful depredations, they shall establish and organize all such fire companies, and provide them with proper engines and such other instruments as may be necessary to extinguish fire and preserve the inhabitants of the city from conflagration, and provide such by-laws and regulations, for the government of the same as they shall [371] see fit and expedient, and each and every person, who may belong to such fire company, shall in the time of peace, be exempt from the performance of military duty, under the laws of the state; they may erect, establish and regulate the markets and market places, for the sale of provisions, vegetables and other articles necessary for the sustenance, comfort and convenience of the city and the inhabitants thereof; no charge or assessment of any kind shall be made or levied on any wagon or other vehicle, or the horses thereto attached or belonging, bringing produce or provisions to any of the markets in any city, for standing in or occupying a place in any of the market spaces of the city, or in the streets contiguous thereto, or market day and evenings previous thereto, and no charge, assessment or prohibition, shall be imposed or made on or against the owners of such wagons or vehicles, or the person using the same, in respect to the market spaces and streets, in the manner and for the purpose aforesaid, but the city council shall have full power to prevent forestalling, to prohibit or regulate huxtering in the markets, to prescribe the kind and description of articles which may be sold, and the stands or places to be occupied by the vendors and may authorize the immediate seizure, and arrest or removal from the market, of any person violating its regulations as established by ordinance, together with any article of produce in their possession, and the immediate seizure and destruction of tainted or unsound meat or other provisions.

SEC. 67. Control and repair of highways—public squares—wagons and omnibuses. The city council shall have the care, supervision and control of all public highways, bridges, streets, alleys, public squares and commons, with-

in the city, and shall cause the same to be kept open and in repair, and free from nuisances; no street or alley which shall hereafter be dedicated to public use, by the proprietor of ground in any city, shall be deemed a public street or alley, or to be under the care or control of the city council unless the dedication shall be accepted and confirmed by an ordinance especially passed for such purpose; they shall have the power in cities of the first [372] class, to prescribe by ordinance the width of the tires of all wagons, carts, drays and other vehicles habitually used in the transportation of persons or articles from one part of the city to another, or in the transportation of coal, wood, stone or lumber, into the city to establish stands for hackney coaches, cabs and omnibuses, and enforce the observance and use thereof, and to fix the rates and prices for the transportation of persons and property in such coaches, cabs, and omnibuses, from one part of the city to another.

SEC. 68. Wharves and dockage—harbor masters—papers used as evidence. The city council shall have power to establish and construct and regulate, landing places, wharves, docks, piers and basins, and to fix the rates of landing, wharfage and dockage, and to use for the purpose aforesaid any public building or any property, belonging to, or under the control of the city, and the city council shall have the use and control for the above purpose, of the shore or bank of any lake or river, not the property of individuals, to the extent and in any manner that the state can grant such use or control, the city council shall have power to appoint, or to provide that the qualified voters shall elect harbor masters, wharf masters, port wardens, and other officers usual and proper for the regulation of the navigation, trade or commerce of such city, to define their duties and powers, and fix their fees or compensation, copies of examination and surveys, and of the proceedings of any port warden in the usual discharge of the duties of such officers, certified under his hand and seal, shall be prima facie evidence of the facts therein duly stated.

SEC. 69. The regulations of ferries. The city council of any city shall have the exclusive power to establish and to regulate and license ferries, from such city or any landing therein, to the opposite shore, or from one part of said city to another, and in granting such license, to impose such reasonable terms and restrictions, in relations to the keeping of such ferries, and the time, manner, and rates of the carriage and transportation of persons and property, as the city council may prescribe, and the city council shall have power to provide for the revocation of any such license, [373] and for the punishment by proper fines and penalties, of the violation of any ordinance prohibiting unlicensed ferries, or regulating those established and licensed.

SEC. 70. Fines collected—imprisonm't for non-payment—bad characters punished. The city council shall have power to provide that when a fine shall be imposed for the violation of the ordinances of the city, or any of them, and the same is not paid, the party convicted, shall by order of the mayor, or the proper authority, or on process issued for the purpose, be committed until such fine or the costs of the prosecution shall be paid, or the party discharged by due course of law; they shall also, have power to provide that any person convicted of a repeated and wilful violation of any ordinance, who shall refuse or neglect to pay the fine imposed, and the costs of prosecution, shall by like order of process, be imprisoned and kept in confinement for any term not exceeding thirty days; they shall have power to provide that all vagrants, common street beggars, common prostitutes, and persons disturbing the peace of the city, shall on conviction thereof be punished by imprisonment, not exceeding thirty days, and any city shall be allowed for the purpose of imprisonment, authorized under this act, the use

of the jail of the proper county, and all persons so imprisoned shall be under the charge of the sheriff of the county, who shall receive and discharge such persons in such manner as shall be prescribed by the ordinances of the city, or otherwise by due course of law.

SEC. 71. Removal from office—vacancies filled. Any member of the city council may be expelled or removed from office by a concurrent vote of two-thirds of all the trustees elected to the city council, but not a second time for the same cause; any officer appointed by the city council may be removed from office by a concurrent vote of two-thirds of all the trustees elected to the city council, and provision be made by ordinance, as to the mode in which charges shall be preferred, and a hearing be had; in all cases of vacancies in the city council, they shall be filled by special election, and in case of any office of an elective officer, except trustees of the wards, shall become vacant before the regular expiration of the term thereof, the vacancy [374] shall be filled by the city council, until a successor is elected and qualified, and such successor shall be elected for the unexpired term, at the first annual election that occurs after the vacancy shall have happened.

OF CITIES OF THE SECOND CLASS.

SEC. 72. Mayor act as justice—jurisdiction—fees. The mayor of cities of the second class shall have within the limits of the same, all the jurisdiction and powers of a justice of the peace, in all matters civil or criminal arising under the laws of this state, to all intents and purposes whatever, and for the crimes and offences, his jurisdiction shall be co extensive with the county; he shall give bond and security as is required of justices of the peace, to be approved by the city council; he shall have exclusive jurisdiction of all the prosecutions for violations of the ordinances of the city, he may award and issue any process or writs that may be necessary to enforce the administration of right and justice throughout the city, and for the lawful exercise of his jurisdiction according to the usages and principles of law, and he shall in the discharge of his duties as justice of the peace, receive the fees and compensation allowed by law in such cases.

SEC. 73. Election of city officers and terms. The qualified voters of each city of the second class, shall elect a city marshal, who shall hold his office for one year, a city treasurer who shall hold his office for one year, and a city solicitor, who shall hold his office for two years, each of said officers shall continue in office until his successor is elected and qualified and shall have such powers and perform such duties as are prescribed in this act, or may be by any ordinance of the city council, not inconsistent therewith.

SEC. 74. The marshal's duties and jurisdiction. The marshal of the cities of the second class shall execute and return all writs and process to him directed by the mayor, and in criminal cases, or of cases in violation of city ordinances, he may serve the same in any part of the county, it shall be his duty to suppress all riots, disturbances and breaches of the peace, to apprehend all disorderly persons in the city, and to pursue and arrest any person fleeing from justice [375] in any part of the state, to apprehend any person in the act of committing any offence against the laws of the state or ordinances of the city, and forthwith to bring such person before the mayor, or other competent authority, for examination or trial; he shall have power to appoint one or more deputies for whose official acts he shall be responsible; he shall have in the discharge of his proper duties, like power, shall be subject to like responsibilities, and shall receive the same fees as sheriffs and constables in similar cases.

OF CITIES OF THE FIRST CLASS.

SEC. 75. **Message from the mayor—appointment of police—act as justice.** The mayor of the cities of the first class, shall at the first regular meeting of the city council in the month of April of every year, and at such other times as he may deem expedient, report to the city council concerning the municipal affairs of the city, and recommend such measures as to him may seem advisable; the mayor shall appoint one chief of police and as many subordinate officers and watchmen as the city council may deem necessary, the watchmen to be selected in equal numbers from each ward, who shall hold their appointments during the pleasure of the mayor; he shall have power in cases of emergency, to appoint as many special watchmen as he may think proper, but such appointments shall be reported to and subject to the action of the city council at its next meeting; he shall have within the county in which such city is situated, in all criminal cases, all the powers of a justice of the peace, but in cases of emergency or necessity, the mayor shall not be required to sit on the examination or hearing of any criminal charge or case, and warrants issued by him shall be made returnable before some judge of the police court.

SEC. 76. **Election of city officers.** The qualified voters shall elect a city marshal, a city civil engineer, a city treasurer, a city auditor, a city solicitor, police judge, and a superintendent of the market, who shall hold their offices for two years; each of said officers shall continue in office until his successor is elected and qualified, and shall have [376] such powers and perform such duties as are prescribed in this act, or as may be prescribed in any ordinance of the city, not inconsistent with this act, and which may not be incompatible with the nature of their respective offices.

SEC. 77. **City marshal's duties, powers and jurisdiction.** The city marshal shall execute and return all process to him directed by the mayor or judge of the police court, and shall attend on the sittings of said court, he shall have power to execute any such process by himself or deputy, in any part of the county, it shall be his duty to suppress all riots and disturbances, and breaches of the peace, to apprehend all persons committing any offence against the laws of this state or the ordinances of the city, and then forthwith bring before the proper authority for examination or trial; he shall have power to pursue and arrest any person fleeing from justice in any part of the state, and to receive and execute any proper authority for the arrest and detention of criminals fleeing or escaping from other places or states, to appoint one or more deputies, for whose official acts he shall be responsible; he shall have, in the discharge of his proper duties like powers, be subject to like responsibilities, and shall receive the same fees as sheriffs and constables in similar cases.

SEC. 78. **Appointment of police—reserve—duties, powers & jurisdiction of the police.** The city council shall by a general ordinance direct the number of officers of the police and watchmen to be appointed, they shall also provide, in addition to the regular watch, for the appointment of a reserved watch, to consist of a suitable number of persons in each ward, to be called into duty in whole or in part, in such manner and on such occasions as the council may prescribe, and by the mayor, or officers of the police under his direction, in special cases or cases of emergency, the duty of the chief and other officers of the police, and of the watchmen shall be under the direction of the mayor, and in conformity with the ordinances of the city, to suppress all riots and disturbances and breaches of the peace, to pursue and arrest any person fleeing from justice in any part of the state, to apprehend any and all persons in the act of committing [377] any offence against the laws of the state, or the ordinances of the city, and forthwith to bring such person or persons

before the police court, or other competent authority, for examination, and at all times to diligently and faithfully enforce all such laws, ordinances and regulations, for the preservation of good order and the public welfare, as the city council may ordain, and for such purposes, they shall have all the power of constables; the mayor, marshal and watchmen of the city may, upon view arrest any person or persons who may be guilty of a breach of the ordinances of the city, or of any crime against the laws of the state, and may upon reasonable information, supported by affidavits, procure process for the arrest of any person or persons who may be charged with a breach of any of the ordinances of the city.

SEC. 79. Trustees of water works—terms of office—duties—water debt. The city council of any city of which water works are or may be constructed, shall establish a board of three trustees to be known as the trustees of the water works, who shall be elected by the qualified electors of the city, and hold their offices for the term of three years, but it shall be so provided that one of said trustees shall be elected annually; the trustees of water works shall manage, conduct and control the city water works, furnish supplies of water, collect water rents, and appoint all necessary officers and agents under such rules and regulations as the city council shall prescribe, when any city shall have contracted a debt, in respect of water works, the rents and income which may accrue therefrom, shall be kept a separate and distinct fund, to be applied to the payment of the expense of constructing and repairing the works, the payment of such debts, or the creation of a sinking fund for its redemption.

SEC. 80. St. com'rs and terms of office—streets cleaned—construction of public works. That on the first Monday in March there shall be elected three commissioners, the person having the highest number of votes cast to hold his office for the term of three years, the person having the next highest number to hold his office for the term of two years, and the person having the next highest number to hold [378] his office for the term of one year, and thereafter one shall be elected annually, who shall continue in office for the term of three years, and until his successor is elected and qualified; it shall be the duty of the city commissioners to enforce the ordinances of the city, to superintend the cleaning and improvement and the lighting of the streets, lanes and alleys, market spaces, commons, bridges, sewers and landings of the city, and perform such other duties as the council by ordinance may provide; they shall, with the mayor of the said city, and the city civil engineer, constitute the board of city improvements, and receive such compensation for their services as the council may determine; the board of city improvements shall exercise such powers and perform such duties in the superintendence and construction of public works, constructed by authority of the city council, or owned by the city, as the said council may from time to time prescribe.

SEC. 81. Infirmary for the poor—directors elect'd—overseers of poor. The city council shall have power to erect and establish, to maintain and regulate an infirmary for the accommodation of the poor of the city, either within the limits of the city, or within the county, within which it may be situate, and for such purpose may purchase or hold any real estate that may be deemed necessary; the management and government of any such infirmary, and the granting of outdoor relief to the poor, under such rules and regulations as the council may prescribe shall be vested in a board of three directors to be elected by the qualified voters of the city, and hold their offices for the term of three years, but it shall be so provided that one of said directors shall be elected annually; the city council may provide that the qualified electors of each ward of the city shall elect, or that the said directors shall appoint an

overseer in each ward, who shall perform such duties in respect of the care of the poor, and their removal to said infirmary, as the city council may provide.

SEC. 82. House of refuge—convict children confined—bad children committed. The city council shall have power to erect and establish and to maintain and regulate either within its limits, or within the county in which it is situate, [379] a house of refuge, or a house of correction, and a work house, or either of them, and place the same under the management and control of such directors, superintendents and other officers as the council may by ordinance provide; all children under the age of sixteen years, who shall be convicted of any offence made punishable by imprisonment under any ordinance of the city, or who shall be liable to be committed to prison under any such ordinance, may be confined in such house of refuge, and may be there kept or apprenticed out under such rules and regulations as the directors of the house of refuge may prescribe, until they arrive at the age of eighteen years, and it shall and may be lawful for the directors of any such house of refuge to receive and take charge of any children who may be committed to their custody by the county court, or any judge, justice of the peace, or other officers, under any law of the state, any person over the age of sixteen years, convicted of the violation of any ordinance, and liable to be punished therefor by imprisonment, may, in lieu thereof, be committed to the house of correction, or to the work house as may be provided by ordinance.

SEC. 83. Children may be bound to apprenticeship. That the board of directors of any house of refuge heretofore established by any city, be and they are hereby authorized to appoint a committee of one or more of their own number with power to execute and deliver, on behalf of said board indentures of apprenticeship for any inmate of said institution whom they may deem a proper person for an apprenticeship to a trade or occupation, to such person as said committee, or the board may select and agree with, and the said indentures shall have the like force and effect as other indentures of apprenticeship, under the laws of Iowa, and that said indentures shall be filed and kept in said institution by the superintendent thereof, and it shall not be necessary to file or record the same in any other place or office.

SEC. 84. Youth may be changed from house of refuge to the prison—statement of causes made—sentenced in dist. court. That when any boy or girl shall be convicted of any offence against the laws of this state, punishment with imprisonment in the penitentiary, or in the [380] jail of the county where such house of refuge may be situate, and shall under existing laws be sent to the house of refuge, instead of the penitentiary or jail; and if said boy or girl shall refuse to submit to the rules of said institution, and prove to be stubborn and irreclaimable, in the opinion of a majority of said board, he or she may, by their order, be delivered into the custody of the sheriff of said county, with a written statement of the cause of his or her commitment, and of the conduct and character of such boy or girl as exhibited in said institution, which statement shall be prepared and signed by the superintendent of said institution; and it shall be the duty of the sheriff to receive such boy or girl into custody, and to file such statement in the office of the clerk of the district court, or in the office of the court in which he or she shall have been tried, and to notify the prosecuting attorney of the district thereof, and thereupon the district attorney shall cause such boy or girl to be brought before the district court, or before the court in which he or she may have been tried, to receive the sentence which the court shall deem just according to the law for the offence for which he or she may have been convicted.

SEC. 85. **Re-commitment to house of refuge.** That when any inmate of said institution shall have been apprenticed, and prove untrustworthy and unreformed, he or she shall be recommitted to the said institution, to be held in the same manner as before said apprenticeship.

SEC. 86. **City prison—watch house—clerk of police court.** The city council shall have power to erect, establish and maintain, a city prison, which shall be in the keeping of the city marshal, under such rules and regulations as the city council shall provide. The city council of such city shall provide one or more watch or station-houses; they shall also provide suitable rooms for holding the police court; they shall provide by ordinance for the election by the qualified voters of the city, or for the appointment by the police judge, of a clerk for such police court, and for the selection, summoning and empanelling its juries, and for all such matters touching said court as may tend to its efficiency [381] and the despatch of business. No clerk of said court shall be in any way concerned as counsel or agent in the prosecution or defence of any person before such court. It shall be the duty of the city marshal, by himself or deputy, to attend the sittings of the police court, to execute its orders and process, and preserve order.

SEC. 87. **Police judge's powers—police court—seal—the powers and jurisdiction of police judge determined.** The police judge shall have in all criminal cases the powers and jurisdiction that are or may by law be vested in justices of the peace of the county, in all respects whatsoever; he shall have the power to take acknowledgments of deeds and other writings; he shall have jurisdiction of all ordinances of the city, and of all cases of petit larceny and other inferior offences which do not require an indictment or presentment by the grand jury, with power to hear and determine the same, where a jury is not demanded in cases where it may be properly claimed. The police judge of any such city shall have power to hold court, to be styled the "police court." Every such police court shall be deemed a court of record, shall have a seal to be provided by the city council, with the name of the state in the centre, and the style of the court around the margin, and shall have like jurisdiction as a court as is or may be invested in the judge holding the same; and shall also have jurisdiction and power to hear and determine all cases of violation of the ordinances of the city which shall be prosecuted in the name or in the behalf of the city; and all cases of petit larceny, or other inferior offences of any description committed within the limits of the city, or within one mile thereof, and which the constitution or some law of the state does not require to be prosecuted by indictment or presentment of a grand jury; and prosecutions for such offences shall be brought and conducted in the name of the state. And for the proper exercise of such jurisdiction, such police court shall have in respect of the issuing of process, the preserving order and punishing contempts, the administering oaths, the summoning and empanelling juries, or otherwise all the persons incident [382] to the district court in the hearing and determining like cases.

SEC. 88. **Fees and salary of police judge.** The police judge holding the police court shall be entitled to receive in all criminal cases prosecuted in behalf of the state, the same fees, to be collected in the same manner as is or may be provided by law, as the justice of the peace in like cases, and in cases prosecuted in behalf of the city, such fees not exceeding fees for the services of the like nature in state prosecutions, as the council may by ordinance prescribe, and shall also receive such future salary or compensation as the city council in like manner may prescribe.

SEC. 89. **Sessions of police court—jurors—rules of court.** The police court shall always be open for the dispatch of business but may adjourn from day to day or from time to time, and the mode in which cases shall be brought

before the court shall be regulated by the ordinance of the city council or rule of the court; the jurors in said court, shall have the qualifications of jurors in the district court, the police judge shall adopt such rules of practice and proceedings as will give to all the parties a proper statement of any charge against them, full opportunity of being heard, but at the dispatch the business of the court with convenient speed.

SEC. 90. Appeal to dist. court—transcript of case made out—case decided—appeal from mayor. Any final conviction or sentence of the police court may be examined into by the district court on certiorari, which may be allowed by such court or judge thereof, for sufficient cause and proceedings may be stayed on such terms as may be deemed reasonable; such police judge or court shall on such certiorari, all matters of record on file touching the proceedings, or a transcript thereof and any facts which may have been noted by the judge, or certified in the nature of a bill of exceptions at the time of trial, which it shall be the duty of the judge on the request of the party to do and on such return the district court shall make such order as right and justice may require and may either discharge the party or set aside the conviction, and order another trial, or dismiss the certiorari and order a procedendo, but no conviction or sentence of [383] any such judge shall be set aside or disregarded for want of any technical averment that any matter or thing is within their jurisdiction and in like manner as is above provided, may a conviction for the violation of any ordinance before the mayor of any corporation, be examined and revised.

SEC. 91. Mayor acts till judge is elect'd. That until a police judge shall be elected and qualified the mayor of any such city shall have all the powers and jurisdiction which are by this act vested in the police judge, and shall hold the police court in like manner, and with like jurisdiction and powers as required of the police judge, and shall be entitled to demand and receive the same fees and compensation as in this act or as may be provided by the city council for the police judge or police court.

SEC. 92. Majority of all the council pass laws—three readings of bills—mode of amendment—councilmen not eligible to office—no interest in contracts—salary not increased during term of office. All by-laws or ordinances and all resolutions or orders of the appropriation or payment of money, shall require for their passage or adoption the concurrence of a majority of all the trustees of any municipal corporation, all by-laws, and ordinances of a general or permanent nature, shall be fully and distinctly read on three different days, unless three fourths of the council of the municipal corporation in which the same may be pending, shall dispense with the rule, no by-law or ordinance shall contain more than one subject, which shall be clearly expressed in its title and no by-law or ordinance or section thereof shall be reviewed or amended unless the new by-law or ordinance contain the entire by-law or ordinance, or section reviewed or amended, and the by-law or ordinance, section or sections so amended, shall be repealed. No trustee or member of any council, shall during the term for which he has been elected or for one year thereafter, be appointed to any municipal office, which shall be created or the emoluments of which shall have been increased, during the term for which he shall have been elected, no such trustee or member shall be appointed to any municipal office except in the cases provided in this act during the time for which he may have been elected, nor shall any such trustee or member be interested direct- [384] -ly or indirectly in the profits of any contract or job for work or service to be performed for the corporation. The emoluments of no officer whose election or appointment is required by this act shall be increased or diminished for the term for which he shall have been elected or appointed, nor shall any charge of compensation effect

any officer whose office shall be created under the authority of this act during his existing term, unless the office, be abolished, and no person who shall have resigned or vacated any office shall be eligible to the same during the time for which he was elected or appointed to serve where during the same time the emoluments have been increased.

REVENUE AND DEBTS OF MUNICIPAL CORPORATIONS.

SEC. 93. **Tax certified to co. clerk—co. treas'r collects taxes.** That the council of any municipal corporation, is hereby authorized and required to cause to be certified to the clerk of the county, on or before the first of August annually, the percentage by them levied on the real and personal property in said corporation, appraised and returned on the grand levy aforesaid, and county clerk is hereby authorized and directed to place the same on the duplicate of taxes for said county, in the same manner as county taxes are now placed on said duplicates, which said taxes of said municipal corporation, shall be collected by the county treasurer of the county, and paid into the treasury of such corporation, with the same power and restrictions, and under the same regulations, and in all things as to the sale of real or personal property, he shall be authorized, and he is hereby required to act according to the provisions and requisitions of the law for the collection of taxes for the state and county purposes.

SEC. 94. **The per cent of tax defined.** The amount which may be so certified, assessed and collected for a special road district, to defray the general and incidental expenses thereof, shall not exceed three fourths ($\frac{3}{4}$) of one mill on the dollar of the amount subject to taxation for an incorporated town, to defray its general and incidental expenses, ten mills on the dollar, for a city of the second class, to defray its [385] general and incidental expenses ten mills on the dollar.

SEC. 95. **Tax levied for sinking fund.** That for the purpose of creating a sinking fund for the gradual extinguishment of the bonds and funded debt of any municipal corporation, the council thereof may in their discretion annually levy and collect, in addition to the other taxes of said corporation a tax of not more than one mill upon the assessed value of said property appraised and returned as aforesaid, which shall be paid into said treasury and be applied by orders of the city council towards an extinguishment of the said bonds and funded debt and to no other purpose whatever.

SEC. 96. **Co. treas'r pays over to city treas'r.** That it shall be the duty of the treasurer of the county to pay over to the treasurer of any municipal corporation, all moneys received by him arising from taxes levied belonging to such municipal corporation, on or before the — day of — in each year, and such moneys as said county treasury may receive after that time for delinquent taxes belonging to such corporation, he shall pay over to the treasurer thereof when demanded.

SEC. 97. **Unrecorded lots taxed.** In any municipal corporation where the power exists to impose taxes on lots when platted and recorded, the corporation shall also have power to impose taxes upon parcels of land laid off into lots and sold or leased by metes and bounds, or other description, though the same shall not have been platted or recorded.

SEC. 98. **City may tax dogs.** That the council of any municipal corporation shall have power, whenever in their opinion the interests of the corporation require it, to lay and collect a tax on dogs and other domestic animals, not included in the list of taxable property for the state and county purposes, which said tax shall be collected by the collector of such corporation and paid into the treasury thereof.

SEC. 99. **Loans made and limited.** Loans may be made by any municipal corporations in anticipation of the revenues thereof, but the aggregate amounts of such loans shall not exceed the sum of four per cent upon the taxable property of any city or town.

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OF ELECTIONS AND QUALIFICATIONS OF OFFICERS.

SEC. 100. **Annual election—special election—places of electi'n—qualifications of voters.** The first Monday of March shall be the regular annual period for the election of municipal officers, and all officers whose election is provided for in this act, or may be provided for by any by-law or ordinance, shall be elected on that day. Special election of members of the city council of any city shall be held at such time as the mayor may direct, so that ten days notice thereof be given. The trustees or council of every municipal corporation shall direct the place or places for holding elections for municipal officers. In all cities there shall be a place appointed in each ward for holding all elections; any person who at the time of any election of municipal officers would be a qualified voter under the laws of the state for county officers, and shall actually reside in the corporation or ward in which he offers to vote, shall be deemed a qualified voter, and all elections shall in all respects be held and conducted in the manner prescribed by law in case of township elections.

SEC. 101. **Returns made to city cl'k—canvass—certificate of election—canvass by council.** The returns of all municipal elections in cities and incorporated towns which are divided into election districts or wards shall be made to the clerk or recorder of the corporation, and shall be opened by him within the time prescribed by law in the county elections. He shall call to his assistance the mayor of the corporation, or if there be no mayor, or the mayor shall have been a candidate at such election, then any of the justices of the peace of the county, and shall in his presence make out an abstract, and ascertain the candidates elected in all respects as required by law for the canvass of returns of the county elections, and shall in like manner make out a certificate as to each candidate so elected, and cause the same to be delivered to him or to be left at his place of abode. At all elections in cities and incorporated towns, which are not divided into election districts or wards, the mayor and trustees, any three of them whom shall be a quorum, shall serve as judges, and the recorder shall serve as clerk, and after canvassing the votes which may be given at such [387] election, shall declare the result, and the recorder shall make out and deliver to each person elected to any office in such city or incorporated town, a certificate of such election.

SEC. 102. **Oath of office—bond—vacancy.** All officers elected or appointed in any municipal corporation, shall take an oath or affirmation to support the constitution of the United States, and the constitution of the state of Iowa, and the trustees or council of any municipal corporation may require from such officers as they may think proper, a bond with proper penalty and surety, for the faithful discharge of the duties of their office, and such trustees or council shall have the power to declare the office of any person appointed or elected to any office, who shall fail to take the oath of office, or give bond when required, for ten days after he shall have been notified of appointment or election, vacant, and proceed to appoint as in other cases of vacancy.

FURTHER GENERAL PROVISIONS.

SEC. 103. **Record and publication of ordinances.** All by-laws or ordinances shall, as soon as may be after their passage, be recorded in a book kept for that purpose, and be authenticated by the signature of the presiding officer of the council, and the clerk; and all by-laws of a general or permanent nature, and those imposing any fine, penalty or forfeiture, shall be published in some newspaper of general circulation in the municipal corporation, and it shall be deemed a sufficient defence to any suit or prosecution for such fine, penalty or forfeiture to show that no such publication was made.

SEC. 104. **Yeas and nays called on passage of bills—appointments.** On the passage or adoption of every by-law or ordinance, and every resolution or order to enter into a contract by any council of any municipal corporation, the yeas and nays shall be called and recorded; and to pass or adopt any by-laws or ordinance or any such resolution or order, a concurrence of a majority of the whole number of the members elected to the council shall be required; all appointments of officers by any council shall be made viva voce, and the concurrence of [388] like majority shall be required and the names of those, and whom they voted, on the vote resulting in an appointment shall be recorded. No money shall be appropriated by the council except by ordinance.

SEC. 105. **Repairing of streets—two-thirds vote.** No street or highway shall be opened, straightened or widened, nor shall any other improvement be made which will require proceedings to condemn private property, without the concurrence in the by-laws or ordinance or resolution directing the same of two-thirds of the whole number of the members elected to the council, and the concurrence of a like majority shall be required to direct an improvement or repair of a street or highway, the cost of which is to be assessed upon the owners of the property, unless two-thirds of the owners to be charged therefor, shall petition in writing for the same.

SEC. 106. **Improvements recommend'd by board—petitions presented.** In all cities of the first class, where there shall be a board of city improvements, no improvement, or repair in relation to streets, sewers or bridges shall be ordered or directed by the city council, except on the report and recommendation of said board; all petitions from the owners of property in relation to such improvements, shall be presented to such board who shall report from time to time to the city council, when any such improvement is necessary or proper, and when assessment is required, and the proper amount to be assessed, and the city council shall take such action thereon as may be deemed proper.

SEC. 107. **Rights of old corporation secur'd.** All rights and property of every kind and description, which were vested in any municipal corporation under its former organization, shall be deemed and held to be vested in the same municipal corporation under the organization made by this act, and no right or liabilities either in favor or against such corporation existing at the time of taking effect of this act, and no suit or prosecution of any kind shall in any manner be affected by such change, but the same shall stand or progress as if no such change had been made, *Provided*, that where a different remedy is given by this act, which can properly be made applicable to any right ex- [389] -isting at the time of its passage, the same shall be deemed cumulative to the remedies before provided, and may be used accordingly.

SEC. 108. **Additional justices elected.** Any municipal corporation which under its former organization, held or exercised any power or duty in ordering or directing the election of justices of the peace, constable or other town-

ship officers, shall continue to hold and exercise such power and duty until otherwise provided by law.

SEC. 109. **Powers continu'd.** Any municipal corporation in which under its former organization any law or charter regulating any literary, charitable or benevolent institution, vested any power appointing officers of supervision or control, shall continue to hold, possess the like power and authority in every respect.

SEC. 110. **Officers continued in office—laws and ordinances continued in force.** That the mayor, trustees, marshal, treasurer, and all officers heretofore elected by the people or appointed by any municipal corporation now in office, shall remain and continue in their respective offices and perform the several duties thereof under the provisions of this act, until the term shall expire for which they have been elected or appointed, and until their successors shall be chosen or appointed and qualified, unless the council of such corporation shall otherwise provide; but all such officers shall notwithstanding any instruction in this act, be subject to such rules and regulations touching their duties or compensation, as the proper authority of any municipal corporation may provide; and all laws, ordinances, and resolutions heretofore lawfully passed and adopted by the city council, shall be, remain and continue in force until altered or repealed by the city council, established by this act, and all special acts in relation to any municipal corporation, repealed by the first section of this act, shall notwithstanding, so far as the same affects the particular police regulations or local affairs of any municipal corporation, in matters not inconsistent with this act, be and remain in full force as by-laws and ordinances of the particular municipal corporations, until altered or repealed by the proper authority thereof.

[390] SEC. 111. **Process of amending charters.** The charter or act of incorporation of any city or town in this state may be amended in manner following, to wit:

Submitted to the people—notice publish'd—form. When one fourth qualified voters of said city or town as shown by the vote at the charter election immediately previous, petition the legislative body of said city or town for the amendment of the charter or act of incorporation, the said legislative body shall immediately propose sections amendatory of said charter or act of incorporation as petitioned for, and submit them to the qualified voters of said city or town at the first ensuing charter election, at least ten days before said election; the mayor or chief officer of said city or town shall issue his proclamation setting forth the nature and character of such amendment, and the said proclamation shall be immediately published in some newspaper published in said town, and be posted up in some conspicuous place in the office of said mayor or chief officer, or if there is no such paper, then by posting copies of said proclamation in five conspicuous places in said city or town; one of which shall be the door of the office of said mayor or chief officer. On the day specified the said amendment shall be submitted to the qualified voters of the corporation for adoption or rejection, and the form of the ballot shall be, "for the amendment," or "against the amendment."

SEC. 112. **Amendment in force.** If the majority of the votes cast is in favor of said amendment, the mayor or chief officer shall forthwith issue his proclamation accordingly; and the said amendment shall thereafter constitute a part of said charter and be operative on the people.

SEC. 113. **Amendment at special election.** The legislative body of said city or town may submit any amendment to the vote of the people as afore-

said at any special election, *Provided*, one half the voters determine as aforesaid, petition for that purpose, and the proceeding shall be the same as at the general election.

Approved March 23d, 1858.

[391] CHAPTER 158.

SCHOOL FUND AND SCHOOL LANDS.

AN ACT providing for the management of the school fund, and sale of the school lands.

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

SECTION 1. **School funds established.** That the following are hereby declared to be and remain perpetual funds for common school purposes, of which the annual interest or income only can be appropriated.

1. **Five per cent.** The five per centum upon the net proceeds of all sales of the public lands in the state of Iowa.

2. **Five hundred thousand acre grant.** The five hundred thousand acres of land, and all proceeds of the sales thereof which were granted to the state of Iowa, under the eighth section of the act of congress, passed September the 4th, A. D., 1841, entitled an act to appropriate the proceeds of all sales of public lands and to grant pre-emption rights.

3. **Intestate.** The proceeds of all sales of intestate estates which escheat to the state by reason of there being no heir.

4. **Sixteenth secti'n.** The sixteenth section in each township of the state, or lands selected in lieu thereof.

SEC. 2. **Tempora'y funds.** The following are declared to be and remain temporary funds for common school purposes, to be received and appropriated annually, in the same manner as is the annual interest or income of the perpetual fund.

1. **Forfeitures for usury.** All forfeitures of ten per cent. per annum, upon the amount of all interest under or by which a greater rate of interest than that authorized by law, is reserved or taken either directly or indirectly, in money, property, or other valuable things.

2. **Fines.** The clear proceeds of all fines collected within the several counties of this state for breaches of the penal laws.

3. **Military fines.** All fines which in the several counties in this state are paid in exemption of, or as an equivalent for military duty.

4. **Lost goods.** All funds arising from the sales of water crafts, lost goods and estrays.

[392] SEC. 3. **Treas'r apportions the five per cent fund.** The five per centum of the nett proceeds of all sales of the public lands in the state, is hereby made payable to the state treasurer, whose duty it shall be to apportion the same among the several organized counties of this state, taking into consideration the amount of the permanent school fund already in possession of said counties, so that each county may hold as nearly as may be, an amount of school fund proportionate to its population.

SEC. 4. **Funds payable to co. treas'r.** These portions of the permanent fund enumerated in the second, third and fourth sub-divisions of section first of this act, are hereby made payable to the county treasurer of the different

counties in which the lands may be situated, or the proceeds of sales of said escheated estates are to be accounted for by the county treasurers respectively, to the county judge.

SEC. 5. **Temporary funds paid over.** The temporary funds enumerated in section two of this act are hereby made payable to the county treasurer of the several counties in which they are incurred or arise respectively, which shall be accounted for to the county judge of said county, who shall apportion the same among the several school districts of said county as provided by law.

SEC. 6. **Annual apportionment.** On the first Monday of March annually the state auditor shall apportion the interest of the permanent school fund, among the several organized counties of this state, in proportion to the number of persons between five and twenty-one years of age in each, and in order to enable him to make such apportionment it is hereby made the duty of the superintendent of public instruction to report to said auditor on the first Monday of February, annually, the number of such persons in each organized county as shown by the reports from the several county superintendents.

SEC. 7. **Co. judge rep'rts interest.** The county judge shall annually, on the first Monday of February, make out and transmit to the state auditor, a report of the amount of interest then in the hands of the treasurer of said county, also the amount, if any, remaining unpaid.

SEC. 8. **Auditor notifies of apportionment—balances regulated—excess paid ov'r.** The state auditor shall, immediately after [393] making the apportionment required in section six of this act, notify the county judge of each county, of the sum to which his county is entitled by said apportionment, and shall ascertain from the reports of the different county judges what amount of the income or interest of the permanent school fund as stated in section first of this act, is in the hands of the treasurer of said county, and if any county shall have less of said mentioned interest or income than said county is entitled to by said apportionment, then the state auditor shall issue his warrant for the deficiency, which warrant shall be signed by the county judge of said county, and deposited with the county treasurer, and charged against him as so much interest or income on the permanent school fund, and shall be authority for the said treasurer to transfer the amount of said warrant from the state tax in his hands to the interest or income of the permanent school fund, and said warrants shall be received by the state treasurer as so much state tax, and in case any county shall have an excess of interest or income, then the treasurer of said county shall pay over said excess to the state treasurer, which excess shall be received as so much state tax.

SEC. 9. **Sixteenth section allotted and appraised.** It shall be the duty of the trustees of the several townships in this state, at as early a day as may be convenient, after township election next succeeding the passage of this act, or after the organization of new townships, and within the period of at most three months thereafter, to proceed to make an examination of the sixteenth section in their respective townships, or lands granted in lieu thereof, and to lay out or cause the same to be laid out and allotted into such parcels as in their judgment may be best to advance the interests of the school fund; and in such allotments conforming as far as may be consistent with the interest of the said fund to the legal sub-divisions of the United States survey, and they shall place a true value upon each parcel, which value shall not be less than at the rate of two dollars and fifty cents per acre.

SEC. 10. **Allotment approved by co. judge.** Within thirty days after allotment valuation [394] by said township trustees, they shall certify to the county judge of the proper county, the allotment they have made, together

with their valuation of the different parcels respectively; and it shall be the duty of the county judge, to examine the same, and in case of his approval, to make a record thereof in his office, and in case he disapproves, he shall, within thirty days after the receipt thereof, direct a new allotment or valuation, either or both as the case may seem to require, and on a return of the same to make a record thereof.

SEC. 11. **Propriety of sale considered.** Within three months after such allotment and valuation shall have been completed, returned and made a record of by the county judge; the county judge together with the trustees of the township in which the lands are situated, shall meet together and determine on the propriety of offering for sale the said sixteenth section, or some part or parts thereof, or of lands granted in lieu thereof; but no part or portion of the same shall be offered for sale unless with the joint concurrence of the county judge and two of the said trustees of the township in which the said lands are situated.

SEC. 12. **Notice of sale—terms of sale—officers cannot buy.** In case the said county judge, jointly with the said trustees, or any two of them, shall determine upon the propriety of offering for sale all or any of the parcels composing the said sixteenth section, or lands granted in lieu thereof, and shall resolve to offer the same for sale; then it shall be the duty of the county judge to give at least sixty day's notice, by written or printed advertisements in three public places in the county, and two in the township wherein the land is situated, and shall also publish a similar notice for sixty days previously in a newspaper published in the county, or in an adjoining county, provided any newspaper be published therein, which notice so to be given and published, shall describe the land to be sold and state the time and place of sale, then at such time and place, or to such other to which adjournment shall be had; he shall offer the same to the highest bidder, subject to the provisions of this act, and shall sell upon the following terms, viz: One third of the purchase money to be paid in ad- [395] -vance and the balauce on a credit not exceeding ten years, bearing interest at the rate of ten per cent per annum, from the day of the sale until paid, which interest shall be payable annually at the office of the county treasurer of said county, on the first day of January of each and every year, *Provided*, always, that the said lands appraised as aforesaid shall not be sold for less than their appraised value; and provided also, that the said county judge receive, when desired by the purchaser, the whole of the purchase money in advance; and provided also, that neither the county judge nor any township trustee of the township in which any land so sold may be situated, nor any person having anything to do with the allotment or appraisal thereof, shall be either directly or indirectly interested in any purchase of the same, and in case the persons above enumerated shall be either directly or indirectly interested in such purchase, then said sale is hereby declared to be void and of no effect.

SEC. 13. **Patent issued.** If any purchaser shall pay the whole amount of the purchase money at the time of the purchase, the county judge shall forthwith issue a certificate of purchase setting forth that fact which shall be transmitted to the state land office, and entitle the purchaser to a patent which shall be issued by the governor.

SEC. 14. **Bonds for deeds signed and recorded.** In case the lands are purchased upon a partial credit as hereinafter authorized, the contract of purchase shall be immediately reduced to writing, signed by the parties and filed and recorded in the office of said county treasurer, and during the continuance of such contract, it shall be lawful for such purchaser, his assignee or heir, at any time to pay the principal and interest due upon such contract, and receive a certificate of purchase as mentioned in the preceding section.

SEC. 15. **Land sold for cash—collateral security required.** When in the judgment of the county judge and township trustees, any school lands in the township of the latter which they are about to offer for sale, are of a description as that a sale of the same upon a partial credit would be unsafe or incompatible with the interest of the school fund, and the preservation thereof from waste and especially in the case of timbered lands, the [396] value whereof consists chiefly in the timber growing thereon; the said county judge and township trustees may in their discretion exact the whole of the purchase money in advance, or if they sell such land upon a partial credit as hereinbefore prescribed, it shall be their duty to require good collateral security for the payment of the residue of the purchase money upon the terms agreed upon.

SEC. 16. **Penalty of two per cent a month for non-paym't of interest.** Whenever any purchaser of any school lands sold under the provisions of this act, who has purchased the same under a partial credit, or any person to whom a portion of the school fund has been loaned fails to pay the interest thereon according to the terms of his contract, on the first day of January, he shall incur a penalty of two per cent upon said interest, and in case he shall fail to pay said interest on or before the first day of February, he shall incur an additional penalty of two per cent on said interest, and in like manner an additional penalty of two per cent shall be incurred for every month any delinquent may fail to pay the interest due from him until the same is paid, and if said interest is not paid at the end of six months, it shall be the duty of the county treasurer to report the name of the delinquent to the district attorney of the judicial district in which the county is situated, who shall immediately commence suit for the collection of the said interest.

SEC. 17. **School lands taxed.** All those school lands, the sale of which are provided for under this act, shall become taxable in the hands of the purchaser or those who represent him from the time of the execution and delivery of the contract to purchaser.

SEC. 18. **Condition in contracts.** All contracts relative to the sale of school lands of every description provided for in this act, shall be subject to the laws that may now or hereafter be in force in this state, relative to the prevention or punishment of waste.

SEC. 19. **Waste prevent'd—waste punished.** It is hereby made the duty of the township trustees in each township to see that no waste be committed upon any school lands lying in the township, [397] and in case any such waste be attempted it shall be their duty to apply by petition to the district court or to any judge thereof for an injunction to stay waste, and the same if granted, shall be without bond and shall stand for trial first in order upon the court docket, the same shall be tried in a summary way, and upon such trial the said township trustees shall be competent witnesses. The court may make such order in the premises as shall be agreeable and calculated to secure the school lands from waste or destruction, and may adjudge damages to the township trustees against the party for injustice done in such cases, the costs shall abide the event of the suit, and the damages shall be paid to the county treasurer, and constitute a part of the permanent school fund.

SEC. 20. **University lands.** The provisions of section nineteen are hereby made applicable to all purchasers of university land and borrowers of money from the university fund.

SEC. 21. **Sale of university lands.** It shall be the duty of the register of the state land office to transmit to the county judge of each county in which any part of the 500,000 acre grant may be situated, a list of all of said lands in his county with the appraised value of each tract, stating what tracts or parts of tracts have been sold and what remains unsold, and it shall be the

duty of the county judge receiving such lists, forthwith to furnish the trustees of the several townships in his county with a correct list of all the unsold lands in each, and thenceforth it shall be the duty of the county judge and the township trustees to have the same charge and care of said lands as of section sixteen, as provided in this act, but the account of the proceeds of the sale and the income arising therefrom shall be kept and rendered to the auditor of state separate from the proceeds and income from section sixteen.

SEC. 22. **School lands surveyed.** When, in the opinion of the county judge and township trustees of any township, it may be necessary to have any portion of the school lands stated in this act within any township in his county surveyed, he or they may employ the county surveyor for the purpose, who shall be paid out of the county treasury upon [398] proof made of the request and performance of the service.

SEC. 23. **Fund loaned out.** The permanent school fund shall be loaned out from time to time as hereinafter provided, as the same may come into the hands of the county treasurer, but no loan to any person or company shall exceed the sum of five hundred dollars, nor shall any loan be made for a less time than one year nor more than five years.

SEC. 24. **Security by the loan.** The payment of the money thus loaned and the interest thereon, shall be secured by promissory note, to be executed by the loanee with two good sureties, and by mortgage on real estate of the clear unincumbered value of double the amount of money loaned, which real estate must be situated in the county where such loan is made.

SEC. 25. **Value of security fixed.** The value of real estate proposed to be given in security for money loaned as herein provided, shall be fixed by three appraisers under oath, to be appointed by the county judge, who shall be allowed therefor the sum of fifty cents each, to be paid by the loanee, and the loanee shall, in all cases, pay for recording the mortgage taken to secure such loan.

SEC. 26. **Manner of making loans.** When any person or persons wish to effect a loan of the permanent school fund, he or they shall make application to the county judge of the proper county, and if in the opinion of the said judge, said loan would be to the interest of the school fund, said judge shall order the necessary papers for the security of said loan to be made out as required by section twenty-five of this act, and when said papers are made out, they shall be presented to the said county judge and if he approves the same he shall endorse thereon the word accepted, and sign his name below the same, and then return the note to the maker or makers thereof, who shall present the same to the county treasurer of said county, who shall pay to the person presenting it; out of the principal of the permanent school fund in his possession, the amount for which said note calls, and shall file said note among the papers of his office. And said county judge shall file the mortgage among the papers of his office.

[399] SEC. 27. **Office abolished.** The office of school fund commissioner is hereby declared abolished from and after the first day of October next.

SEC. 28. **Final settlement of S. F. comr's.** During the month of October next after the taking effect of this act, each person now holding the office of school fund commissioner of each of the several counties of this state shall make a full and complete settlement of the affairs and business of the said office, with the county judge and treasurer of his county, and shall deliver to such county treasurer, all moneys, notes and bonds and assets of every kind and description, and shall deliver all books and mortgages and papers not required to be delivered to the county treasurer, to the said county judge.

SEC. 29. **Details of settlement.** Said settlement shall be shown or evidenced by a settlement sheet whereupon shall be entered in proper form a full and accurate account of the doings of such school fund commissioner, with the proper debts and credits of principal and interest due from such school fund commissioner, said settlement sheet shall also contain a full and accurate list and statement of all books, papers, moneys, notes, bonds, mortgages and assets of every kind and description delivered by such school fund commissioner to such county judge and treasurer, and to which delivered, which list and statement shall contain a brief and pertinent description of all books, papers, booknotes, bonds, and assets, and also any facts within the knowledge of such school fund commissioner, material to the safety of the school fund.

SEC. 30. **Books and pap'rs accounted for.** In case any books, papers, money, bonds, mortgages, or assets of every kind or description belonging to such school fund commissioner, are not in his possession at the time of such settlement, he shall have entered upon the said settlement sheet a brief and pertinent description thereof, with the reasons why the same is not in his possession, and where and how it can be obtained.

SEC. 31. **Duplicate of settlement made out and signed.** Said settlement sheet shall be done in a triplicate and signed by such school commissioner, county judge and treasurer, and there shall be ap- [400] -pended to each an affidavit of such school fund commissioner stating said settlement sheet contains a full, complete and accurate account of his doings as such school fund commissioner, and a complete list of all books, papers, moneys, notes, bonds, mortgages, and assets of every kind and description that pertained to his said office, whether in his possession or within his knowledge material to the safety of the school fund, one of said settlement sheets shall be delivered to such school fund commissioner, one to said county judge, and the third shall be forwarded to the state auditor.

SEC. 32. **Payments made to co. treas'r—receipts filed.** From and after the first day of October next after the taking effect of this act, all payment of principal and interest of the school fund shall be made to the county treasurer of the proper county, and upon the payment of any money to him on account of the school fund, he shall execute duplicate receipts therefor, specifying whether the same is for principal or interest. The person receiving such duplicate receipts shall immediately deliver them to the county judge, who shall endorse on one of them the words "duplicate surrendered," with his name thereunder written, and shall return it to the person presenting the same, and the other shall be filed among the papers of his office, and no receipt executed by any county treasurer as aforesaid shall be held as evidence of payment without such endorsement.

SEC. 33. **Co. treas'r keeps clear account of fund.** Each county treasurer shall immediately, upon receiving any moneys belonging to the school fund, under the provisions of this act, enter upon his books a proper account thereof, distinguishing between principal and interest, and shall also enter thereon all bonds, notes and assets of every kind and description, showing that money is due to the school fund, distinguishing between principal and interest, and so from time to time, so that he shall at all times have on his books a clear and intelligible statement of the school fund in his hands, and said books shall at all times be opened to the inspection or examination of any householder or tax-payer in his county.

[401] SEC. 34. **Co judge keeps papers and settles with treas'r.** Each county judge shall keep in his office an account with the treasurer of his county, charging thereon all moneys, notes, bonds and assets of every kind and description delivered to such treasurer by the school fund commissioner as hereinbefore provided, and all moneys paid to such treasurers as shown

by receipts presented for endorsement as hereinbefore distinguishing between principal and interest, and shall on the first day of February of each year make a complete settlement with such treasurer, of such school fund account. Said account shall at all times be open to the inspection and examination of any householder or tax payer of his county.

SEC. 35. Defaulting commissioners dealt with. If upon settlement with any fund commissioner as herein provided, it shall be ascertained that he or any of his predecessors in office are defaulters to the school fund, the county judge and treasurer of the county shall give the necessary information and papers to the district attorney of that judicial district, whose duty it shall be to prosecute the necessary suit or suits for the amount of the defalcation, if in his opinion the same can be recovered by such proceedings, and if he should be of opinion such recovery cannot be had he shall file with such county judge his written opinion to that effect, and his reasons for that opinion.

SEC. 36. Possession of papers—statement filed. If in any county the office of school fund commissioner shall be vacated at the time when this act takes effect, the treasurer and judge of such county shall immediately take such steps as they may deem necessary to reduce to their possession all books, papers, moneys, notes, bonds, mortgages, and assets of every description belonging to such vacant office, and for that purpose shall have power to prosecute such suit or suits as the district attorney for such county may deem necessary. A written statement of all books, papers, moneys, notes, bonds, mortgages, and assets so reduced to possession by such treasurer and judge shall be made by such treasurer and county judge of such county similar in substance to the settlement sheet hereinbefore required, which shall be done in duplicate, signed by such treasurer and county judge, and verified by their affidavits, one of which shall be deposited with such county judge, the other forwarded to the auditor of state as hereinbefore provided.

SEC. 37. Failure to settle provided for. If any school fund commissioner shall neglect or refuse to make the settlement as herein provided, the treasurer and county judge of such county shall proceed as is provided in section thirty-six, in cases wherein the office of school fund commissioner is vacant or the commissioner neglects or refuses to make settlement as herein provided, the county treasurer shall cause suit to be brought on the official bond of such commissioner, unless the prosecuting attorney or district attorney for the county shall be of opinion that such suit will be useless, in which case such attorney shall file with the county judge his opinion in writing, with his reasons therefor.

SEC. 38. Sup't delivers up records. It is hereby made the duty of the superintendent of public instruction to transfer to the auditor of state all books, papers, and documents relating to the school fund now remaining in his office, and to transfer to the register of the state land office all books, papers and documents relating to the school and university land.

SEC. 39. Take effect. This act shall take effect and be in force from and after its publication in the Iowa Citizen and Iowa State Journal.

Approved March 23d, 1858.

I hereby certify that the foregoing act was published in the Iowa Citizen on the 7th day of April, 1858, and in the Iowa State Journal on the 3d day of April, 1858.

ELIJAH SELLS,
Secretary of State.

CHAPTER 159.

FILLING OF OFFICES.

AN ACT revising and amending title IV of the code and further providing for elections, filling vacancies in office, resignations and contesting elections.

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

SECTION 1. **General election established.** That there shall be held throughout [403] the state, on the second Tuesday of October in each year an election for all officers required by law to be chosen at such election, to be called the general election, except the years of the presidential election, when the general election shall be held on the Tuesday next after the first Monday in November.

SEC. 2. **Special election may be held.** Special elections are such as are held in pursuance of a special law, and such as are held to supply vacancies in any office, whether the same be filled by the vote of the qualified voters of the state, or any district, county or township, and may be held at such time as may be designated by such special law, or the proper officer duly authorized to order such election.

SEC. 3. **Vacancies filled.** All vacancies which are about to occur in office by the expiration of the full term thereof, shall be supplied at the general election next preceding the time at which such term will expire.

SEC. 4. **Terms of office—full terms served out—proclamation.** The term of office, of all state, district, county and township officers, except supervisors chosen at a general election, shall commence on the first Monday of January next thereafter, except it be otherwise provided by the constitution or the provisions of this act; and except, also, a person be chosen to fill a vacancy in any public office, in which case his term of office shall commence as soon as he shall qualify for the performance of the duties of the office to which he may be elected; *Provided*, however, that any person elected to any public office prior to the adoption of the new constitution, may hold his office for the full term prescribed by the laws in force at the time of his election (unless otherwise provided by the constitution or laws of the state), and the term of office of his successor shall expire at the same time as if it had commenced on the first Monday of January next after his election. It shall be the duty of the governor, at least thirty days before any general election, to issue his proclamation designating all the offices to be filled by the vote of all the electors in the state, or by the electors of any judicial district, and to transmit a copy thereof to the sheriff of each county of the state.

[404] SEC. 5. **Sh'ffs notice of election.** It shall be the duty of the sheriff to give at least ten days notice thereof, by causing a copy of such proclamation to be published in some newspaper published in the county, if any be published therein, and if not, by posting a copy of the proclamation in not less than five of the most public places in the county.

SEC. 6. **Notice of special election.** Whenever a special election shall be ordered by the governor, he shall issue his proclamation in like manner as provided in regard to general elections designating therein the time at which such special election shall be held; and the sheriff of each county in which such election is to be held, shall give notice thereof as required by the provisions of this act in relation to the general election.

SEC. 7. **Election of gov.** The governor and lieutenant governor shall be chosen at the general election of the year one thousand eight hundred and

fifty-nine, and every second year thereafter; and shall hold their offices for the term of two years from the second Monday of January next after their election, and until their successors shall be elected and qualified.

SEC. 8. Election of state officers. The secretary of state, auditor of state, treasurer of state, attorney general, register of state land office, and the commissioner of the Des Moines river improvement, shall be chosen at the general election of one thousand eight hundred and fifty-eight, and every second year thereafter, and shall hold their offices for the term of two years, and until their successors are elected and qualified.

SEC. 9. Election of judges of supreme court—classification of terms—one judge elected. Three judges of the supreme court shall be chosen by the qualified voters of the state at the general election of one thousand eight hundred and fifty-nine, who after being elected, and before entering upon the discharge of their duties as judges, shall be classified, so that one judge shall go out of office every two years. And for the purpose of determining such classification, the persons elected judges shall meet, and determine by lot in such manner as they may agree upon, the term each shall hold his office, as required by section three, article five of the constitution. A certificate of such classification, stating the term of office of each of said judges, shall be signed by the persons so chosen judges, and filed with the secretary of state, and by him recorded. At every second general election after that of one thousand eight hundred and fifty-nine, there shall be chosen by the qualified voters of the state, one supreme court judge, who shall hold his office for the term of six years, and until his successor is elected and qualified.

SEC. 10. Election of dist. judges & dist. attorneys. Judges of the district court and district attorneys shall be chosen by the vote of the qualified voters of each judicial district at the general election of one thousand eight hundred and fifty eight, and every fourth year thereafter, for the term of four years, and until their successors are elected and qualified.

SEC. 11. Election to board of education—terms of office determined. One member of the board of education shall be chosen by the qualified electors of each judicial district at the general election of one thousand eight hundred and fifty-eight; five of whom shall hold their offices for the term of two years; and six of whom shall hold their offices for the term of four years, and until their successors are elected and qualified. At the first session of the board it shall be determined by lot which members shall hold their offices for the term of four years, and which for the term of two years. A certificate of such classification containing the names and term of office of each member of the board shall be signed by the secretary of the board and filed with the secretary of state, and by him recorded, successors to the members of the board of education.

SEC. 12. Election of representative. Members of the house of representatives shall be chosen by the vote of the qualified voters of the respective representative districts, at the general election of one thousand eight hundred and fifty-nine, and every second year thereafter, for the term of two years, and until their successors are elected and qualified.

SEC. 13. Election of senator. Senators in the general assembly to succeed those whose term of office is about to expire, shall be chosen by a vote of the qualified voters of the proper senatorial districts, at the same time that the members [406] of the house of representatives are chosen, and for the term of four years.

SEC. 14. Election of co. clerk. Clerks of the district court shall be chosen by a vote of the qualified voters, in the several counties at the general elec-

tion of one thousand eight hundred and fifty-eight, and every second year thereafter; and shall hold their offices for the term of two years, and until their successors are elected and qualified.

SEC. 15. **Election of co. officers.** County judges, sheriffs, treasurers and recorders, surveyors, drainage commissioners and coroners, shall be chosen by the vote of the qualified voters of the respective counties at the general election of one thousand eight hundred and fifty-nine, and every second year thereafter, and shall hold their offices for the term of two years, and until their successors are elected and qualified.

SEC. 16. **Election of justices of the peace.** Two justices of the peace shall be chosen by the qualified voters of each township at the general election of one thousand eight hundred and fifty eight, and every second year thereafter, who shall hold their offices for the term of two years, and until their successors are elected and qualified.

SEC. 17. **Election of township officers.** Three township trustees, a township clerk and two constables, one assessor and a supervisor of roads for each district, shall be chosen by the qualified voters of each township at the general election of one thousand eight hundred and fifty-eight, and annually thereafter, and shall hold their offices for the term of one year, and until their successors are elected and qualified.

SEC. 18. **Election of other officers.** In case any public office, now required by law to be filled by the vote of the qualified voters of any county or township, shall not be specifically provided for by this act, then an election to such office may be had at the general election next preceding the expiration of the term of office of the incumbent and with the like effect, as if specially provided for in this act.

SEC. 19. **Additional justices.** One or two additional justices of the peace and one or two additional constables may be elected in each township if the trustees so direct, by posting noti- [407] -ces of the same in three of the most public places in the township, at least ten days before election.

SEC. 20. **Definition of offices.** Justices of the peace and constables shall be considered as county officers under the provisions of this act, except they shall be voted for by the voters of their respective townships.

SEC. 21. **Residence in co.** The words "twenty days" in section two hundred and fifty-nine of the code are hereby repealed, and the words "sixty days" inserted in place thereof.

SEC. 22. **Abstracts of canvass made.** Section two hundred and seventy-two of the code is hereby amended so as to read as follows: The abstract of the votes for each of the following classes, shall be made on a different sheet.

- 1st. Governor and lieutenant governor.
- 2d. All state officers not otherwise provided for.
- 3d. Representatives in congress.
- 4th. Senators and representatives in the general assembly from the county alone.
- 5th. Senators and representatives in the general assembly by districts comprising more than one county.
- 6th. Judges of the district court, district attorneys and members of the board of education.
- 7th. County officers.

Duplicate filed. Two abstracts of all the votes cast for any state or judicial district officer shall be made, and one forwarded to the secretary of state, and the other filed by the county judge.

SEC. 23. **Canvass for lieu't governor.** Section two hundred and eighty-three of the code is hereby amended by inserting the words, "and lieutenant governor," after the word governor in the third and fourth lines of said section.

SEC. 24. **Form of abstracts.** Sections two hundred and ninety-six, and two hundred and ninety-eight of the code are hereby amended by striking out from both sections the words, "in relation to the general election," and inserting in place thereof in each section the words, "in section two hundred and seventy-two of the code."

SEC. 25. **Certificate of election.** Section three hundred of the code is hereby amended so as to read as follows: The canvassers [408] shall make and cause to be delivered to the person elected a certificate of his election.

SEC. 26. **Provisions for special election.** The provisions relating to general elections shall govern special elections except where it may be otherwise provided by law.

SEC. 27. **Spring election abolished.** Sections three hundred and thirteen, three hundred and fourteen, three hundred and fifteen and three hundred and eighteen, of the code are hereby repealed.

SEC. 28. **Time for qualification—acceptance by letter.** Section three hundred and thirty-four, of the code, is hereby amended so as to read as follows: The several officers shall qualify within the times herein mentioned. The secretary, treasurer and auditor of state, attorney general, register of state land office, commissioner of Des Moines river improvement, judges of the supreme and district courts, district attorneys, and all county and township officers, by the first Monday of January following their election. The governor and lieutenant governor within three days after the result of the election shall be declared by the general assembly. *Provided*, that should any person elected to any of the above offices, not qualify within the time prescribed above or within ten days thereafter, unless the person elected shall signify his acceptance in writing, he shall be deemed as declining the office, and the office shall be deemed vacant.

SEC. 29. **Contesting elections.** Section three hundred and sixty-eight of the code is hereby amended so as to read as follows:—The election of any person declared duly elected to the office of secretary, treasurer, or auditor of state, attorney general, register of the state land office, commissioner of the Des Moines improvement, judge of the supreme court, or any other state officer except that of governor or lieutenant governor, or of the office of district judge or district attorney, may be contested by an eligible person, who received votes for the office contested, for any of the causes before contemplated.

SEC. 30. **Time of trial.** Section three hundred and seventy-two of the code is hereby amended by striking out the word [409] "November" in the last line of said section, and insert the word "January" in its place.

SEC. 31. **Office of gov'nr contested.** Section three hundred and eighty-seven is amended so as to read as follows: The election of any person declared duly elected to the office of governor or lieutenant governor may be contested by an eligible person who received votes for the office contested.

SEC. 32. **Election of school officer contest'd.** The election of any person declared duly elected a member of the board of education may be contested in the manner provided for contesting the elections of members of the general assembly; and the board of education shall possess the same powers in relation to contested seats in that body, as either branch of the general assembly.

SEC. 33. **Resignations tendered.** Section four hundred and thirty of the code is hereby amended so as to read as follows: resignations of public officers may be made as follows:

1st. By the governor or lieutenant governor, to the general assembly, if in session; if not, to the secretary of state.

2d. By senators and representatives in congress, and by all state officers elected by a vote of the qualified voters of the state at large; the judges of the supreme courts, and district attorneys to the governor.

3d. By senators and representatives in the general assembly, and members of the board of education, to the presiding officer of their respective bodies, if in session, who shall immediately transmit information of the same to the governor, if not in session to the governor.

4th. By the county judge to the clerk, and by all other county officers including justices of the peace and constables to the county judge.

5th. By all township officers, to the township clerk.

6th. By all officers holding by appointment, to the officer or body by whom they were appointed.

SEC. 34. **Repeal.** Sections 431, 432, 433, 434, 435 and 443 of the code are hereby repealed.

SEC. 35. **Time of filling vacancies.** Vacancies occurring in township offices, [410] ten days; in county offices, fifteen days; and in all other public elective offices, thirty days prior to the day of a general election, shall be filled at such general election. *Provided*, that should a vacancy occur in the office of representative in congress, senator or representative in the general assembly, member of the board of education, and the body in which the vacancy exists will convene in a general or extra session prior to such election, then it shall be the duty of the governor to order a special election to fill such vacancy, to be held at the earliest practicable time; and ten days notice of such election shall be given.

SEC. 36. **Conflicting acts repealed.** All acts inconsistent with this act are hereby repealed.

Approved March 23d, 1858.

CHAPTER 160.

OFFICIAL ACTS EXAMINED.

AN ACT to authorize the governor to appoint commissioners to examine the accounts of the state officers and to define the duties of the governor in certain cases.

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

SECTION 1. **Commission appointed—statement of transactions.** That the governor of state be and he is hereby authorized and empowered and it is hereby made his duty to appoint a commission of three competent and safe accountants who shall examine the books, papers, vouchers, moneys, securities and other documents in the hands or possession or under the control of each and every executive officer of said state, to make out a full, complete and specific statement of the transactions of each of said officers with, for or on behalf of the state showing the true balance or balances in each and every case and report the same to the governor with such suggestions as they may deem proper on or before the first day of June, 1858.

SEC. 2. **Examination every year.** It shall further be the duty of the governor to appoint similar commission and cause the examina- [411] -tion provided in the foregoing section to be made in the month of June of each and every year and at such other times as in his judgment the public interest or safety may demand, who shall be required to report to him as in said foregoing section required.

SEC. 3. **Officer suspended for defalcation.** Whenever any commission of investigation appointed as aforesaid shall report to the governor that any officer has been guilty of any defalcation, misapplication, or misappropriation of public money, or that his accounts, papers and books are improperly or unsafely kept, and that the state is likely or liable to suffer loss thereby, it shall be the duty of the governor to forthwith suspend such officer from the exercise of all the functions of his office and require him to deliver all the money, books, papers, documents, vouchers, furniture and other property of the state to the governor, to be disposed of as shall hereinafter be provided.

SEC. 4. **Unlawful acts punished.** From and after the date of the suspension of any officer under the provisions of this act, it shall be unlawful for such officer to exercise or attempt to exercise any of the functions of such office until such suspension shall be revoked, and any such exercise or attempt to exercise the rights, duties, or franchises of said office after such suspension, shall be deemed a misdemeanor and shall subject the offender for each and every such offence to the penalty of not more than one year imprisonment in the county jail, and not more than one thousand dollars fine, to be recovered and enforced as provided by the laws of the state.

SEC. 5. **Suspended officers' authority not be recognized.** It shall be unlawful for any officer or person whatever to recognize the authority of any such suspended officer, after the date of such suspension, or to transact any public business with him for and on behalf of the state until such suspension shall be removed, and every person guilty of a violation of the provisions of this section, shall be deemed guilty of a misdemeanor and subject to a fine of not less than five hundred dollars, nor more than five thousand dollars, to be recovered as provided by law.

SEC. 6. **Officer pro tem. appointed.** In every case of suspension it shall be law- [412] -ful and it is hereby made the duty of the governor of the state to appoint some suitable person to fill the office *ad interim* for which such person has been suspended, and shall before he enters upon the duties of the office give bond as now provided by law, to be approved by the governor, and who when thus appointed and qualified shall have full power and authority to do and perform all the duties and enjoy all the rights and franchises to the said office appertaining and belonging, until the removal of the suspension of his predecessor or the election of a successor.

SEC. 7. **Suit begun for losses.** It shall be the duty of the governor of the state, whenever he shall suspend the functions of any such public officer, to direct the proper legal steps to be taken to indemnify the state from loss by instituting suit upon the official bond of said officer or otherwise as the governor may deem fit.

SEC. 8. **Pay of com'r.** The commissioners provided for in this act, shall each receive the sum of three dollars per day for each and every day they may be actually employed in the performance of their duties.

SEC. 9. **Pers'ns summoned.** Said commissioners shall have power when in session, to issue subpoenas to call any person or persons before them to testify in reference to any fact connected with their investigation, also to require such persons to produce any papers or books when by the laws of evidence the district court might require by rule to be produced.

SEC. 10. **Papers produced.** This act shall take effect and be in force from and after its publication in the Iowa Weekly Citizen, Iowa Farmer and Iowa State Journal.

Approved March 23d, 1858.

I hereby certify that the foregoing act was published in the Iowa Weekly Citizen on the 31st of March, 1858, in the Iowa Farmer April 8th, 1858, and in the Iowa State Journal on the 3d of April, 1858.

ELIJAH SELLS,
Secretary of State.

[413] CHAPTER 161.

AN ACT making appropriations for the support of the government and for the payment of the per diem and mileage of the members of the general assembly and for other purposes.

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

SECTION 1. **Appropriating clause.** That the following sums of money or so much thereof as may be necessary, be and the same are hereby appropriated for the purposes hereinafter designated.

SEC. 2. **Governor's salary and fund.** For the salary of the governor for the fiscal year, 1859, the sum of two thousand dollars, for supplying the deficiency in the appropriation for the said salary for the year 1858, made by the sixth general assembly, one thousand three hundred and fifty dollars; and for the contingent expenses of the governor's office, for the fiscal year 1858 and 1859, the sum of two thousand dollars.

SEC. 3. **Sec'ys salary and fund.** For the salary of the secretary of state for the fiscal year of 1859, the sum of fifteen hundred dollars, and for the contingent expenses of the office of secretary of state and for the pay of clerks and deputies, for the fiscal years of 1858 and 1859, two thousand dollars; and for distributing all the acts and documents of the seventh general assembly required to be distributed, not otherwise provided for, one thousand dollars.

For the salary of the auditor of state for the fiscal year 1859, the sum of fifteen hundred dollars, and for the contingent expenses of the auditor's office and for the pay of clerks and deputies for the fiscal years 1858 and 1859, the sum of eighteen hundred dollars.

SEC. 4. **Treas'rs salary.** For the salary of the treasurer of state for the fiscal year 1859, the sum of fifteen hundred dollars.

SEC. 5. **Supreme judge's salary and fund.** For the salaries of the chief justice and associate justices of the supreme court, for the fiscal year 1859, the sum of six thousand dollars; and for the contingent expenses of the supreme court for said year, the sum of seven hundred dollars, and mileage allowed by law to the judges and clerk in attending the argument terms of such court, at Davenport.

SEC. 6. **Dist. judges' salary.** For the salary of each district judge in the [414] state, for the fiscal year 1859, the sum of sixteen hundred dollars.

SEC. 7. **Librarian's salary.** For the salary of the state librarian for the remainder of the fiscal year of 1858 and for 1859, six hundred dollars.

SEC. 8. **Attorney general's salary.** For the salary of the attorney general, sixteen hundred and fifty dollars and the fees allowed him by law.

SEC. 9. **Register's salary and funds.** For the salary of the register of the state land office, for deficiency in appropriation for salary for the fiscal year 1858, three hundred and seventy-five dollars; for salary of fiscal year 1859, fifteen hundred dollars; for clerk hire for the remainder of the fiscal year 1858 and for the fiscal year 1859, eighteen hundred dollars.

SEC. 10. **Pay of senate.** For the payment of mileage and per diem of members of the senate, including the lieutenant governor, the sum of seven thousand five hundred dollars, or so much thereof as their certificates may entitle them to.

SEC. 11. **Pay of house.** For payment of mileage and per diem of the members of the house of representatives, thirteen thousand eight hundred dollars, or so much thereof as their certificates may entitle them to.

SEC. 12. **Inter'st on school fund.** For the payment of interest on school fund loans made by the state, due January 1st, 1857, and yet unpaid, four thousand three hundred and fifteen dollars and ten cents; for payment of interest due on the 1st of January, 1858, on loans made by the state of the school fund, the sum of twelve thousand two hundred and twenty-nine dollars and fifty-seven cents; for payment of interest due the school fund from the state, on the last mentioned loan, on the first day of January, 1857, the sum of twelve thousand and twenty nine dollars and fifty-seven cents.

SEC. 13. **Payment of loan.** For the payment of the first three semi-annual installments of interest to be come due on the bonds issued by the state on the \$200,000 loan authorized to be made by the seventh general assembly, the sum of twenty-one thousand dollars, to be drawn from [415] the treasury of the state only when necessary to pay said interest as it may become due.

SEC. 14. **Payment of bonds.** For the payment of bonds due from the state to the school fund, on the fifteenth day of September, 1857, the sum of six thousand dollars.

SEC. 15. **Salaries of officers of state prison.** For pay of the officers of the penitentiary, as follows, to wit: For the salary of the warden, for deficiency for the last two quarters of the fiscal year 1858, two hundred and fifty dollars, salary for the fiscal year 1857, one thousand dollars; for deficiency in salary of clerk for the last two quarters of the fiscal year 1858, the sum of one hundred and fifty dollars; for salary for the fiscal year 1859, six hundred dollars; for salary of the inspectors for the fiscal year 1857, one hundred and eighty dollars.

SEC. 16. **Pay of board of education.** For the payment of the per diem and mileage of the members of the board of education for the sessions of 1858 and 1859, the sum of three thousand dollars, or so much thereof as their certificates may entitle them to.

SEC. 17. **Pay for taking census.** For payment of the cost of taking the census in 1859, the sum of five thousand dollars.

SEC. 18. **Perquisite of senate sec'y.** For compensation of the secretary of the senate for superintending the printing and distributing of the senate journal and indexing the same, the sum of five hundred dollars (\$500,00.)

SEC. 19. **Perquisite of house clerk.** For compensation of the chief clerk of the house for superintending the printing and distributing of the house journals and indexing the same, the sum of five hundred dollars (\$500,00.)

SEC. 20. **Geological survey.** For the continuation of the geological survey of the state, the sum of five thousand dollars.

SEC. 21. **Salary of sup't. pub. inst.—fund drawn.** For the salary of the superintendent of public instruction for the fiscal year 1859, the sum of fifteen hundred dollars; for traveling expenses and clerk hire for the fiscal

years 1858 and 1859, seven hundred and fifty dollars each, *provided*, that no portion of the appropriation for 1859 shall be drawn from the treasury in case the officer of superintendent of public instruction shall be changed or abolished by the board of [416] education at its first session, and \$250 for contingent expenses for the office of superintendent of public instruction for the present year.

SEC. 22. **Conting'nt funds accounted for.** All officers who are provided with a contingent fund or other fund herein, beyond their regular salary, shall keep a correct account of the expenditures from such funds and report the same to the general assembly, or to such person or persons as the governor may appoint to examine the accounts of such officers.

SEC. 23. **Payment of officers of house—chaplains—payment of officers of senate—subscriptions to newspapers—fitting up capitol—sundries—investigation—investigation—sundries—postage—subscriptions—officers of assembly.** For the payment of the pro tem and permanent officers of the two houses of the general assembly, the following sums:

Lincoln Clark, Speaker pro tem, \$3 per day, two days,.....	\$6.00
John Edwards, Speaker pro tem, \$3 per day, seven days,.....	21.00
Stephen B. Shelledy, Speaker,	210.00
W. P. Hepburn, Chief Clerk, pro tem, \$4 per day, two days,.....	8.00
A. R. Fulton, Ass't Clerk, pro tem, \$4 per day, for two days,	8.00
B. Searsey, Sergeant at Arms, pro tem, \$3 per day, two days,	6.00
J. H. Ounty, Door Keeper, pro tem, \$2.50 per day, two days,	5.00
B. F. Jones, Chief Clerk, seven days, at \$5 per day,	35.00
W. P. Hepburn, Chief Clerk, sixty-five days at \$6 per day,	390.00
A. M. Cowing, 1st Ass't Clerk, \$6 per day seventy days	420.00
B. F. Jones, 2d Ass't Clerk, \$4 per day sixty-five days,	260.00
A. E. Wagstaff, Engrossing Clerk, \$4 per day, seventy days,	280.00
S. A. Ayers, Enrolling Clerk, \$4 per day, seventy days,	280.00
B. F. Reno, Sergeant at Arms, \$4 per day, seventy days,	280.00
E. H. Brown, Post Master, \$4 per day, 72 days,	288.00
[417] For all the Chaplains for both houses	432.00
O. Faville, Lieut. Governor, \$6 per day, for sixty-eight days.....	408.00
D. Anderson, President pro tem. Senate, three days, \$6 per day...	18.00
C. C. Nourse, as Secretary pro tem for the Senate, per diem and mileage,	46.00
Geo. E. Spencer, Secretary of the Senate, for seventy days, at \$6 per day,	420.00
J. S. Demitt, Ass't Secretary Senate, for seventy days, \$5 per day,	350.00
A. S. Bailey, for Engrossing Clerk of the Senate \$4 per day, for 70 days,	280.00
E. A. Talbott, Enrolling Clerk of Senate, for 70 days, \$4 per day,....	280.00
J. R. Hartsock, Sergeant at Arms, Senate, for 70 days, \$4 per day,	280.00
E. Evans, Door Keeper of the Senate, for 70 days, \$3 per day,.....	210.00
John Buell, Ass't Sergeant at Arms Senate, 70 days, \$3 per day,....	210.00
J. P. Patrick, 1st Messenger Senate, 70 days, \$3 per day,	210.00
J. B. Myers, 2d Messenger Senate, 70 days, \$3 per day,	210.00
Jno. W. Moore, Fireman Senate, 70 days, \$3 pr day,	210.00
Henry Rich, 2d Fireman Senate, 70 days, \$3 pr day,	210.00
W. D. Conard, Paper Folder, 70 days, \$2.50 per day,	175.00
D. M. Sells, Paper Folder, 70 days, \$2.50 per day,	175.00
To the Iowa Citizen, Weekly and Tri-Weekly, Senate,	634.50
To Iowa Citizen Weekly and Tri-Weekly, House,	1127.00

To Iowa State Journal, Weekly and Tri-Weekly, Senate	494.00
To Iowa State Journal, Weekly and Tri-Weekly, House,	882.50
[418]	
To Muscatine Journal, Senate,	8.50
“ do do House,	10.00
“ Home Journal, Mt. Pleasant, Senate,	7.50
“ do do do House,	3.00
“ Burlington Hawkeye, Senate,	10.00
“ do do House,	23.00
“ Oskaloosa Herald, Senate,	19.00
“ do do House,	12.50
“ Gate City, Keokuk, Senate,	20.50
“ “ “ House,	36.50
“ Davenport Gazette, Senate,	14.50
“ “ “ House,	17.50
“ Anamosa Gazette, Senate,	14.00
“ “ “ House,	6.00
“ Burlington Gazette, or as much as may be necessary, House and Senate,	40.00
“ Tipton Advertiser, Senate,	10.00
“ “ “ House,	4.00
“ Cedar Democrat, Senate,	2.00
“ “ “ House,	0.50
“ Der Democrat, Davenport, Senate,	26.50
“ “ “ House,	8.00
“ Iowa State Zeitung, Dubuque, Senate,	6.00
“ National Era, Washington City, Senate,	3.00
“ “ “ “ House,	0.50
“ Washington Union, House,	9.00
“ “ Republic, Senate,	8.00
“ “ “ House,	19.00
“ Enquirer, Cincinnati, Senate,	2.00
“ “ “ House,	2.00
“ North West, Dubuque, Senate,	11.00
“ “ “ “ House,	7.50
“ Oskaloosa Times, Senate,	1.50
“ “ “ House,	2.50
“ Ohio Statesman, House,	13.50
“ Express & Herald, Senate,	6.50
“ “ “ House,	10.50
“ State Democrat, Davenport, Senate,	1.50
“ “ “ “ House,	6.50
“ Iowa Farmer, Senate,	120.00
[419]	
“ Iowa Farmer, House,	457.00
“ Winterset Madisonian, Senate,	38.00
“ “ “ House,	17.50
“ Missouri Democrat, Senate,	8.00
“ “ “ House,	11.00
“ St. Louis Republican, Senate,	4.50
“ “ “ House,	3.50
“ Dubuque Times, Senate,	4.00
“ “ “ House,	12.00
“ Boston Transcript, House,	1.50

" Dewitt Clintonian, Senate,	2.00
" " " House,	4.00
John Bryan, for balance on sundry bills,	2515.23
	<hr/>
Paid previous,	2264.10
Deduct over charges,	1433.19
	<hr/>
	3697.29
Total amount of bill,	\$6312.53
E. S. Higgins & Co., for bill Carpets,	464.63
Redhead & Dawson, for bill Stationery, &c., House,	418.80
C. Harback, for bill Furniture, (2 bills,)	41.00
E. H. Brown, carrying Mail,	150.00
Redhead & Dawson, for Stationery, &c., for Commissioners,	75.00
J. D. Cavernor & Co., 4 dusting Brooms,	1.40
Finkbine & Lovelace, for balance on bill for repairs of Capitol, at Iowa City,	259.21
C. Sixaur Lounge, for Committee Room,	12.00
Galbreath, Latshaw & Woodwell, for bill Hardware,	8.10
S. Sibley, services as Com. Clerk,	60.00
Samuel M. Dyer, for am't Weeks & Stacey, ex-titles, &c.,	10.00
O. M. Baker, for bill Clocks,	40.00
E. F. Graffe, Translating Governor's Inaugural,	16.00
G. M. Hippee & Co., for bill Drugs, &c.,	127.40
B. F. Reno, for expenses, &c.,	155.00
[420]	
W. W. Moore, for bill Upholstery, &c.,	27.30
" " " Carpets, &c.,	160.65
	<hr/>
	187.95
T. J. Baldwin, Witness fees, &c., (balance,)	11.50
C. P. Luse & Co., bill Hardware,	447.40
W. P. Doty, for balance on bill (Mason Work,)	57.76
J. Teesdale, for German Messages,	209.50
R. M. Burnett, for 10 dozen Manuals, 8—&c.,	80.25
Messrs. Patchens, for estimating work, &c.,	10.00
Laird Brothers & Co., for one well Bucket,	1.25
Child, Sanford & Co., for Hardware,	6.10
A. R. Fulton, Diagram of House of Representatives,	6.00
J. H. Sanders, for 3 day's services Chief Clerk,	18.00
Jas. H. Knox, for 8 day's services Sergeant at Arms, (House,)	24.00
J. P. Patrick, for sundry expenses,	1.00
W. D. Conrad, for sundry Paste, &c., Senate,	6.00
L. Mendall, " " " House,	10.00
W. A. Scott, for am't allowed on his work, &c., in removal of Capital Claim of	1400.00
C. Sexour, for two Lounges for Com. Room,	30.00
Redhead & Dawson, Senate bill for Stationery,	242.58
" " " " "	7.00
" " " " "	3.00
Wm. Lee, bill at Iowa City, for Stationery for 1857,	175.35
Sam'l A. Rice, for am't paid for examining records,	50.00
Wesley Redhead, P. M. at Des Moines, for postage of the House of Representatives,	2019.50
Wesley Redhead, P. M. at Des Moines, for postage of the Senate....	1113.44

For the payment of Postage of the General Assembly for the remainder of the Session after the rendition of the bills above provided, there is hereby appropriated the sum of one hundred and fifty dollars or so much thereof as may be necessary.

To Keosauqua Republican, (House)	\$ 0.50
[421]	
“ Dubuque Tribune, (Senate)	18.00
“ “ “ (House)	25.50
“ Washington Press, (Senate)	28.00
“ “ “ (House)	5.00
“ Wapello Intelligencer,	1.00
“ Montezuma Republican, (Senate)	3.50
“ “ “ (House)	11.00
“ Life in the West, [Sigourney] (Senate)	5.50
“ “ “ “ “ (House)	24.50
“ Webster City Freeman,	3.50
“ Council Bluffs Bugle, (Senate)	7.00
“ “ “ “ (House)	13.50
“ Cedar Rapids Times,	1.00
“ Linn County Register,	11.50
“ Vinton Eagle	2.50
“ Cedar Rapids Democrat,	1.00
“ Guttenburg Herald,	1.00
“ Albany Journal,	3.50
“ Chatauque Democrat,	00.50
“ Albia Republican,	00.50
“ Eddyville Commercial,	00.50
“ Knoxville Journal,	00.50
“ Keokuk do (Senate)	11.00
“ “ do (House)	7.00
“ Fort Madison Plaindealer, (Senate)	1.00
“ “ “ “ (House)	9.50
“ Keokuk Post, Senate	4.50
“ “ “ House	6.00
“ Decorah Gazette, Senate	13.50
“ “ “ House	22.00
“ Mitchell Co. Republican, Senate	6.50
“ “ “ “ House	2.50
“ North Iowa, Both Houses	1.00
“ Republican Intelligencer,	3.50
“ Valley News, Keosauqua	6.50
“ Genius of Liberty, Pa.	1.00
“ Louisville Democrat, Ky	4.50
“ Toledo Tribune,	00.50
“ Central Journal, Lafayette, Iowa,	1.50
“ Marietta Express,	2.00
[422]	
“ Democratic Standard, Knoxville,	15.50
“ Pella Gazette,	9.00
“ Chariton Mail,	4.50
“ Appanoose Chieftain,	5.50
“ Iowa City Republican,	9.50
“ Fairfield Ledger, Senate	29.50
“ “ “ “ House	32.00
“ Valley Whig	1.00
“ Lyons Mirror,	8.00

“ North Iowa Times,	5.50
“ Anamosa Eureka,	23.50
“ Iowa Visitor,	2.50
“ Indianola Visitor,	3.00
“ Banner of Liberty, N. Y.	4.50
“ Lansing Mirror,	3.00
“ Democratic Statesman, Both Houses.....	14.50
“ Quasqueton Guardian, Both Houses.....	1.00
“ Northwestern Review, Both Houses.....	4.00
“ Herald, Quincy, Ill. “ “	00.50
“ Evening News “ “	00.50
“ Express, LeClaire. “ “	00.50
“ Bedford Gazette. “ “	00.50
“ Muscatine Enquirer, “ “	6.50
“ Free Press, Burlington, “ “	4.00
“ Chicago Tribune, “ “	21.00
“ Staats Zeitung, “ “	31.00
“ Jasper Co. Express, “ “	5.00
“ Jacksonville Republican, “ “	00.50
“ Journal, Waukon, “ “	1.00
“ Journal, Fayette, “ “	1.00
“ Waterloo Register, “ “	1.50
“ Waverly Republican, “ “	00.50
“ New York Tribune, “ “	9.00
“ Lyons Advocate, “ “	1.00
“ Council Bluffs Clarion, “ “	3.50
“ Maquoketa Sentinel, “ “	1.50
“ Nonpareil, Council Bl'ffs, “ “	4.50
“ Chicago Times, “ “	3.50
“ States, Washington City, D. C. Both Houses,.....	1.50
“ Chicago Press, Both Houses,.....	3.00
[423]	
“ Maquoketa Excelsior, “ “	7.00
“ Chicago Democrat, “ “	3.00
“ Ohio Journal, Columbus, Both Houses,.....	00.50
“ Pennsylvanian, “ “	00.50
“ Boston Post, “ “	3.00
“ Plaindealer, Cleveland, O. “ “	1.50
“ Union, Harrisburg, Pa. “ “	00.50
“ Sentinel, Indianapolis, Ia. “ “	00.50
“ Hardin Co. Sentinel, “ “	00.50
“ Commonwealth, Frankfort, Ky. Both Houses,.....	1.50
“ Yeoman, “ “ “ “	1.50
“ Statesman, Lexington, “ “ “ “	1.00
“ Wapello Gazette, Iowa, “ “	00.50
“ Bay State, Worcester, Mass. “ “	1.50
“ Redhead & Dawson, Newspapers for Senate,	22.00
“ “ “ “ “ “ House,	131.00
“ Richmond Enquirer, Both Houses,.....	2.00
“ Cedar Valley Times, House.....	2.00
“ Cedar Rapids Democrat, House,.....	1.00
J. P. Upp, Door Keeper, \$3 per day, 70 days.....	210.00
J. Huff, Ass't Door Keeper, \$2.50 per day, 70 days.....	173.00
T. Finch, 1st Fireman, \$3 per day, 70 days.....	210.00
S. Cooper, 2d Fireman, \$3 per day, 70 days.....	210.00

J. Safely, 1st Messenger, \$3 per day, 70 days.....	210.00
C. Sharman, 2d Messenger, \$2,50 per day, 70 days.....	175.00
V. Mendell, 3d Messenger, \$2,50 per day, 70 days.....	175.00
T. Davis, 4th Messenger, \$2,50 per day, 70 days.....	175.00
W. P. Hepburn, Mileage.....	24.00

SEC. 24. **Pay of dist attorneys.** For the payment of the salaries of the district attorneys for the year 1859, there is hereby appropriated the sum of eight thousand eight hundred dollars.

SEC. 25. **Pay of codifying ing com'rs.** That the commissioners appointed to revise and codify laws shall be allowed the sum of four dollars per day, for each and every day they have been employed in the performance of their duties as such commissioners during the session of the seventh gen- [424] -eral assembly; and that the clerk of said commissioners be allowed the sum of three dollars per day, for each and every day he may have been employed in the discharge of his duties as such clerk during the said session; the several amounts to be audited by the auditor.

SEC. 26. **Enrolling.** That there be and is hereby appropriated to each of the enrolling clerks of the respective houses of the general assembly, the sum of four dollars per day while actually employed in the discharge of their duties as such clerks, to be audited and allowed by the auditor of state.

To T. W. Gill, Fireman of Committee Rooms, 70 days at \$3 per day....	\$210.00
To the Richmond Enquirer.....	2.00
To C. Ben. Darwin, as Revising Commissioner for mileage.....	27.00
To W. T. Barker, as Revising Commissioner for mileage.....	36.00
To Wm. Smith, as Revising Commissioner for mileage.....	27.00
To R. J. Thomas, as Clerk for Commissioners.....	36.00

Approved March 23d, 1858.

JOINT RESOLUTIONS

[425]

NUMBER 1.

JOINT RESOLUTION.

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

That there be printed three thousand copies of the annual report of the board of directors of the Iowa State Agricultural Society for the past year, and that the secretary of said society be instructed to furnish this general assembly one thousand five hundred copies of the same at as early a day as is practicable, and that he have two hundred copies bound in cloth for the purpose of effecting exchanges with other state societies, and the remaining thirteen hundred copies shall be subject to the order of the said board of directors.

Approved February 6th, 1858.

NUMBER 2.

JOINT RESOLUTION to provide for the printing of an additional number of the report of the state geologist, and for the disposal of the same.

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

That the governor be and is hereby authorized to procure the printing of one thousand copies of the report of the state geologist, in addition to the two thousand copies directed to be printed by the sixth general assembly.

Resolved, That the copies of said report authorized to be printed by the foregoing resolution, shall be disposed of as follows:—Two hundred and fifty copies of the same shall be distributed under the direction of the governor, to such of the governments and scientific societies of Europe, and to such of the state governments [426] and scientific societies of this union, as the governor in his discretion shall determine. Fifty copies shall be given to the present state geologist, twenty-five copies to ex-governor Grimes, and ten copies each to ex-governors Briggs and Hempstead, and the remaining copies shall be disposed of by the secretary of state, by sale for the benefit of the state, at the rate of five dollars per copy.

Resolved, That the governor be further authorized to draw his warrant or warrants on the auditor of state for the expenses incurred in accordance with the foregoing resolutions, who shall audit and allow the same.

Approved February 12th, 1858.

NUMBER 3.

JOINT RESOLUTION to provide for the distribution of the state geological reports.

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

That the secretary of state be and is hereby authorized to distribute the two thousand copies of the state geological reports that were ordered to be printed by the last general assembly, according to the following manner: One copy to each member of the last general assembly, agreeable to a resolution passed by that body, and eighty copies to the state historical society, and ten copies to the state library, and five copies to the deaf and dumb asylum, and twenty-five copies to the state university, and one copy to each county in the state, to be held in the care of the county treasurer, and twelve copies to each state officer for distribution, and twelve copies to each member of this general assembly for distribution within the state, and one copy to each state, one copy to the person or persons who edit each weekly newspaper or periodical in the state, one copy to each organized college or academy in the state, one copy to each of the chaplains of the general assembly, and one copy to each of the secretaries and clerks of the general assembly, and the remainder are to be disposed of by the governor in the way of exchange for other valuable works, to be placed in the state library.

Resolved, That for the distribution of said reports, that the secretary be authorized to draw his order on the state auditor for the [427] necessary expenses, to be paid out of any funds in the state treasury.

Approved February 24th, 1858.

NUMBER 4.

JOINT RESOLUTIONS containing propositions for a settlement with the Des Moines Navigation and Rail Road Company.

WHEREAS, The Des Moines Navigation and Rail Road Company have heretofore claimed, and do now claim, to have entered into certain contracts with the state of Iowa, by its officers and agents, concerning the improvement of the Des Moines river in the state of Iowa, and whereas disagreements and misunderstandings have arisen and do now exist between the state of Iowa and said company, and it being conceived to be to the interests of all parties concerned, to have said matters, and all matters and things between said company and the state of Iowa, settled and adjusted. Now, therefore, be it

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

That for the purpose of such settlement, and for that purpose only, the following propositions are made by the state to said company: That the said company shall execute to the state of Iowa full releases and discharges of all contracts, agreements and claims with or against the state, including rights to water rents which may have heretofore or do now exist, and all claims of all kinds against the state of Iowa and the lands connected with the Des Moines river improvement, excepting such as are hereby, by the state secured to the said company; and also surrender to said state the dredge-boat and its appurtenances, belonging to said improvement; and the state of Iowa shall, by its proper officer, certify and convey to the said company, all lands granted by an act of congress, approved August 8th, 1846, to the then territory of Iowa, to aid in the improvement of the Des Moines river, which have been approved and certified to the state of Iowa by the general government, saving and excepting all lands sold or conveyed or agreed to be sold or conveyed by the state of Iowa, by its officers and agents, prior to the 23d day of December, 1853, under said grant, and said company or its assignees shall have right to all of said lands as herein granted to them as fully as the state of Iowa could [428] have under or by virtue of said grant, or in any manner whatever, with full power to settle all errors, false locations, omissions or claims in reference to the same, and all pay or compensation therefor by the general government, but at the costs and charges of said company, and the state to hold all the balance of said lands, and all rights, powers and privileges under and by virtue of said grant, entirely released from any claim by or through said company; and it is understood that among the lands excepted and not granted by the state to said company, are 25,487,87 acres lying immediately above Raccoon Forks, supposed to have been sold by the general government, but claimed by the state of Iowa.

And it is further agreed that said company release and convey to the state of Iowa or its representatives, all materials of every kind and description, prepared for or intended for the construction of locks or dams in said improvement, wheresoever the same may be, and the state shall take the existing contracts, but no other liabilities of any name or nature except as herein provided, for constructing or repairing the works on said improvement at Keosauqua, Bentonsport, Plymouth and Croton, and no other or different, with all liabilities and advantages arising upon said contracts, and per centage retained thereon, excepting that the company shall pay all estimates for work done or material prepared up to this date, beyond the per centage retained

from the contractors under their agreements; and the said company shall be discharged from all liability for the claims of the officers of the state for services or salaries.

The said company hereby agree to pay the state the sum of twenty thousand dollars, which sum shall be paid to the order of the commissioner of the Des Moines river improvement, (as fast as he may require the same, to liquidate existing liabilities against said Des Moines river improvement,) on thirty days notice given to said company at their office in the city of New York; and any bonds or certificates of indebtedness against said improvement not exceeding in amount the sum of eleven thousand dollars, which are now due and unpaid, are to be received in part payment of said sum of twenty thousand dollars. *Provided*, that no liabilities assumed by the state in this contract, shall be a charge against the state in her sovereign capacity, but all such liabilities, if any, shall be chargeable upon and payable out of the remaining lands belonging to the Des Moines river grant; and *Provided*, also, that if [429] congress shall permit a diversion of the lands of said Des Moines river grant, or the title thereto shall become vested in the state, so as to become subject to grant, the said remaining lands, after the payment of all the liabilities, as aforesaid, against said improvement, and the completion of such locks and dams on the Des Moines river as the legislature shall direct, shall be granted to the Keokuk, Fort Des Moines and Minnesota Rail Road Company, to aid in the construction of a railroad up and along the valley of the Des Moines river, upon such terms and in such manner as the legislature may provide, one fourth of which said lands shall be applied by said company to aid in the construction of said road above the city of Des Moines; and *Provided*, further, that if the said Des Moines Navigation and Rail Road Company shall ratify and accept these propositions for a contract by filing a written acceptance thereof in the office of the secretary of state within sixty days from the passage of this joint resolution, then this contract shall be in force and bind both of the parties thereto.

Approved March 22nd, 1858.

NUMBER 5.

JOINT RESOLUTION in relation to the state printing for the year 1856.

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

That the attorney general shall investigate all the facts connected with the printing of the senate journal, house journal, senate documents, house documents for the regular session of the sixth general assembly, and the compensation paid to the state printer for the same; and if upon such investigation he shall be of the opinion that the state of Iowa has any cause of action against said state printer, he shall commence and prosecute a suit or suits against said state printer on his official bond to recover the amount due the state of Iowa.

Approved March 22d 1858.

[430] NUMBER 6.

JOINT RESOLUTION of the general assembly, allowing the transfer of books from among those in library of the state to the library of the state university.

Resolved, That the state librarian be and he hereby is authorized and required to deliver to the superintendent of public instruction, for the use of

the library of the state university, such books as said superintendent and state librarian may select from the library of the state, of which there may be in the library of the state, duplicate or triplicate copies.

Approved March 22d, 1858.

NUMBER 7.

JOINT RESOLUTION instructing the governor to enjoin the Des Moines Navigation and Railroad Company in certain contingencies.

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

That should the Des Moines Navigation and Railroad Company not ratify the contract proposed to be made between them and the state of Iowa, within the time proposed in said contract, then the governor is hereby directed and required to cause an injunction to be served upon that company, immediately after the expiration of the term of the contract heretofore claimed to be entered into, between the state and the said company, and which expires on the first day of July, 1858, for the purpose of enjoining them from proceeding further with the improvement of the Des Moines river and to take such other means as he and his legal adviser may think best, to protect the interests of the state in any dispute that may arise between the state and the Des Moines Navigation and Railroad Company, in consequence of such injunction or of any other process or proceedings that may be necessary to enforce against said company.

Approved March 22d, 1858.

[431] NUMBER 8.

JOINT RESOLUTION in regard to the five per cent fund.

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

That should the congress of the United States at its present session neglect or refuse to comply with the prayer of a certain memorial passed during the present session of the general assembly, in regard to the five per cent fund, claimed to be due the state, the governor is hereby authorized and required to institute a suit in the court of claims in the name and for the benefit of the state against the United States, for the recovery of any amount that may be found due the state on account of the location of land warrants on the public lands by which the state has been deprived of the benefit of the five per cent due the state, had such lands been paid for in money.

Approved March 22d, 1858.

NUMBER 9.

JOINT RESOLUTION in relation to the care and control of the property of the state.

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

That the property of the state, real and personal not appertaining to any separate office, shall be under the care and control of the secretary of state,

who is hereby authorized to employ one or more janitors if necessary, for the proper care and safety of said property, and that the property and appurtenances belonging to each separate office shall be under the care and control of the incumbent of such office.

Approved March 22d, 1858.

NUMBER 10.

JOINT RESOLUTION for the publication of the laws.

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

That sev- [432] -en thousand copies of the acts of the seventh session of the general assembly, together with such parts of the acts of the fifth session of the general assembly as the committee on the judiciary recommended to have printed, be printed and distributed according to law.

Approved March 23d, 1858.

NUMBER 11.

JOINT RESOLUTION in relation to the translation and printing of the banking and school laws in the German language.

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

That the two banking laws and the school laws be published in the German newspapers of the state at the same price as is paid to other papers for publishing the same laws.

Resolved, That Theodore Gulich, of Davenport, be employed to translate said laws into the German language, and to furnish a copy of such translation to each of the German papers in the state, and that he be allowed for his services the sum of seventy-five dollars.

Resolved, That the secretary of state be directed to carry these resolutions into effect.

Approved March 23d, 1858.

NUMBER 12.

JOINT RESOLUTION of the general assembly of the state of Iowa touching the opinions of some of the judges of the supreme court of the United States on political questions, incorporated in the opinion of that court in the case of Scott vs. Sanford.

WHEREAS, The supreme court of the United States in the recent case of Scott vs. Sanford, after expressly deciding that it had not jurisdiction of the case, by deciding that the plaintiff Scott could not by reason of his descent, sue in the courts of the United States, has undertaken to pronounce an extra judicial opinion prohibiting the people of the United States, through congress [433] and the people of the territories through their local

government instituted under the authority of congress from any control of the question of slavery within the territories of the United States, and legalizing slavery in all those territories; and

WHEREAS, Such extra judicial opinion subordinates the political power and interests of our whole people to the cupidity and ambition of a few thousand slave holders who are thereby enabled to carry the odious institution of slavery wherever the national power extends, thereby degrading free labor in all the territories which the United States now have or hereafter may acquire by bringing slave labor in direct competition therewith, and predooming all such territory to all the blighting influences of the system of human slavery; and

WHEREAS, Such extra judicial opinion of the supreme court is conclusive proof of the settled determination of the slavery propagandists to subvert all those high and holy principles of freedom upon which the American Union was formed, and to degrade it from its intended lofty position of the exemplar and bulwark of freedom, into a mere engine for the extension and perpetration of the barbarous and detestable system of chattle slavery.

Therefore it is, as the sense of the people of Iowa, *Resolved*, that the extra-judicial opinion of the supreme court in the case of Dred Scott, is not binding in law or conscience upon the government or people of the United States, and that it is of an import so alarming and dangerous as to demand the instant and emphatic reprobation of every good citizen.

Resolved, That one of the most dangerous of the political heresies thus illegitimately announced, is that which denies the equality of free states, and renders them, on account of their free institutions, inferior and subordinate to the slave states, by declaring that by virtue of the constitution of the United States slavery goes into all our territories to the exclusion of freedom, and is sustained and protected therein until the people of the territories form for themselves state constitutions, at which time, if at all, but certainly not until then, they may rid themselves of the system; and we should be ungrateful to those whose care and foresight provided for us free homes and derelict in our duty to those who will come after us, did we not promptly and sternly denounce this new doctrine, which if established, degrades the free states, and [434] either confines free labor within its present limits or sends it into our new territories in degrading competition with slave labor.

Resolved, That we still recognize and sustain the time honored doctrines taught by the early fathers of our political faith, that freedom is the great cardinal principle which underlies, pervades and exalts our whole political system, that the constitution of the United States does not in any way recognize the right of property in man, that slavery as a system is exceptional and purely local, deriving its existence and support wholly from local law; any person held to service or labor in one state under the laws thereof, escaping into another state may be reclaimed, not as property, but as a person, who by the laws of the state whence he escaped, owes, and by the constitution of the United States is capable of owing a debt of service or labor which he must discharge.

Resolved, That the state of Iowa will not allow slavery within her boundaries, in any form or under any pretext, for any time however short, be the consequences what they may.

Approved March 23d, 1858.

NUMBER 13.

JOINT RESOLUTION in relation to the publication of the laws.

Resolved by the General Assembly of the State of Iowa:

That there shall be nothing published in connection with the laws of the present general assembly, except such joint resolutions as have the notice and effect of law.

That no memorial or joint resolution to congress or to any other department of the general government, shall be published with said laws, nor any other matter except as provided above or as may be hereafter expressly provided by resolution or otherwise.

Approved March 23d, 1858.

NUMBER 14

JOINT RESOLUTION providing for commissioners to investigate the affairs of state officers.

Be it resolved by the General Assembly of the State of Iowa:

That [435] the commissioners appointed by resolution of the senate to settle with the different state officers, be empowered and required:

1st. To examine the books, accounts, vouchers, and all other records and proceedings of said officers as far back as six years previous to the first day of November, 1857.

2d. To examine and report under oath to the next session of the general assembly, the total amount of revenues paid in during said last mentioned time, and the total expenditures, distinguishing between ordinary and extraordinary expenditures.

3d. To ascertain all amounts of moneys, if any, deposited by any officer or officers, with any banker or other person or persons, and especially the bankers of Iowa City, and this city for interest, and if so how much, and upon what interest and how long the same was on deposit, and how much interest was paid for the same, and and to whom; they shall require and answer under oath from any banker or person with whom such money may have been deposited, and shall also examine any officer under oath touching the same. Also to report whether any state or school funds have been used for any purpose except that provided for by express statute, if so, for what purpose.

4th. They shall also ascertain and report how much money besides ordinary revenue has come into the treasury from all other sources.

5th. They shall also ascertain and report how much revenue during each of said five years, next previous to the first of January 1858, has been paid in by the different county treasurers into the state treasury, for which purpose they are authorized to open up a correspondence with the different county treasurers in this state to ascertain the above facts.

6th. It is hereby made the duty of the different county treasurers to respond without delay to any communications sent to them by said commissioners, and to give such facts as is required, as fully and satisfactory as they can; all information given by county treasurers as herein required, shall be sworn to by the treasurer giving the same.

7th. Said commissioners shall also carry out the instructions contained in the several resolutions passed by the senate instructing this committee.

Approved March 23d 1858.

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RECEIPTS AND EXPENDITURES.

AUDITOR'S OFFICE, IOWA, }
DES MOINES, JULY 15TH, 1858. }

J. TEESDALE, ESQ., STATE PRINTER:

SIR:—Section eighteen of article third of the constitution requires that “an accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws at every regular session of the general assembly.” To enable you to comply with the above requirement, I send you the following statement of the receipts and expenditures from the first day of November, 1856, to the thirty-first day of October, 1857.

I am very respectfully,

Your obedient servant,

JNO. PATTEE,
Auditor of State.

RECEIPTS AND DISBURSEMENTS

From November 1st, 1856, to October 31st, 1857

The receipts into the state treasury during the past year have been as follows, viz:

From county treasurers,	\$173,734.62
By loan of school fund,	57,500.00
Balance of saline funds on hand Nov. 1st, 1856,	956.21
Payments on saline fund account,	11,882.01
Balance of revenue in state treasury Nov. 1st, '56.....	11,254.91
	<u>\$255,327.75</u>

DISBURSEMENTS.

These have been as follows, viz:

For payment of state debt and interest thereon— payable at Philadelphia,	57,500.00
[438] For redemption of auditor's warrants,.....	180,404.68
Interest allowed on do do	1,240.37
For payment of an order of the commissioners of in- sane asylum,	2,000
	<u>241,145.05</u>
Balance in the state treasury at this time,.....	<u>\$ 14,182.70</u>

Made up as follows, viz:

Balance on revenue account,.....	13,682.90
Balance on saline fund account,.....	499.80
	<u>\$ 14,182.70</u>

EXPENDITURES.

Exhibiting the total amount of warrants issued and the several accounts to which they have been charged on the books of this office; and *all* the other expenditures which have occurred during the year.

Agricultural societies,	\$4,966.55	
Institution for the blind,	7,222.00	
Institution for the deaf and dumb,	7,000.00	
Expenses of 5th general assembly,	10.50	
" of extra session,	30.65	
" of sixth general assembly,	31,283.49	
" of constitutional convention,	27,009.65	
General contingent fund,	364.31	
Insane asylum,	100,338.42	
Miscellaneous disbursements,	8,945.61	
Penitentiary support,	24,817.00	
" officers' salaries,	1,909.00	
Publishing laws in newspapers,	780.50	
Printing,	27,587.55	
Binding,	2,854.16	
Stationery,	11,941.46	
Special appropriations,	9,583.49	
Removal of capitol, (expenses to this date,)	319.15	
Fuel account,	861.77	
Geological survey,	9,964.90	
Iowa supreme court reports,	4,000.00	

SALARIES OF SUPREME JUDGES.

Wright, Ch. J.,	2,191.64	
[439] Woodward, J.,	2,191.64	
Stockton, J.,	2,358.31	6,741.59

SALARIES OF DISTRICT JUDGES.

1st District,	1,159.00	
2d " 	850.00	
3d " 	1,183.33	
4th " 	1,216.66	
5th " 	1,183.33	
6th " 	900.00	
7th " 	1,266.66	
8th " 	850.00	
9th " 	550.00	
10th " 	1,050.00	
11th " 	633.33	
12th " 		
13th " 	633.33	
14th " 	500.00	11,966.64
Supreme court contingent expenses,		517.87

SALARIES OF STATE EXECUTIVE OFFICERS.

Governor,	1,250.00	
Secretary,	1,500.00	
Auditor,	1,500.00	
Treasurer,	1,500.00	
Supt. of public instruction,	1,500.00	
Register of state land office,	1,024.70	
Librarian,	150.00	
Attorney general,	1,000.00	9,424.70
Governor's contingent fund,		1,000.00

SALARIES OF CLERKS AND DEPUTIES.

Secretary's deputy,	559.39 $\frac{2}{3}$	
Auditor's "	555.00	
Treasurer's "	200.00	
Register's "	408.33	1,722.72 $\frac{2}{3}$
Total amount warrants issued during the year.....		313,163.68
To which add interest allowed on redeemed warrants,..	1,243.35	
Payment of state debt and interest,.....	57,500.00	58,743.35
Total expenditures,		\$371,907.03

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CONSTITUTION.

WE, THE PEOPLE OF THE STATE OF IOWA, grateful to the Supreme Being for the blessings hitherto enjoyed, and feeling our dependence on Him for a continuation of those blessings, do ordain and establish a free and independent government, by the name of the STATE OF IOWA, the boundaries whereof shall be as follows:

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

ARTICLE I.—BILL OF RIGHTS.

SECTION 1. All men are, by nature, free and equal, and have [442] certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety and happiness.

SEC. 2. All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people, and they have the right, at all times, to alter or reform the same, whenever the public good may require it.

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

SEC. 4. No religious test shall be required as a qualification for any office of public trust, and no person shall be deprived of any of his rights, privileges or capacities, or disqualified from the performance of any of his public or private duties, or rendered incompetent to give evidence in any court of law or equity, in consequence of his opinions on the subject of religion; and any party to any judicial proceeding shall have the right to use as a witness, or take the testimony of, any other person, not disqualified on account of interest, who may be cognizant of any fact material to the case; and parties to suits may be witnesses, as provided by law.

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

SEC. 6. All laws of a general nature shall have a uniform operation; the general assembly shall not grant to any citizen or class of citizens, privileges or immunities, which upon the same terms shall not equally belong to all citizens.

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

SEC. 8. The right of the people to be secure in their persons, [443] houses, papers and effects, against unreasonable seizures and searches shall not be violated; and no warrant shall issue but on probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the persons and things to be seized.

SEC. 9. The right of trial by jury shall remain inviolate; but the general assembly may authorize trial by a jury of a less number than twelve men in inferior courts; but no person shall be deprived of life, liberty, or property, without due process of law.

SEC. 10. In all criminal prosecutions, and in cases involving the life or liberty of an individual, the accused shall have a right to a speedy and public trial by an impartial jury; to be informed of the accusation against him; to have a copy of the same when demanded; to be confronted with the witnesses against him; to have compulsory process for his witnesses; and to have the assistance of counsel.

SEC. 11. All offenses less than felony, and in which the punishment does not exceed a fine of one hundred dollars, or imprisonment for thirty days, shall be tried summarily before a justice of the peace, or other officer authorized by law, on information under oath, without indictment, or the intervention of a grand jury, saving to the defendant the right of appeal; and no person shall be held to answer for any higher criminal offense, unless on presentment or indictment by a grand jury, except in cases arising in the army or navy, or in the militia, when in actual service, in time of war or public danger.

SEC. 12. No person shall, after acquittal, be tried for the same offense. All persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses, where the proof is evident, or the presumption great.

SEC. 13. The writ of habeas corpus shall not be suspended, or refused when application is made as required by law, unless in case of rebellion or invasion, the public safety may require it.

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

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

[444] SEC. 16. Treason against the state shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason, unless on the evidence of two witnesses to the same overt act, or confession in open court.

SEC. 17. Excessive bail shall not be required; excessive fines shall not be imposed, and cruel and unusual punishment shall not be inflicted.

SEC. 18. Private property shall not be taken for public use without just compensation first being made, or secured to be made, to the owner thereof, as soon as the damages shall be assessed by a jury, who shall not take into consideration any advantages that may result to said owner on account of the improvement for which it is taken.

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

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

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

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

SEC. 23. There shall be no slavery in this state; nor shall there be involuntary servitude, unless for the punishment of crime.

SEC. 24. No lease or grant of agricultural lands, reserving any rent or service of any kind, shall be valid for a longer period than twenty years.

SEC. 25. The enumeration of rights shall not be construed to impair or deny others, retained by the people.

ARTICLE II.—RIGHT OF SUFFRAGE.

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

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

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

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

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

SEC. 6. All elections by the people shall be by ballot.

ARTICLE III.—OF THE DISTRIBUTION OF POWERS.

SECTION 1. The powers of the government of Iowa shall be divided into three separate apartments: The legislative, the executive and the judicial; and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any function appertaining to either of the others, except in cases hereinafter expressly directed or permitted.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative authority of this state shall be vested in a general assembly, which shall consist of a senate and house of representatives; and the style of every law shall be:—"Be it enacted by the General Assembly of the State of Iowa."

SEC. 2. The sessions of the general assembly shall be biennial, and shall commence on the second Monday in January next ensuing the election of its members; unless the governor of the state shall, in the meantime, convene the general assembly by proclamation.

SEC. 3. The members of the house of representatives shall be chosen every second year, by the qualified electors of their respective districts, on the second Tuesday in October, except the years of the presidential election, when the election shall be on the Tuesday next after the first Monday in November; and their term of office shall commence on the first day of January next after their election, and continue two years, and until their successors are elected and qualified.

SEC. 4. No person shall be a member of the house of repre- [446] sentatives who shall not have attained the age of twenty-one years, be a free white male citizen of the United States, and shall have been an inhabitant of this state one year next preceding his election, and at the time of his election shall have had an actual residence of sixty days in the county or district he may have been chosen to represent.

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

SEC. 6. The number of senators shall not be less than one-third nor more than one-half the representative body; and shall be so classified by lot, that one class being as nearly one-half as possible, shall be elected every two years. When the number of senators is increased, they shall be annexed by lot to one or the other of the two classes, so as to keep them as nearly equal in numbers as practicable.

SEC. 7. Each house shall choose its own officers, and judge of the qualification, election, and return of its own members. A contested election shall be determined in such manner as shall be directed by law.

SEC. 8. A majority of each house shall constitute a quorum to transact business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as each house may provide.

SEC. 9. Each house shall sit upon its own adjournments, keep a journal of its proceedings, and publish the same; determine its rules of proceedings, punish members for disorderly behavior, and, with the consent of two-thirds, expel a member, but not a second time for the same offense; and shall have all other powers necessary for a branch of the general assembly of a free and independent state.

SEC. 10. Every member of the general assembly shall have the liberty to dissent from or protest against any act or resolution which he may think injurious to the public or an individual, and have the reasons for his dissent entered on the journals; and the yeas and nays of the members of either house, on any question, shall, at the desire of any two members present, be entered on the journals.

SEC. 11. Senators and representatives, in all cases, except treason, felony, or breach of the peace, shall be privileged from [447] arrest during the session of the general assembly, and in going to and returning from the same.

SEC. 12. When vacancies occur in either house, the governor, or the person exercising the functions of governor, shall issue writs of election to fill such vacancies.

SEC. 13. The doors of each house shall be open, except on such occasions as, in the opinion of the house, may require secrecy.

SEC. 14. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

SEC. 15. Bills may originate in either house, and may be amended, altered, or rejected by the other; and every bill having passed both houses, shall be signed by the speaker and president of their respective houses.

SEC. 16. Every bill which shall have passed the general assembly, shall, before it becomes a law, be presented to the governor. If he approve, he shall sign it; but if not, he shall return it with his objections, to the house in which it originated, which shall enter the same upon their journal, and proceed to reconsider it; if, after such reconsideration, it again pass both houses, by yeas and nays, by a majority of two-thirds of the members of each house, it shall become a law, notwithstanding the governor's objections.— If any bill shall not be returned within three days after it shall have been presented to him, (Sunday excepted,) the same shall be a law in like manner as if he had signed it, unless the general assembly, by adjournment, prevent such return. Any bill submitted to the governor for his approval during

the last three days of a session of the general assembly, shall be deposited by him in the office of the secretary of state within thirty days after the adjournment, with his approval if approved by him, and with his objections if he disapproves thereof.

SEC. 17. No bill shall be passed unless by the assent of a majority of all the members elected to each branch of the general assembly, and the question upon the final passage shall be taken immediately upon its last reading, and the yeas and nays entered upon the journal.

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

SEC. 19. The house of representatives shall have the sole [448] power of impeachment, and all impeachments shall be tried by the senate. When sitting for that purpose, the senators shall be upon oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the members present.

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

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

SEC. 22. No person holding any lucrative office under the United States, or this state, or any other power, shall be eligible to hold a seat in the general assembly: But offices in the militia, to which there is attached no annual salary, or the office of justice of the peace, or postmaster, whose compensation does not exceed one hundred dollars per annum, or notary public, shall be deemed lucrative.

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

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

SEC. 25. Each member of the first general assembly under this constitution shall receive three dollars per diem while in session; and the further sum of three dollars for every twenty miles traveled in going to and returning from the place where such session is held, by the nearest traveled route; after which they shall receive such compensation as shall be fixed by law; but no general assembly shall have the power to increase the compensation [449] of its members. And when convened in extra session they shall receive the same mileage and per-diem compensation as fixed by law for the regular session, and none other.

SEC. 26. No law of the general assembly, passed at a regular session, of a public nature, shall take effect until the fourth day of July next after the passage thereof. Laws passed at a special session shall take effect ninety days after the adjournment of the general assembly by which they were

passed. If the general assembly shall deem any law of immediate importance, they may provide that the same shall take effect by publication in newspapers in the state.

SEC. 27. No divorce shall be granted by the general assembly.

SEC. 28. No lottery shall be authorized by this state; nor shall the sale of lottery tickets be allowed.

SEC. 29. Every act shall embrace but one subject, and matters properly connected therewith; which subject shall be expressed in the title. But if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be expressed in the title.

SEC. 30. The general assembly shall not pass local or special laws in the following cases:

For the assessment and collection of taxes for state, county, or road purposes;

For laying out, opening, and working roads or highways;

For changing the names of persons;

For the incorporation of cities and towns;

For vacating roads, town plats, streets, alleys, or public squares;

For locating or changing county seats.

In all the cases above enumerated, and in all other cases where a general law can be made applicable, all laws shall be general, and of uniform operation throughout the state; and no law changing the boundary lines of any county shall have effect until upon being submitted to the people of the counties affected by the change, at a general election, it shall be approved by a majority of the votes in each county, cast for and against it.

SEC. 31. No extra compensation shall be made to any officer, public agent, or contractor, after the service shall have been rendered, or the contract entered into; nor shall any money be paid on any claim, the subject matter of which shall not have been provided for by pre-existing laws, and no public money or property shall be appropriated for local, or private purposes, unless such appropriation, compensation or claim, be allowed by two-thirds of the members elected to each branch of the general assembly.

SEC. 32. Members of the general assembly shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear, (or affirm, as the case may be,) that I will support the constitution of the United States, and the constitution of the state of Iowa, and that I will faithfully discharge the duties of senator, (or representative, as the case may be,) according to the best of my ability." And members of the general assembly are hereby empowered to administer to each other the said oath or affirmation.

SEC. 33. The general assembly shall, in the years one thousand eight hundred and fifty-nine, one thousand eight hundred and sixty-three, one thousand eight hundred and sixty-five, one thousand eight hundred and sixty-seven, one thousand eight hundred and sixty-nine, and one thousand eight hundred and seventy-five, and every ten years thereafter, cause an enumeration to be made of all the white inhabitants of the state.

SEC. 34. The number of senators shall, at the next session following each period of making such enumeration, and the next session following each United States census, be fixed by law, and apportioned among the several counties according to the numbers of white inhabitants in each.

SEC. 35. The senate shall not consist of more than fifty members, nor the house of representatives of more than one hundred; and they shall be apportioned among the several counties and representative districts of the state according to the number of white inhabitants in each, upon ratios to be fixed by law; but no representative district shall contain more than four organized counties, and each district shall be entitled to at least one representative.—Every county and district which shall have a number of inhabitants equal to one half of the ratio fixed by law, shall be entitled to one representative; and any one county containing in addition to the ratio fixed by law one half of that number, or more, shall be entitled to one additional representative. No floating district shall hereafter be formed.

SEC. 36. At its first session under this constitution, and at every subsequent regular session, the general assembly shall fix the [451] ratio of representation, and also form into representative districts those counties which will not be entitled singly to a representative.

SEC. 37. When a congressional, senatorial, or representative district shall be composed of two or more counties, it shall not be entirely separated by any county belonging to another district; and no county shall be divided in forming a congressional, senatorial, or representative district.

SEC. 38. In all elections by the general assembly, the members thereof shall vote viva-voce; and the voter shall be entered on the journal.

ARTICLE IV.—EXECUTIVE DEPARTMENT.

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

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

SEC. 3. There shall be a lieutenant governor, who shall hold his office two years, and be elected at the same time as the governor. In voting for governor and lieutenant governor, the electors shall designate for whom they vote as governor, and for whom as lieutenant governor. The returns of every election for governor, and lieutenant governor, shall be sealed up and transmitted to the seat of government of the state, directed to the speaker of the house of representatives, who shall open and publish them in the presence of both houses of the general assembly.

SEC. 4. The persons respectively having the highest number of votes, for governor and lieutenant governor, shall be declared duly elected; but in case two or more persons shall have an equal, and the highest number of votes for either office, the general assembly shall, by joint vote, forthwith proceed to elect one of said persons governor, or lieutenant governor, as the case may be.

SEC. 5. Contested elections for governor, or lieutenant governor, shall be determined by the general assembly in such manner as may be prescribed by law.

SEC. 6. No person shall be eligible to the office of governor, or lieutenant governor, who shall not have been a citizen of the United States, and a resident of the state two years next preceding the [452] election, and attained the age of thirty years at the time of said election.

SEC. 7. The governor shall be commander-in-chief of the militia, the army, and navy of this state.

SEC. 8. He shall transact all executive business with the officers of government, civil and military, and may require information in writing from the officers of the executive department upon any subject relating to the duties of their respective offices.

SEC. 9. He shall take care that the laws are faithfully executed.

SEC. 10. When any office shall, from any cause, become vacant, and no mode is provided by the constitution and laws for filling such vacancy, the governor shall have power to fill such vacancy, by granting a commission, which shall expire at the end of the next session of the general assembly, or at the next election by the people.

SEC. 11. He may, on extraordinary occasions, convene the general assembly by proclamation, and shall state to both houses, when assembled, the purpose for which they shall have been convened.

SEC. 12. He shall communicate, by message, to the general assembly, at every regular session, the condition of the state, and recommend such matters as he shall deem expedient.

SEC. 13. In case of disagreement between the two houses with respect to the time of adjournment, the governor shall have power to adjourn the general assembly to such time as he may think proper; but no such adjournment shall be beyond the time fixed for the regular meeting of the next general assembly.

SEC. 14. No person shall, while holding any office under the authority of the United States, or this state, execute the office of governor, or lieutenant governor, except as hereinafter expressly provided.

SEC. 15. The official term of the governor, and lieutenant governor, shall commence on the second Monday of January next after their election, and continue for two years, and until their successors are elected and qualified. The lieutenant governor, while acting as governor, shall receive the same pay as provided for governor; and while presiding in the senate, shall receive as compensation therefor, the same mileage and double the per-diem pay provided for a senator, and none other.

SEC. 16. The governor shall have power to grant reprieves, [453] commutations and pardons, after conviction, for all offences except treason and cases of impeachment, subject to such regulations as may be provided by law. Upon conviction for treason, he shall have power to suspend the execution of the sentence until the case shall be reported to the general assembly at its next meeting, when the general assembly shall either grant a pardon, commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall have power to remit fines and forfeitures, under such regulations as may be prescribed by law; and shall report to the general assembly, at its next meeting, each case of reprieve, commutation, or pardon granted, and the reason therefor; and also all persons in whose favor remission of fines and forfeitures shall have been made, and the several amounts remitted.

SEC. 17. In case of the death, impeachment, resignation, removal from office, or other disability of the governor, the powers and duties of the office for the residue of the term, or until he shall be acquitted, or the disability removed, shall devolve upon the lieutenant governor.

SEC. 18. The lieutenant governor shall be president of the senate, but shall only vote when the senate is equally divided; and in case of his absence, or impeachment, or when he shall exercise the office of governor, the senate shall choose a president pro tempore.

SEC. 19. If the lieutenant governor, while acting as governor, shall be impeached, displaced, resign, or die, or otherwise become incapable of performing the duties of the office, the president pro tempore of the senate shall act as governor until the vacancy is filled, or the disability removed; and if the president of the senate, for any of the above causes, shall be rendered incapable of performing the duties pertaining to the office of governor, the same shall devolve upon the speaker of the house of representatives.

SEC. 20. There shall be a seal of this state, which shall be kept by the governor, and used by him officially, and shall be called the great seal of the state of Iowa.

SEC. 21. All grants and commissions shall be in the name and by the authority of the people of the state of Iowa, sealed with the great seal of the state, signed by the governor, and countersigned by the secretary of state.

SEC. 22. A secretary of state, auditor of state, and treasurer of state, shall be elected by the qualified electors, who shall con- [454] tinue in office two years, and until their successors are elected and qualified; and perform such duties as may be required by law.

ARTICLE V.—JUDICIAL DEPARTMENT.

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

SEC. 2. The supreme court shall consist of three judges, two of whom shall constitute a quorum to hold court.

SEC. 3. The judges of the supreme court shall be elected by the qualified electors of the state, and shall hold their court at such time and place as the general assembly may prescribe. The judges of the supreme court so elected, shall be classified so that one judge shall go out of office every two years; and the judge holding the shortest term of office under such classification, shall be chief justice of the court during his term, and so on in rotation. After the expiration of their terms of office, under such classification, the term of each judge of the supreme court shall be six years, and until his successor shall have been elected and qualified. The judges of the supreme court shall be ineligible to any other office in the state, during the term for which they have been elected.

SEC. 4. The supreme court shall have appellate jurisdiction only in cases in chancery, and shall constitute a court for the correction of errors at law, under such restrictions as the general assembly may by law prescribe; and shall have power to issue all writs and process necessary to secure justice to parties, and exercise a supervisory control over all inferior judicial tribunals throughout the state.

SEC. 5. The district court shall consist of a single judge, who shall be elected by the qualified electors of the district in which he resides. The judge of the district court shall hold his office for the term of four years, and until his successor shall have been elected and qualified; and shall be ineligible

to any other office, except that of judge of the supreme court, during the term for which he was elected.

SEC. 6. The district court shall be a court of law and equity, which shall be distinct and separate jurisdictions, and have juris- [455] diction in civil and criminal matters arising in their respective districts, in such manner as shall be prescribed by law.

SEC. 7. The judges of the supreme and district courts shall be conservators of the peace throughout the state.

SEC. 8. The style of all process shall be, "The State of Iowa," and all prosecutions shall be conducted in the name and by the authority of the same.

SEC. 9. The salary of each judge of the supreme court shall be two thousand dollars per annum; and that of each district judge one thousand six hundred dollars per annum, until the year eighteen hundred and sixty; after which time they shall severally receive such compensation as the general assembly may, by law, prescribe; which compensation shall not be increased or diminished during the term for which they shall have been elected.

SEC. 10. The state shall be divided into eleven judicial districts; and after the year eighteen hundred and sixty, the general assembly may re-organize the judicial districts, and increase or diminish the number of districts, or the number of judges of the said court, and may increase the number of judges of the supreme court; but such increase or diminution shall not be more than one district, or one judge of either court, at any one session; and no re-organization of the districts, or diminution of the number of judges, shall have the effect of removing a judge from office.—Such re-organization of the districts, or any change in the boundaries thereof, or increase or diminution of the number of judges, shall take place every four years thereafter, if necessary, and at no other time.

SEC. 11. The judges of the supreme and district courts shall be chosen at the general election; and the term of office of each judge shall commence on the first day of January next after his election.

SEC. 12. The general assembly shall provide, by law, for the election of an attorney general by the people, whose term of office shall be two years, and until his successor shall have been elected and qualified.

SEC. 13. The qualified electors of each judicial district shall, at the time of the election of district judge, elect a district attorney, who shall be a resident of the district for which he is elected, and who shall hold his office for the term of four years, and until his successor shall have been elected and qualified.

[456] SEC. 14. It shall be the duty of the general assembly to provide for the carrying into effect of this article, and to provide for a general system of practice in all the courts of this state.

ARTICLE VI.—MILITIA.

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

SEC. 2. No person or persons conscientiously scrupulous of bearing arms shall be compelled to do military duty in time of peace; provided, that such

person or persons shall pay an equivalent for such exemption in the same manner as other citizens.

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

ARTICLE VII.—STATE DEBTS.

SECTION 1. The credit of the state shall not, in any manner, be given or loaned to, or in aid of, any individual, association, or corporation; and the state shall never assume, or become responsible for, the debts or liabilities of any individual, association, or corporation, unless incurred in time of war for the benefit of the state.

SEC. 2. The state may contract debts to supply casual deficits or failures in revenues, or to meet expenses not otherwise provided for; but the aggregate amount of such debts, direct and contingent, whether contracted by virtue of one or more acts of the general assembly, or at different periods of time, shall never exceed the sum of two hundred and fifty thousand dollars; and the money arising from the creation of such debts, shall be applied to the purpose for which it was obtained, or to repay the debts so contracted, and to no other purpose whatever.

SEC. 3. All losses to the permanent, school, or university fund of this state, which shall have been occasioned by the defalcation, mismanagement, or fraud of the agents or officers controlling and managing the same, shall be audited by the proper authorities of the state. The amount so audited shall be a permanent funded debt against the state, in favor of the respective fund, sustaining [457] the loss, upon which not less than six per cent. annual interest shall be paid. The amount of liability so created shall not be counted as a part of the indebtedness authorized by the second section of this article.

SEC. 3. In addition to the above limited power to contract debts, the state may contract debts to repel invasion, suppress insurrection, or defend the state in war; but the money arising from the debts so contracted shall be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever.

SEC. 5. Except the debts hereinbefore specified in this article, no debt shall be hereafter contracted by, or on behalf of this state, unless such debt shall be authorized by some law for some single work or object, to be distinctly specified therein; and such law shall impose and provide for the collection of a direct annual tax, sufficient to pay the interest on such debt, as it falls due, and also to pay and discharge the principal of such debt, within twenty years from the time of the contracting thereof; but no such law shall take effect until at a general election it shall have been submitted to the people, and have received a majority of all the votes cast for and against it at such election; and all money raised by authority of such law, shall be applied only to the specific object therein stated, or to the payment of the debt created thereby; and such law shall be published in at least one newspaper in each county, if one is published therein, throughout the state, for three months preceding the election at which it is submitted to the people.

SEC. 6. The legislature may, at any time, after the approval of such law by the people, if no debt shall have been contracted in pursuance thereof, repeal the same; and may at any time forbid the contracting of any further debt, or liability, under such law; but the tax imposed by such law, in pro-

portion to the debt or liability which may have been contracted in pursuance thereof, shall remain in force and be irrevocable, and be annually collected, until the principal and interest are fully paid.

SEC. 7. Every law which imposes, continues, or revives a tax, shall distinctly state the tax, and the object to which it is to be applied; and it shall not be sufficient to refer to any other law to fix such tax or object.

ARTICLE VIII.—CORPORATIONS.

SECTION 1. No corporation shall be created by special laws; but [458] the general assembly shall provide, by general laws, for the organization of all corporations hereafter to be created, except as hereinafter provided.

SEC. 2. The property of all corporations for pecuniary profit, shall be subject to taxation, the same as that of individuals.

SEC. 3. The state shall not become a stockholder in any corporation, nor shall it assume or pay the debt or liability of any corporation, unless incurred in time of war for the benefit of the state.

SEC. 4. No political or municipal corporation shall become a stockholder in any banking corporation, directly or indirectly.

SEC. 5. No act of the general assembly, authorizing or creating corporations or associations with banking powers, nor amendments thereto, shall take effect, or in any manner be in force, until the same shall have been submitted, separately, to the people, at a general or special election, as provided by law, to be held not less than three months after the passage of the act, and shall have been approved by a majority of all the electors voting for and against it at such election.

SEC. 6. Subject to the provisions of the foregoing section, the general assembly may also provide for the establishment of a state bank with branches.

SEC. 7. If a state bank be established, it shall be founded on an actual specie basis, and the branches shall be mutually responsible for each other's liabilities upon all notes, bills and other issues intended for circulation as money.

SEC. 8. If a general banking law shall be enacted, it shall provide for the registry and countersigning, by an officer of state, of all bills, or paper credit designed to circulate as money, and require security to the full amount thereof, to be deposited with the state treasurer, in United States stocks, or in interest paying stocks of states in good credit and standing, to be rated at ten per cent. below their average value in the city of New York, for the thirty days next preceding their deposit; and in case of a depreciation of any portion of such stocks, to the amount of ten per cent. on the dollar, the bank or banks owning said stocks shall be required to make up said deficiency by depositing additional stocks; and said law shall also provide for the recording of the names of all stockholders in such corporations, the amount of stock held by each, the time of any transfer, and to whom.

SEC. 9. Every stockholder in a banking corporation or institu- [459] tion shall be individually responsible and liable to its creditors, over and above the amount of stock by him or her held, to an amount equal to his or her respective shares so held, for all of its liabilities, accruing while he or she remains such stockholder.

SEC. 10. In case of the insolvency of any banking institution, the bill holders shall have a preference over its other creditors.

SEC. 11. The suspension of specie payments by banking institutions shall never be permitted or sanctioned.

SEC. 12. Subject to the provisions of this article, the general assembly shall have power to amend or repeal all laws for the organization or creation of corporations, or granting of special or exclusive privileges or immunities, by a vote of two-thirds of each branch of the general assembly; and no exclusive privileges, except as in this article provided, shall ever be granted.

ARTICLE IX—EDUCATION AND SCHOOL LANDS.

First—EDUCATION.

SECTION 1. The educational interest of the state, including common schools and other educational institutions, shall be under the management of a board of education, which shall consist of the lieutenant governor, who shall be the presiding officer of the board, and have the casting vote in case of a tie, and one member to be elected from each judicial district in the state.

SEC. 2. No person shall be eligible as a member of said board who shall not have attained the age of twenty-five years, and shall have been one year a citizen of the state.

SEC. 3. One member of said board shall be chosen by the qualified electors of each district, and shall hold the office for the term of four years, and until his successor is elected and qualified. After the first election under this constitution, the board shall be divided, as nearly as practicable, into two equal classes, and the seats of the first class shall be vacated after the expiration of two years; and one half of the board shall be chosen every two years thereafter.

SEC. 4. The first session of the board of education shall be held at the seat of government, on the first Monday of December, after their election; after which the general assembly may fix the time and place of meeting.

SEC. 5. The session of the board shall be limited to twenty [460] days, and but one session shall be held in any one year, except upon extraordinary occasions, when, upon the recommendation of two-thirds of the board, the governor may order a special session.

SEC. 6. The board of education shall appoint a secretary, who shall be the executive officer of the board, and perform such duties as may be imposed upon him by the board, and the laws of the state. They shall keep a journal of their proceedings, which shall be published and distributed in the same manner as the journals of the general assembly.

SEC. 7. All rules and regulations made by the board shall be published and distributed to the several counties, townships, and school districts, as may be provided for by the board, and when so made, published, and distributed, they shall have the force and effect of law.

SEC. 8. The board of education shall have full power and authority to legislate and make all needful rules and regulations in relation to common schools, and other educational institutions, that are instituted, to receive aid from the school or university fund of this state: but all acts, rules, and regulations of said board may be altered, amended, or repealed by the general assembly; and when so altered, amended, or repealed, they shall not be re-enacted by the board of education.

SEC. 9. The governor of the state, shall be, *ex-officio*, a member of said board.

SEC. 10. The board shall have no power to levy taxes, or make appropriations of money. Their contingent expenses shall be provided for by the general assembly.

SEC. 11. The state university shall be established at one place without branches at any other place, and the university fund shall be applied to that institution, and no other.

SEC. 12. The board of education shall provide for the education of all the youths of the state, through a system of common schools, and such schools shall be organized and kept in each school district at least three months in each year. Any district failing, for two consecutive years, to organize and keep up a school, as aforesaid, may be deprived of their portion of the school fund.

SEC. 13. The members of the board of education shall each receive the same per diem during the time of their session, and mileage going to and returning therefrom, as members of the general assembly.

[461] SEC. 14. A majority of the board shall constitute a quorum for the transaction of business; but no rule, regulation, or law, for the government of common schools or other educational institutions shall pass without the concurrence of a majority of all the members of the board, which shall be expressed by the yeas and nays on the final passage. The style of all acts of the Board shall be, "Be it enacted by the Board of Education of the State of Iowa."

SEC. 15. At any time after the year one thousand eight hundred and sixty-three, the general assembly shall have power to abolish or re-organize said board of education, and provide for the educational interest of the state in any other manner that to them shall seem best and proper.

Second—SCHOOL FUNDS AND SCHOOL LANDS.

SECTION 1. The educational and school funds and lands, shall be under the control and management of the general assembly of this state.

SEC. 2. The university lands, and the proceeds thereof, and all moneys belonging to said fund shall be a permanent fund for the sole use of the state university. The interest arising from the same shall be annually appropriated for the support and benefit of said university.

SEC. 3. The general assembly shall encourage, by all suitable means, the promotion of intellectual, scientific, moral, and agricultural improvement. The proceeds of all lands that have been, or hereafter may be, granted by the United States to this state, for the support of schools, which may have been or shall hereafter be sold, or disposed of, and the five hundred thousand acres of land granted to the new states, under an act of congress, distributing the proceeds of the public lands among the several states of the Union, approved in the year of our Lord one thousand eight hundred and forty-one, and all estates of deceased persons who may have died without leaving a will or heir, and also such per cent. as has been or may hereafter be granted by congress, on the sale of lands in this state, shall be, and remain a perpetual fund, the interest of which, together with all rents of the unsold lands, and such other means as the general assembly may provide, shall be inviolably appropriated to the support of common schools throughout the state.

SEC. 4. The money which may have been or shall be paid by [462] persons as an equivalent from exemption from military duty, and the clear proceeds of all fines collected in the several counties for any breach of the penal laws, shall be exclusively applied, in the several counties in which such money is paid, or fine collected, among the several school districts of said counties, in

proportion to the number of youths subject to enumeration in such districts, to the support of common schools, or the establishment of libraries, as the board of education shall from time to time provide.

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

SEC. 6. The financial agents of the school funds shall be the same, that by law, receive and control the state and county revenue, for other civil purposes, under such regulations as may be provided by law.

SEC. 7. The money subject to the support and maintenance of common schools shall be distributed to the districts in proportion to the number of youths, between the ages of five and twenty-one years, in such manner as may be provided by the general assembly.

ARTICLE X.—AMENDMENTS TO THE CONSTITUTION.

SECTION 1. Any amendment or amendments to this constitution may be proposed in either house of the general assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment shall be entered on their journals, with the yeas and nays taken thereon, and referred to the legislature to be chosen at the next general election, and shall be published, as provided by law, for three months previous to the time of making such choice; and if, in the general assembly so next chosen as aforesaid, such proposed [463] amendment or amendments shall be agreed to, by a majority of all the members elected to each house, then it shall be the duty of the general assembly to submit such proposed amendment or amendments to the people in such manner, and at such time as the general assembly shall provide; and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of the general assembly, voting thereon, such amendment or amendments shall become a part of the constitution of this state.

SEC. 2. If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately.

SEC. 3. At the general election to be held in the year one thousand eight hundred and seventy, and in each tenth year thereafter, and also at such times as the general assembly may, by law, provide, the question, "Shall there be a convention to revise the constitution, and amend the same?" shall be decided by the electors qualified to vote for members of the general assembly; and in case a majority of the electors so qualified, voting at such election for and against such proposition, shall decide in favor of a convention for such purpose, the general assembly, at its next session, shall provide by law for the election of delegates to such convention.

ARTICLE XI.—MISCELLANEOUS.

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

SEC. 2. No new county shall be hereafter created containing less than four hundred and thirty-two square miles; nor shall the territory of any organized county be reduced below that area; except the county of Worth, and the counties west of it along the northern boundary of this state, may be organized without additional territory.

SEC. 3. No county, or other political or municipal corporation shall be allowed to become indebted in any manner, or for any purpose, to an amount in the aggregate, exceeding five per centum [464] on the value of the taxable property within such county or corporation—to be ascertained by the last state and county tax lists, previous to the incurring of such indebtedness.

SEC. 4. The boundaries of the state may be enlarged, with the consent of congress and the general assembly.

SEC. 5. Every person elected or appointed to any office, shall, before entering upon the duties thereof, take an oath or affirmation to support the constitution of the United States, and of this state, and also an oath of office.

SEC. 6. In all cases of elections to fill vacancies in office occurring before the expiration of a full term, the person so elected shall hold for the residue of the unexpired term; and all persons appointed to fill vacancies in office, shall hold until the next general election, and until their successors are elected and qualified.

SEC. 7. The general assembly shall not locate any of the public lands which have been, or may be granted by congress to this state, and the location of which may be given to the general assembly, upon lands actually settled, without the consent of the occupant. The extent of the claim of such occupant so exempted, shall not exceed three hundred and twenty acres.

SEC. 8. The seat of government is hereby permanently established, as now fixed by law, at the city of Des Moines, in the county of Polk; and the state university at Iowa City, in the county of Johnson.

ARTICLE XII.—SCHEDULE.

SECTION 1. The constitution shall be the supreme law of the state, and any law inconsistent therewith, shall be void. The general assembly shall pass all laws necessary to carry this constitution into effect.

SEC. 2. All laws now in force and not inconsistent with this constitution, shall remain in force until they shall expire or be repealed.

SEC. 3. All indictments, prosecutions, suits, pleas, complaints, process, and other proceedings pending in any of the courts, shall be prosecuted to final judgment and execution; and all appeals, writs of error, certiorari, and injunctions, shall be carried on in the several courts, in the same manner as now provided by law, and all offenses, misdemeanors and crimes that may have committed before the taking effect of this constitution, shall be subject to indictment, [465] trial and punishment, in the same manner as they would have been had not this constitution been made.

SEC. 4. All fines, penalties, or forfeitures due, or to become due, or accruing to the state, or to any county therein, or to the school fund, shall inure to the state, county, or school fund, in the manner prescribed by law.

SEC. 5. All bonds executed to the state, or to any officer in his official capacity, shall remain in force and inure to the use of those concerned.

SEC. 6. The first election under this constitution shall be held on the second Tuesday in October, in the year one thousand eight hundred and fifty-seven, at which time the electors of the state shall elect the governor and lieutenant governor. There shall also be elected at such election, the successors of such state senators as were elected at the August election, in the year one thousand eight hundred and fifty-four, and members of the house of representatives, who shall be elected in accordance with the act of apportionment, enacted at the session of the general assembly which commenced on the first Monday of December one thousand eight hundred and fifty-six.

SEC. 7. The first election for secretary, auditor, and treasurer of state, attorney general, district judges, members of the board of education, district attorneys, members of congress, and such state officers as shall be elected at the April election, in the year one thousand eight hundred and fifty-seven, (except the superintendent of public instruction,) and such county officers as were elected at the August election, in the year one thousand eight hundred and fifty-six, except prosecuting attorneys, shall be held on the second Tuesday of October, one thousand eight hundred and fifty-eight: *Provided*, that the time for which any district judge or other state or county officer elected at the April election in the year one thousand eight hundred and fifty-eight, shall not extend beyond the time fixed for filling like offices at the October election, in the year one thousand eight hundred and fifty-eight.

SEC. 8. The first election for judges of the supreme court, and such county officers as shall be elected at the August election, in the year one thousand eight hundred and fifty-seven, shall be held on the second Tuesday of October, in the year one thousand eight hundred and fifty-nine.

SEC. 9. The first regular session of the general assembly shall [466] be held in the year one thousand eight hundred and fifty eight commencing on the second Monday of January of said year.

SEC. 10. Senators elected at the August election, in the year one thousand eight hundred and fifty-six, shall continue in office until the second Tuesday of October, in the year one thousand eight hundred and fifty-nine, at which time their successors shall be elected as may be prescribed by law.

SEC. 11. Every person elected by popular vote, by a vote of the general assembly, or who may hold office by executive appointment, which office is continued by this constitution, and every person who shall be so elected or appointed to any such office, before the taking effect of this constitution, (except as in this constitution otherwise provided,) shall continue in office until the term for which such person has been or may be elected or appointed shall expire; but no such person shall continue in office after the taking effect of this constitution, for a longer period than the term of such office, in this constitution prescribed.

SEC. 12. The general assembly, at the first session under this constitution, shall district the state into eleven judicial districts, for district court purposes; and shall also provide for the apportionment of the members of the general assembly in accordance with the provisions of this constitution.

SEC. 13. This constitution shall be submitted to the electors of the state at the August election, in the year one thousand eight hundred and fifty-seven, in the several election districts in this state. The ballots at such election shall be written or printed as follows: Those in favor of the constitution,

“New Constitution—Yes.” Those against the constitution, “New Constitution—No.” The election shall be conducted in the same manner as the general elections of the state, and the poll-books shall be returned and canvassed as provided in the twenty-fifth chapter of the code, and abstracts shall be forwarded to the secretary of state, which abstracts shall be canvassed in the manner provided for the canvass of state officers. And if it shall appear that a majority of all the votes cast at such election for and against this constitution are in favor of the same, the governor shall immediately issue his proclamation stating that fact, and such constitution shall be the constitution of the state of Iowa, and shall take effect from and after the publication of said proclamation.

SEC. 14. At the same election that this constitution is submit- [467] ed to the people for its adoption or rejection, a proposition to amend the same by striking out the word “white,” from the article on the “Right of Suffrage,” shall be separately submitted to the electors of this state for adoption or rejection, in the manner following, viz: A separate ballot may be given by every person having a right to vote at said election, to be deposited in a separate box. And those given for the adoption of such proposition shall have the words, “Shall the word ‘white’ be stricken out of the article on the ‘Right of Suffrage?’ Yes.” And those given against the proposition shall have the words “Shall the word ‘white’ be stricken out of the article on the ‘Right of Suffrage?’ No.” And if at said election the number of ballots cast in favor of said proposition, shall be equal to a majority of those cast for and against this constitution, then said word “white” shall be stricken from said article and be no part thereof.

SEC. 15. Until otherwise directed by law, the county of Mills shall be in and a part of the sixth judicial district of this state.

Done in convention at Iowa City, this fifth day of March, in the year of our Lord one thousand eight hundred and fifty-seven, and of the independence of the United States of America, the eighty-first.

In testimony whereof, we have hereunto subscribed our names:

TIMOTHY DAY,
S. G. WINCHESTER,
DAVID BUNKER,
D. P. PALMER,
GEO. W. ELLS,
J. C. HALL,
JOHN H. PETERS,
WM. H. WARREN,
H. W. GRAY,
ROBT. GOWER,
H. D. GIBSON,
THOMAS SEELY,
A. H. MARVIN,
J. H. EMERSON,
R. L. B. CLARKE,
JAMES A. YOUNG,
D. H. SOLOMON,

M. W. ROBINSON,
LEWIS TODHUNTER,
JOHN EDWARDS,
J. C. TRAER,
JAMES F. WILSON,
AMOS HARRIS,
JNO. T. CLARKE,
S. AYERS,
HARVEY J. SKIFF,
J. A. PARVIN,
W. PENN CLARK,
JERE. HOLLINGSWORTH,
WM. PATTERSON,
D. W. PRICE,
ALPHEUS SCOTT,
GEORGE GILLASPY,
EDWARD JOHNSTONE,
FRANCIS SPRINGER, *President.*

ATTEST:

TH. J. SAUNDERS, *Secretary.*

E. N. BATES, *Assistant Secretary.*

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CHAPTERS

OF THE SESSION LAWS OF THE FIFTH GENERAL ASSEMBLY, ORDERED TO BE PUBLISHED WITH THE SESSION LAWS OF THE SEVENTH GENERAL ASSEMBLY.

CHAPTER 21.

DEPUTY SURVEYORS.

AN ACT to amend chapter 21st of the code of Iowa in relation to county surveyors.

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

SECTION 1. **Surveyors app'nt deputy.** As follows: That every surveyor is hereby authorized to appoint a deputy; and such deputy, after being duly sworn, may perform any of the duties pertaining to the office of county surveyor, and all the doings of such deputy may be recorded in the same manner, and shall have the same effect and validity as if made by the county surveyor himself.

Approved January 15th, 1855.

Published by the direction of the governor, in the Reporter Feb. 7, Republican Feb. 14, 1855.

GEO. W. McCLEARY,
Sec'y of State.

CHAPTER 26.

INSPECTION OF LUMBER.

AN ACT to regulate the inspection of shingles and lumber.

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

SECTION 1. **Inspector—deputies.** That it shall be the duty of the county judge of each county in this state at their first, or any subsequent term of said court, (when it may be necessary,) to appoint one inspector of lumber and shingles, who shall each have the power to appoint one or more deputies to act under them. For the conduct of the deputies the principal shall be liable.

§ 2. **Qualification.** That before any inspector, or deputy inspector shall enter upon the duties of his office, he shall take an oath or affirmation, that he will faithfully and impartially execute the duties required of him by law, and each inspector shall moreover, enter into a bond with sufficient security to be approved by the judge, in such sum as the judge may require, made payable to the state of Iowa, which bond shall be deposited with the treasurer of the county, conditioned for the faithful and impartial performance of his duties, as required by law.

§ 3. **Sue on bond—judgment—limitation.** Any person who may think himself aggrieved by the incapacity, neglect, or misconduct of such inspector, or his deputy, may institute a suit on a copy of the bond certified by the treasurer, for the use of the person suing: Provided, that the treasurer shall not be liable for costs. And in case the person suing shall obtain judgment, he may have execution as in other cases; Provided further, that suit be commenced within one year from the cause of action.

§ 4. **Duties of inspectors.** It shall be the duty of the inspectors or their deputies, within their respective counties, to inspect all lumber, boards, and shingles, on application made to him or them, for that purpose; and when inspected stamp on the lumber, boards and shingles, with branding irons made for that purpose, the name of the state and county where inspected; also, the kind and quality of the articles inspected, which branding iron shall be made and lettered as may be directed by the county judges respectfully, and every inspector shall make in a book provided by him for that purpose, fair and distinct entries of articles inspected by him, or his deputies, with the names of the persons for whom said articles were inspected.

§ 5. **Removed.** The county judges in their respective counties, shall have full power and authority on complaints and sufficient cause shown, to remove from office any inspector appointed under this act, or to fill any vacancy that may occur by death, removal, or otherwise.

[509] § 6. **Counterfeit brands.** That if any person shall counterfeit the aforesaid brands, or marks, or either of them, upon conviction thereof, he shall be deemed guilty of forgery, and shall be punished accordingly.

§ 7. **Size of shingles—qualities of lumber—shingles.** That a lawful shingle shall be sixteen inches in length, four inches wide, a half an inch thick at the butt end, and all lumber shall be divided into four qualities, and shall be designated clear, first common, and second common and refused. And shingles shall be clear of sap, and designated as first and second quality. The shingles to be branded on each bundle with the quality and the name of the inspector.

§ 8. **Fees.** The fees for inspecting and measuring shall be fifteen cents per thousand feet board measure, and fifteen cents per thousand for shingles.

§ 9. **Take effect.** This act to take effect from and after its publication and distribution.

Approved January 15th, 1855.

I certify that the foregoing act was published by direction of the governor in the Iowa Capital Reporter and Iowa Republican, on the 14th day of February, 1855.

GEO. W. McCLEARY,
Sec'y of State.

CHAPTER 33.

SUNDAY.

AN ACT for the observance of the Sabbath.

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

SECTION 1. **Breach—ine—seventh day—travelers.** That if any person be found on the first day of the week, commonly called Sabbath, engaged in any riot, fighting, or offering to fight, or hunting, shooting, carrying fire arms,

fishing, horse racing, dancing, or in any manner disturbing any worshipping assembly, a private family, or in buying or selling property of any kind, or in any labor, (the work of necessity and charity only excepted,) every person so offending, shall on conviction be fined in a sum not more than five [510] dollars, nor less than one dollar, to be recovered before any justice of the peace in the county where such offence is committed, provided nothing herein contained shall be construed to extend to those who conscientiously observe the seventh day of the week as the Sabbath, or to prevent persons traveling, or families emigrating from pursuing their journey, or keepers of toll bridges, toll gates, and ferrymen from attending the same.

SEC. 2. **Committed.** For all offences, and assessments under the provisions of this act, the offenders shall be committed to the jail of said county until the said fines, together with costs of prosecution shall be paid.

§ 3. **Take effect.** This act shall take effect and be in force from and after its publication.

Approved January 19th, 1855.

I certify that the foregoing act was published by direction of the governor in the Iowa Capital Reporter on the 7th February, and in the Iowa Republican on the 14th February, 1855.

GEO. W. McCLEARY,
Secretary of State.

CHAPTER 34.

BUSHEL OF SWEET POTATOES.

AN ACT defining the weight of a bushel of sweet potatoes.

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

SECTION 1. **Weight.** That the weight of a bushel of sweet potatoes shall after the passage of this act be forty-six pounds.

§ 2. **Take effect.** This act to take effect from and after its publication.

Approved 19th January, 1855.

This act was published in the Reporter on the 7th of February, and Republican on the 14th of February, 1855, by the direction of the governor.

GEO. W. McCLEARY,
Secretary of State.

[511] CHAPTER 38.

RECORD OF DEEDS.

AN ACT to require recorders of counties to keep the records of conveyances of town lots separate from other real estate.

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

SECTION 1. **Deeds for town lots—recorded separate.** That it shall henceforth be the duty of the recorders of the different counties in this state, to record all deeds, mortgages, and other conveyances of town lots, in all cities and villages, in their respective counties, the plats whereof are recorded in separate record books, from those in which other conveyances of real estate are recorded.

§ 2. **Books.** It shall be the duty of the respective county judges to provide suitable record books, for carrying into effect the provisions of this act.

§ 3. **Repeal.** All acts and parts of act concerning records of deeds, in conflict with this act, are hereby repealed.

Approved January 18th, 1855.

The foregoing act was published in the Iowa Capital Reporter, Feb. 7th, and Iowa Republican, Feb. 14th, 1855.

GEO. W. McCLEARY,
Sec'y of State.

CHAPTER 45.

LIQUOR LAW.

AN ACT for the suppression of intemperance.

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

SECTION 1. **Sale of intoxicating liquor prohibited—declared a nuisance—exemption.** No person shall manufacture or sell by himself, his clerk, steward or agent, directly or indirectly, any intoxicating liquors, except as hereinafter provided. And the keeper of intoxicating liquor, with the intent, on the part of the owner thereof, or any person acting under his authority or by his permission, to sell the same within this state, contrary to the provisions of this act, is hereby prohibited, and the intoxicating li- [512] -quors so kept, together with the vessels in which it is contained, is declared a nuisance, and shall be forfeited and dealt with as hereinafter provided; ale, porter, lager beer, cider, and all wines are included among intoxicating liquors within the meaning of this act: *Provided, however,* that nothing in this section or in this act shall be construed to forbid the making of cider from apples, or wine from grapes, currants or other fruits grown or gathered by the manufacturer, or the selling of such cider or wine, (if made in the state) by the maker thereof, *Provided, only,* that the quantity sold at any one time be not less than five gallons, and be sold and be all taken away at one time.

§ 2. **Importer—limitation—distilleries.** Nothing in this act shall be construed to forbid the sale by the importer thereof, of foreign intoxicating liquor imported under the authority of the laws of the United States regarding the importation of such liquors, and in accordance with such laws; *Provided,* that the said liquor, at the time of said sale by said importer, remains in the original casks or packages in which it was by him imported, and in quantities not less than the quantities in which the laws of the United States require such liquors to be imported, and is sold by him in said original casks or packages, and in said quantities only: *Provided,* that nothing contained in this law shall prevent any person or persons from manufacturing in this state liquors for the purpose of being sold according to the provisions of this act, to be used for mechanical or medicinal purposes.

§ 3. **Co. agents—may be removed—term—purchase & sale of liquor—accounts, &c.—compensation—purchaser under false pretenses—fine.** The county judge of any county, on the first Monday of May annually, shall appoint some suitable person or persons, not more than two in number, residents of said county, but not both residents of the same township, to act as agent or agents of such county, for the purchase of intoxicating liquor, and

for the sale thereof within such county, for medicinal, mechanical and sacramental purposes only. And the said county judge may remove such agent at his pleasure and appoint another in his stead, at such time after such removal as shall be convenient. Every such agent shall [513] hold his office one year unless sooner removed. He shall sell such liquor only in one place, to be designated in the written certificate to be given him by the county judge, and no two agents will be allowed to sell such liquor in the same township. He shall, in the purchase and in the sale of such liquor, conform to such rules and regulations as shall be prescribed by said county judge, not inconsistent with the provisions of this act. He shall keep an accurate account of all his purchases and all his sales; specifying, in such account, the kind, and quantity, and price of the liquor bought by him, the date of each purchase made by him, and the name of the person of whom such purchase was made, the kind, quantity and price of liquor sold by him, the date of each sale made by him, the name of the purchaser at every such sale, and the use for which the liquor on every such sale was sold, as stated by the purchaser; which account shall be at all times open to the examination of the said county judge, and the grand jurors and prosecuting attorney of such county. He shall, when required by said county judge, account with him regarding all his dealings as such agent, and exhibit to him all receipts, bills, books and papers of every kind relating to such dealings, or to his accounts. He shall sell such liquor at such prices as shall be prescribed by the county judge, not, however, to exceed twenty-five per cent upon the cost thereof, and shall, when required by the county judge, pay over the proceeds of his sale to the county treasurer, and he shall, at the termination of his agency on the first Monday in May, or, in case he should be sooner removed by the county judge, he shall, as soon after such removal as may be, make a written report to the county judge, verified by his oath or affirmation, of all his purchases and the cost thereof, and of all his sales and the proceeds thereof, specifying the number of his sales, the respective quantities and kinds sold for each of the purposes of medicinal, mechanical and sacramental uses, and the quantity, and kind, and cost of all liquor remaining on hand at the time of making such report, and said report shall be filed in the office of the county [514] judge. Such agent shall receive for his services a fixed and stipulated compensation, to be prescribed by the county judge; but the amount of such compensation shall not be increased by reason of any increase or diminution of the sales of such liquors by such agent, and he shall not in any way, except as one of the inhabitants of the county, be interested in said liquor, or in the purchase or sale thereof, or in the profits thereon. And if any person purchasing any intoxicating liquors of such agent shall intentionally make to such agent any false statement regarding the use to which such liquor is intended by the purchaser to be applied, such person so offending shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, forfeit and pay a fine of ten dollars, together with the costs of prosecution, and shall stand committed until the same be paid.

§ 4. **Certificate—bond.** Every such agent shall receive from the said county judge a certificate authorizing him, as agent of such county, to sell, at the place mentioned in such certificate, intoxicating liquor for medicinal, mechanical and sacramental purposes only; but he shall not receive such certificate or exercise his office until he shall have executed unto said county, for the use of said county, a bond, with two good and sufficient sureties, to be approved by the county judge, in a sum not less than one thousand dollars, conditional that if, as such agent, he shall sell intoxicating liquor for medicinal, mechanical, and sacramental purposes only, and shall in all respects conform to the provisions of the law in relation to his agency and to the laws of this state relating to the sale of inxtoxicating liquors, the said bond to be void.

§ 5. **Penalty for making—2d offense—3d offense.** Every person who shall manufacture any intoxicating liquor, as in this act prohibited, shall be deemed guilty of a misdemeanor, and shall pay, on his first conviction for said offence, a fine of one hundred dollars and the costs of prosecution, and shall stand committed thirty days, unless the fine be sooner paid; on his second conviction, he shall pay a fine of two hundred dollars, and the costs of prosecution, and shall stand committed sixty [515] days, unless the fine be sooner paid. And on the third and every subsequent conviction for said offence, he shall pay a fine of two hundred dollars and the costs of prosecution, and shall be imprisoned in the county jail ninety days.

§ 6. **Sale—penalty—second conviction—third or other—clerks, agents, &c.—any number of violations.** If any person by himself, his clerk, servant or agent, shall for himself, or any person else, directly or indirectly, or on any pretence, or by any device, sell, or in consideration of the purchase of any other property, give to any other person any intoxicating liquor, he shall be deemed guilty of a misdemeanor, and shall pay, on his first conviction for said offence, a fine of twenty dollars and the costs of prosecution, and shall stand committed ten days, unless the same be sooner paid; on the second conviction for said offence, he shall pay a fine of fifty dollars and the costs of prosecution, and shall stand committed thirty days, unless the same be sooner paid, and on the third and every subsequent conviction for said offence, he shall pay a fine of one hundred dollars and the costs of prosecution, and shall be imprisoned in the county jail not less than three nor more than six months. And in default of the payment of the fines and costs provided for the first and second convictions under this section, the person so convicted shall not be entitled to the benefit of section 3268 of the code until he shall have been imprisoned sixty days. All clerks, servants and agents, of whatever kind, engaged or employed in the manufacture, sale or keeping for sale, in violation of this act, of any intoxicating liquor, shall be charged and convicted in the same manner as principals may be, and shall be subject to the penalties herein provided. Indictments and informations for violations under this section may allege any number of violations of its provisions by the same party, but the various allegations must be contained in separate counts, and the person so charged may be convicted and punished for each of the violations so alleged as on separate indictments or informations; but a separate judgment must be entered on each count on which a verdict of guilty is rendered. The [516] second and third convictions, however, mentioned in this section, shall be construed to mean convictions on separate indictments or informations.

§ 7. **Owning liquor—penalty—second offence—third or subsequent.** No person shall own or keep, or be in any way concerned, engaged or employed in owning or keeping any intoxicating liquor with intent to sell the same in this state, (or to permit the same to be sold therein,) in violation of the provisions of this act; and any person who shall so own or keep, or be concerned or engaged or employed in owning or keeping such liquor with any such intent, shall be deemed guilty of a misdemeanor, and shall, on his first conviction for said offence, pay a fine of twenty dollars and the costs of prosecution, and stand committed until the same be paid. On his second conviction for said offence, he shall pay a fine of fifty dollars and the costs of prosecution, and stand committed until the same be paid, and on his third and every subsequent conviction for said offence, he shall pay a fine of one hundred dollars and the costs of prosecution, and shall be imprisoned in the county jail not less than three nor more than six months. And upon the trial

of every indictment or information for violations of the provisions of this section, proof of the finding of the liquor named in the indictment or information in the possession of the accused in any place except his private dwelling house, or its dependencies, (or in such dwelling house or dependencies if the same be a tavern, public eating-house, grocery, or other place of public resort,) shall be received and acted upon by the court as presumptive evidence that such liquor was kept or held for sale contrary to the provisions of this act.

§ 8. **Building declared a nuisance.** In case of violation of the provisions of either of the three preceding sections, the building or erection of whatever kind, or the ground itself in or upon which such unlawful sale or manufacture, or keeping with intent to sell, of any intoxicating liquor is carried on, or continued, or exists, is hereby declared a nuisance, and may be abated as the law provides; and in addition to the penalties prescribed in said sections, whoever shall erect, or establish, or continue, or use any building, [517] erection, or place for any of the purposes prohibited in said sections, shall be deemed guilty of a nuisance, and may be prosecuted and punished accordingly, in the manner provided by law. And proof of the manufacture, sale, or keeping with intent to sell, of any intoxicating liquor in violation of the provisions of this act in or upon the premises described by the party accused, or by any other person under the authority or by the permission of the party accused, shall be deemed sufficient as presumptive evidence of the offence provided for in this section.

§ 9. **Information—search warrant—seizure—proviso.** If any three persons, residents of any county, shall, before a justice of the peace for the same county, make written information, supported by their oath or affirmation, that they have reason to believe, and do believe, that any intoxicating liquor, described as particularly as may be, in said information, is in said county, in any place, described as particularly as may be in said information, owned or kept by any person named or described in said information as particularly as may be, and is intended by him to be sold in violation of the provisions of this act, said justice shall, (upon finding probable cause for such information,) issue his warrant of search, directed to any peace officer in said county, describing, as particularly as may be, the liquor and the place described in said information, and the person named or described in said information as the owner or keeper of said liquor, and commanding the said officer to search thoroughly said place, and to seize the said liquor, with the vessels containing it, and to keep the same securely until final action be had thereon; whereupon the said peace officer, to whom such warrant shall be delivered, shall forthwith obey and execute, so far as he shall be able, the commands of said warrant, and make return of his doings to said justice, and shall securely keep all liquors so seized by him, and the vessels containing it, until final action be had thereon: *Provided, however,* that if the place so to be searched be a dwelling house in which any family resides, and in which no tavern, eating house, grocery, or other place [518] of public resort is kept, such warrant shall not be issued unless one at least of said complainants shall, on oath or affirmation, declare before said justice, that he has reason to believe, and does believe, that within one month next before the making of said information, intoxicating liquor has been, in violation of this act, sold in said house, or in some dependency thereof, by the person accused in said information, or by his consent or permission; nor unless from the facts and circumstances disclosed by such complaint to said justice, the said justice shall be of opinion that said complainant has adequate reason for such belief.

§ 10. **Summons—time and place—trial—jury—forfeited costs—appeal—bond—transcript—affirm—guilty—forfeiture.** Whenever upon such warrant such liquors shall have been seized, the justice who issued such warrant shall within forty-eight hours after such seizure, cause to be left at the place where said liquor was seized, if said place be a dwelling house, store or shop, posted in some conspicuous place on or about said buildings, and also to be left with or at the last known and usual place of residence of the person named, or described in said information, as the owner or keeper of said liquor if he be a resident of this state, a notice summoning such person, and all others whom it may concern, to appear before said justice at a place and time named in said notice, (which time shall not be less than five nor more than fifteen days after posting and leaving of said notices) and show cause if any they have, why said liquor, together with the vessels in which the same is contained, should not be forfeited; and said notice shall with reasonable certainty describe said liquor and vessels, and shall state where, when and why, the same was seized. At the time and place prescribed in said notice, the person named in said information, or any other person or persons claiming an interest in said liquor and vessels, or any part thereof, may appear and show cause why the same should not be forfeited. If any person shall then and there so appear, he shall become a party defendant in said case, and said justice shall make a record thereof, whether any person shall so appear or not, said justice shall at the prescribed [519] time, proceed to the trial of said case, and said complainants, or either of them, may, and upon their default, the officer having such liquor in custody shall, appear before said justice, and prosecute said information, and show cause why such liquor should be adjudged forfeited. The proceeding in the trial of such case may be the same substantially as in cases of misdemeanor, triable before justices of the peace, and if any person shall appear and be made a party defendant as herein provided, and shall make written plea that said liquor or the part thereof, claimed by him was not owned or kept with intent to be sold in violation of this act, such party defendant may, at his option, demand a jury to try the issue, and if upon the evidence then and there presented, the said justice or jury as the case may be, shall find for verdict, that said liquor was, when seized, owned or kept by any person (whether said party defendant or not) for the purpose of being sold in violation of this act, the said justice shall render judgment that said liquor or said part thereof, with the vessels in which it is contained, is forfeited. If no person be made defendant in manner aforesaid, or if judgment be in favor of all the defendants, who appear and are made such, then the costs of the proceeding shall be paid as in ordinary criminal prosecutions where the prosecution fails. If the judgment shall be against only one party defendant appearing as aforesaid, he shall be adjudged to pay all the costs of the proceedings in the seizure and detention of the liquor claimed by him up to that time and of said trial. But if such judgment shall be against more than one party defendant claiming distinct interests in said liquor, then the costs of said proceedings and trial shall be according to the discretion of said justice equitably apportioned among said defendants, and execution shall be issued on such judgments against said defendants for the amount of the costs so adjudged against them. And any person appearing and becoming party defendant as aforesaid, may appeal from said judgment or forfeiture as to the whole, or any part of said liquor, and vessels claimed by him; [520] and so adjudged forfeited, to the next term of the district court in said county, if on the rendition of the judgment, he, or some person for him, shall make, or cause to be made, an affidavit stating the facts, showing the alleged errors in the proceedings or judgment complained of; and if also on said rendition of judgment, he shall

file with the justice a written undertaking in a sum and with sureties to be approved by said justice that said defendant will prosecute the appeal without delay, and will pay whatever sum may be adjudged against him in the further progress of the action. On the allowing of such appeal, the justice shall file in the office of the clerk of said district court, a certified copy of the entries on his docket together with all the undertakings and papers in the cause, in the same manner as is provided in cases of appeals in misdemeanors triable before a justice of the peace. And if the party so appealing shall fail to appear before said district court at the next term thereof, and on the first day of said term to prosecute his appeal, the said court shall, without further proceedings, affirm the judgment from which such appeal was taken. But if the party so appealing shall appear, and if on trial had upon the issue or otherwise, as the case may be, it be found that said liquor, in respect to which an appeal was taken, was, when seized, owned or kept by any person for the purpose of being sold in violation of this act, then said liquor, and the vessels containing it, shall, by said court be adjudged forfeited, and the said court shall adjudge said defendant to pay the costs arising upon said appeal in addition to the costs adjudged against him by the justice of the peace.

§ 11. **Liquor and vessels to be destroyed—restoration—returns.** Whenever it shall be finally decided that liquor seized as aforesaid is forfeited, the justice of the peace, or other court rendering final judgment of forfeiture, shall issue to the officer having said liquors in custody, or to some other peace officer, a written order, directing him forthwith to destroy said liquor and the vessels containing the same, and immediately thereafter to make return of said order to the court, whence is- [521] -sued, with his doings endorsed thereon, which return shall in all cases be sworn to. Whenever it shall be finally decided that any liquor so seized is not liable to forfeiture, the court by whom such final decision shall be rendered, shall issue a written order to the officer having the same in custody, or to some other peace officer, to restore said liquor, with the vessel containing the same, to the place where it was seized, as nearly as may be, or to the person entitled to receive it, which order the officer, after obeying the commands thereof, shall return to the said court with his doings thereon endorsed, and the costs of the proceedings in such case attending the restoration, as also the costs attending the destruction of such liquor in case of forfeiture, shall be taxed and paid in the same manner as is provided in cases of ordinary criminal prosecution, where the prosecution fails.

§ 12. **Intoxication—arrested—tried—time—court may remit.** If any person shall be found in a state of intoxication, he shall be deemed guilty of a misdemeanor, and any peace officer may, without warrant, and it is hereby made his duty to take such person into custody, and to detain him in some suitable place, till an information can be made before a magistrate, and a warrant issued in due form, upon which he may be arrested and tried, and if found guilty, he shall pay a fine of ten dollars and the costs of prosecution, and shall be imprisoned in the county jail thirty days. But the magistrate before whom such person is tried and convicted may remit any portion of such penalty, and order the prisoner to be discharged whenever he shall become satisfied that the object of this law and the good of the public and of the prisoner will be advanced thereby. In cases arising under this section, appeals may be allowed as in cases of ordinary misdemeanor within the jurisdiction of justices of the peace.

§ 13. **Not necessary to set out kind, quantity or amount—not negative.** In any indictment or information arising under this act, it shall not be necessary to set out exactly the kind or quantity of intoxicating liquors manu-

factured or sold, or kept for purposes of sale, nor the exact time of the manufacture, or sale, or keeping with intent [522] to sell, but proof of the violation by the accused of any provisions of this act, the substance of which violation is briefly set forth within the time mentioned in said indictment or information, shall be sufficient to convict such person; nor shall it be necessary in any indictment or information to negative any exceptions contained in the enacting clause or elsewhere which may be proper ground of defence; and in any prosecution for a second or subsequent offence, as provided in this act, it shall not be requisite to set forth in the indictment or information the record of a former conviction, but it shall be sufficient briefly to allege such conviction, nor shall it be necessary in every case to prove payment in order to prove a sale within the true meaning and intent of this act, shall, in all cases, be a competent witness to prove such sale.

§ 14. **Fees.** A justice of the peace shall be entitled to receive for causing notices to be posted up and left pursuant to section ten, fifty cents, for issuing an order pursuant to section eleven, fifty cents, and the officer who shall make service of any warrant for the seizure of any intoxicating liquor shall be allowed for such service the sum of one dollar, for the removal and custody of such liquor, his reasonable expenses, and one dollar for delivery or destruction of liquor under order of court, his reasonable expenses, and one dollar, and for posting and leaving notices pursuant to section ten, one dollar.

§ 15. **Payments for liquor illegal—sales, &c.—void—no action to be maintained.** All payments or compensation for intoxicating liquor hereafter sold in violation of this act, whether such payments or compensation be in money, goods, land, labor, or any thing else whatsoever, shall be held to have been received in violation of law and against equity and good conscience, and to have been received upon a valid promise and agreement of the receiver in consideration of the receipt thereof, to pay on demand to the person furnishing such consideration the amount of said money or the just value of such goods, land, labor, or other things. All sales, transfers, conveyances, mortgages, liens, attachments, pledges and securities of every kind which either in whole or in part, [523] shall have been made for or on account of intoxicating liquors sold in violation of this act, shall be utterly null and void against all persons in all cases, and no rights of any kind shall be acquired thereby, and no action of any kind shall be maintained in any court in this state for intoxicating liquors, or the value thereof, sold in any other state or country contrary to the law of said state or country, or with intent to enable any person to violate any provision of this act, nor shall any action be maintained for the recovery or possession of any intoxicating liquor, or the value thereof, except in cases where persons owning or possessing such liquor with lawful intent, may have been illegally deprived of the same. Nothing, however, in this section shall affect in any way negotiable paper in the hands of *bona fide* holders thereof for valuable consideration, without notice of any illegality in its inception or transfer, or the holder of land or other property who may have taken the same in good faith, without notice of any defect in the title of the person from whom the same was taken, growing out of a violation of the provisions of this act, and all evidence given in actions brought by or against such *bona fide* holders, shall be in no way affected by the provisions of this section.

§ 16. **Money to purchase—no debt for liquor.** The county judge of any county may from time to time draw from the treasury of said county such sums as in his judgment shall be necessary for the purchase of intoxicating liquor, by the agent or agents of such county, to be by them sold under the provisions of this act, and no agent appointed under this act shall have power

on behalf of any county to contract any debt for intoxicating liquor, which shall be to any extent binding upon such county.

§ 17. **Repeal—saving clause.** The 55th chapter of the code of Iowa is hereby repealed, which repeal shall take effect at the time when this act shall go into operation; *Provided*, however, that all prosecutions which shall have been commenced at the time when this act shall take effect, may be carried on to final judgment and execution irrespective of this act, and shall be in no way affected by said repeal.

[524] § 18. **To be submitted—balloting—canvass—returns—state canvassers—take effect.** At the April election, to be holden on the first Monday in April, A. D., 1855, the question of prohibiting the sale and manufacture of intoxicating liquor, shall be submitted to the legal voters of this state, and at said April election a poll shall be opened for that purpose at the place of election in each township of each county. The vote on said question shall be by ballot, and the voters in favor of such prohibition shall cast a ballot whereon shall be written or printed the words, "For the Prohibitory Liquor Law," and the voters opposed to such prohibition shall cast a ballot whereon shall be written or printed the words, "Against the Prohibitory Liquor Law." The said ballots shall be received and canvassed by the judges of election in the same manner as ballots for the election of officers, and a return of the same shall be made to the county judge in the same manner and at the same time as provided for in the election of officers at the April election. Said return shall be treated by the county canvassers in the same manner as returns for the election of officers, and an abstract of said vote made upon a separate sheet, shall be forwarded to the secretary of state in the same manner and at the same time as provided for in the cases of abstracts of votes for superintendent and district court judges, elected at any April election. The returns of said vote, so returned to the office of the secretary of state, shall be opened and examined by the board of state canvassers, in the same manner and at the same time as in the case of returns of election of officers had at said April election. Immediately after such examination and canvass, the said board of state canvassers shall make and publish an official statement of said vote; and if it shall appear from such official statement that a majority of the votes cast as aforesaid upon said question of prohibition shall be for the prohibitory liquor law, then this act shall take effect on the first day of July, A. D. 1855: *Provided*, however, that those portions of this act having relation to the election provided for in this section shall be in force from and after its [525] publication in the Iowa Capital Reporter and the Iowa Republican.

Approved January 22d, 1855.

I certify that the foregoing act was published in the Iowa Capital Reporter and Iowa Republican on the 31st day of January, 1855. GEO. W. McCLEARY,
Secretary of State.

CHAPTER 49.

FOREIGN DEEDS.

AN ACT concerning acknowledgments of deeds in foreign countries; and also to amend section 1218 of the code, relating to acknowledgments of deeds executed out of the state.

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

SECTION 1. **Deeds—acknowledgem't out of U. S.—authentication.** That any deed or other conveyance of lands within this state, which is executed without

the United States, may be acknowledged or proven before any state, republic, kingdom or province having a seal, or before any officer authorized by the laws of such foreign country to take acknowledgments of conveyances of real estate, if he have any official seal, the certificate of acknowledgment to be attested by the official seal of such court or officer, and in case said acknowledgment is taken before other than a court of record, or mayor, or other officer of a town having such seal, proof under the official seal of the proper authority, that such officer taking such acknowledgment was duly authorized by the laws of such country to do so, and that his signature thereto is genuine, shall accompany such certificate of such acknowledgment.

§ 2. **In the U. S.—acknowledgement.** *And be it further enacted,* That section 1218 of the code be amended so as to read as follows: Any deed conveyance or other instrument in writing, by which real estate in this state shall be conveyed or encumbered, when made or acknowledged out of the state, but within the United States, shall be acknowledged before some court of record or officer holding the [526] seal thereof, or before some commissioner to take the acknowledgment of deeds, appointed by the governor of this state, or before some notary public, or justice of the peace; and when made by a justice of the peace, a certificate under the official seal of the proper authority of the official character of said justice, and of his authority to take such acknowledgments, and of the genuineness of his signature, shall accompany said certificate of acknowledgment.

§ 3. **Deeds recorded—notice.** *And be it further enacted,* That all deeds, mortgages and other instruments of writing, whereby real estate situated in this state, have been or may hereafter be conveyed, or otherwise encumbered, which have been or may hereafter be recorded in the recorder's office in the proper county, shall be deemed henceforth notice to all persons interested of what they purport to be.

§ 4. **Take effect.** This act shall take effect and be in force from and after its publication in the Iowa Capital Reporter and Iowa Republican.

Approved January 22d, 1855.

I certify that the foregoing act was published in the Iowa Capital Reporter and Iowa Republican, on the 31st day of January, 1855.

GEO. W. McCLEARY,
Sec'y of State.

CHAPTER 56.

BLIND.

AN ACT to amend an act entitled "an act to establish an asylum for the blind."

Approved January 18, 1853.

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

SECTION 1. **Act repealed.** That so much of an act entitled "an Act to establish an Asylum for the Blind," approved January 18th, 1853, as conflicts with the provisions of this act, is hereby repealed.

§ 2. **Trustees—ex-officio appointed—term.** Said institution shall be under the supervision of a board consisting of seven persons, of whom the governor, superintendent of public instruction and sec- [527] -retary of state shall be ex-officio members, and who shall be called the board of trustees.

The other members of the board shall be appointed by the governor and be approved by the senate, and shall hold their offices for one, two, three and four years respectively, in the order in which they are recommended, and at the expiration of their respective terms of office, one trustee shall be appointed by the governor, with the consent of the senate, for the term of four years.

§ 3. **Supervision.** The trustees shall have the general supervision of the institution, adopt rules for the government thereof, provide teachers, servants, and necessaries for the institution, and perform all other acts necessary to render the institution efficient, and carry out the purpose of its establishment.

§ 4. **Quorum.** Three of said trustees shall constitute a quorum for the transaction of business.

§ 5. **Admission.** All blind persons resident of this state, of suitable age and capacity, shall be entitled to an education in this institution at the expense of the state.

§ 6. **Non-residents.** Persons not residents of the state shall be entitled to the benefits of this institution on paying to the treasurer thereof the said sum of thirty-five dollars a quarter in advance.

§ 7. **Report.** The board of trustees shall make a biennial report to the general assembly, of the condition of the institution, the number, name, residence, age, sex, place of their nativity, and also the cause of blindness of each pupil; they shall also make report of the studies pursued and the trades taught in the institution, and the receipts and disbursements of money, made on account thereof.

§ 8. **President and treasurer—bond.** The board of trustees shall elect one of their number president, and another treasurer of the institution, and the treasurer shall enter into bonds with security in such sum as the board shall direct, conditioned for the faithful paying over of all money belonging to the institution upon the order of the board, which bond shall be filed with the secretary of state.

§ 9. **Board not to exceed.** The board of trustees shall not create any in- [528] -debtedness against the institution exceeding the amount appropriated by the general assembly for the support thereof.

§ 10. **Appropriation—extra expense—additional—settle with Mr. Bacon.** To meet the ordinary expenses of the institution for the next two years, there is hereby appropriated from the state treasury the sum of thirty-five dollars per quarter, for each pupil therein, and for extraordinary expenses, including additional books, maps, globes, musical instruments, additional household furniture, and for rent of additional premises, the further sum of four thousand dollars for the ensuing year, and two thousand dollars for the year succeeding; said latter appropriation to be expended or not, at the discretion of the trustees, who are also authorized to audit and settle any claim which Mr. Bacon may have against said institution.

§ 11. **No pay.** No remuneration shall be made to the trustees for their services.

§ 12. **Exhibitions.** The trustees shall have power to allow pupils of the institution to travel under proper care, for the purpose of exhibiting to the people of the state, by public meetings and otherwise, the progress made by them, and to extend a knowledge of the institution.

§ 13. **Repeal.** All acts and parts of acts in relation to the institution for the blind, which conflict with this act, are hereby repealed.

§ 14. **ake effect.** This act to be in force from and after its publication in the Iowa Capital Reporter and Iowa Republican.

Approved 22nd January, 1855.

I certify that the foregoing act was published in the Iowa Capital Reporter and Iowa Republican on the 31st day of January, 1855.

GEO. W. McCLEARY,
Secretary of State.

CHAPTER 61.

CODE.

AN ACT to annex a provision to section 1898 of the code of Iowa.

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

SECTION 1. [529] **Proviso.** That the following provision be annexed to section 1898 of the code, viz: "Provided, the team mentioned in this section shall not consist of more than two horses or mules, nor more than two yoke of oxen; provided, further, the exemption contemplated in this act and the section of the code to which this is amendatory, shall not apply to a single man who is not the head of a family."

Approved January 22d, 1855.

The above act was published by direction of the governor, on the 14th day of February, 1855, in the Iowa Capital Reporter and Iowa Republican.

GEO. W. McCLEARY,
Sec'y of State.

CHAPTER 70.

DOCUMENTARY EVIDENCE.

AN ACT admitting copies of maps, and other documents in the surveyor general's office to be used in evidence.

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

SECTION 1. **Copies of maps, etc.—surveyor general, office—evidence.** That copies of all maps, official letters, and other documents in the office of the surveyor general of this state, when certified to by that officer according to law, shall be received by the courts of this state, as *prima facie* evidence of the existence of the originals, and that said copies are copies of the original, notwithstanding such maps, official letters may themselves be copied.

Approved January 24th, 1855.

I certify the foregoing act was published in the Iowa Capital Reporter Feb. 7th, and Republican Feb. 14th, 1855.

GEO. W. McCLEARY,
Sec'y of State.

[530] CHAPTER 77.

JUDGMENTS.

AN ACT to authorize junior judgment creditors to redeem from senior judgments.
Be it enacted by the General Assembly of the State of Iowa,

SECTION 1. **Redemption.** That when two or more persons have a judgment or judgments against the same party, which judgments are a lien upon real estate of the judgment debtor, the party having the junior judgment and younger lien, may redeem from the senior judgment creditor, by complying with this act.

§ 2. **Judgment creditor may redeem.** That when any person having the junior judgment, wishes to redeem from a senior judgment under this act, he shall pay to the party owning the senior judgment, or to the clerk of the court where the judgment is rendered, or in case execution has issued to the sheriff, the full amount due, including interest and costs; if paid to the party or sheriff, they shall execute to the party redeeming, a receipt for the amount paid, specifying that it was for the redemption of the judgment, (describing the judgment,) which receipt shall be filed in the office of the clerk of the proper county, thereupon the clerk shall make an entry of such redemption on the judgment docket, and if paid to the clerk, he shall make such entry without receipt.

§ 3. **Redeeming creditor.** The said redemption shall transfer, and vest in the redeeming creditor a full title to the judgment so redeemed, and said redeeming creditor shall have full power to collect and receive the proceeds paid and collected thereon, and to all intents be the owner of said judgment.

Approved January 24th, 1855.

I certify that the above act was published in the Iowa Capital Reporter and Iowa Republican, on the 4th day of February, 1855.

GEO. W. McCLEARY,
 Secretary of State.

[531] CHAPTER 80.

EXECUTORS.

AN ACT making further provision in relation to executors of estates.

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

SECTION 1. **Judgments—ex. not to issue—Fi. Fa.** That in all cases where judgments have been rendered against executors of estates, on debts contracted by the deceased persons, before an execution can or shall be levied on the goods and chattels, lands and tenements, held by such executors in their own right, a *scire facias* shall issue against such executors, compelling them to show cause why such executions should not issue.

§ 2. **Defence.** That it shall be a sufficient answer to said *scire facias*, and a complete defence, that at the time of the rendition of the original judgment, and ever afterwards, the said executor or executors had no means or property of the deceased in his hands, subject to administration.

Approved January 22d, 1855.

The above act was published in the Iowa Republican and Iowa Capital Reporter on the 7th of February, 1855, by order of the governor.

GEO. W. McCLEARY,
 Secretary of State.

CHAPTER 86.

WALLS IN COMMON.

AN ACT entitled an act respecting walls in common.

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

SECTION 1. **Walls—on line—brick or stone—size of walls.** That in cities, towns, and other places, surveyed into building lots, the plats whereof are recorded, he who is about to build contiguous to the land of his neighbor, may, if no wall be on the line between, rest one half of his wall on his neighbor's land: *Provided*, he build of brick or stone, at least as high as the first story; *And provided*, the whole thickness of [532] such wall, above the cellar wall, do not exceed eighteen inches, not including the plastering, which, for the purposes of this act, is not to be considered as part of the wall: *And provided also*, that his neighbor shall not be compelled to contribute to the expense of said wall.

§ 2. **Partnership—refusal.** If his neighbor be willing, and does contribute one half of the expense of building such wall, then it is a wall in common between them; and if he even refuses to contribute to the building of such wall, he shall yet retain the right of making it a wall in common, by paying to the person who built it, one-half of the appraised value of said wall, at the time of using it.

§ 3. **Presumption.** Every wall being a separation between buildings, shall, as high as the upper part of the first story, be presumed to be a wall in common, if there be no titles, proof, or mark to the contrary.

§ 4. **Repairs, &c.** The repairs, and rebuilding of walls in common, are to be made at the expense of all who have a right to the same, and in proportion to the interest of each therein; nevertheless, every co-proprietor of a wall in common, may be exonerated from contributing to the repairs or building, by giving up his right in common: *Provided*, no building belonging to him be actually supported by the wall thus held in common.

§ 5. **Co-proprietors—mode of building.** Every co-proprietor may build against a wall held in common, and cause beams or joists to be placed therein, and any person building such a wall, shall, on being requested by his co-proprietor, make the necessary flues, and leave the necessary bearings for the joists or beams, at such height, and distance apart, as shall be specified by his co-proprietor.

§ 6. **Height.** Every co-proprietor is at liberty to increase the height of the wall held in common; but he alone is to be at the expense of raising it, and of repairing, and keeping in repair, that part of the wall, above the part so held in common.

§ 7. **Rebuild.** If the wall so held in common, cannot support the wall to be raised upon it, he who wishes to have it made higher, is bound to rebuild it anew entirely, and at his own expense, and the additional thickness of [533] the wall must be placed entirely on his own land.

§ 8. **Person paying half—wall in common.** The person who did not contribute to the heightening of the wall held in common, may cause the raised part to become common, by paying one-half of the appraised value of such raising, and half of the value of the grounds occupied by the additional thickness of the wall, if any ground was so occupied.

§ 9. **Same.** Every proprietor joining a wall, has, in like manner, the right of making it a wall in common, in whole or in part, by repaying to the

owner of the wall one-half of its value, or the one half of the part which he wishes to hold in common, and one-half of the value of the ground on which it is built, if the person who has built the wall, has laid the foundation entirely upon his own ground.

§ 10. **No cavities.** Neither of two neighbors can make any cavity within the body of the wall held by them in common; nor can either affix to it any work, without the consent of the other, or without having, on his refusal, caused the necessary precautions to be used, so that the new work be not an injury to the rights of the other, to be ascertained by persons skilled in building.

§ 11. **No delay—bond.** No dispute between neighbors, as to the amount to be paid by one or the other, by reason of any of the matters treated of in this act, shall delay the execution of the provisions of the same: *Provided*, that the party on whom the claim is made, shall enter into bonds, with security, to the satisfaction of the clerk of the district court of the proper county, conditioned that he shall pay to the claimant whatsoever may be found to be his due, on the settlement of the matter between them, either in a court of justice, or elsewhere; and the said clerk of the district court is hereby required to endorse his approval on said bond, when the same is approved by him, and retain the same in his custody, until demanded by the opposite party.

§ 12. **Agreements.** This act is not to prevent adjoining proprietors from entering into special agreement about walls on the lines between them; but no evidence of such agreement shall be competent, unless it be in writing, signed [534] by the parties thereto, or their lawfully authorized agents, and whenever such proprietor is a minor, the guardian of his estate shall have full authority to act for, and bind him, in all matters relating to walls in common.

Approved January 24th, 1855.

I certify that this act was published by direction of the governor, in the Iowa Capital Reporter and Iowa Republican, February 14th, 1855.

GEO. W. McCLEARY,
Secretary of State.

CHAPTER 87.

DEAF AND DUMB.

AN ACT to establish a state institution for the deaf and dumb.

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

SECTION 1. **Established at the capital.** That there shall be established at the capital of the state, an institution to be called an institution for the deaf and dumb.

§ 2. **All deaf and dumb—educated expense of state.** Every deaf and dumb citizen of the state, of suitable age and capacity, shall be entitled to receive an education in said institution at the expense of this state.

§ 3. **Trustees—appointed—terms.** Said institution shall be under the supervision of a board consisting of seven persons, of whom the governor, the secretary of state, and the superintendent of public instruction, shall be *ex-officio* members, and who shall be called the board of trustees, and the other members of said board shall be appointed by the governor and ap-

proved by the senate, and shall hold their offices for one, two, three and four years respectively, in the order which they are recommended, and at the expiration of their respective terms of office, one trustee shall be appointed by the governor with the consent of the senate for four years.

§ 4. **Supervision.** The trustees shall have the general supervision of the institution, adopt rules for the government thereof, provide teachers, servants, and necessaries for [535] the institution, and perform all other acts necessary to render it efficient and to carry out the purpose of its establishment.

§ 5. **Quorum—record.** Three of said trustees shall constitute a quorum for the transaction of business, and their proceeding at each meeting shall be recorded in a minute book, which shall be signed by those present, and form a record of their proceedings.

§ 6. **Non-residents—pay.** Persons not residents of the state, of suitable age and capacity, shall be entitled to an education in said institution, on paying to the trustees thereof the sum of thirty-five dollars a quarter in advance.

§ 7. **Report.** The board of trustees shall make a biennial report to the general assembly of the condition of the institution, the number, name, residence, age, sex and place of nativity of each pupil; they shall also make a report of the studies pursued, of the trades taught in the institution, and of the receipts and disbursements made on account thereof.

§ 8. **Treasurer—bond—filed.** The board of trustees shall select one of their number as treasurer of the institution, and he shall enter into bonds, with security, in such sum as the board shall direct, conditioned for the faithful paying over of all money belonging to the institution, upon the order of the board, which bond shall be filed with the secretary of state.

§ 9. **Limitation.** The board shall not create any indebtedness against the institution exceeding the amount appropriated by the general assembly for the use thereof.

§ 10. **Appropriation—\$5000 per annum.** To meet the ordinary and contingent expenses of the institution, including rent, provisions, school apparatus, salaries, and clothing of pupils, when necessary, there is hereby appropriated the sum of five thousand dollars per annum, for the next two years, from and after the first day of January, 1855, said appropriations to be paid by the state treasurer out of any moneys in the treasury not otherwise appropriated; said appropriations to be expended or not, at the discretion of the trustees.

§ 11. **Account of present institution.** The trustees are hereby authorized to audit [536] and settle the accounts now subsisting between the the state and principal of the existing institution, in regard to the advances already made to him by the state for said institution, and his expenditures thereof.

§ 12. **Exhibitions.** The trustees are hereby authorized to allow the pupils of the institution to travel in the state, under proper care, for the purpose of exhibiting to the citizens thereof, by public meetings and otherwise, the progress made by them, and to extend a knowledge of the institution.

§ 13. **Trustees to get no pay.** No remuneration shall be made to the trustees for their services.

§ 14. **Repeal.** Chapter seventy-three of the code, is hereby repealed.

§ 15. **Take effect.** This act to be in force from and after its publication in the Iowa Capital Reporter and Republican.

Approved January 24th, 1855.

I certify that the foregoing act was published in the Iowa Capital Reporter and Iowa Republican, on the 31st day of January, 1855.

GEO. W. McCLEARY,
Sec'y of State.

CHAPTER 92.

MILL DAMS.

AN ACT authorizing mill dams.

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

SECTION 1. **Owner of one side—may have a writ, A. Q. D.** That any person owning lands on one, or both sides of a stream or water course, and being desirous of building a mill, or erecting other machinery, to be propelled by water power, on said stream, and of erecting a dam thereon, may have a writ, *ad quod damnum*, to be issued by the district court of the proper county, to be proceeded on as hereafter provided.

§ 2. **Petition—notice.** An applicant for said writ shall file his petition in the office of the clerk of the district court of the proper county, which petition shall set forth the locality with sufficient certainty, and also the names of the own- [537] -ers of lands to be affected by said dam, and he shall give ten days' notice of his said petition, by serving a copy thereof on each of said persons, or on his or their agents, if to be found, and make proof of such service by affidavit, to be filed with his said petition.

§ 3. **Jury.** The clerk of said court shall thereupon issue said writ, directed to the sheriff of said county, in which the lands proposed to be affected may lie, commanding him to summon twelve good and lawful men of his county, to meet on a day certain upon the lands in said writ named, and ten days' notice shall be given by the sheriff to the owners or agents as aforesaid, of the execution of said writ.

§ 4. **Empaneled and sworn—inquisition.** The jury so summoned shall be sworn by the sheriff impartially, and to the best of their skill and judgment, to view the lands in said writ described, and the lands both above and below said proposed dam, and ascertain and appraise the damages, as by said writ directed, to each of the proprietors of said land proposed to be affected by said dam, and also to ascertain whether the dwelling house, out-house, orchard, or garden, of such proprietor shall be overflowed, or otherwise injuriously affected, which inquisition shall be signed by the jurors aforesaid, and returned with the writ aforesaid, to the court whence it issued.

§ 5. **Si. Fa.—dist. court.** When said inquest shall have been filed, the clerk of court issuing said writ shall issue a *seire facias* to the parties in said inquisition mentioned, to appear at the next term of the district court, and show cause, if any they have, why leave should not be granted to build said dam, which notice shall be served and proved as before directed.

§ 6. **License—damages—forfeiture.** If on such inquest it shall appear to said district court that neither the dwelling house, out-house, garden or orchard, of any proprietor, will be overflowed or injuriously affected, and if said court shall judge it reasonable, and for the public benefit, license shall

be granted to erect the same, on the applicants paying to the proper parties the damages decreed by said court, from the inquisition aforesaid; and if the applicant shall [538] not within one year thereafter begin to build said dam, and finish and have in operation said mill or machinery within three years thereafter, and afterwards keep it in good repair, for the accommodation of the public, or in case said dam or mill or machinery be destroyed, he shall not begin to repair or rebuild it in one year, and finish it in three years, then the said license shall be forfeited.

§ 7. **Continuance—another Co.—minors.** *Provided*, that if the writ shall not be executed by the sheriff on the day herein mentioned, said sheriff may, from time to time, appoint a day, at least ten days notice thereof being given to the parties interested, as hereinafter provided; and if the inquest cannot be completed in one day, the sheriff shall adjourn the jury, from day to day, until its completion; and if a portion of the lands to be affected be in another county, the sheriff may act notwithstanding; and if the owner of any of the lands to be affected by these proceedings be a minor, service on the guardian of his estate shall bind him.

§ 8. **Not to bar action.** *Provided*, also, that no inquest under this act, nor any judgment thereon, shall bar any action which could have been maintained if this act had not been enacted, unless the prosecution or action was actually foreseen, and estimated upon the inquest.

§ 9. **Person interest'd.** Any owner of land affected by any proceedings under this act, who may not have been made party thereto, by reason of want of notice, or from any cause, may be made party thereto by *scire facias*, at any time thereafter.

§ 10. **Fees.** The fees of the sheriff, jurors and witnesses, under this act, shall be the same as in other cases in the district court, and shall in all cases be paid by the applicant.

§ 11. **Apply to dams now existing.** This act shall apply as well to dams already in existence, and to the heightening of the same, as to those hereafter to be erected.

§ 12. **Back water—repairs.** Where the water is backed up by any mill dam belonging to any mill or machinery, is about to break through or over the banks of the stream, or to wash a [539] channel, so as to turn the water of such stream, or any part thereof, out of its ordinary channel, whereby such mill or machinery will be injured or affected, the owner or occupier of such mill or machinery, if he do not own such banks, or the lands lying contiguous thereto, may, if necessary, enter thereon, and erect and keep in repair such embankments and other works as shall be necessary to prevent such water from breaking through or over the bank or banks of such stream, or washing a channel, as aforesaid, such owner or occupier committing thereon no unnecessary waste or damage.

§ 13. **Damages may be recovered.** Nothing contained in the last section shall be so construed as to bar the owner of such bank or banks, or land lying contiguous thereto, from recovering the amount of any injury which he may actually sustain by the erection or repair of such embankments or other works.

§ 14. **Injuring—penalty.** If any person shall injure, destroy or remove any such embankment, fortification or other works, the owner or occupier of such mill or machinery may recover of such person all damages he may sustain by reason of such injury, destruction or removal.

§ 15. **Take effect.** This act to take effect from and after its publication and distribution.

Approved 24th January, 1855.

Published in the Reporter February 7th, and Republican February 14th, 1855,
by order of the governor.

GEO. W. McCLEARY,
Sec'y of State.

CHAPTER 93.

LODGES.

AN ACT to amend chapter 44 of the code.

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

SECTION 1. **Lodges—incorporation of.** That chapter 44, of the code is hereby amended, and the provisions thereof so extended, that lodges of Odd Fellows, Masonic lodges, and other [540] institutions of a benevolent or charitable character, within this state, may become incorporated in the manner in said chapter provided.

§ 2. **Powers and privileges.** By complying with the provisions of said chapter, said lodges, or associations, shall become vested with all the powers and privileges, and subject to all the liabilities therein conferred upon, and incurred by, the other incorporation, in said chapter mentioned.

§ 3. **Take effect.** This act to be in force from and after its passage.

Approved, January 24, 1855.

I certify that the above act was published by order of the governor, in the Iowa Capital Reporter and Iowa Republican, February 7th, 1855.

GEO. W. McCLEARY,
Sec'y of State.

CHAPTER 94.

RECORDER'S FEES.

AN ACT to amend section 2534 of the code, regulating the fees of recorder.

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

SECTION 1. **Fees.** That the recorder of deeds must charge for recording each deed and mortgage, containing not more than four hundred words, fifty cents; and for each additional hundred words, or fraction thereof, in either case, ten cents.

§ 2. **Repeal.** That so much of section 2534 of the code, as conflicts with the provisions of this act, be, and the same is hereby repealed.

§ 3. **Take effect.** This act to take effect from and after its publication according to law.

Approved January 24th, 1855.

I certify that this act was published, by order of the governor, in the Iowa Capital Reporter, Feb. 7, and Iowa Republican, Feb. 14th, 1855.

GEO. W. McCLEARY,
Secretary of State.

[541] CHAPTER 97.

BONDS OF STATE OFFICERS.

AN ACT in relation to the bonds of state officers.

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

SECTION 1. **Increase of penalty.** That hereafter, whenever the executive of the state shall deem it advisable or necessary that the bonds of any state officer should be increased, and the security enlarged, or a new bond given, he shall notify said state officer of the fact, the amount of new or additional security to be given, and the time when the same shall be executed, which said new security shall be approved by said executive, and filed as now provided by law.

§ 2. **Refusal—office vacated—gov. appoint.** If the officer thus notified, shall neglect or refuse to give new security as required, said office shall be vacant, and said officer disqualified from acting as such officer, which vacancy shall be filled by appointment by said executive until the succeeding April or August election, at which election said office shall again be filled, by election by the people.

§ 3. **Take effect.** This act shall take effect and be in force from and after its publication in the Iowa Capital Reporter and Iowa Republican.

Approved January 24th, 1855.

The above act was published in the Iowa Capital Reporter and Iowa Republican February 28th, 1855.

GEO. W. McCLEARY,
Secretary of State.

CHAPTER 99.

BRIDGES.

AN ACT granting the right of way for the construction of bridges in Iowa.

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

SECTION 1. **Right of way.** That there is hereby granted the right of way of sixty feet of road to any person or persons [542] who are now building, or may hereafter build, any bridge or bridges across any of the streams in this state.

§ 2. **Extend to road.** The right of way to extend to the nearest accessible point of the road for which the said bridge or bridges were built to accommodate.

§ 3. **Damages.** The damage shall be assessed in a reasonable time after the notice is served, by either party requiring the same, but in the case when the land so taken, belongs to minors, the notice shall be served by the person building the bridge.

§ 4. **Sec. 38 code.** The damages shall be assessed in accordance with section thirty-eight of the code of Iowa: *Provided, always,* that the party building the bridge shall pay the costs of assessing the damage.

§ 5. **Agree.** That nothing herein shall be so construed as to prevent the parties from settling the damage by agreement.

Approved 24th January, 1855.

I hereby certify that the above act was published by direction of the governor in the Iowa Capital Reporter, on the 7th day of February, and in the Republican on the 14th day of February, 1855.

GEO. W. McCLEARY,
Secretary of State.

CHAPTER 101.

TOWNS.

AN ACT to amend section 638, chapter 41, of the code of Iowa.

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

SECTION 1. **Code amended.** That section 638, chapter 41, of the code of Iowa, be amended by striking out the words, "all the proprietors of the part to be attached, and of the people of the town to which it is to be attached," and insert a majority of all the proprietors of the part to be attached, and of the citizen voters of the town to which it is to be attached.

§ 2. **Take effect.** This act amendatory shall take effect and be in [543] force from and after its publication in the Capital Reporter and Iowa City Republican.

Approved January 25th, 1855.

I certify that the foregoing was published in the Iowa Capital Reporter and Iowa Republican January 31st, 1855.

GEO. W. McCLEARY,
Secretary of State.

CHAPTER 105.

CODE.

AN ACT to amend section 2383 of the code of Iowa.

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

SECTION 1. **Amendment.** That section 2383 of the code, be amended as follows: All after the word "obligation" be stricken out, and the words, "and shall receive the same fees for his services as a regular constable," be substituted.

§ 2. **Repeal.** So much of the code of Iowa as conflicts with this amendment is hereby repealed.

Approved January 24th, 1855.

Published in the Iowa City newspapers, February 28th, 1855, by direction of the governor.

GEO. W. McCLEARY,
Secretary of State.

CHAPTER 109.

PEDDLERS.

AN ACT to amend an act entitled "an act to amend chapter 37 of the code in relation to assessors," approved January 22d, 1853.

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

SECTION 1. **Peddling without license—judge and sheriff arrest.** That if any peddler shall violate the seventeenth section of the act, to which this is amendatory, by peddling, selling or disposing of any of his goods, wares or merchandize mentioned in said section, [544] without a license, it shall be the duty of the county judge or sheriff of the county in which the offence was committed, to arrest such offender and prosecute him to final judgment before any justice of the peace of the township, or district court of the county in which the offence was committed.

§ 2. **Fine.** Upon conviction of the offence as aforesaid, the offender shall forfeit and pay double the amount of license required in said section seventeen, for peddling the description of goods which he may be convicted of so selling without a license.

Approved January 25th, 1855.

I certify that the above act was published in the Iowa Capital Reporter February 7th, and Iowa Republican the 14th day of February, 1855.

GEO. W. McCLEARY,
Secretary of State.

CHAPTER 110.

SWAMP LANDS.

AN ACT to amend an act entitled "an act to dispose of the swamp and overflowed lands within the state," approved January 13th, 1853.

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

SECTION 1. **Unorganized counties—transfer—refund.** That no swamp or overflowed lands granted to the state, and situate in the present unorganized counties, shall be sold or disposed of till the title to said lands shall be perfected in the state, whereupon the titles to said lands shall be transferred to the said counties where they are situated; *Provided*, that said counties shall refund to the state the expenses incurred in selecting said lands, under the provisions of an act of the general assembly, authorizing the governor to cause said lands to be surveyed and selected, with ten per cent. interest thereon. Each county to refund its proportional amount of said expenses.

§ 2. **Organized counties—expend proceeds—submit to the people.** *Be it further enacted*, That in all those counties which are now organized, when it may be impossible to reclaim said swamp land, said counties are hereby au- [545] -thorized to employ the proceeds of said lands, or any part thereof, in the erection of county buildings, or other work of improvement within their limits; *Provided*, that in such case, the county judge shall first submit the question, including the proposed work of improvement, to the people of his county in the manner provided for in sections 114 and 115 of the code.

§ 3. **Proceeds.** In all cases contemplated in the foregoing sections, it shall be the duty of the drainage commissioner to pay over the proceeds of the sales of said lands, to the county treasurer.

§ 4. **Minimum.** No swamp or overflowed lands shall hereafter be sold at less than one dollar and twenty-five cents per acre.

§ 5. **Repeal.** Such provisions of the act approved January 13th, 1853, in relation to swamp lands, and all other acts or parts of acts relating to the same, as conflict with the provisions of this act, are hereby repealed.

Approved January 25th, 1855.

I certify that the foregoing act was published by direction of the governor in the Iowa Capital Reporter on the 7th February, and in the Iowa Republican on the 21st of February, 1855.

GEO. W. McCLEARY,
Secretary of State.

CHAPTER 117.

SETTLERS ON RIVER LANDS.

AN ACT for the relief of the settlers on certain river lands.

Preamble. WHEREAS, A large number of persons have contracted with the proper school officers to purchase lands as school lands, being part of the 500,000 grant, and have paid part of the purchase money down, and have entered upon the said land and made valuable improvements upon the same, and

Preamble. WHEREAS, The state of Iowa has located part of the grant for the grant for the improvement of the Des Moines river upon said lands thus purchased and settled upon; and [546] whereas, doubts have arisen as to the legality of said location: therefore,

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

SECTION 1. **Representation to D. R. Co.—negotiation.** That the commissioner and register of the "Des Moines River Improvement" be required to represent the facts stated in the foregoing preamble, to the Des Moines Navigation and Railroad Company, and enter into negotiation with said company for the sale of said lands described in said preamble, to the persons who have contracted with the several school fund commissioners for the same, at one dollar and twenty-five cents per acre.

§ 2. **Contract—notice by publication.** That whenever the commissioner and register of the Des Moines River Improvement have consummated the contract with the Des Moines Navigation and Railroad Company, provided for in section first of this act, they shall give notice that said lands will be open for private entry, on a day therein specified, by three publications in the Iowa Star, at Fort Des Moines, or some other newspaper, and by sending by mail three copies of said notice, to the county judge of Webster county, one of which shall be filed by said county judge and the other two posted up in conspicuous places in said county.

§ 3. **Entry.** That on the day fixed in the notice required by section second, or any time within six months thereafter, any person having made a contract with the respective school fund commissioners for the purchase of

land claimed to be within the limits of the grant for the improvement of the Des Moines river, shall be permitted to enter the same at one dollar and twenty-five cents per acre.

§ 4. **Person holding contract—to enter.** That whenever any person shall produce to the register of the Des Moines River Improvement, a contract, or a certified copy of a contract, or establish the fact by his own affidavit or other competent testimony, that he or she once had such contract, but the same is lost or beyond his or her control, and shall prove by his or her affidavit, or other competent testimony, or by the certificate of the school fund commissioner, that he or [547] she, as the case may be, is the person who holds the beneficial interest in such contract, he or she, as the case may be, shall be permitted to enter the land described in said contract, at one dollar and twenty-five cents per acre.

§ 5. **Improvement.** That any person who has entered into a contract with the proper school fund commissioner to purchase any land embraced within the lands described in section third, and entered upon and improved the same, upon proving those facts, by his or her own affidavit, or other competent testimony, to the register of the Des Moines River Improvement, shall be permitted to enter the same at one dollar and twenty-five cents per acre.

§ 6. **Improvement—minimum—price.** That any person who may have settled upon and improved any land which has been selected as school land, and which is claimed to be within the limits of the grant for the improvement of the Des Moines river, upon proving that fact by his or her affidavit, or other competent testimony, to the register of the Des Moines River Improvement, shall be permitted to enter the same at one dollar and twenty-five cents per acre; *Provided*, no one person shall be permitted to enter more than one hundred and sixty acres under the provisions of this section of this act.

§ 7. **Trial.** That whenever any conflict of claim or right shall arise between individuals to enter any land under the provisions of this act, the same shall be tried before the commissioner and register of the Des Moines River Improvement, under the ordinary rules of evidence, whose decision thereon shall be final.

§ 8. **Money paid.** That all moneys received for land sold under the provisions of this act, shall be paid over to the proper officer of the Des Moines Navigation and Rail Road Company.

§ 9. **Take effect.** This act shall take effect after its publication according to law.

Approved January 25th, 1855.

I certify that the foregoing act was published in the Iowa Capital Reporter February 14th, and in the Iowa Republican March 6th, 1855, by order of the governor.
GEO. W. McCLEARY,
Secretary of State.

[548] CHAPTER 125.

ATTACHMENTS ON SABBATH.

AN ACT authorizing writs of attachment and actions against boats to be commenced on Sunday.

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

SECTION 1. **Attachm'nts may issue on Sunday.** That the writ of attachment as authorized by chapter 109 of the code, and that actions against

boats, as authorized by chapter 120 of the code, may be issued on Sunday; *Provided*, that the plaintiff, his agent or attorney, shall make affidavit that it would be unsafe to delay proceedings until Monday.

§ 2. **Take effect.** That this act shall be in force from and after its publication.

This bill having remained with the governor three days, (Sundays excepted) the general assembly being in session, has become a law this 24th day of January, 1855.

I certify that the above act was published in the Iowa Capital Reporter and Iowa Republican on the 7th February, 1855.

GEO. W. McCLEARY,
Secretary of State.

CHAPTER 127.

CHAPTER SEVENTY-ONE, CODE.

AN ACT to repeal chapter seventy-one of the acts passed at the session of the third general assembly.

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

SECTION 1. **Repeal.** That chapter seventy-one of the acts passed at the session of the third general assembly, be and the same are hereby repealed.

Approved January 25th, 1855

This act was published by the direction of the governor in the Iowa City newspapers, on the 28th February, 1855.

GEO. W. McCLEARY,
Secretary of State.

[549] CHAPTER 134.

INSANE ASYLUM.

AN ACT to establish a state insane asylum.

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

SECTION 1. **Commissioners—locate—build.** That the governor of the state, Edward Johnson, of Lee county, and Charles S. Clark, of Henry county, are hereby appointed a board of commissioners, of whom the governor shall be chairman, to locate and superintend the erection of a building, to be used as an asylum for the insane of the state of Iowa, at or near Mount Pleasant, in Henry county.

§ 2. **Land.** The board must not locate said asylum on less than a quarter section of land.

§ 3. **Site—deed—pay.** When they have fixed upon the site, and made a purchase of the land on which they locate said institution, they shall take a deed of conveyance thereof, to the state of Iowa, and draw a warrant on the state treasurer for the amount of the purchase money.

§ 3. **Board visit—architect—plans.** The board are hereby authorized to visit the Illinois state asylum, and any other which they deem it necessary to visit, before determining upon a plan of the building; they are further

authorized to employ an architect, to draft the plan on which they determine, and other plans afterwards, if they so determine, and to pay for the same by their draft on the state treasurer.

§ 4. **Advertise for contracts.** After deciding on a plan, and the location, the board are authorized to advertise for contracts for the erection of the edifice, which may be of brick, stone, or both, as the board may determine. And on their determining on the acceptance of any contract for the building, they shall bind the contractor in such manner as they deem necessary.

§ 6. **Cost of the building.** The cost of the building contemplated by this act, shall not exceed fifty thousand dollars; but it is advised that the plan determined on by the board should be one that will admit of future enlargement.

§ 7. **Fund.** All warrants drawn on the treasurer of state by the board hereby constituted, are to be paid by him [550] out of any fund specially set apart for that purpose; after the same is exhausted, out of the general treasury of the state.

§ 8. **Means—preliminary examination.** *And be it further enacted,* That the board, in entering into a contract for a site for the location of said asylum, and for the erection of the edifice, shall have reference to the means of payment therefor from the fund aforesaid, either already in the hands, or due to the treasurer of state, from the lands aforesaid. But they are hereby authorized to make preliminary examinations, to examine neighboring institutions of similar character, and to procure architectural plans, without reference thereto, and to draw their warrant on the treasury therefor.

§ 9. **Temporary relief—admission.** Until said asylum is erected and finished, the board hereby constituted are authorized to make such temporary arrangements for the amelioration of the condition of the insane of the state, as to them may seem necessary and prudent, and they may draw their warrant on the treasurer for all necessary expenses of said arrangements; which warrant shall be audited by the auditor of state, and paid by the treasurer of the state out of any moneys not otherwise appropriated. And said board are further authorized, in case the edifice hereby contemplated is finished before the next meeting of the legislature, to make such arrangements for the admission of patients therein, and for the government thereof, as to them may seem necessary.

§ 10. **Compensation.** The board hereby constituted, shall receive their necessary expenses, and two dollars per day, while actually employed, for their services.

§ 11. **Report.** It shall be the duty of said board to report their proceedings to the next session of the general assembly.

The above act was published by direction of the governor, in the Iowa Capital Reporter the 6th of March, and Iowa Republican 28th February, 1855.

GEO. W. McCLEARY,
Secretary of State.

[551] CHAPTER 135.

MALE ANIMALS.

AN ACT to prohibit certain male stock from running at large.

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

SECTION 1. **Male animals must be confin'd—distrain.** That no stallion or jack, bull, boar, or ram, shall hereafter be allowed to run at large; and it

shall be lawful for any person aggrieved thereby, forthwith to distrain such animal, and give immediate notice thereof to the owner, if known, for which said owner, shall pay a reasonable compensation to the person so aggrieved, for his trouble and for keeping the same.

§ 2. **Notice—owner refuse—fine—forfeit.** If the owner of any such animal, after being notified as directed in the first section of this act shall refuse to keep up, or prevent such animal from running at large, shall be subject to a fine not exceeding five dollars for every such offence, to be recovered by action of debt, before any justice of the peace of the proper township, or forfeit his right in such animal.

§ 3. **Owner unknown.** That where the owner is not known, such animals shall be considered estrays, subject to be taken up at any time, and dealt with according to the laws concerning stray animals.

§ 4. **Repeal.** All laws now in force in this state contravening the provisions of this act, be, and the same are hereby repealed.

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

Approved 25th January, 1855.

I hereby certify that the above act was published by direction of the governor in the Iowa Republican and Capital Reporter, on the 7th day of February, 1855.

GEO. W. McCLEARY,
Secretary of State.

CHAPTER 136.

STATE UNIVERSITY AND STATE LANDS.

AN ACT to amend chapter 65 of the code of Iowa, and to provide for the sale of saline, school and university lands.

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

SECTION 1. [552] **Public sale only.** That from and after the taking effect of this act, all the school, saline, and university lands which then remain unsold, shall be sold only at public sale, except as hereinafter provided.

§ 2. **Notice.** It shall be the duty of the person or persons having charge, by law, of the saline, school and university lands, to offer the same at public sale, after having given notice of the same, as provided for in the law regulating the sale of the sixteenth section.

§ 3. **Again offered—third sale.** All lands so offered, and which are not at said public sale, shall be offered for sale again at the expiration of six months, or as soon thereafter as the person or persons so having charge thereof may think best for the interest of said fund, and all lands so offered and remaining unsold at said second sale, shall be offered again at public sale at the expiration of six months, or as soon thereafter as the person or persons having charge thereof, may deem proper for the interest of said fund.

§ 4. **Manner of selling.** All sales made under and by authority of this act, shall be conducted in the same manner, and the same notice of such sales shall be given, as is now required by law to be given for the sale of the sixteenth section.

§ 5. **Private entry—minimum.** So much of said lands as shall have been offered for sale three times, as provided for in this act, and remain un-

sold, shall be subject to be entered at private entry, at such time, and at such price, as the person or persons having charge thereof, may designate: *Provided, however,* that in no case, either in public sale or by private entry, shall the land be sold for less than the appraised value.

§ 6. **Pre-emptors prohibited.** No pre-emption claim shall hereafter be granted or allowed to settlers on any of the saline, school or university lands, except to such persons as are legally entitled to the same at the time of taking effect of this act.

§ 7. **Trustees to elect a treas'r.** It is hereby made the duty of the trustees of the state university, to elect, on the first Monday of April, A. D. 1855, and every two years thereafter, a [553] treasurer, who shall hold his office for two years, and until his successor shall be elected and qualified.

§ 8. **Qualification.** The treasurer so elected, shall, before taking charge of his office, take and subscribe an oath before some person legally authorized to administer the same, to faithfully perform the duties of treasurer, and to support the constitution of the United States and of the state of Iowa, and shall give bond and security which shall be approved by the board of trustees and also by the governor of the state, which bond shall be filed in the office of the secretary of state.

§ 9. **State treas'r deliver over.** It shall be the duty of the state treasurer, as soon as he may be called upon by the treasurer elected under and by authority of this act, to deliver over to the same all moneys, books, notes, and all other papers that may be in his possession, and belonging to said university or saline funds, and shall take a receipt therefor, which shall be his voucher in his settlement with the state.

§ 10. **Repeal.** All that part of section 1018, in chapter 65 of the code, and all other acts and parts of acts which conflict with this act, be, and the same are hereby repealed.

§ 11. **Take effect.** This act to take effect and be in force from and after its publication in the Iowa City newspapers.

Approved January 25th, 1855.

I certify that the foregoing act was published in the Iowa City papers on 31st day of January, 1855.

GEO. W. McCLEARY,
Sec'y of State

CHAPTER 147.

SUPERVISORS.

AN ACT supplemental to an act, entitled an act to provide for the election of supervisors and defining their duties.

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

SECTION 1. **Code amended.** That chapter forty-eight of the acts [554] of 1852 and 1853, shall be amended by the insertion of the following additional section.

§ 2. **Supervisor may bring suit—penalty.** Such supervisor within ten days after warning the hands liable to work on the roads in his district, shall, unless for good cause shown by the delinquent bring suit against such person, unless for good cause shown by the delinquent bring suit against such person

or persons, as fail to work or pay over the commutation money therefor, before any justice of the peace in such township and in such suit, it shall only be necessary for a certified account by the supervisor stating the number of days, such person or persons so failed, and charging one dollar and twenty-five cents per day therefor, to be filed as a cause of action, and in case of recovery by such supervisor, it shall be his duty to pay the same into the township treasury, within ten days after the reception thereof, or expend it in improving the roads and bridges in his district.

Approved January 25th, 1855.

I certify that the foregoing act was published by order of the governor, in the Iowa Capital Reporter and Iowa Republican, February 14th, 1855.

GEO. W. McCLEARY,
Sec'y of State.

CHAPTER 153.

STATE LAND OFFICE.

AN ACT to establish a state land office, with a register thereof, and to define his duties.

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

SECTION 1. Established—election of register. That for the purpose of preserving a proper record of all lands belonging to the state, and of their final disposition, and of transacting business in relation thereto, there shall be a state land office established at the seat of government, with a register thereof, who shall be elected by the people on the first Monday in April next, and shall hold his office for two years, and until his successor is elected and qualified.

§ 2. **Furniture and books.** The state land office shall be furnished by [555] the secretary of state with a suitable room, and with the necessary furniture and stationery, and a sufficient number of tract books, and other necessary books for records; said tract books to be ruled in a manner similar to those used in the United States land offices, so as to record each tract by its smallest legal sub-division, its section, township, range, and to whom sold, and what price per acre, to whom patented, and when.

§ 3. **Separate tract books.** Separate tract books shall be kept for the university lands, the saline lands, the half million acre grant, the sixteenth sections, the swamp lands, and such other lands as the state now owns, or may hereafter own, so that each description of state lands shall be kept separate from all others, and each set of tract books shall be a complete record of all the lands to which they refer.

§ 4. **Com'rs to arrange plan.** The governor of the state, together with the register and receiver of the United States land office in Iowa City, are hereby appointed commissioners to assist in arranging with said register the plan on which the books and records of the state land office shall be kept, that they may present and preserve an accurate chain of title from the general government to the ultimate purchasers of each smallest legal subdivision of land, and to preserve a permanent record in books, suitably indexed, of all correspondence with the general government, or any of its departments, in relation to state lands, and to preserve, by proper records thereof, copies of the original lists furnished by the state selecting agents, and of all other papers in relation to state lands, which are of permanent interest.

§ 5. **Duties of register—arbitrators.** The register of the state land office, immediately after being qualified, as hereinafter provided, shall proceed to take possession of all books, papers, plans, or maps, now in possession of the superintendent of public instruction, which relate to the selection, or compose a part of the records of any description of state lands, and of the records of patents issued by the state, in the office of the secretary of state; and if any dispute should arise between said register of the state [556] land office and any officer of whom books or other documents are demanded, under the provisions of this section, the governor of this state, and the register and receiver of the land office in Iowa City, as commissioners as aforesaid, shall determine the same, and their decision shall be final.

§ 6. **Patents.** All patents for state lands shall issue from the state land office, and shall be signed by the governor, and recorded by the register, and each patent shall contain therein a marginal certificate of the book and page on which it is recorded; shall be signed by the register, and all patents shall be delivered to the patentees free of charge.

§ 7. **Requisition of sup. pub inst.** No patents for any portion of the state lands now set apart for educational purposes shall issue, except upon the written requisition of the superintendent of public instruction, which requisition the register of the state land office shall file and record.

§ 8. **Com'r D. R. I. &c.—saving clause.** In like manner no patents or conveyances of Des Moines improvement lands, shall issue, except on the written requisitions of the commissioners thereof; and no patent shall issue for any other lands belonging to the state, except upon the written requisition of the person or persons specially charged with the custody of the same, or in pursuance of law: *Provided*, that all patents issued for any of the Des Moines river improvement lands, shall contain the following clause: "Nothing in this patent shall be construed into a warrant by the state against any claim or claims to said lands arising out of any pre-existing contract in relation to said lands, made or entered into by the state or any of its agents, nor as intended to interfere with any of the rights of any person or company, to any of said lands accruing by virtue of any law of this state, or any contract under the provisions of any of said laws.

§ 9. **Salary—clerk.** The salary of the register of the state land office shall be \$1000 per annum, and he is hereby authorized to employ a clerk in said office, by the advice and consent of the governor of the state.

§ 10. **Business hours—inspection—copies.** The state land office shall be kept open for [557] business during business hours of every day, and shall have the personal attendance of the register; the documents therein shall be subject to inspection, in the presence of the register, by parties having an interest therein, and certified copies thereof, signed by the register, shall be deemed *prima facie* evidence of the fact to which they relate, in all courts in the state, and they shall be furnished by the register for a reasonable compensation, an account of which shall be kept, and the amount thereof paid quarterly into the treasury.

§ 11. **Rules and regulations.** The governor and the register and receiver of the land office at Iowa City, acting as commissioners as aforesaid, shall have power to make all needful rules and regulations, not inconsistent with this act, for giving to the state land office a proper efficiency and correctness, and for rendering it a public convenience; and for this purpose they shall enter and sign their orders in this respect in a minute book, to be kept in said land office, and the orders so signed by a majority of them, shall be binding on the register.

§ 12. **Take effect.** This act to be in force from and after its publication in the Iowa Capital Reporter and Republican.

Approved January 25th, 1855.

I certify that the above act was published in the Iowa Capital Reporter and Iowa Republican, on the 9th day of February, 1855.

GEO. W. McCLEARY,
Secretary of State.

CHAPTER 154.

ESCHEATS.

AN ACT to provide for the relinquishment of escheated lands.

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

SECTION 1. **Claimant to file petition in chancery.** That if any person within five years after an inquisition found vesting any lands in this state as an escheat, shall appear and claim said land vested in the state aforesaid, may file their petition in the dis- [558] -trict court, as a court of chancery of the county where said claimed estate shall be, setting forth the nature of his claim, and praying that said estate may be relinquished to him.

§ 2. **Service—decree.** A copy of the petition shall be served on the attorney general of said county, who shall answer: and the allegations and proof; and if it appear that the person is entitled to such claim, the court shall decree accordingly, which shall divest the interest of the state in such estate; but no costs shall be adjudged against the state in such case.

§ 3. **Bar.** All persons who fail to appear and file their petitions within the time limited, shall be forever barred, saving, however, to infants, maimed women, and persons of unsound mind, or persons beyond the limits of the United States, the right to appear and file their petition at any time within five years after their respective disabilities have been removed.

§ 4. **Sale.** The general assembly may cause such estate to be sold at any time after "inquest of office found," in such manner as may be provided by law, in which case the claimants shall be entitled to the proceeds in lieu of the real estate, upon obtaining a decree or order as aforesaid.

§ 5. **Who entitled—children—father, mother—brother, sister.** The following persons, and none others, shall be entitled to the benefits of this act: 1st. The children of the decedent, in equal portions among them, and the children of any deceased child shall take the share of their deceased parent. 2nd. If there are no children, then the father and mother, in equal portions, and if either father or mother be dead, then the survivor shall take the whole. 3rd. The brothers and sisters, if there be no parents or children, in equal portions, and the children of any deceased* brother or sister, shall take the share of such deceased parent.

§ 6. **State.** If none of the above be found, the lands shall escheat absolutely to the state.

§ 7. **Residents—non-residents.** None of the above named persons shall have the benefit of this act unless they are residents of some one of the United States, and if a male over the age of [559] eighteen years shall have filed his declaration of intention to become a citizen of the United States: *Provided, however,* that if any person so residing without the United States,

are infants, or of extreme old age, or are in extremely indigent circumstances, so that from any or either of these disabilities they could not become citizens of, or remove to, the United States, the court shall, upon full proof of their disability, enter a decree as provided in the second section of this act.

Approved January 25th, 1855.

I certify the foregoing act was published by order of the governor, in the Iowa Capital Reporter and Iowa Republican, February 14th, 1855.

GEO. W. McCLEARY,
Secretary of State.

CHAPTER 155.

JUDGMENTS AND DECREES.

AN ACT providing for the more speedy enforcement of judgments and decrees.

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

SECTION 1. Judgments and decrees. That hereafter the judgments and decrees of all courts of this state, remaining unsatisfied, in whole or in part, at the death of any sole judgment plaintiff, may be prosecuted to execution and satisfaction as in the next section mentioned.

§ 2. **Execution to issue in the name of the ex'r and adm'r.** That in all cases contemplated in the preceding section, the proper clerk, judge or justice of the peace, shall, upon application of the executor or administrator of such deceased plaintiff, and the filing a copy of his letters of administration or appointment as executor, certified by the proper county judge, issue execution in the name of such executor or administrator, for the enforcement of such judgment, and the same shall be conducted to satisfaction, in the name of such executor or administrator, without the necessity of an order of substitution by any court.

§ 3. **Surviving plaintiffs.** That when one of two or more plaintiffs in judgment dies, the survivor or survivors thereof, may, upon [560] filing affidavit of survivorship, in the office of the proper clerk, judge or justice of the peace, have execution and satisfaction of any judgment remaining unpaid, in whole or in part, at the death of such co-plaintiff, in the name of such survivor or survivors.

§ 4. **Take effect.** This act shall take effect and be in force from and after its publication in the Iowa Capital Reporter and the Iowa Republican.

Approved January 25th, 1855.

I certify that the foregoing act was published in the Iowa Capital Reporter and Iowa Republican, 31st January, 1855.

GEO. W. McCLEARY,
Sec'y of State.

CHAPTER 156.

SWAMP LANDS.

A BILL to prevent trespass or waste on swamp, or other lands in the state of Iowa, and for other purposes.

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

SECTION 1. Trespass—warrant—arrest—proviso. That whenever the county judge of any county shall become satisfied that trespass or waste, by

cutting wood or carrying it away, or in any other manner, has been, within six months then past, or is then being committed on any swamp or overflowed lands, situate in, and belonging to, such county, and which have been properly selected according to law, and the returns thereof made to such county judge by the selecting officer, it shall be the duty of said county judge to issue a warrant to the sheriff of his county, or to some other officer directing said sheriff, or officer, to arrest and bring before him, forthwith, the person or persons charged in said warrant with having committed trespass or waste, as aforesaid, or any person then committing the same: *Provided*, that this section shall not be construed as authorizing a warrant for trespass to be issued against any person for cutting or carrying away wood on swamp or overflowed lands, which such person [561] shall have entered at any United States land office, or against any person who has acquired a *bona fide* pre-emption right to any of said lands, under the subsequent provisions of this act.

§ 2. **Subpoena.** It shall be the duty of the county judge, at the time of issuing said warrant, to issue a subpoena to any person or persons, who may be cognizant of trespass or waste committed in violation of this act, requiring such person or persons to appear before him forthwith, to testify in relation to the matter; which subpoena shall be served by the sheriff of the county, or some other officer, deputed by the county judge.

§ 3. **Trial—ine aud imprisonment—jury.** On the appearance of the person or persons arrested under said warrant, the county judge shall proceed to hear testimony in the case, and if the person so arrested shall be found guilty of having committed trespass or waste, contrary to the provisions of this act, he shall be adjudged to pay a fine not exceeding one hundred dollars, and costs of suit, or to be imprisoned in the county jail for a period not exceeding sixty days, or to be both fined and imprisoned, at the discretion of said judge; *Provided*, that any person so arrested, shall be entitled to be tried by a jury of six disinterested residents of the county, if he require it. And said judge shall have authority, in his discretion, to commit such persons to the county jail until the fine and costs adjudged against him shall be paid; *Provided*, his imprisonment shall not exceed, altogether, ninety days.

§ 4. **Fines, how disposed of.** All fines so inflicted shall inure to the use of the school fund, and be paid to the person having charge of that fund in the county, after deducting from the same the amount of costs which may have been paid by the county, in cases of failure to sustain any previous action commenced under this act; and the costs in prosecutions under this act, shall be the same as the costs in similar prosecutions before a justice of the peace.

§ 5. **Mandate to prevent removal of timber.** It shall be the further duty of the county judge of each county, whenever he may suspect that trespass or waste has been committed, as mentioned in the first section of this act, to issue his mandate to the sheriff of [562] his county, or to some other officer therein, to restrain and prevent all persons from carrying away wood or timber, that may have been cut on any of the swamp or overflowed lands above specified; and to take possession of such wood or timber, and dispose of the same by public or private sale, at the discretion of the sheriff, or officer serving said writ, and return the proceeds thereof to the county treasurer.

§ 6. **Suit for damages—tresp'ss or waste.** It is further made the duty of the county judge of the several counties, to sue for damages, in the name and for the use of their respective counties, in the proper district court, any person who shall have committed trespass or waste, in violation of the provisions of this act: *Provided*, that it shall be discretionary with said judges

to proceed against such person either by criminal prosecution or civil suit, as above provided, or both.

§ 7. **Appeal.** Any person convicted of trespass or waste, before the county judge, as above specified, may take an appeal to the proper district court, by giving bond and security to the satisfaction of the county judge, in the usual penalty and condition, with the further condition that he will not, in the meantime, and until the decision of said district court in the matter, commit further waste or trespass as above specified.

§ 8. **All state lands.** The foregoing provisions are extended to all school, university, or other lands belonging to the state, so far as the same may be applicable.

§ 9. **Pre-emption—limitation.** Any person who shall have a *bona fide* claim, by actual settlement or improvement upon any of the swamp or overflowed lands in this state, which shall have been selected and the returns thereof made to the county judge, as specified in the first section of this act; and any *bona fide* assignee of such person shall be allowed to enter the same by paying into the county treasury of the proper county the sum of one dollar and a quarter per acre therefor, as hereinafter provided: *Provided*, that such person, or his assignee, shall first prove such claim, before the proper county judge, within ninety days after the first day of March, 1855: *Provided, further*, that in any county in which the proper returns [563] shall not have been made to the county judge thereof, by the selecting officer, such person shall have ninety days after the time at which said returns shall be made, wherein to prove his said claim.

§ 10. **Perfecting right of pre-emption—amount.** Any person desirous of perfecting his said claim, and of receiving the benefit of a pre-emption right to any swamp or overflowed lands above specified, shall be entitled to the same, by proving his claim, within the time specified in the eighth section of this act, to the satisfaction of the proper county judge, by any testimony which shall be satisfactory to said judge; and in case the claimant's right is contested by another, said judge shall appoint a day when he will hear the evidence on both sides, and he shall make such decision in the case as he may deem right, and award costs in his discretion; and he shall give to the successful claimant a certificate of pre-emption: *Provided*, that no person shall receive a certificate for more than 160 acres of land, which may be situate in two distinct tracts, one to consist of prairie and one of timber: *Provided*, that the timber tract shall not exceed eighty acres. The provisions of this, and the preceding section, are hereby extended to any person who shall hereafter acquire a *bona fide* claim, as above specified: *Provided*, he shall prove the same according to the provisions of this act, within sixty days after acquiring the same.

§ 11. **Certificates.** The said certificate shall entitle the holder thereof to perfect his title to the land mentioned therein, whenever the proper returns of the Iowa swamp lands are made, so as to complete the title of the several counties thereto; and the several county judges shall give public notice thereof and require the several claimants holding certificates, to pay the entrance money into the treasury of the proper county; whereupon said claimant shall be entitled to receive a patent for the land mentioned in their respective certificates.

§ 12. **Appeal.** Any person feeling aggrieved by the decision of the county judge, under the ninth section of this act, may appeal therefrom to the district court of the proper county, which shall have final jurisdiction over the mat- [564] -ter, and shall make such decision in the premises as justice and equity may require.

§ 13. **Drainage com'rs.** The term of office of drainage commissioner in the several counties shall expire on the first Monday of April, A. D. 1857, at which time their successor shall be elected.

§ 14. **Repeal.** All acts and parts of acts in relation to swamp lands, inconsistent herewith, are repealed.

§ 15. **Take effect.** This act to be published in the Iowa Capital Reporter and the Iowa City Republican, and to take effect from and after the first day of March, 1855.

Approved January 25th, 1855.

I certify that the above and foregoing act was published in the Iowa Capital Reporter and Iowa City Republican on the 31st day of January, 1855.

GEO. W. McCLEARY,
Secretary of State.

CHAPTER 158.

NOTARIES PUBLIC.

A BILL for an act to amend chapter 10 of the code, in relation to notaries public.

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

SECTION 1. **Record of commission.** That on or before the 1st day of May next, every notary public then in commission in the state, shall have his commission recorded in the office of the recorder of deeds of his county.

§ 2. **Failure.** Any notary public failing to comply with the provisions of the foregoing section shall be deemed removed from office from and after the said first day of May next.

§ 3. **After 1st May.** Every notary public whose commission bears date after the said first day of May next, shall comply with the following conditions:

1st. **Bond—approval.** Before entering upon the discharge of his official duties, he shall give bond to the state of Iowa, in the penal sum of five hundred dollars, conditioned for the true and faithful execution of the powers and duties of his office, with two or more sureties, to be approved [565] on said bond by the clerk of the district court of the proper county.

2d. **Record—fees.** On the approval of said bond by said clerk, said notary shall have his commission recorded by the recorder of deeds of his county, and shall pay to the clerk of the district court the sum of one dollar.

§ 4. **Commissioned.** Said notary public shall then be deemed commissioned, and not before.

§ 5. **Cl'k's certificate—signature—filed.** The clerk of the district court shall thereupon transmit to the secretary of state, a certificate that said notary public is duly qualified, and specifying the date of his qualification, which certificate shall bear the signature of said notary public, and said secretary is hereby required to file said certificate in his office, and to keep a book in which he shall enter the names of notaries hereafter qualified, in the order in which the same are transmitted to him, with the name of the county and the date of qualification of each.

§ 6. **Penalty.** Any notary public exercising the duties of his office after the expiration of his commission, or when otherwise disqualified, or appending his official signature to documents, when the parties have not appeared before him, shall be guilty of a misdemeanor, and be subject to a fine of fifty

dollars for each offence, to be recovered before any justice of the peace of the county, and shall also be removed from office by the governor.

§ 7. **Appointment in unorganized counties.** The governor of the state is hereby authorized to appoint one or more notaries public in any unorganized county, who shall qualify as herein before provided, in the county to which said unorganized county is attached for judicial purposes.

§ 8. **Repeal.** Such provisions of chapter 10 of the code, as conflict with the provisions of this act are hereby repealed.

§ 9. **Take effect.** This act to be in force from and after its publication in the Iowa City newspapers.

Approved 25th January, 1855.

I certify the foregoing act was published in the Iowa City newspapers, January 31st 1855.

GEO. W. McCLEARY,
Sec'y of State.

[566] CHAPTER 162.

TAXES.

AN ACT to amend sections 492 and 498 of the code.

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

SECTION 1. **No demand necessary—payment—distress and sale—deputies.** That section 492 of the code, shall be, and is hereby amended, so as to read as follows: "No demand of taxes shall be necessary, but it is the duty of every person subject to taxation to attend at the office of the treasurer at some time during the four months named, and after the 15th day of September, and pay his taxes; and if any one neglects to pay it before the first day of January, following the levy of the tax, the treasurer is directed to make the same by distress and sale of his personal property, excepting such as is exempt from taxation, and the tax list above shall be sufficient warrant for such distress." And the county treasurer is hereby authorized to appoint one or more deputies to aid and assist in collecting the taxes thus to be made by distress and sale.

§ 2. **Each tract to be described.** Section 498 of the code shall be, and the same is hereby amended so as to make it the duty of the treasurer, in publishing the notice of the sale of real estate for taxes, to describe each tract about to be offered for sale by him.

§ 3. **Take effect.** This act to be in force from and after its publication in the Iowa City newspapers.

Approved January 25th, 1855.

I certify that the foregoing act was published in the Iowa City newspapers, February 14th, 1855.

GEO. W. McCLEARY,
Sec'y of State.

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**SPECIAL
ACTS AND RESOLUTIONS**

PASSED AT THE

REGULAR SESSION

OF THE

EIGHTH GENERAL ASSEMBLY

OF THE

STATE OF IOWA

(GENERAL LAWS PRINTED WITH REVISED STATUTES.)

WHICH CONVENEED AT THE CAPITOL, IN DES MOINES, ON THE SECOND
MONDAY IN JANUARY, A. D. 1860.

SAMUEL S. KIRKWOOD, Governor.
ELIJAH SELLS, Secretary of State.
J. W. CATTELL, Auditor of State.
J. W. JONES, Treasurer of State.
N. J. RUSCH, Lt. Gov. and Pres. of the
Senate.

THOS. H. BENTON, JR., Sec. Board Edu-
cation.
A. B. MILLER, Register of State Land Office
LEW. I. COULTER, State Librarian.
JOHN EDWARDS, Speaker of the House
of Reps.

BY AUTHORITY

DES MOINES:
J. TEESDALE, STATE PRINTER.
1860.

STATUTE BOOK
ACTS AND RESOLUTIONS
OF THE
LEGISLATIVE ASSEMBLY
OF THE
EIGHTH GENERAL ASSEMBLY

STATE OF IOWA

ENACTED AT THE REGULAR SESSION OF THE
LEGISLATIVE ASSEMBLY OF THE STATE OF IOWA,
Held in Regular Session at Des Moines, Iowa,
January 15, 1888.

BY AUTHORITY OF
THE GOVERNOR,
JAMES W. BEVELL,
GOVERNOR.

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LAWS OF IOWA

[1] [S. F. 1.]

CHAPTER 1.

[Chap. 1.]

APPROPRIATION PER DIEM MEMBERS AND OFFICERS 8TH GENERAL ASSEMBLY.

AN ACT making appropriations for the payment of the per diem of the Members and Officers of the General Assembly.

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

SECTION 1. That the following sums of money, or so much thereof as may be necessary be, and the same are hereby appropriated for the purposes hereinafter designated.

SEC. 2. **\$5,500—senate.** For the payment of the per diem of the members and officers of the senate, the sum of five thousand five hundred dollars, or so much thereof as their certificates may entitle them to.

SEC. 3. **\$9,900—house.** For the payment of the per diem of the members and officers of the house of representatives, nine thousand nine hundred dollars, or so much thereof as their certificates may entitle them to.

SEC. 4. **Procure warrant upon certificate of presiding officer.** That the money thus appropriated, shall be paid by the treasurer of state upon warrants issued by the auditor of state, which warrants shall be issued by the auditor to any member or officer of the senate or house presenting a certificate signed by the presiding officer, and attested by the secretary or chief clerk, of the body to which he may belong, certifying that such person is a member or officer of the senate or house, as the case may be, and the amount to which he is entitled.

SEC. 5. **Take effect.** This act to take effect and be in force from [2] and after its publication in the Iowa State Register and Iowa State Journal.

Approved January 16, 1860.

I hereby certify that the foregoing act was published in the Iowa State Journal January 21st, 1860, and in the Iowa state Register January 18th, 1860.

ELIJAH SELLS,
Secretary of State.

[H. F. 11.]

CHAPTER 2.

[Chap. 2.]

ELEVENTH JUDICIAL DISTRICT.

AN ACT fixing the times of holding courts in the Eleventh Judicial District.

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

SECTION 1. **Times holding court.** That the district courts within and for the counties composing the eleventh judicial district of this state, shall be held at the times and places hereinafter designated.

Marshall co. At Marshall, in the county of Marshall, on the first Monday in April and first Monday in September.

Story county. At Nevada, in the county of Story, on the first Monday after the first Monday in April and September.

Boone county. At Boonsboro, in the county of Boone, on the second Monday after the first Monday in April and September.

Webster county. At Fort Dodge, in Webster county, on the third Monday after the first Monday in April and September.

Hamilton co. At Webster City, in Hamilton county, on the fourth Monday after the first Monday in April and September.

Hardin county. At Eldora, in Hardin county, on the sixth Monday after the first Monday in April and September.

Wright county. In the county of Wright, on the seventh Monday after the first Monday in April.

Hancock co. In the county of Hancock, on the first Thursday after seventh Monday, after first Monday in April.

Winnebago co. In the county of Winnebago, on the eighth Monday after the first Monday in April.

[3] **Worth county.** In the county of Worth, on the first Thursday after the eighth Monday, after the first Monday in April.

Cerro Gordo co. In the county of Cerro Gordo, on the ninth Monday after the first Monday in April.

Franklin co. In the county of Franklin, on the tenth Monday after the first Monday in April.

SEC. 2. **Suits pending.** All suits, pleadings, process, and proceedings now pending in or returnable to any of the district courts in the counties hereinbefore named, shall be deemed pending in and returnable to the terms herein fixed, and no suit, plea, process, recognizance, indictment or other proceeding shall be quashed or held to be invalid by reason of this act, or by reason of any change in the terms of court hereby made.

SEC. 3. **Jurors to appear.** The judge of said district may, if deemed advisable by him, order the jurors summoned to attend at any term of the courts in said district, to appear on the first or some subsequent day of the term.

SEC. 4. **Hold an adjourned term.** Should the causes pending in the district courts of any of the counties of said district remain undisposed of for want of sufficient time being allowed for the term of court in such county under this act, the judge of said district may order and hold an adjourned term for the disposition of such business as may be so pending, and the announcement in open court at the term at which said adjourned term shall be determined upon, shall be sufficient notice of the time for holding the same to all persons interested therein.

SEC. 5. **Repealing.** All acts and parts of acts inconsistent with the provisions of this act, are hereby repealed.

SEC. 6. **Take effect.** This act shall be in force from and after its publication in the Iowa State Register and the Marshall County Times.

Approved January 19, 1860.

I hereby certify that the foregoing act was published in the Iowa State Register January 23d, 1860, and in the Marshall County Times, February 1, 1860.

ELIJAH SELLS,
Secretary of State.

[4] [S. F. 2.]

CHAPTER 3.

[Chap. 3]

FOURTH JUDICIAL DISTRICT.

AN ACT fixing the times of holding Courts in the fourth Judicial District.

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

SECTION 1. That the several courts in the fourth judicial district shall be holden as follows:

Woodbury. WOODBURY—In the county of Woodbury on the first Monday of April and third Monday in September in each year.

Monona. MONONA—In the county of Monona on the Mondays next succeeding the courts in Woodbury.

Harrison. HARRISON—In the county of Harrison on the Mondays next succeeding the courts in Monona.

Shelby. SHELBY—In the county of Shelby on the Mondays next succeeding the courts in Harrison.

Crawford. CRAWFORD—In the county of Crawford on the Thursdays of the same weeks of the courts in Shelby.

Sac. SAC—In the county of Sac on the Mondays next succeeding the courts in Crawford.

Humboldt. HUMBOLDT—In the county of Humboldt on the Mondays next succeeding the courts in Sac.

Kossuth. KOSSUTH—In the county of Kossuth on the Mondays next succeeding the courts in Humboldt.

Dickinson. DICKINSON—In the county of Dickinson on the Mondays next succeeding the courts in Kossuth.

SEC. 2. **Time of sitting in Woodbury.** In the county of Woodbury, at the April term of each year, said court may sit two weeks, and at the September term thereof, and in the counties of Monona and Harrison, at all the terms, said court may sit one week if the business require it.

And other counties—special terms. In the counties of Shelby and Crawford courts may sit three days at each term, and in the counties of Sac, Humboldt, Kossuth and Dickinson, courts may sit four days at each term, if the business require it. In the above named counties, and all the other counties of the district, courts may be held at such other times as the district judge of said district may designate, and at [5] least one term of court in each year shall be holden in each county of said district wherein a cause may be pending.

SEC. 3. **Suits pending.** All writs, process and proceedings pending in any of said courts, and returnable at the terms now fixed by law, shall be deemed pending and returnable at the terms as fixed by this act, and no suit, notice, recognizance, indictment or other proceeding shall be quashed or held invalid by reason of this act, or by reason of the change of the terms of court hereby made.

SEC. 4. **Repealing.** That all acts or parts of acts inconsistent herewith are hereby repealed, and this act shall take effect from and after its publication in the Sioux City Register, Ft. Dodge Sentinel and Magnolia Republican, which shall be done without expense to the state.

Approved January 23, 1860.

I hereby certify that the foregoing act was published in the Magnolia Republican February 8th, 1860.

ELIJAH SELLS,
Secretary of State.

[H. F. 17.]

CHAPTER 4.

[Chap. 5.]

SEVENTH JUDICIAL DISTRICT.

AN ACT fixing the terms of Court in the Seventh Judicial District.

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

SECTION 1. **Times of holding.** That the terms of the district court in the seventh judicial district shall commence and be held as follows:

Muscatine. In the county of Muscatine on the first Mondays of January and May, and on the third Monday of October in each year.

Scott. In the county of Scott on the first Mondays of February, June, August and December in each year; provided that this section shall not affect the term of said court now in session.

[6] **Clinton.** In the county of Clinton on the first Mondays of March, September and November in each year.

Jackson. In the county of Jackson on the first Tuesdays after the fourth Mondays of March and September in each year.

SEC. 2. **Attendance of jurors.** That the judge of said district, upon the adjournment of said court in Scott county, at the June term in each year, may, in his discretion, enter an order that the grand and petit jurors be summoned to attend at the August term of said court in said Scott county, or that their attendance may be dispensed with at said term.

SEC. 3. **Suits pending.** No suits, pleas, indictments or proceedings of any character, civil, criminal or special shall be abated, quashed, discontinued or affected in consequence of the change of time of holding said courts; all process issued at any time before the taking effect of this act shall be considered as returnable to the first term of the court in said counties respectively, which shall be held next after the taking effect of this act.

SEC. 4. **Take effect.** This act shall take effect from and after its publication in the Iowa State Register, Muscatine Journal, Davenport Gazette, Bellevue Courier and DeWitt Standard.

Approved January 27th, 1860.

I hereby certify that the foregoing act was published in the Iowa State Register on the 4th day of February, 1860, in the Muscatine Journal February 8th, 1860, Davenport Gazette February 9th, 1860, in the Bellevue Courier Feb. 16th, 1860.

ELIJAH SELLS,
Secretary of State.

[H. F. 52.]

CHAPTER 5.

[Chap. 6.]

EIGHTH JUDICIAL DISTRICT.

AN ACT to change the times of holding Courts in the Eighth Judicial District of the State of Iowa.

Be it enacted by the General Assembly [7] of the State of Iowa,

SECTION 1. **Times of holding.** That the district courts of the eighth judicial district shall be held as follows:

Johnson county. At Iowa City, in Johnson county, on the first Monday in March, fourth Monday in June, and first Monday in November, provided that

the first term in said county after the passage of this act shall be held on the third Monday in March.

Iowa county. At Marengo, in Iowa county, on the first Monday in February and September.

Tama county. At Toledo, in Tama county, on the second Monday in February and September.

Benton county. At Vinton, in Benton county, on the third Monday in February and September; provided that the first term held in said county after the passage of this act, shall be held on the first Monday in March, as now provided by law.

Linn county. At Marion, in Linn county, on the second Monday in January, May and October.

Cedar county. At Tipton, in Cedar county on the first Monday in June and December.

Jones county. At Anamosa, in Jones county, on the second Monday in June and December.

SEC. 2. **Suits pending.** That no process, writ, notice, petition or indictment issued out of or filed in any of the courts in said district, and made returnable or triable at any term now fixed by law for holding courts in the counties composing said district shall be quashed, set aside or in any manner invalidated by reason of anything in this act, but the same shall be held returnable and triable at the times fixed by this act, and all proceedings hereafter pending shall be treated as if under this act commenced.

SEC. 3. **Repealing.** That section nine, of chapter one hundred and fifty of the acts of the seventh general assembly of the state of Iowa, be and the same are hereby repealed.

SEC. 4. **Take effect.** That this act shall take effect from and after its publication in the Iowa Weekly Citizen, and Iowa State Journal, published at Des Moines, and Iowa Weekly Republican, published at Iowa City, and shall [8] be in force from the date of such publication; section twenty-one, of chapter three of the code to the contrary notwithstanding.

Approved January 27th, 1860.

I hereby certify that the foregoing act was published in the Iowa State Journal, February 4th, 1860, in the Iowa Weekly Republican, February 1st, 1860, and in the Iowa Weekly Citizen, February 1st, 1860.

ELIJAH SELLS,
Secretary of State.

[H. F. 79.]

CHAPTER 6.

[Chap. 8.]

APPROPRIATION.

AN ACT making appropriations for furniture and improvements in the Capitol Building.

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

SECTION 1. That the following sums of money or as much thereof as may be necessary, be, and the same are hereby appropriated for the purposes hereinafter designated.

SEC. 2. **P. Palmer.** To P. Palmer, as per bill for carpet, two hundred and sixty dollars and ninety-six cents.

SEC. 3. **Wm. Warr.** To Wm. Warr, as per bill for building galleries, repairing roof and other work in improving the halls of the senate and house, one thousand two hundred and eighty-six dollars.

SEC. 4. **M. W. Houston.** To M. W. Houston, as per bill for furniture for the capitol, three hundred and fifty-five dollars.

SEC. 5. **Frank Dillon.** To Frank Dillon, as per contract for plastering in the capitol, eighty dollars and twenty cents, which amount is to be paid upon the completion of the work, and its approval by the secretary of state.

SEC. 6. **Take effect.** This act to take effect from and after its publication in the Daily State Register and the Iowa State Journal.

Approved February 2d, 1860.

I hereby certify that the foregoing act was published in the Daily State Register, February 7th, 1860, and in the Iowa State Journal.

ELIJAH SELLS,
Secretary of State.

[9] [H. F. 39.]

CHAPTER 7.

[Chap. 9.]

APPROPRIATION PRO TEM OFFICERS OF 8TH GENERAL ASSEMBLY.

AN ACT providing for the payment of the pro tem officers of the two Houses of the Eighth General Assembly.

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

SECTION 1. That the following sums of money be, and the same are hereby appropriated for the purposes hereinafter designated.

SEC. 2. For the payment of I. C. Curtis, speaker pro tem of the house of representatives, the sum of six dollars for two days services. For the payment of W. P. Hepburn, chief clerk pro tem of the house of representatives, the sum of ten dollars for two days services. For the payment of J. M. Newcomb, assistant clerk pro tem of the house of representatives, the sum of eight dollars for two days services. For the payment of E. R. Clapp, sergeant-at-arms, pro tem of the house of representatives, the sum of six dollars for two days services. For the payment of John Watson, fireman, pro tem of the house of representatives, the sum of six dollars for two days services. For the payment of Enoch Ross, door keeper, pro tem of the house of representatives, the sum of six dollars for two days services. For the payment of J. S. Dimmitt, secretary pro tem of the senate, the sum of ten dollars for two days services.

SEC. 3. This act to take effect and be in force from and after its publication in the Iowa State State Register and Iowa State Journal, papers published at Des Moines, Iowa.

Approved February 4th, 1860.

I hereby certify that the foregoing act was published in the Iowa State Journal February 11th, 1860, and in the Iowa State Register, Feb. 15th, 1860.

ELIJAH SELLS,
Secretary of State.

[10] [H. F. 28.]

CHAPTER 8.

[Chap. 10.]

LEGALIZE NOTARIAL ACTS GEO. S. C. DOW.

AN ACT to legalize the acts of Geo. S. C. Dow, as Notary Public in Scott County, Iowa.

WHEREAS, Geo. S. C. Dow, of Scott county, Iowa, was on the 11th day of September, 1856, appointed a notary public in and for said county, by James W. Grimes, then governor of Iowa, for the term of three years, then

next thereafter, and whereas, after the expiration of the said term, and previous to the re-appointment of the said Dow in manner required by law to the said office, the said Geo. S. C. Dow, had performed certain official acts as a notary public; therefore,

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

SECTION 1. That all official acts of said Geo. S. C. Dow, by him performed as a notary public within and for said county of Scott subsequent to the 11th day of September, 1859, and up to the date of his appointment to that office, be, and the same are hereby declared legal and binding in law and equity as fully as though the said appointment had been in full force and effect at the time of such official acts as notary public.

SEC. 2. All acts and parts of acts coming in conflict with this act are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its publication in the Iowa State Register and Iowa State Journal, newspapers published in Des Moines, state of Iowa, without expense to the state.

Approved February 6th, 1860.

I hereby certify that the foregoing act was published in the Iowa State Journal February 18th, 1860, and in the Iowa State Register February 22d, 1860.

ELIJAH SELLS,
Secretary of State.

[11] [S. F. 43.]

CHAPTER 9.

[Chap. 13.]

SECOND JUDICIAL DISTRICT.

AN ACT fixing the time of holding Courts in the Second Judicial District.

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

SECTION 1. **Times of holding—Van Buren.** That the district courts within and for the counties composing the second judicial district of this state shall be held at the times and places hereinafter designated, commencing at Keosauqua, in the county of Van Buren on the first Mondays of March and September. Provided that the first term of court in said county next after the taking effect of this law shall be held on the tenth Monday after the first Monday in March, 1860.

Davis. At Bloomfield in Davis county, on the second Monday after the first Monday of March and September.

Appanoose. At Centerville, in Appanoose county, on the fourth Monday after the first Monday of March and September.

Wayne. At Corydon, in Wayne county, on the sixth Monday after the first Monday of March and September.

Lucas. At Chariton, in Lucas county, on the eighth Monday after the first Monday of March and September.

Monroe. At Albia, in Monroe county, on the tenth Monday after the first Monday of March and September, Provided that the first term of court in said county next after the taking effect of this law shall be held on the first Monday in March 1860.

Wapello. And at Ottumwa, in Wapello county, on the twelfth Monday after the first Monday of March and September.

SEC. 2. **Suits pending—not affected.** All suits, pleadings, and process now pending or returnable to any of the district courts in the counties herein before mentioned, shall be deemed pending in and returnable to the terms herein fixed; and no such suit, plea, process, recognizance, indictment or other proceedings shall be quashed or held to be invalid [12] by reason of any change in the terms of court hereby made.

SEC. 3. **Repealed.** All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

SEC. 4. **Take effect.** This act shall be in force from and after its publication in the Iowa State Journal and Iowa State Register.

Approved February 11th, 1860.

I hereby certify that the foregoing act was published in the Iowa State Register February 15th, 1860, and in the Iowa State Journal Feb. 18th, 1860.

ELIJAH SELLS,
Secretary of State.

[H. F. 66.]

CHAPTER 10.

[Chap. 15.]

ENLARGING SIOUX RIVER.

AN ACT to declare the Little Sioux River Navigable.

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

SECTION 1. That the Little Sioux river from its mouth on the Missouri, to the west forks of the Little Sioux at the Falls, in the county of Harrison, be and the same is hereby declared a navigable stream, subject to all the liabilities and privileges of navigable streams under the laws of Iowa.

Approved February 13, 1860.

[S. F. 44]

CHAPTER 11.

[Chap. 17.]

THIRD JUDICIAL DISTRICT.

AN ACT to fix the time of holding Courts in the 3d Judicial District of the State of Iowa.

Be it enacted by the General Assembly [13] of the State of Iowa,

SECTION 1. **To be held in Cass, Pottawattamie, Mills and Fremont.** That the terms of the district court in the counties of Cass, Pottawattamie, Mills, and Fremont, be held at the times now fixed by law.

Page. In the county of Page, at Clarinda, on the third Monday in March and September in each year.

Taylor. At Bedford, in Taylor county, on the fourth Monday in March and September in each year.

Ringgold. At Mount Ayr, in Ringgold county, on the first Monday after the fourth Monday in March and September in each year.

Decatur. At Leon, in Decatur county, on the second Monday after the fourth Monday in March and September in each year.

Clarke. At Ocoola, in Clark county, on the fourth Monday after the fourth Monday in March and September in each year.

Union. At Afton, in Union county, on the sixth Monday after the fourth Monday in March and September in each year.

Adams. At Quincy, in Adams county, on the seventh Monday after the fourth Monday in March and September in each year.

Montgomery. At Frankfort, in Montgomery county, on the Thursday after the seventh Monday after the fourth Monday in March and September in each year.

SEC. 2. **Suits pending, not effected.** All writs, processes and proceedings pending in any of said courts, and returnable at the terms now fixed by law, shall be deemed pending and returnable at the terms as fixed by this act; and no suit, notice, recognizance, indictment, or other proceeding, shall be quashed or held invalid by reason of this act, or by reason of the change of the terms of court hereby made.

SEC. 3. **Take effect.** This act to be in force from and after its publication according to law.

Approved February 14th, 1860.

[14] [S. F. 94.]

CHAPTER 12.

[Chap. 18.]

FIFTH JUDICIAL DISTRICT.

AN ACT to fix the time of holding Courts in the Fifth Judicial District of the State of Iowa.

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

SECTION 1. **Times of holding.** That the times of holding court in the fifth judicial district of the state of Iowa shall be as follows:

Warren. In Warren county on the second Monday of February and the first Monday in August in each year.

Polk. In the county of Polk on the first Monday of March and third Monday of August in each year.

Madison. In the county of Madison on the first Monday of April and third Monday in September in each year.

Dallas. In the county of Dallas, on the third Monday of April and fourth Monday of September in each year.

Adair. In the county of Adair, on the first Monday after the fourth Monday in April, and the second Monday after the fourth Monday of September in each year.

Guthrie. In the county of Guthrie, on the second Monday after the fourth Monday in April, and the fourth Monday after the fourth Monday in September in each year.

Greene. In the county of Greene, on the third Monday after the fourth Monday in April, and the fifth Monday after the fourth Monday of September in each year.

Audubon. In the county of Audubon, on the fourth Monday after the fourth Monday in April, and the sixth Monday after the fourth Monday of September in each year.

Carroll. In the county of Carroll on the Thursday after the fourth Monday after the fourth Monday in April, and the Thursday after the sixth Monday after the fourth Monday of September in each year.

SEC. 2. **Suits pending, not effected.** All writs, processes, and proceedings, pending in any of said courts and returnable at the terms now fixed by law, shall be deemed pending and returnable at the terms as fixed by this act,

and no writ, notice, recognizance, indictment or other proceedings shall be quashed or held invalid by reason of this act, or by [15] reason of the change of the times of holding court in the several counties in said district.

SEC. 3. **Take effect.** This act to be in force from and after its publication in the Daily Iowa State Register and the Daily Iowa State Journal, papers published at Des Moines, Iowa.

Approved February 16th, 1860.

I hereby certify that the foregoing act was published in the Daily Iowa Register February 18, 1860, and in the Daily Iowa State Journal February 18, 1860.

ELIJAH SELLS,
Secretary of State.

[H. F. 73.]

CHAPTER 13.

[Chap. 19.]

SIXTH JUDICIAL DISTRICT.

AN ACT to amend an act entitled an act to amend chapter one hundred and fifty of the acts of the Seventh General Assembly.

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

SECTION 1. **Times of holding court in Powesheik county.** That so much of the act entitled an act to amend chapter one hundred and fifty of the acts of the seventh general assembly, and approved Jan. 27th, 1860, as reads as follows: "At Montezuma, in Powesheik county, on the second Tuesdays of March and September in each year," is hereby repealed, and in lieu thereof, it is enacted as follows: at Montezuma, in Powesheik county, on the first Mondays in July and January in each year.

SEC. 2. **Proceedings not affected.** All petitions, answers, notices or other pleadings or processes returnable to or pending in said district court for adjudication at the time now fixed by the act to which this is amendatory, shall be held returnable to and pending at the terms of said court as fixed by this act.

SEC. 3. **Take effect.** This act to take effect and be in force from and after its publication in the Daily Iowa State Register, published at Des Moines, Iowa, and in the Jasper Free Press, published at Newton, Jasper county, Iowa, [16] anything in section 21 of the code to the contrary notwithstanding.

Approved February 20th, 1860.

I hereby certify that the foregoing act was published in the Daily Iowa State Register Feb. 23, 1860, and in the Jasper Free Press March 1, 1860.

ELIJAH SELLS,
Secretary of State.

[H. F. 213.]

CHAPTER 14.

[Chap. 21.]

FIFTH JUDICIAL DISTRICT.

AN ACT supplementary to "an act to fix the time of holding Courts in the Fifth Judicial District of the State of Iowa," approved Feb. 16th, 1860.

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

SECTION 1. **Times of holding.** That the time of holding court in the fifth judicial district of the state of Iowa shall be as follows:

Warren. In Warren county on the second Monday in February and the first Monday in August in each year.

Polk. In the county of Polk on the first Monday in March and the third Monday in August in each year.

Madison. In the county of Madison on the first Monday in April and third Monday in September in each year.

Dallas. In the county of Dallas on the third Monday in April and fourth Monday in September in each year.

Adair. In the county of Adair on the first Monday after the fourth Monday in April, and the first Monday after the fourth Monday in September in each year.

Audubon. In the county of Audubon on the second Monday after the fourth Monday in September in each year, and in the year 1860 one term shall be held in the county of Audubon on the fourth Monday after the fourth Monday in April.

Carroll. In the county of Carroll on Thursday after the second Monday after the fourth Monday in September in each year.

Guthrie. In the county of Guthrie on the second Monday after [17] the fourth Monday in April and the third Monday after the fourth Monday in September in each year.

Greene. In the county of Greene on the third Monday after the fourth Monday in April and the fourth Monday after the fourth Monday in September in each year.

SEC. 2. **Suits not affected.** All writs, processes and proceedings pending in any of said courts, and returnable at the terms now fixed by law, shall be deemed pending and returnable at the terms as fixed by this act, and no writ, notice, recognizance, indictment or other proceedings, shall be quashed or held invalid by reason of this act, or by reason of the change of the times of holding court in the several counties in said district.

SEC. 3. **Take effect.** This act to be in force from and after its publication in the Daily Iowa State Register and the Daily Iowa State Journal, papers published at Des Moines, Iowa.

Approved March 2, 1860.

I hereby certify that the foregoing act was published in the Daily Iowa State Register March 8th, 1860, and in the Daily Iowa State Journal March 8th, 1860.

ELIJAH SELLS,
Secretary of State.

[H. F. 198]

CHAPTER 15.

[Chap. 22.]

ATTACH VAN BUREN TOWNSHIP.

AN ACT to annex the township of Van Buren, in the County of Lee, to the township of Jackson, Montrose and Des Moines, in said county, for Judicial purposes.

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

SECTION 1. **Judicial extinguisher.** That the township of Van Buren, in Lee county, be, and the same is hereby annexed to the township of Jackson, Montrose and Des Moines, townships in said county, for judicial purposes, and that all acts or parts of acts which apply to the township of Jackson, Montrose and Des Moines, for judicial purposes, shall in the same manner, apply to the township of Van Buren.

[18] SEC. 2. **Suits not affected.** *And be it enacted,* That all criminal and civil cases arising in the township of Van Buren, and hereafter com-

menced and pending in court under any of the provisions of law now in force, shall be prosecuted to final judgment in the courts in which the same was instituted, unless the same is removed by change of venue in the manner now provided for by law.

SEC. 3. **Repealed.** *And be it enacted,* That all laws or parts of laws inconsistent with the provisions of this act, are hereby repealed.

SEC. 4. **Take effect.** This act to be in force from and after its publication in the Iowa State Journal and the Iowa State Register, two newspapers published in the city of Des Moines.

Approved March 2d, 1860.

I hereby certify that the foregoing act was published in the Iowa State Journal, March 10th, 1860, and in the Iowa State Register March 14th, 1860.

ELIJAH SELLS, Sec. of State.

[H. F. 174.]

CHAPTER 16.

[Chap. 25.]

DES MOINES RIVER IMPROVEMENT.

AN ACT in relation to the Des Moines River Improvement, and abolishing the Office of Commissioner thereof.

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

SECTION 1. **Lands to pay liabilities—where set apart.** That the fifty thousand acres of land to be set apart by the register of the state land office under the second section of an act of the general assembly, approved March 22d, 1858, entitled "an act disposing of the grant of land made by an act of congress, granting land to the territory of Iowa to aid in the improvement of the navigation of the Des Moines river," shall be taken from the lands next above those transferred by the state to the Des Moines navigation and railroad company by the terms of settlement with that company, authorized by joint resolution of the general assembly, approved March 22d, 1858.

SEC. 2. **Completion of dams.** That the uncompleted dams to be built by [19] the Keokuk, Fort Des Moines and Minnesota Railroad Company as provided by the said second section of the act above referred to, shall be completed as follows: that is to say, the dam at Keosauqua shall be completed in one year after the lands granted to said railroad company by said act shall have been certified by the general government to the state of Iowa, or otherwise become the property of said company, and the dam at Plymouth and the other works within two years after the lands shall have been certified as aforesaid.

SEC. 3. **Office of comm r abolished.** That the office of commissioner of the Des Moines River Improvement be, and the same is hereby abolished.

SEC. 4. **Com'rs appoint'd to ascertain liabilities.** That Geo. G. Wright, of Van Buren county, Edward Johnston, of Lee county, and Christian W. Slagle, of Jefferson county, be, and they are hereby appointed a board of commissioners for the purpose of ascertaining all the liabilities whether in suit or otherwise, against said Des Moines River Improvement, and against the state of Iowa, growing out of said improvement, and which are to be paid by the Keokuk, Fort Des Moines and Minnesota Railroad Company, as provided by the said second section of the act of the 22d of March, 1858, above referred to.

SEC. 5. **Meeting of commissioners.** Said commissioners, or a majority of them shall meet at the city of Keosauqua, in the county of Van Buren, within

six months after the passage of this act, or as soon thereafter as practicable; and shall organize the board by taking an oath that they will well and truly discharge the duties imposed upon them by this act.

SEC. 6. Notice to claimants. After having organized, said commissioners shall give public notice of the time and place of their meeting, and the objects of the commission, by a general notice to all persons claiming to be entitled to be paid by the provisions of the said section of the said act of March 22d, 1858, that unless they present their claims within six months after the time fixed in said notice for the meeting of the board, they will not thereafter be received or acted upon, but forever barred; which notice [20] shall be published for at least four weeks in some newspaper published at the county seat of Van Buren co., and a newspaper published in the city of Keokuk.

SEC. 7. Com'rs, a court to det'rmine the right of claimants. After said notice shall have been given, said commissioners, or a majority of them, shall meet at the time and place appointed by said notice, and proceed to hear testimony and decide upon the validity of all claims presented which are legal and equitable, and the amount thereof, which decision shall be final and conclusive, and may adjourn from time to time during and after the said six months from the time of their meeting, until they shall have decided upon all the claims presented within said six months; and at any time during said six months, when said board shall not be in session, claims may be filed with the clerk of the district court of the county in which the board sits, and it shall be the duty of said clerk to present said claims so filed to the said commissioners at their first meeting thereafter. Said commissioners shall have power to administer oaths, and to compel the attendance of witnesses and the production of papers, and the sheriff of the county in which the board sits shall serve and execute the necessary processes, when required by said commissioners, and all claims not presented within the said six months shall be forever barred.

SEC. 8. Register of state land office to audit claims—claims paid by K., Ft. D. & M. R. R. Co. When any of the claims aforesaid shall have been decided, the commissioners shall report the same to the register of the state land office, who shall audit said claims and none others, in accordance with the second section of the said act of the 22d of March, 1858, and it shall be the duty of the Keokuk, Ft. Des Moines and Minnesota Railroad Company, to pay said liabilities so audited, one-half within one year, and one-half within two years after the aforesaid lands shall have been certified to the state of Iowa, or otherwise become the property of said company, with ten per cent. interest thereon from the time said claims were audited.

SEC. 9. Register to certify lands to K., Ft. D. & M. R. R. Co. For every three thousand dollars worth of work done on the locks and dams, and for every three thousand dollars of said audited liabilities paid by the [21] said Keokuk, Fort Des Moines and Minnesota Railroad Company, in accordance with the second section of the said act of March 22d, 1858, the register of the state land office shall certify to said company 1,000 acres from said 50,000 acres of land.

SEC. 10. Comm'rs to complete dams upon the failure of the K., Ft. D. & M. R. R. Co. In case said Keokuk, Fort Des Moines and Minnesota Railroad Company shall not complete said dams or pay said audited liabilities as hereinbefore provided, then the said commissioners shall proceed to complete said dams and pay said liabilities by the sale or mortgage of so much of said fifty thousand acres of land as may be necessary for that purpose, provided that said commissioners may give said railroad company further time for the completion of said dams, if in their opinion the said company shall have

proceeded in the construction thereof in good faith, and that said further time is necessary.

SEC. 11. The state shall sell water power and land—dams to be kept in repair—tolls—state not to be liable—proceeds arising from sale of water power. Said commissioners shall, as soon after the organization of the board as may be expedient, proceed to sell all the interest of the state in all such locks and dams belonging to the Des Moines River Improvement and the land appertinent thereto, and the water power thereto belonging, as shall have been completed by the state or by the said railroad company; and shall also sell the dams and water power at Keosauqua and Plymouth in the same manner, when said dams shall have been completed, and shall make conveyances in the name of the state without warranty to the purchasers of the interest so sold, containing covenants on the part of said purchasers that they and their heirs and assigns shall and will forever keep said locks and dams in good repair, and that they will at all reasonable times pass boats through said locks, and charge only such tolls as may be agreed upon between said commissioners and the purchasers, not exceeding the maximum rates prescribed in the contract by the state with the Des Moines Navigation and Railroad Company, which conveyances shall also be executed by the purchasers as parties of the second part thereto, and said sale shall be made upon such terms as will secure the state against all liability upon [22] any leases or contracts for water power heretofore executed between the officers of the improvement and individuals, and the proceeds of said sales shall be applied first to the payment of the expenses of said sales, second to the payment of said commissioners, third to the payment of damages for any lands condemned, and fourthly, any balance that may remain shall be paid on the audited claims herein provided for.

SEC. 12. Com'rs compensation. Said commissioners shall receive five dollars per day for the time actually employed in said commission: Provided, that the aggregate per diem of each of said commissioners shall not exceed three hundred dollars; which, if not paid by the proceeds of the sales aforesaid, shall be paid by the said Keokuk, Fort Des Moines and Minnesota Railroad Company, as one of the audited claims hereinbefore provided for.

SEC. 13. Materials to be relinquished to the K., Ft. D. & M. R. R. Co. That all the stone, timber and other materials belonging to said Des Moines Improvement, and not necessary to be used in the construction of the locks and dams provided for in the second section of the said act of the 22d of March, 1858, are hereby relinquished and transferred to the Keokuk, Fort Des Moines and Minnesota Railroad Company.

SEC. 14. Vacancy of commissioners to be fil'd by appointment by the governor. In case of the death, resignation, or refusal to act, of any of said commissioners, it shall be the duty of the governor to fill such vacancy by appointment.

SEC. 15. Com'rs may purchase lands adjacent to dams. Said commissioners shall have power to procure for the state at any one of said points where dams are or may hereafter be erected, the land upon which any part of any lock or dam, or abutment, is or may be erected, and also a sufficient quantity of land at and adjacent to said dams, not exceeding two acres in extent on each side of the river, to make the water power created by said dam available and of value to the state, by condemning said land in the same manner as is or may be provided by law for condemning land for right of way for railroads; and any damages which may be awarded to the owners of such lands, shall be paid out of the proceeds of the sale of the dam and water power for the benefit of which said land is condemned; the [23] possession of said lands not to be taken after the condemnation until the damages are paid.

SEC. 16. This act to be in force from and after its publication in the Iowa State Register and the Keosauqua Republican.

Approved March 3d, 1860.

I hereby certify that the foregoing act was published in the Iowa State Register March 14th, 1860, and in the Keosauqua Republican March 16th, 1860.

ELIJAH SELLS,
Secretary of State.

[S. F. 142.]

CHAPTER 17.

[Chap. 26.]

DUBUQUE & PACIFIC RAILROAD COMPANY.

AN ACT extending the time for completion of 75 miles of Road by the Dubuque and Pacific Railroad Company.

WHEREAS, It has been represented that the Dubuque and Pacific Railroad Company did not complete seventy-five continuous miles of said road by the first day of December last, as required by the 8th section of the act approved fourteenth July, A. D. 1856, commonly called the land grant act, but have since completed the same; therefore,

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

SECTION 1. **Legalizing.** That said subsequent completion of said seventy-five miles shall be deemed a substantial compliance with the provisions of said section by said company.

SEC. 2. **Take effect.** This act to take effect from and after its publication in the Iowa State Register and the Dubuque Herald, at the expense of said company.

Approved March 7th, 1860.

I hereby certify that the foregoing act was published in the Iowa State Register March 14th, 1860, and in the Dubuque Herald March 14th, 1860.

ELIJAH SELLS,
Secretary of State.

[24] [S. F. 82.]

CHAPTER 18.

[Chap. 28.]

AN ACT to amend an act entitled "An act to authorize the Dubuque and Pacific Rail Road Company, and others, to bridge the Mississippi River at Dubuque.

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

SECTION 1. **Locat'n of bridge.** That section one (1,) of an act entitled "An act to authorize the Dubuque and Pacific Rail Road Company, and others, to bridge the Mississippi river at Dubuque," which became a law on the 22d day of March, A. D. 1858, is hereby amended so as to read as follows, to-wit: That the Dubuque and Pacific Railroad Company, or its assigns, shall have the right to construct a railroad bridge across the Mississippi river at Dubuque; said bridge shall not be below the depot grounds now occupied by said company on the island in said city, nor above *the present north limits of said city.*

SEC. 2. **Bridge to be commenced within five years.** That section four of said law entitled as aforesaid, be so amended that said bridge shall be commenced within five years from the date of this law.

SEC. 3. This act shall be in force from and after its publication according to law.

Approved March 9, 1860.

[S. F. 74.]

CHAPTER 19.

[Chap. 30.]

APPROPRIATION TO WILLIAM M'HARGUE.

AN ACT to pay the claim of William McHargue.

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

SECTION 1. **School fund, \$146.66 to be paid by treasurer of Wayne county.** That the treasurer of Wayne county, Iowa, be and is hereby directed to pay Wm. McHargue or order, the sum of one hundred and forty-six dollars and sixty-six cents, out of the school funds in his hands, in manner as follows: One hundred dollars out of the permanent school fund, and forty-six dollars and sixty-six cents out of any temporary fund not otherwise appro- [25] -priated, being the sum of one hundred dollars having been paid to the school fund commissioner of Wayne county, for lands which, at the time of the payment of said money, was believed to belong to the school fund of the state.

SEC. 2. The treasurer of said county shall take duplicate receipts for the same sums of money, one of which shall be immediately forwarded to the auditor of state.

Approved March 9th, 1860.

[H. F. 219.]

CHAPTER 20.

[Chap. 31.]

NOAH D. HASKALL'S NOTARIAL ACTS LEGALIZED.

AN ACT to legalize the acts of Noah D. Haskall, a Notary Public in Polk county, Iowa.

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

SECTION 1. That all official acts of Noah D. Haskall, as a notary public within and for Polk county, in this state, done or performed subsequent to the 7th day of June, A. D. 1858, be and the same are hereby declared legal and binding in law and equity, as fully and completely as though the said Noah D. Haskall had given bond and otherwise qualified as required of notaries public by law.

SEC. 2. All acts and parts of acts coming in conflict with the provisions of this act are hereby repealed.

SEC. 3. This act to take effect and be in force from and after its publication in the Daily Iowa State Register, and Daily Iowa State Journal, anything in section 26 of the code to the contrary notwithstanding.

Approved March 12, 1860.

I hereby certify that the foregoing act was published in the Daily Iowa State Journal March 14th, 1860, and in the Iowa State Register March 21st, 1860.

[26] [H. F. 6.]

CHAPTER 21.

[Chap. 32.]

PAUL C. JEFFRIES.

AN ACT to repeal an Act entitled "An Act to authorize Paul C. Jeffries to transcribe and index certain records of Wapello County."

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

SECTION 1. **Repealing chap. 74 6th general assembly.** That chapter 74 of the laws of the sixth general assembly, entitled an act to authorize Paul C.

Jeffries to transcribe and index certain records of Wapello county, be and the same is hereby repealed.

Approved March 12, 1860.

[H. F. 60.]

CHAPTER 22.

[Chap. 33.]

PAY MAJOR WILLIAMS AND OTHERS.

AN ACT to pay Major William Williams, and others, for service and supplies, Spirit Lake Expedition, 1857.

WHEREAS, Major William Williams did, by authority of the governor of the state of Iowa, in the year 1857, enroll three companies of men in the service of the state, and furnished supplies, and employed teams and teamsters in said service, in an expedition for the relief of citizens of Dickinson county, in the state of Iowa; and whereas the federal government has provided for the payment of a part of said service and supplies, leaving a part entirely unpaid and unprovided for; therefore,

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

SECTION 1. **Procure copies of claims filed with the war department.** That the governor of the state of Iowa, procure from the proper department of the federal government, copies of all claims audited by said department, and all papers that may be on file in said department necessary for carrying into effect the provisions of this act properly certified by said department.

[27] SEC. 2. **Governor shall audit and notify claimants.** That the governor, so soon as he shall have procured such copies as provided for in section one of this act, shall audit said claims and amounts unpaid thereon, and shall notify the persons to whom such claims are due by such notice as to him may seem expedient.

SEC. 3. **Gov. issue certificate.** That upon application to the governor as aforesaid of any person or persons by themselves, their executors, assignees or attorneys, and he shall be satisfied that they are or do legally represent the person or persons to whom the claim or claims mentioned in section two of this act do legally belong, and that they are or do legally represent the owners thereof, he shall issue a certificate to such persons, their executors or assignees showing the amount due, and for what due, and shall take from such person or persons, receipt or receipts showing such claim or claims fully settled.

SEC. 4. **Aud. issue warrants.** That upon presentation of the certificate mentioned in section three of this act to the auditor of state, he shall issue his warrant to the person or persons named in said certificate for the amount therein stated, and deliver the same to such person or persons.

SEC. 5. **Treas. pay.** That upon the presentation of said warrant mentioned in section four of this act by the person therein named, or his assignee, to the treasurer of state, he shall pay the same out of any money in the state treasury not otherwise appropriated.

SEC. 6. **Appropriation.** That the sum of three thousand dollars, or so much thereof as shall be necessary, be and the same is hereby appropriated to carry into effect the provisions of this act.

SEC. 7. **Take effect.** This act to take effect and be in force from and after its publication in the Weekly Iowa State Journal and Weekly Iowa State Register.

Approved March 12th, 1860.

I hereby certify that the foregoing act was published in the Iowa State Journal March 17th, 1860, and in the weekly Iowa State Register March 21, 1860.

ELIJAH SELLS,
Secretary of State.

[28] [S. F. 80.]

CHAPTER 23.

[Chap. 35.]

ESCHEAT, MARTIN M'HUGO.

AN ACT to release to Martin McHugo the right of the State by escheat to a parcel of land in Henry County, Iowa.

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

SECTION 1. **Land of Michael McHugo, deceased**—released to **Martin McHugo**. That any interest acquired by the state of Iowa, in and to the south-east fourth of the south-west quarter of section thirty-two, (32) in township seventy-two, (72) north of range five (5) west in Henry county, Iowa, by the death of Michael McHugo, he having no heirs capable of inheriting the title to said land, be and the same is hereby released to Martin McHugo, the brother of the deceased.

SEC. 2. This act shall take effect and be in force from and after its publication according to law.

Approved March 13, 1860.

[H. F. 271.]

CHAPTER 24.

[Chap. 37.]

APPROPRIATION MILEAGE 8TH GENERAL ASSEMBLY.

AN ACT making appropriation for the payment of the mileage of members of the Eighth General Assembly.

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

SECTION 1. That the following sums, or so much thereof as may be necessary, be and the same are hereby appropriated for the purposes hereinafter specified.

SEC. 2. **Senate, \$2064.** For payment of mileage of members of the senate, including the lieutenant governor, the sum of two thousand and sixty-four dollars.

SEC. 3. **House, \$4,090.50.** For payment of mileage of members of the house of representatives, four thousand and ninety dollars and fifty cents.

SEC. 4. **Pay according to the report of committee on mileage.** The money appropriated by this act shall [29] be paid by the treasurer of state out of the treasury upon the warrant of the auditor of state, who shall issue his warrant to the members of the senate and house, including the lieutenant governor, for the amount due to each as shown by the reports of the committee on mileage of the branch of the general assembly of which such person is a member, and it is hereby made the duty of the president and secretary of the senate, and of the speaker and clerk of the house, to furnish immediately to the auditor of state a copy of the report of the committee on mileage of their respective houses, which copy shall be certified to be correct by the officers herein required to furnish them.

SEC. 5. **Take effect.** This act to take effect and be in force immediately from and after its publication in the Daily Iowa State Register and Daily State Journal, newspapers published in the city of Des Moines, Iowa, anything in section 21 of the code to the contrary notwithstanding.

Approved March 17th, 1860.

I hereby certify that the foregoing act was published in the Daily Iowa State Register March 21st, 1860, and in the Daily State Journal March 22, 1860.

ELIJAH SELLS,
Secretary of State.

[H. F. 112.]

CHAPTER 25.

[Chap. 39.]

RESUMPTION OF LANDS CONFERRED UPON THE IOWA CENTRAL AIR LINE
R. R. CO.

AN ACT to resume all rights conferred upon the Iowa Central Air Line Railroad Company, by an act Approved July 14th, 1857, and to repeal certain laws in relation thereto.

WHEREAS, By the act of congress approved May 15th, 1856, there were granted to the state of Iowa, certain lands to aid in the construction of certain railroads in said state, upon certain terms, conditions and restrictions under which said lands might be disposed of; and

[30] WHEREAS, The general assembly of the state of Iowa, by an act approved July 14th, 1856, accepted said grant of lands upon the terms, conditions and restrictions contained in said act of congress, and contracted with the Iowa Central Air Line Railroad Company for the sale upon certain terms of that portion of said lands granted by said act of congress, to aid in the construction of a railroad from Lyons City, north westerly to a point of intersection with the main line of the Iowa Central Air Line Railroad near Maquoketa, thence on said main line running as near as practicable to the forty second parallel across the said state to the Missouri river; in consideration of the undertaking on the part of said company, and subject to the conditions and restrictions contained in said act, and the act of congress aforesaid; and

WHEREAS, The said Iowa Central Air Line Railroad Company has wholly failed to perform on their part, the conditions of said acts, and has utterly failed to construct any part of said railroad as required by law, and by the terms of their contract; and has failed to complete and equip any portion of said road, thereby at the option of said state, annulling all their rights to the lands and privileges, under and by virtue of said acts by reason whereof the state of Iowa has the right to resume all said rights and privileges, and all the rights in relation to said lands so as aforesaid conferred upon said company by said state; and

WHEREAS, No part of said lands have been actually conveyed by this state to said company, nor by said company disposed of pursuant to the provisions of said acts; and inasmuch as the interest of the state in said lands and the construction of the road to aid which said lands were granted by congress, as also the good faith of the state in executing the trust confided to it by congress, require that the state should resume said rights and privileges, and all rights to the lands aforesaid. Now therefore,

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

SECTION 1. **Resumed by the state.** That all rights to the lands, interests, rights, powers and privileges heretofore conferred or intended to be upon the Iowa Central Air Line Railroad Company, by an act approved July 14th, 1856, entitled "an act to accept of the grant and carry into execution the trust conferred upon the state of Iowa by an act of congress entitled "an act making a grant of lands to the state of Iowa in alternate sections to aid in the construction of certain railroads in said state, approved May 15th, 1856," be and the same are hereby absolutely and entirely resumed by the state.

SEC. 2. **Repealed.** The fourth section of said act approved July 14th, 1856, and all other acts and parts of acts inconsistent with this act are hereby repealed.

SEC. 3. **Take effect.** This act shall take effect and be in force from and after its publication in the Daily Iowa State Register and Daily Iowa State Journal, published at the city of Des Moines.

Approved March 17th, 1860.

I hereby certify that the foregoing act was published in the Daily Iowa State Register March 21st, 1860, and in the Daily Iowa State Journal March 22d, 1860.

ELIJAH SELLS,
Secretary of State.

[H. F. 178.]

CHAPTER 26.

[Chap. 40.]

SIoux CITY.

AN ACT to legalize the levy of Road Tax in Sioux City for the year 1859.

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

SECTION 1. **Legalize levy of tax.** That the road tax levied for the year 1859 by the trustees of Sioux City township, in Woodbury county, Iowa, upon the property within the corporate limits of Sioux City, be and hereby is declared to be legal and binding, and shall be collected in all respects and in like manner as if said tax had been duly levied by the corporate authorities of Sioux City.

SEC. 2. **Take effect.** This act shall take effect from and after its [32] publication in the Iowa State Register and Sioux City Register, at the expense of Sioux City.

This bill having remained with the Governor three days, Sunday excepted, the General Assembly being in Session, has become a law this 20th day of March, 1860.

ELIJAH SELLS,
Secretary of State.

[S. F. 93.]

CHAPTER 27.

[Chap. 41]

DAVID C. SPERRY'S NOTARIAL ACTS LEGALIZED.

AN ACT legalizing the acts of David C. Sperry, of Fayette County, Iowa, as a notary public.

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

SECTION 1. That the official acts of David C. Sperry, a notary public appointed for Fayette county, Iowa, on the 22d day of February, 1858, be and the same are hereby legalized.

SEC. 2. This act to take effect and be in force from and after its publication in the Fayette County Pioneer and the Fayette County Public Review, newspapers published in Fayette county, Iowa, and the Iowa State Register, without expense to the state.

This bill having remained with the Governor three days, Sunday excepted, the General Assembly being in Session, has become a law this 20th day of March, 1860.

ELIJAH SELLS,
Secretary of State.

I hereby certify that the foregoing act was published in the Iowa State Register March 28th, 1860.

ELIJAH SELLS,
Secretary of State.

[S. F. 33.]

CHAPTER 28.

[Chap. 42.]

SCHOOL LANDS.

AN ACT to amend Chapter one hundred and seven of the acts of the Sixth General Assembly, entitled an act to legalize the sale of school lands made by John Jordon, School Fund Commissioner of Decatur county, Iowa.

Be it enacted by the General Assembly of [33] the State of Iowa,

SECTION 1. **Legalizing sales by Jon. Jordon school F. commissioner, Decatur county.** That section one of chapter one hundred and seven of the acts of the sixth general assembly, be amended as follows: That all private sales of school lands made by John Jordan, school fund commissioner of Decatur county, Iowa, from the first day of February to the twentieth day of the same month in the year 1855.

This bill having remained with the Governor three days, Sunday excepted, the General Assembly being in Session, has become a law this 20th day of March, 1860.

ELIJAH SELLS,
Secretary of State.

[S. F. 149.]

CHAPTER 29.

[Chap. 44.]

SCHOOL DISTRICT IN DAVIS COUNTY.

AN ACT to legalize the acts of the Bloomfield Township School District, in Davis County.

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

SECTION 1. **Acts legalized.** That all acts done and collections made by the school board of Bloomfield town district, in Davis county, Iowa, comprising the sub-districts Nos. eight, nine, ten and eleven, of said school district, organized under an act entitled an act to provide for the public instruction of the state of Iowa, approved December 24th, 1858, be and the same are hereby legalized as though said district had been legally organized under act No. 11 of the acts of the board of education, approved December 24th, 1858.

SEC. 2. **Take effect.** This act to be in force from and after its publication in the Iowa State Register and Bloomfield Clarion.

This bill having remained with the Governor three days, Sundays excepted, the General Assembly being in session, has become a law this 21st day of March, 1860.

ELIJAH SELLS,
Secretary of State.

I hereby certify that the foregoing act was published in the Iowa State Register March 28th, 1860.

ELIJAH SELLS,
Secretary of State.

[34] [H. F. 272.]

CHAPTER 30.

[Chap. 45.]

CODE OF CIVIL PRACTICE.

AN ACT to repeal part of section 845 of Chapter 31 of the Code of Civil Practice.

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

SECTION 1. **Fee of five dollars not to be taxed with the cost.** That the following words be and they are hereby stricken out of section 845 of chapter

31 of the code of civil practice passed at the present session of the legislature, namely: When any party recovers costs, the clerk shall include in the costs for the fee of such party's attorney, (if he have one) five dollars, and no attorney's fee, or part thereof, shall in any case be taxed as costs against the losing party, anything in the code of civil practice to the contrary notwithstanding.

This bill having remained with the Governor three days, Sunday excepted, the General Assembly being in Session, has become a law this 22d day of March, 1860.

ELIJAH SELLS,
Secretary of State.

[H. F. 376.]

CHAPTER 31.

[Chap. 48.]

ELEVENTH JUDICIAL DISTRICT.

AN ACT to amend an act fixing the times of holding Courts in the Eleventh Judicial District.

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

SECTION 1. **Change time of holding court in Hardin county.** That the sixth sub-division of chapter two of the acts of the eighth general assembly, approved January 19, 1860, entitled "An act fixing the times of holding courts in the eleventh judicial district," be amended as follows: At Eldora in the county of Hardin, commencing on the fifth Monday after the first Monday of April and September in each year; provided that all actions commenced in said court since the approval of the act to which this is amendatory and prior to the first day of May, 1860, [35] shall be tried as though this amendment had not been made.

SEC. 2. So much of said chapter two as is inconsistent with this act is hereby repealed.

SEC. 3. **Take effect.** This act shall take effect from and after its publication in the Daily Iowa State Register and the Daily Iowa State Journal, anything in section twenty-one of the code, to the contrary notwithstanding.

Approved March 22, 1860.

I hereby certify that the foregoing act was published in the Daily Iowa State Register March 26th, 1860, and in the Daily Iowa State Journal March 26, 1860.

ELIJAH SELLS,
Secretary of State.

[H. F. 53.]

CHAPTER 32.

[Chap. 50.]

AN ACT making appropriations to meet the expenses of the Deaf and Dumb Asylum.

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

APPROPRIATION DEAF AND DUMB ASYLUM.

SECTION 1. **\$7,000 for 1860—\$7,500 for 1861—paid quarterly—\$500 for deficiencies 1859.** That to meet the ordinary and contingent expenses of the institution of the deaf and dumb asylum for the next two years, including rents, provisions, school apparatus, salaries and clothing for pupils, when necessary, there be and is hereby appropriated for the year commencing on the first day of January, A. D. 1860, the sum of seven thousand dollars, and for the year commencing on the first day of January, A. D. 1861, the sum of

seven thousand five hundred dollars, which appropriations shall be audited and paid by the state treasurer in quarterly instalments in advance, out of any money in the treasury not otherwise appropriated, but the same shall not be drawn unless the same shall be at the time when drawn actually necessary for the maintenance of said asylum, and shall be expended under the direction of the trustees of said institution; and there is hereby appropriated [36] the further sum of five hundred dollars to meet the deficiency in the appropriation heretofore made for the support of said asylum for the year commencing on the first day of January, A. D., 1859, which sum shall be audited, paid and expended, as hereinbefore prescribed.

SEC. 2. **Take effect.** This act shall take effect and be in force from and after its publication in the Iowa State Register and Iowa State Journal.

Approved March 22d, 1860.

I hereby certify that the foregoing act was published in the Iowa State Register March 28th, 1860, and in the Iowa State Journal April 7th, 1860.

ELIJAH SELLS,
Secretary of State.

[H. F. 232.]

CHAPTER 33.

[Chap. 51.]

RELIEF SPIRIT LAKE VOLUNTEERS.

AN ACT for the relief of Michael Sweeney and others.

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

SECTION 1. **The governor to audit claims.** That upon proof satisfactory to the governor, made in such form as he shall direct, that Michael Sweeney, Henry E. Dally, William L. Defore and A. S. Leonard, members of the Spirit Lake expedition under Major Wm. Williams, and other members of said company whose names appear on the original list as furnished to the governor, and that they are fully entitled to relief for services therein rendered, or supplies furnished, he shall audit their claims; and the same when audited and allowed shall be paid in manner and form as provided in the act entitled "an act to pay Maj. Wm. Williams, &c.

SEC. 2. **Jacob Funk.** That in manner provided in section one of this act, Jacob M. Funk may make proof of supplies furnished the said expedition, which when audited in like manner shall be paid in like manner.

[37] SEC. 3. **From what fund paid.** That these claims shall be paid out of the appropriation made by this general assembly for the pay of Maj. Wm. Williams.

SEC. 4. **Take effect.** This act to be in force after its publication in the Iowa State Register and Iowa State Journal.

Approved March 22d, 1860.

I hereby certify that the foregoing act was published in the Iowa State Journal April 7th, 1860, and in the Iowa State Register April 4th, 1860.

ELIJAH SELLS,
Secretary of State.

[S. F. 76.]

CHAPTER 34.

[Chap. 52.]

PENITENTIARY.

AN ACT making appropriations for general support of the Iowa Penitentiary, to supply deficiency in the appropriation made by the Seventh General Assembly.

WHEREAS, The appropriation made by the 7th general assembly for the support of the Iowa penitentiary proved insufficient for the purpose and it being absolutely necessary that funds should be used for such support over and

above the amount so appropriated, to provide the convicts with the necessary provisions and prevent suffering, or otherwise the payment of exorbitant prices for provisions and supplies, and thereby causing an increased expense to the state; and

WHEREAS, Under this state of facts the governor of the state, with the concurrence of the auditor and treasurer, did take of the state revenue whilst in transitu from the county treasurers to the state treasury, the sum of six thousand five hundred dollars, and apply the same to the general support of said prison. Therefore

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

SECTION 1. Legalizing the acts of the gov. in providing means for the support of the penitentiary. That the said sum of six thousand five hundred dollars, be and is hereby appropriated to [38] balance said expenditure, and be it further enacted, that the action of the governor herein be legalized and that the auditor of state be and is hereby authorized and required to issue a warrant for said amount, and charge the same to the penitentiary on account of general support, and charge the state treasurer with said sum on the presentation of his receipt to the bank from which the funds were taken.

SEC. 2. This act shall be in force and take effect when published according to law.

Approved March 23rd, 1860.

[H. F. 229.]

CHAPTER 35.

[Chap. 53.]

COMMISSIONER DES MOINES RIVER IMPROVEMENT.

AN ACT making provision for the payment of the salary of the Commissioner of the Des Moines River Improvement, and requiring the Keokuk, Fort Des Moines and Minnesota Railroad Company to pay the amount of said salary into the State Treasury.

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

SECTION 1. 460,00—Wm. C. Drake. That there be and is hereby appropriated out of the state treasury, the sum of fourteen hundred and sixty dollars, to pay the salary of William C. Drake, commissioner of the Des Moines River Improvement, from the first day of January, 1859, up to the time said office was abolished, and the auditor of state is hereby directed to draw a warrant on the treasurer in favor of said Drake for said sum.

SEC. 2. Referred to the state—salary and interest. The Keokuk, Ft. Des Moines & Minnesota Railroad Company, are hereby required to pay into the state treasury of this state, the amount of money appropriated by the first section of this act, to pay the salary of said commissioner, with ten per cent interest thereon from the time this act takes effect, within one year after the lands granted to said railroad company by an act entitled "an act disposing of the grant of land made by act of congress granting land to the territory [39] of Iowa, to aid in the improvement of the navigation of the Des Moines river," approved March 22d, 1858, shall have been certified to the state of Iowa, or otherwise become the property of said company.

SEC. 3. R. R. Co.—failure to refund proceed by sale or mortgage. In case said railroad company fail to pay said sum of money into the state treasury, as provided in section two of this act, then the commissioners appointed by an act entitled "an act in relation to the Des Moines River Improvement, and abolishing the office of commissioner thereof," approved March 3, 1860, shall proceed by the sale or mortgage of lands, as provided for in section ten of

said act last named, to raise said sum and pay the same into the state treasury.

SEC. 4. **Take effect.** This act to take effect and be in force from and after its publication in the Daily Iowa State Register and Daily Iowa State Journal, anything in section twenty-one of the code to the contrary notwithstanding.

Approved March 24, 1860.

I hereby certify that the foregoing act was published in the Daily Iowa State Register March 28th, 1860, and in the Daily Iowa State Journal March 27th, 1860.

ELIJAH SELLS,
Secretary of State.

[H. F. 166.]

CHAPTER 36.

[Chap. 57.]

DUBUQUE & PACIFIC RAILROAD COMPANY.

AN ACT entitled an act declaratory of the meaning of an act entitled an act for extending the time of completion of 75 miles of road by the Dubuque and Pacific Railroad Company, approved 7th March, 1860.

WHEREAS, the first section of the act above recited reads as follows:

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

That said subsequent completion of said seventy-five miles shall be deemed a substantial compliance with the provisions of said section by said company. deemed a substantial compliance with the provisions of said section by said company.

Now, therefore,

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

SECTION 1. **Acceptance of completion 75 miles of road as substanti'l compliance with the law.** That said first [40] section shall be considered, and is hereby declared to mean, that said completion of said seventy-five miles by said company shall be deemed to be a substantial compliance by said company with that portion of said 8th section which required seventy-five miles of said road to have been finished by the first day of December last.

SEC. 2. **Take effect.** That this law shall be in force from and after its publication in the Iowa State Register and Dubuque Herald, at the expense of said railroad company.

Approved March 26th, 1860.

I hereby certify that the foregoing act was published in the Iowa State Register April 4th, 1860.

ELIJAH SELLS,
Secretary of State.

[H. F. 266.]

CHAPTER 37.

[Chap. 59.]

CEDAR RAPIDS AND MISSOURI RIVER R. R. COMPANY.

AN ACT to carry into execution the trust conferred upon the State of Iowa, in respect to the lands granted by an act of Congress, approved May 15th, 1856, to aid in the construction of a Railroad from Lyons City, across the State of Iowa, and near the forty-second parallel to the Missouri River.

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

SECTION 1. **Lands granted to I. C. A. L. R. R. Co., granted and conferred to and upon the C. R. & Mo. R. R. Co.—lands not to be applied to the payment of former debts—title not guarantied.** That so much of the lands, interests, rights, powers, and privileges as have been or may be granted and conferred in pursuance of the act of congress, entitled "an act making a

grant of lands to the state of Iowa, in alternate sections, to aid in the construction of railroads in said state, approved May 15th, 1856, to aid in the construction of a railroad from Lyons City, north-westerly to a point of intersection with the main line of the Iowa Central Air Line railroad, near Maquoketa; thence on said main line running as near as practicable to the forty-second parallel across the state of Iowa to the Missouri river, are hereby disposed of, granted and conferred to and upon the Cedar Rapids and Missouri River Railroad Company, a body corporate, created and existing under the laws [41] of the state of Iowa, *Provided*, however, that no portion of the grants of land provided for in this act shall be applied to the liquidation of any debt or obligation heretofore made or contracted by the said Cedar Rapids and Missouri River Railroad Company, or of the Chicago, Iowa and Nebraska Rail Road Company; *Provided*, further, that it is hereby declared to be the true intent and meaning of this act, that the state of Iowa according to the conditions herein specified—conveys and grants to the Cedar Rapids and Missouri River Rail Road Company, her right, title to and interest in the aforesaid lands, and nothing more; and in no event shall said company have any claim or recourse against the state for any defect in the title or conveyance of said lands.

SEC. 2. 40 miles to be completed the first year after Dec. 1860. 30 miles each year thereafter for 2 years—penalty for failure. The grant by this act conferred upon said company is made upon the express condition that in case said company shall fail to have completed and equipped forty miles of its road along the route aforesaid, and west from some convenient point on the Cedar river, near the 42d parallel, within one year from the first day of December next, after the passage of this act, thirty miles in addition, each year thereafter, for two years, and the remainder of their whole line of road in two years thereafter, or by the first day of December, 1865, then and in that case it shall be competent for the state of Iowa to resume all rights conferred by this act upon said company so failing, and to resume all rights to the lands hereby granted and remaining undisposed of to the company so failing to have the length of road completed in manner and time as aforesaid.

SEC. 3. Highways for the use of the government of the U. S. paid from toll—acceptance in writi'g filed with sec. of state. The provisions of the ninth, tenth, eleventh, twelfth, thirteenth, fourteenth and fifteenth sections of the first chapter of the laws of Iowa, passed at the extra session of the fifth general assembly, and approved July 14th, 1856, so far as the same are applicable to this company under the provisions of this act, and the one hundred and eighty second chapter of the laws of this state, enacted by the sixth general assembly, and approved January 28th, 1857; and the eighty-[42] fifth chapter of the laws of this state, enacted by the seventh general assembly, and approved March 20th, 1858, so far as said enactments are not inconsistent with the provisions of this act, be and the same are hereby made applicable to this company, receiving the benefits of the grant hereby conferred; and it is further provided, that said railroad shall be and remain a public highway for the use of the government of the United States, free from toll or other charge upon the transportation of any property or troops of the United States; and if the said company shall accept this grant upon the condition aforesaid, which acceptance shall appear by an express writing, under the seal of said corporation, with the signatures of its president and secretary, and shall be filed in the office of the secretary of the state of Iowa, within ninety days after the approval of this act by the governor, it shall take the same with the conditions imposed, and incumbrances specified in this act; and shall in no event have any claim or recourse whatever upon the state of Iowa, for a misapplication of said grant, incumbrances or conditions in this act imposed.

SEC. 4. **Full amount of land to be certified for the first three secs. of 20 mil's each, there after apportionments pro rata.** It is hereby further provided, that said Cedar Rapids and Missouri River Railroad Company shall be entitled to the full amount of land authorized by said act of congress, as the work progresses, for the first three sections of road, of twenty miles each, which shall be constructed by said company; but thereafter as the work progresses, they shall be entitled to an equal pro rata apportionment of the lands remaining subject to appropriation in aid of this work, to be ascertained by a division of the quantity of lands so remaining by the number of whole sections of twenty miles each, extending from the point of construction then reached to the Missouri river.

SEC. 5. **No title giv'n and as the work progresses—state may resume.** It is further expressly provided, that this act shall not be so construed as to give title to any portion of said lands to the company, accepting the provisions hereof, otherwise than as the work progresses, and as provided in the act of congress aforesaid, conferring the [43] lands upon the state of Iowa, namely: When they shall have completed each section of twenty miles of road aforesaid, they shall be entitled to the amount of land apportioned thereto, and not before; and they shall not become entitled to the first one hundred and twenty sections authorized by act of congress, until such first section of their road shall have been completed, at which time they shall become entitled to the first apportionment of land. Nor shall this act be so construed as in any manner to prevent the general assembly of this state from resuming, upon failure of either of the conditions named in the second section of this act, all lands to which the said company shall not have then become entitled by completion of one or more sections as aforesaid of the said road.

SEC. 6. **To build a road from Lyons to intersect the C. I. and N. R. R.—tolls shall be equal.** And it is further expressly provided that said company shall build or cause to be built before the first day of January, 1861, a railroad of like guage and equal in quality to the Chicago, Iowa and Nebraska railroad from Pearl street, in Lyons City, to a point of intersection with the said Chicago, Iowa and Nebraska railroad within the corporate limits of Clinton City, with such switches and side tracks as the business of said town of Lyons may require; and to operate or cause to be operated the same by running passenger and freight cars, of the same class with those used by the Chicago, Iowa and Nebraska railroad, in close connection forever with all regular trains at any time run on said Chicago, Iowa and Nebraska railroad, without occasioning any unnecessary delay to freight or passengers at said point of intersection; and the charge per mile for transportation of freight or passengers shall never exceed the regular charges for like service on the Chicago, Iowa and Nebraska railroad; the intent and meaning of this section being to secure to the citizens of Lyons the same privileges and benefits of a railroad connection that are enjoyed by any other place on said Chicago, Iowa and Nebraska railroad; and it is hereby expressly provided that no lands shall be certified by the governor to said Cedar Rapids and Missouri River [44] Railroad Company until they have complied with all the requirements of this section.

SEC. 7. **Work to commence on said road at Marion in Linn county.** Said company shall not commence to build or construct said road, at any point further west from the Mississippi river than the town of Marion in Linn county, Iowa, and the governor of the state shall not certify any of the lands herein transferred to said company, until that portion of the road between said town of Marion and the city of Cedar Rapids, together with so much more of said road as to make in the aggregate at least twenty miles, shall be completed, equipped and operated by said company or its successors.

SEC. 8. **Penalty for misapplication of lands.** And be it further enacted that it shall be deemed a felony for the president and directors or managers of the said rail road company accepting the grant of land to be conveyed by this act to wilfully misapply any of the land herein granted, to any other purpose than the carrying into effect the true meaning and intent of this act, and the president, directors or managers of said railroad company who may be guilty of any such wilful mis-application of the lands herein granted shall be liable to a fine of not less than five thousand dollars, or imprisonment in the county jail not less than twelve months and not more than three years, or both such fine and imprisonment at the discretion of the court before whom any case may be tried.

SEC. 9. **Cedar R. & Mo. R. Co., failing to accept, the census board may confer upon other company.** It is further expressly provided, that if said Cedar Rapids and Missouri River Rail Road Company shall fail or refuse to accept of this grant upon the conditions hereby imposed, and in time and manner, as aforesaid, the census board of this state is hereby authorized, by proper writing with the seal of state affixed thereto, to confer the same upon such party or company as shall in their judgment, be competent to carry out the enterprise hereinbefore provided for in good faith, and which shall accept the grant by a proper written instrument duly executed and attested, and shall file the same in the office of secretary of this state, subject to all the preceding sections of this act, and the same shall in that case, be applicable to such grantee, subject [45] to all the foregoing terms and conditions of this act as fully as if named and originated herein.

SEC. 10. **Take effect.** This act shall take effect and be in force from and after its publication in the Iowa State Register and in the Iowa State Journal.

Approved March 26th, 1860.

I hereby certify that the foregoing act was published in the Iowa State Journal, April 7th, 1860, and in the Iowa State Register, April 11th, 1860.

ELIJAH SELLS,
Secretary of State.

[H. F. 192.]

CHAPTER 38.

[Chap. 61.]

CITY COUNCIL OF MAQUOKETA.

AN ACT legalizing the official acts of the City Council of Maquoketa, and the election of the Mayor of said city.

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

SECTION 1. **Legalizing certain acts.** That the election of S. S. Germond, as mayor of the city of Maquoketa, on the first Monday of February, 1859, be and is hereby legalized; and all the official acts of said mayor and the city council of the city of Maquoketa, since said election, be and are hereby declared of as full force and validity in law as though the said election had been held at the time fixed by and conducted in all respects according to forms of law.

SEC. 2. **Take effect.** This act shall take effect and be in force from and after its publication in the Daily Iowa State Register and the Weekly Maquoketa Excelsior, without expense to the state.

This bill having remained with the Governor three days, Sundays excepted, the General Assembly being in session, has become a law this, the 26th day of March, 1860.

ELIJAH SELLS,
Secretary of State.

I hereby certify that the foregoing act was published in the Daily Iowa State Register April 2d, 1860.

ELIJAH SELLS,
Secretary of State.

[46] [H. F. 30.]

CHAPTER 39.

[Chap. 62.]

CHARITON, LUCAS COUNTY.

AN ACT to legalize the election of the President and the Town Council, and other officers of Chariton, Lucas county, and the official acts of the same.

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

SECTION 1. **Legalizing an electi'n and acts of incorporation.** That the election held on the 26th day of February, A. D. 1857, by authority of the county judge of Lucas county, for the purpose of incorporating the town of Chariton, and all elections subsequently held under said act of incorporation, and all official acts of the same are hereby declared to be legalized.

SEC. 2. **May amend.** Said incorporation is hereby authorized to amend its act of incorporation, so as to conform to the general act of incorporation, approved March 23d, 1858.

SEC. 3. **Take effect.** This act to take effect from and after its publication in the Iowa Patriot and Iowa State Register, free of expense to the state.

This bill having remained with the Governor three days, Sundays excepted, the General Assembly being in session, has become a law, this the 26th day of March, 1860.

ELIJAH SELLS,
Secretary of State.

I hereby certify that the foregoing act was published in the Iowa State Register May 2d, 1860.

ELIJAH SELLS,
Secretary of State.

[H. F. 383.]

CHAPTER 40.

[Chap. 63.]

H. B. HORTON'S NOTARIAL ACTS LEGALIZED.

AN ACT to legalize the acts of H. B. Horton, a Notary Public in Clinton County, Iowa.

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

SECTION 1. That all the official acts of H. B. Horton, a notary public, within and for Clinton county, and who received said appointment January [47] 26th, 1857, from James W. Grimes, then governor of of the state for the term of three years next thereafter, be and the same are hereby declared legal and binding in law and equity.

SEC. 2. This act shall take effect and be in force from and after its publication in the Iowa State Register and the Clinton Herald, without expense to the state.

This bill having remained with the Governor three days, Sundays excepted, the General Assembly being in session, has become a law, this the 28th day of March, 1860.

ELIJAH SELLS,
Secretary of State.

I hereby certify that the foregoing act was published in the Clinton Herald April 7th, 1860.

ELIJAH SELLS,
Secretary of State.

[H. F. 262.]

CHAPTER 41.

[Chap. 64.]

RELIEF OF BENJAMIN KELLER, AND OTHERS.

AN ACT for the relief of Benjamin Keller, Jr., Michael Hennelly and William Thrift.

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

SECTION 1. **Ringgold county to pay \$210,25 for arrest of horse thieves.** That the county judge of Ringgold county is hereby authorized to pay out of the county funds of said county, the sum of two hundred and ten dollars

and twenty-five cents to Benjamin Keller, Jr., Michael Hennelly and William Thrift, as expenses and costs in a certain case where the said parties arrested or caused to be arrested and delivered to the authorities of said county, two horse thieves by the names of David Franklin and Emery Strickland.

SEC. 2. This act to be in force from and after its publication in the State Register and Journal, papers published in Des Moines.

This bill having remained with the Governor three days, Sundays excepted, the General Assembly being in session, has become a law, this the 28th day of March, 1860.

ELIJAH SELLS,
Secretary of State.

I hereby certify that the foregoing act was published in the Iowa State Register April 7th, 1860.

ELIJAH SELLS,
Secretary of State.

[48] [H. F. 141.]

CHAPTER 42.

[Chap. 65.]

POOR HOUSE, SCOTT COUNTY.

AN ACT for legalizing the acts of the County Judge of Scott county, in purchasing real estate for a Poor House Farm, and in issuing bonds in payment therefor.

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

SECTION 1. **Legalize acts of co. judge in purchas'g farm.** That the purchase of real estate made by the county judge of Scott county, on or about the first day of March, A. D. 1859, comprising 110 acres in town 78 and 79, range 3 east of 5th P. M., for the purpose of a poor house farm, is hereby legalized and approved.

SEC. 2. **Bonds legalized.** That the bonds numbering 1, 2 and 3 respectively, dated March 1st, 1859, issued by the said county judge, payable to Albert Morely, T. H. Morely and John S. Seymour in ten years from date, given in payment of said real estate, are hereby legalized and confirmed.

SEC. 3. **Take effect.** This act shall take effect from and after its publication in the Iowa State Register, at Des Moines, and the Davenport Weekly Gazette, without expense to the state.

This bill having remained with the Governor three days, Sunday excepted, the General Assembly being in session, has become a law this 28th day of March, 1860.

ELIJAH SELLS,
Secretary of State.

[S. F. 113]

CHAPTER 43.

[Chap. 68.]

CITY OF GLENWOOD.

AN ACT entitled an act to legalize the city elections of the city of Glenwood, in Mills County, Iowa.

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

SECTION 1. **Electi'n legaliz d.** That the elections for city officers heretofore held in said city of Glenwood, be and the same are hereby legalized.

[49] SEC. 2. This act shall take effect and be in force from and after its publication.

This bill having remained with the Governor three days, Sunday excepted, the General Assembly being in session, has become a law this the 29th day of March, 1860.

ELIJAH SELLS,
Secretary of State.

[S. F. 107.]

CHAPTER 44.

[Chap. 69.]

HARTLAND TOWNSHIP.

AN ACT to legalize the organization of the Township of Hartland, in the County of Worth.

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

SECTION 1. **Organizati'n and elections legalized.** That the organization of the township of Hartland, in the county of Worth, on the 21st day of February, 1859, under the direction and by virtue of a warrant for that purpose, issued by the county judge of the said county of Worth, be and the same is hereby legalized, and all township elections held, and all acts performed by the citizens of said township of Hartland, under and by virtue of said organization, are hereby declared legal and of full force at law.

SEC. 2. This act to take effect and be in force from and after its publication in the Iowa State Register and Iowa State Journal.

This bill having remained with the Governor three days, Sunday excepted, the General Assembly being in session, has become a law this 29th day of March, 1860.

ELIJAH SELLS,
Secretary of State.

I hereby certify that the foregoing act was published in the Iowa State Journal April 7th, 1860.

ELIJAH SELLS,
Secretary of State.

[S. Sub. H. F. 139.]

CHAPTER 45.

[Chap. 70.]

CITY OF CLINTON.

AN ACT entitled an act to legalize the elections and organizations of Common Councils of the city of Clinton.

Be it enacted by the General Assembly [50] of the State of Iowa,

SECTION 1. **Election and organization legalized.** That the elections of said city of Clinton, and the organization of the several common councils of said city since the formation of said city government, are hereby declared legal.

SEC. 2. This act shall be in force upon its publication in the Iowa State Register and the Clinton Herald, at the expense of said city.

This bill having remained with the Governor three days, Sundays excepted, the General Assembly being in session, has become a law, this the 29th day of March, 1860.

ELIJAH SELLS,
Secretary of State.

I hereby certify that the foregoing act was published in the Clinton Herald April 7, 1860.

ELIJAH SELLS,
Secretary of State.

[S. F. 138.]

CHAPTER 46.

[Chap. 71.]

CHARLES A. BANNON.

AN ACT entitled an act to legalize the acts of Charles A. Bannon, as Notary Public.

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

SECTION 1. **Notarial acts legalized.** That all acts performed by Charles A. Bannon as notary public in and for the county of Butler, be and the same

are hereby legalized, and declared to be of the same legal effect, as if his seal had had engraved thereon, the words, Notarial Seal, Iowa.

SEC. 2. This act shall take effect and be in force from and after its publication according to law.

This bill having remained with the Governor three days, Sunday excepted, the General Assembly being in session, has become a law this 29th day of March, 1860.

ELIJAH SELLS,
Secretary of State.

[S. F. 209.]

CHAPTER 47.

[Chap. 72]

AN ACT relating to the Journals of the Senate and House of Representatives.

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

SECTION 1. **Journals to be transcrib'd, certifi'd and deposit'd with the sec. of state.** That the secretary of the senate [51] and the clerk of the house of representatives are authorized and required to transcribe the journals of their respective houses in books prepared for that purpose, and after having certified to the correctness of the same to deliver them to the secretary of state for preservation in his office.

SEC. 2. **Sec'y and clerk superintend printing—copy deliver'd to printer.** The secretary and clerk shall superintend the printing of their respective journals, and the indexing of the same, and it shall be the duty of each to deliver a carefully prepared copy thereof to the state printer, written up in solid paragraphs, as nearly as practicable, which copy shall be delivered in two months from the day of adjournment of the legislature.

SEC. 3. As soon as the journals are printed, or either of them, it shall be the duty of the secretary and clerk respectively, to distribute the same as herein provided.

SEC. 4. **Distribution.** Each member of the senate and house of representatives shall be entitled to three copies of the journal of the house of which he is a member, and one copy of the journal of the other house, and three copies shall also be sent to each organized county in the state, directed to the clerk of the district court thereof, and one copy to each officer and reporter of the general assembly, and the state librarian shall preserve at least fifteen copies of each journal in the library.

SEC. 5. **Compensation.** As a compensation for the services herein required, the secretary and clerk shall each receive five hundred dollars, to be paid out of any money in the treasury not otherwise appropriated, one half of which shall be allowed and paid when the copy is furnished to the state printer and the transcribed journal filed in the office of the secretary of state, and the remainder when the auditor shall be satisfied by the presentation of receipts therefor, or otherwise, that the journals have been distributed as herein required.

SEC. 6. **Take effect.** This act to take effect and be in force from [52] and after its publication in the Iowa State Register and Iowa State Journal.

Approved March 29th, 1860.

I hereby certify that the foregoing act was published in the Iowa State Journal April 7th, 1860, and in the Iowa State Register April 4th, 1860.

ELIJAH SELLS,
Secretary of State.

[S. F. 196.]

CHAPTER 48.

[Chap. 74.]

COMMISSIONERS OF REVISION—COMPENSATION.

AN ACT to pay the Commissioners of Revision, &c.

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

SECTION 1. **\$6,750 appropriated.** That there be and is hereby appropriated out of any money in the state treasury not otherwise appropriated, the sum of six thousand seven hundred and fifty dollars as compensation to the commissioners appointed under authority of the seventh general assembly, to prepare a code of civil and criminal practice, and to revise the laws, for services rendered since the adjournment of the last general assembly.

SEC. 2. **C. Ben Darwin, \$3000—William Smith, \$1500—W. T. Barker, \$1500.** Of the sum hereby appropriated, there shall be paid to C. B. Darwin the sum of three thousand dollars; to William Smyth the sum of fifteen hundred dollars, and to W. T. Barker the sum of fifteen hundred dollars.

SEC. 3. **R. J. Thomas, \$750.** There shall also be paid out of any money not otherwise appropriated, the sum of seven hundred and fifty dollars to R. J. Thomas, as compensation for his services as clerk of said commissioners.

SEC. 4. **Auditor.** The auditor of state is hereby instructed to issue his warrants for the sum above appropriated.

SEC. 5. This act shall take effect from and after its publication in the Iowa State Register and Iowa State Journal.

Approved March 29, 1860.

I hereby certify that the foregoing act was published in the Iowa State Journal April 7th, 1860.

ELIJAH SELLS,
Secretary of State.

[53] [S. F. 62.]

CHAPTER 49.

[Chap. 75.]

SWAMP LANDS.

AN ACT making appropriations for selecting Swamp Lands.

WHEREAS, An act was passed by the general assembly of the state of Iowa, entitled an act making an appropriation for swamp land purposes, approved January 27th, A. D. 1858, in which it was enacted that one or more agents of the state of Iowa should be appointed to select the swamp and overflowed lands in the new and unorganized counties of the state, and

WHEREAS, T. B. Johnson, of Cass county, was appointed such agent, to select the swamp and overflowed lands in the new and unorganized counties of the state of Iowa, and

WHEREAS, The said T. B. Johnson, in pursuance to such appointment, proceeded to select and did select the swamp and overflowed lands in the counties of Ida, Sioux, Plymouth and O'Brien, new and unorganized counties in the state of Iowa, and

WHEREAS, The said T. B. Johnson did, in selecting said swamp and overflowed lands, and in employing the necessary assistants therefor, expend the sum of seventeen hundred and ninety-six dollars and forty-five cents, in addition to money received.

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

SECTION 1. **\$1796.45 appropriated to T. B. Johnson, and others.** That there be and is hereby appropriated out of the treasury of the state of Iowa, the

sum of seventeen hundred and ninety-six dollars and forty-five cents for the purpose of paying the said T. B. Johnson, K. W. Macomber, William Waddell, E. R. Bartlett, and William Jenkins, for their services in selecting said swamp and overflowed lands aforesaid.

SEC. 2. **To be refunded by the counties in which the lands were selected.** That it shall be the duty of the register of the state land office as soon as the swamp lands are duly certified to the state of Iowa by the United States, within the counties of Ida, Plymouth, Sioux and O'Brien [54] to select from the lands so certified, an amount of land at an estimated value of one dollar per acre, sufficient to pay the sum hereby appropriated with ten per cent interest, said land shall be selected from each of said counties, in proportion as the quantity of land certified in each of said counties, shall bear to the sum hereby appropriated, which land shall be retained by the state, and disposed of as may be provided by law: Provided that if any money or land scrip shall be paid to the state by the United States, for swamp lands sold, that it shall be the duty of the register or officer receiving the same, to retain such money and land scrip to the amounts aforesaid, and in the proportions aforesaid from each county.

SEC. 3. This act shall take effect and be in force from and after its publication in the Daily Iowa State Register and Daily Iowa State Journal.

This bill having remained with the Governor three days, Sunday excepted, the General Assembly being in Session, has become a law this 30th day of March, 1860.

ELIJAH SELLS,
Secretary of State.

I hereby certify that the foregoing act was published in the Daily Iowa State Journal April 2d, 1860, and in the Iowa State Register April 11th, 1860.

ELIJAH SELLS,
Secretary of State.

[S. F. 71.]

CHAPTER 50.

[Chap. 76.]

INSANE ASYLUM.

AN ACT making a further appropriation for the State Insane Asylum.

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

SECTION 1. **\$75,000 appropriated—drawn upon monthly estimates—east wing to be finished.** That there be and hereby is appropriated out of any money in the state treasury not otherwise appropriated, the sum of seventy-five (75) thousand dollars for the completion of a part of said asylum, and for the furnishing of the same. The money hereby appropriated shall be paid on the order of the [55] commissioners appointed to superintend the erection of said asylum, which order shall be audited and paid as other claims: *Provided*, that said money so appropriated shall be drawn from the treasury by the commissioners only upon estimates made monthly, upon and during the progress of the work, and when materials or furniture shall have been purchased for the erection or use of such building, vouchers shall be taken, and copies thereof sent to the auditor of state, with such orders for warrants or money as the commissioners may sign; and *Provided, further*, that said commissioners shall first finish and furnish the centre portion and the east wing of said building, so that patients may be received and properly cared for, and the balance of said appropriation, if any, shall be expended towards the completion of the west wing of said building.

SEC. 2. **Compensation of superintend'nt.** The superintendent of the build-

ing shall not receive more than one thousand dollars a year as a full compensation for his services, and the employment of a secretary, as heretofore, is expressly prohibited.

SEC. 3. This act to take effect and be in force from and after its publication in the Iowa State Register and Iowa State Journal.

Approved March 30, 1860.

I hereby certify that the foregoing act was published in the Iowa State Journal, April 14th, 1860, and in the Iowa State Register April 18th, 1860.

ELIJAH SELLS,
Secretary of State.

[S. F. 204.]

CHAPTER 51.

[Chap. 77.]

ALIENS.

AN ACT respecting the taking effect of the laws of 1858, entitled "An act respecting Aliens," approved March 15th, 1858.

WHEREAS, The general assembly did, on the 15th day of March, A. D. 1858, pass an act entitled "an act respecting aliens," as found upon the ninety-eighth page of the laws of said year; and

[56] WHEREAS, Said law provided that the same should take effect and be in force from and after its publication in several newspapers printed in this state, which was not done in accordance with the provisions of said law, whereby doubts have arisen whether said law was in force; now, in order to remove any and all objections to said law,

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

SECTION 1. **In force.** That said law is hereby declared to have been in full force and effect from and after the 4th day of July, A. D. 1858, by virtue of the constitution of the state of Iowa.

SEC. 2. That this act shall take effect and be in force from and after its publication in the Daily State Journal, at Des Moines, and "Der Democrat," published at Davenport.

Approved March 30th, 1860.

I hereby certify that the foregoing act was published in the Iowa State Journal April 14, 1860, and in the Der Democrat April 13, 1860.

ELIJAH SELLS,
Secretary of State.

[S. F. 213.]

CHAPTER 52.

[Chap. 80.]

SENATORIAL APPORTIONMENTS.

AN ACT to re apportion the State into Senatorial Districts.

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

SECTION 1. The ratio for the apportionment of the state into senatorial districts shall be one senator for each seventeen thousand inhabitants or fraction thereof, exceeding one half in each senatorial district.

SEC. 2. **1st district.** The county of Lee shall constitute the first district, and shall have two senators.

SEC. 3. **2d district.** The county of Van Buren shall constitute the second district, and shall have one senator.

SEC. 4. **3d district.** The county of Davis shall constitute the third district, and have one senator.

[57] SEC. 5. **4th district.** The county of Appanoose shall constitute the fourth district, and shall have one senator.

SEC. 6. **5th district.** The counties of Wayne and Decatur shall constitute the fifth district, and shall have one senator; and the votes for senator in said district shall be canvassed at the county seat of Decatur county.

SEC. 7. **6th district.** The counties of Ringgold, Taylor, Page, Union, Adams, and Montgomery, shall constitute the sixth district, and shall have one senator; and the votes for senator in the sixth district shall be canvassed at the county seat of Taylor county.

SEC. 8. **7th district.** The counties of Fremont, Mills and Pottawattamie, shall constitute the seventh district, and have one senator. The votes for senator in the seventh district shall be canvassed at the county seat of Mills county.

SEC. 9. **8th district.** The county of Des Moines shall constitute the eighth district, and have one senator.

SEC. 10. **9th district.** The county of Henry shall constitute the ninth district, and shall have one senator.

SEC. 11. **10th district.** The county of Jefferson shall constitute the tenth district, and shall have one senator.

SEC. 12. **11th district.** The county of Wapello shall constitute the eleventh district and have one senator.

SEC. 13. **12th district.** The counties of Monroe and Lucas shall constitute the twelfth district, and have one senator. The votes for senator in the twelfth district shall be canvassed at the county seat of Monroe county.

SEC. 14. **13th district.** The county of Louisa shall constitute the thirteenth district, and shall have one senator.

SEC. 15. **14th district.** The county of Muscatine shall constitute the fourteenth district, and shall have one senator.

SEC. 16. **15th district.** The county of Washington shall constitute the fifteenth district, and shall have one senator.

SEC. 17. **16th district.** The county of Keokuk shall constitute the sixteenth district, and shall have one senator.

SEC. 18. **17th district.** The county of Mahaska shall constitute the seventeenth district, and shall have one senator.

SEC. 19. **18th district.** The county of Marion shall constitute the eighteenth district, and shall have one senator.

[58] SEC. 20. **19th district.** The county of Scott shall constitute the nineteenth district, and shall have two senators.

SEC. 21. **20th district.** The county of Clinton shall constitute the twentieth district, and shall have one senator.

SEC. 22. **21st district.** The county of Cedar shall constitute the twenty-first district, and shall have one senator.

SEC. 23. **22d district.** The county of Johnson shall constitute the twenty-second district, and shall have one senator.

SEC. 24. **23d district.** The county of Polk shall constitute the twenty-third district, and shall have one senator.

SEC. 25. **24th district.** The county of Jackson shall constitute the twenty-fourth district, and shall have one senator.

SEC. 26. **25th district.** The county of Jones shall constitute the twenty-fifth district, and shall have one senator.

SEC. 27. **26th district.** The county of Linn shall constitute the twenty-sixth district, and shall have one senator.

SEC. 28. **27th district.** The county of Dubuque shall constitute the twenty-seventh district, and shall have two senators.

SEC. 29. **28th district.** The county of Clayton shall constitute the twenty-eighth district, and shall have one senator.

SEC. 30. **29th district.** The county of Warren shall constitute the twenty-ninth district, and shall have one senator.

SEC. 31. **30th district.** The counties of Madison and Clark shall constitute the thirtieth district, and shall have one senator. The votes for senator in the thirtieth district shall be canvassed at the county seat of Madison county.

SEC. 32. **31st district.** The counties of Adair, Cass, Dallas, Guthrie, Audubon and Shelby, shall constitute the thirty first district, and shall have one senator. And the votes for senator in the thirty-first district shall be canvassed at the county seat of Adair county.

SEC. 33. **32d district.** The counties of Harrison, Monona, Crawford, Carroll, Woodbury, Sac, Ida, Calhoun, Webster, Humboldt, Pocahontas, Buena Vista, Cherokee, Plymouth, Sioux, O'Brien, Clay, Palo Alto, Kossuth, Emmett, Dickinson, Osceola and Buncombe, shall constitute the thirty-second district, and shall have one senator. And the votes cast in said district for senator shall be canvassed at the county seat of Sac county.

[59] SEC. 34. **33d district.** The counties of Iowa and Poweshiek shall constitute the thirty-third district, and shall have one senator. And the votes for senator in the thirty-third district shall be canvassed at the county seat of Poweshiek county.

SEC. 35. **34th district.** The counties of Marshall, Hardin and Grundy, shall constitute the thirty-fourth district and shall have one senator. And the votes cast therein for senator shall be canvassed at the county seat of Marshall county.

SEC. 36. **35th district.** The counties of Benton and Tama shall constitute the thirty-fifth district, and shall have one senator. And the votes cast for senator in said district shall be canvassed at the county seat of Benton county.

SEC. 37. **36th district.** The counties of Black Hawk, Butler and Franklin shall constitute the thirty-sixth district, and shall have one senator. And the votes cast for senator therein shall be canvassed at the county seat of Black Hawk county.

SEC. 38. **37th district.** The counties of Delaware and Buchanan, shall constitute the thirty-seventh district, and shall have one senator. And the votes cast in said district for senator shall be canvassed at the county seat of Buchanan county.

SEC. 39. **38th district.** The counties of Fayette and Bremer shall constitute the thirty-eight district, and shall have one senator. And the votes cast therein for senator shall be canvassed at the county seat of Fayette county.

SEC. 40. **39th district.** The county of Alamakee shall constitute the thirty-ninth district, and shall have one senator.

SEC. 41. **40th district.** The counties of Chickasaw, Howard, Mitchell, Winnebago, Hancock, Floyd, Worth, Cerro Gordo and Wright, shall constitute the fortieth district, and shall have one senator. And the votes cast in said district for said office shall be canvassed at the county seat of Floyd county.

SEC. 42. **41st district.** The counties of Story, Boone, Hamilton, and Greene, shall constitute the forty-first district, and shall have one senator, and the votes cast in said dis- [60] trict, for said office shall be canvassed at the county seat of Story county.

SEC. 43. **42d district.** The county of Winneshiek shall constitute the forty-second district, and shall have one senator.

SEC. 44. **43d district.** The county of Jackson shall constitute the forty-third district, and shall have one senator.

SEC. 45. No district herein constituted shall be represented in the next general assembly by a greater number of senators than herein provided for.
Approved March 30, 1860.

[H. F. 170.]

CHAPTER 53.

[Chap. 81.]

COMMISSIONER OF IMMIGRATION.

AN ACT to provide for the establishment of a Commissioner in the City of New York, to promote immigration to the State of Iowa.

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

SECTION 1. **To be appointed by the govern'r with consent of the senate—keep an intelligence office in New York—report to the governor.** That a commissioner of immigration for the state of Iowa, shall be appointed by the governor, with the consent of the senate, who shall hold his office for two years from the first day of May next, and shall reside and keep an office in the city of New York at least from the first day of May until the first day of December in each year, which office shall be kept open at all reasonable business hours, between the dates aforesaid, and to give to immigrants the necessary information in relation to the soil and climate of the state, and the branches of business to be pursued with advantages therein, and the cheapest and most expeditious route by which the same can reach the state, and to give such further information as will, as far as practicable, protect immigrants against the impositions often practiced upon them; to report to the governor as often as required, and in the manner to be prescribed by him, the number of immigrants sent by him to the state, [61] their nationality, and the branches of business intended to be pursued by them.

SEC. 2. **Gov. may remove.** The governor shall have power to remove such commissioner for inefficiency and misconduct in the discharge of the duties of his office, and to appoint some proper person in his place.

SEC. 3. **Appropriation.** The following sums of money are hereby appropriated out of any moneys in the state treasury not otherwise appropriated, to carry out the objects of this act, the sum of two thousand four hundred dollars for the salary of said commissioner of immigration, for two years; a sum not exceeding one thousand dollars, to be expended under the direction of the governor, in a publication of a description of the state, in English, German, and such other languages as the governor shall deem advisable; a sum not exceeding one thousand one hundred dollars for office rent, furnishing the same, and for maps and books to be used in the office of the commissioner of immigration.

SEC. 4. **Salary paid quarterly.** The salary of said commissioner shall be paid to him quarterly, in advance, and the remainder of the sums appropriated shall be paid on the order of the governor, for said purposes, in such sums and at such times as the governor shall direct.

SEC. 5. **No fee exsept salary to be rec'd.** *And be it further enacted,* That if said commissioner shall, directly or indirectly, take or receive any fee, compensation or reward, except said salary, he shall be deemed guilty of felony, and shall be punished by imprisonment in the state's prison for not less than one nor more than five years.

SEC. 6. This act shall take effect from and after its publication in the Daily Iowa State Register and the Daily Iowa State Journal, published at Des Moines.

Approved March 30, 1860.

I hereby certify that the foregoing act was published in the Iowa State Register April 11, 1860, and in the Iowa State Journal April 7, 1860.

ELIJAH SELLS, Sec. of State.

[62] [H. F. 307.]

CHAPTER 54.

[Chap. 82.]

IOWA CITY LOTS.

AN ACT in relation to the "Records" of original title of lots in Iowa City.

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

SECTION 1. **Records to be transferred to the office of the register of the state land office.** That all the records, books and papers, of whatever character, relating to the original title of lots in Iowa City, in Johnson county, and to sales thereof by the territory of Iowa, and since then by the state, including the plat of said city, be and the same are hereby transferred from the offices of the secretary and treasurer of state, to the office of the register of state lands; and the same shall hereafter be kept in the office of said register, and under his charge as other records in his office.

SEC. 2. **Regist'r to examine titles—report to the gen'l assembly.** It is hereby made the duty of the register of the state land office, to examine the said records, books and papers, and to complete in the "Tract Book" of sales of lots in said city, the abstract of present title of each lot, showing whether the same has been finally sold, or forfeited to the state; and to report to the general assembly at the next session thereof, whether the title to either of said lots or to any property in said Iowa City, still remains in the state, and the facts relating to any property still unsold.

SEC. 3. **Register to furnish recorder of Johnson county with abstract of records.** That as soon as practicable, the state register shall make out, certify as correct, and transmit to the recorder of Johnson county, an abstract from the said records, books and papers, showing to whom the original deed of each lot in Iowa City was issued, by the territory or state, and the date of such deed; which abstract shall remain in the office of said recorder.

SEC. 4. **Repealing.** All acts and parts of acts inconsistent with the provisions of this act, are hereby repealed; and all acts authorizing the sale of lots in said Iowa City, by the state treasurer, are hereby repealed.

Approved March 30th, 1860.

[63] H. F. 317.]

CHAPTER 55.

[Chap. 86.]

M'GREGOR.

AN ACT to legalize the elections and official acts of the Corporation of McGregor.

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

SECTION 1. **Election and official acts legalized.** That the elections and all official acts of the present corporation of the town of McGregor, in Clayton county, are hereby declared legal and legalized as fully and completely as if the law had been in every respect complied with and the records of said corporation properly made.

SEC. 2. This act shall take effect and be in force from and after its publication in the North Iowa Times and Iowa State Register, the said publication to be without expense to the state.

Approved March 31, 1860.

I hereby certify that the foregoing act was published in the Iowa State Register April 25th, 1860, and in the North Iowa Times April 18, 1860.

ELIJAH SELLS,
Secretary of State.

[S. F. 331.]

CHAPTER 56.

[Chap. 87.]

OVERFLOWED LANDS.

AN ACT authorizing owners of land subject to overflow, situated on the Iowa and Mississippi River Bottom, in Des Moines and Louisa Counties, to raise a tax upon such lands for the purpose of repairing, continuing, and extending the levee now commenced, to prevent such overflow.

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

SECTION 1. Tax land in Louisa county, south of the Iowa river, and in Des Moines county, for making levee. That all lands situated on the south side of the Iowa river, and west of the Mississippi river, in the counties of Des Moines and Louisa, and subject to overflow, may be subjected to a tax or contribution in manner hereinafter provided.

SEC. 2. Commissioners. That the county judge of Des Moines county, shall appoint two persons, resident of said [64] county, and the county judge of Louisa county shall appoint one person resident of said county, who shall, before entering on their duty, give bond for the faithful performance of their duty, to be approved by said judges, and shall hold their office one year and until their successors are appointed and qualified as other county officers, and shall act as commissioners in relation to the system of leveeing the lands subject to overflow, as in the first section of this act referred to.

SEC. 3. Powers and duties of com'rs—tax pro rata—notice of meeting of the owners of the land—object of meeti'g. The commissioners shall have power to arrange and decide as to the character and extent that levees shall be made, and drains shall be dug, and do all acts necessary to carry out the system of leveeing already begun; for the purpose of raising funds, they shall have power, and they are hereby authorized to tax the lands to be protected and benefitted by said work pro-rata not to exceed ten cents per acre. Before levying any tax as aforesaid, they shall call a meeting of the owners of said lands, to be held at some place convenient to said overflowed lands. They shall give at least ten days notice of the time and place of said meeting, by posting notices in five public places in each county, in the vicinity of said lands, and the owners of said lands shall at said meeting, decide by ballot, at an election to be held, and governed as other elections in this state. The commissioners to act as judges of said election. The amount and pro-rata of said tax, the manner of collecting, the extent of the work that shall be done each year, and all other acts that may be necessary to secure the making of the levee and draining of said lands, contemplated by this act which acts of the owners shall be instructions to said commissioners, and by them faithfully carried out.

SEC. 4. Collection of tax. Said commissioners shall have power to cause said tax to be collected, appoint a surveyor, and all agents necessary to superintend the work, collect the taxes or disburse the money collected under this act.

SEC. 5. This act shall be in force from and after its publication in the Hawkeye, and Wapello Republican, [65] papers published in Des Moines and Louisa counties, without expense to the state.

Approved March 31, 1860.

I hereby certify that the foregoing act was published in the Wapello Republican April 19, 1860.

ELIJAH SELLS,
Secretary of State.

[H. F. 312.]

CHAPTER 57.

[Chap. 88.]

WILLIAM R. BROWN.

AN ACT to legalize the official acts of William R. Brown, a Notary Public of Des Moines County.

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

SECTION 1. **Notarial acts legalized.** That all official acts done by William R. Brown, a notary public of Des Moines county, be and the same are hereby legalized and made valid, notwithstanding the same may have been done after the expiration of the time for which he was appointed to said office.

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

Approved March 31, 1860.

[S. F. 214.]

CHAPTER 58.

[Chap. 89.]

SCHOOL DISTRICT CLEAR CREEK TOWNSHIP.

AN ACT to authorize the Board of Directors of Clear Creek Township school district to correct the assessment made in 1859.

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

SECTION 1. **Board of direct'rs may correct the assessment.** That the present board of directors for school district Clear Creek township, in Keokuk county, Iowa, be and are hereby authorized to correct [66] the assessment of taxes made in said township school district for schools and school house purposes, for the year 1859, so that the tax so levied may come under the provisions of the law then existing.

SEC. 2. This act to take effect and be in force from and after its publication in the Daily Iowa State Register and Daily Iowa State Journal.

This bill having remained with the Governor three days, Sunday excepted, the General Assembly being in session, has become a law this 2d day of April, 1860.

ELIJAH SELLS,
Secretary of State.

I hereby certify that the foregoing act was published in the Daily Iowa State Journal April 3, 1860, and in the Iowa State Register April 11, 1860.

ELIJAH SELLS,
Secretary of State.

[S. F. 180.]

CHAPTER 59.

[Chap. 90.]

JOHN J. BELL'S RELIEF.

AN ACT for the relief of John J. Bell, a defaulting School Fund Commissioner, and the sureties upon his official Bonds.

WHEREAS, In the year 1856, one John J. Bell was elected to the office of school fund commissioner of Story county, Iowa, and

WHEREAS, E. Armstrong, John Hempsted, Isaac Hogue, Amirah Mullen, Thomas J. Westlake, S. S. Webb, Wm. Lockridge, E. G. Day, D. J. Norris, Jas. Hawthorn, Abner Bell, C. D. Berry and Jonathan Statler became sureties on his official bonds; and

WHEREAS, At the October term of the district court of said Story county, held at Nevada, A. D. 1859, judgment was obtained against the said Bell as a defaulter to the amount of four thousand five hundred and fifty-three dollars, and in the like amount against certain of the sureties above named, together with costs of suit; therefore,

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

SECTION 1. [67] **Co. judge may settle with sureties.** That the county judge of said Story county, be and he hereby is authorized to cause the claim against

the said parties as represented by the said judgment, to be so arranged that the amount of the same may become a loan to such of said parties as he may deem proper, at the rate of ten per centum interest per annum, payable annually, the principal sum to be paid in five years from the date of such loan, and to be secured in all respects as now required by law.

SEC. 2. This act to be in force from and after its publication in the Daily Iowa State Register and the Daily Iowa State Journal.

This bill having remained with the Governor three days, Sunday excepted, the General Assembly being in session, has become a law this 2d day of April, 1860.

ELIJAH SELLS,
Secretary of State.

I hereby certify that the foregoing act was published in the Daily Iowa State Journal April 3, 1860, and in the Iowa State Register April 11, 1860.

ELIJAH SELLS,
Secretary of State.

[S. F. 170.]

CHAPTER 60.

[Chap. 91.]

STORY COUNTY BONDS.

AN ACT to legalize certain bonds heretofore issued by the County of Story.

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

SECTION 1. **Bonds issued for the benefit of the state agr. college & farm declared valid, binding and legal.** That the acts of the county judge of the county of Story, in issuing certain bonds of that county, for the use and benefit of the state agricultural college and farm, be and the same are hereby declared valid, binding and legal, and said bonds are hereby legalized and declared to be valid and binding on said county, and it is hereby made the duty of the county judge, or other proper authorities of said county, to levy and cause to be collected sufficient taxes to pay the interest on said bonds and the principal thereof according to the tenor and effect thereof.

SEC. 2. This act shall take effect and be in force [68] from and after its publication in the Iowa State Register and State Journal.

This bill having remained with the Governor three days, Sundays excepted, the General Assembly being in session, has become a law, this 2d day of April, 1860.

ELIJAH SELLS,
Secretary of State.

I hereby certify that the foregoing act was published in the Iowa State Journal April 21st, 1860, and in the Iowa State Register April 25.

ELIJAH SELLS,
Secretary of State.

[S. F. 101.]

CHAPTER 61.

[Chap. 92.]

ORIGINAL NOTICES.

AN ACT rendering valid the service of original notices in certain actions.

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

SECTION 1. **Legalizing certain notices.** That in all actions pending in any of the courts of this state, or which may have been determined in said courts, in which the original notice may have been served by publication in accordance with the provisions of chapter 191, as published with the acts of the 6th general assembly, the service of said notice as aforesaid, shall be deemed and taken to be good and valid to all intents and purposes to the same extent as though said chapter 191 had been duly enacted by the general assembly of this state.

SEC. 2. This act shall take effect and be in force from and after its publication in the Iowa State Register and Iowa State Journal, newspapers published at Des Moines.

This bill having remained with the Governor three days, Sundays excepted, the General Assembly being in session, has become a law this 2d day of April, 1860.

ELIJAH SELLS,
Secretary of State.

[69] [S. F. 194.]

CHAPTER 62.

[Chap. 93.]

MILL DAMS.

AN ACT authorizing the construction of mill dams on the Nishnabotany River.

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

SECTION 1. **May dam Nishna Botany river & erect mill.** That any person owning lands on both sides of the Nishnabotany river where the same has been meandered, and being desirous of building a mill or erecting other machinery to be propelled by water-power on said stream, and of erecting a dam thereon, is hereby authorized to build a mill or erect a dam or other machinery on said river.

SEC. 2. **Time for completing.** Provided that any person desirous of building a mill or other machinery, or to erect a dam on said river, shall not be required to complete the same in three years, as required by the acts of the seventh general assembly.

SEC. 3. All acts and parts of acts inconsistent with this act are hereby repealed.

This bill having remained with the Governor three days, Sunday excepted, the General Assembly being in Session, has become a law this 2d day of April, 1860.

ELIJAH SELLS,
Secretary of State.

[S. F. 198.]

CHAPTER 63.

[Chap. 94.]

DES MOINES RIVER LANDS.

AN ACT making provisions for the settlement of all liabilities of the State growing out of the sale of certain lands of the Des Moines River Improvement Grant as School lands.

WHEREAS, Certain contracts have been entered into between school fund commissioners, acting under the directions of "the superintendent of public instruction," an officer of this state, and citizens of the state, for the sale and purchase of a part of the school lands of the state, known as the 500,000 acre grant, and

[70] WHEREAS, The state of Iowa has, by a settlement with the Des Moines Navigation and Rail Road Company, conveyed said lands in whole or in part to said company; therefore,

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

SECTION 1. **Payment to be made to purchasers of lands sold as school lands, which were afterwards deeded by the state to the Des Moines N. and R. R. Co.—proof to be made to the gov.—the gov. deliv'r statement to claimant.** That upon the presentation (or proof of in case of loss) of any contract for the sale of any of said lands situated in Webster or Hamilton county, executed by John Polman, late school fund commissioner of Webster county, or of any certificate of final payment from said school fund commissioner, or of

any patent for said lands under any contract made by said school fund commissioner, to the governor of the state, with proof satisfactory to him by the affidavit of the holder of said contract certificate, or patent, as the case may be, or such other proof as he may require of the amount of money paid upon any tract or tracts of said land, he shall make a complete statement, showing the amount of money so paid, whether as principal or interest, and the time when each sum of money was paid, and upon the delivering up of any contract, certificate or patent, as the case may be, to the governor, or in case of loss, upon proper proof, he shall deliver the statement aforesaid by him signed, to the holder of said contract, certificate or patent, as the case may be.

SEC. 2. **Auditor to issue warrant.** Upon the presentation of said statement so made by the governor, as aforesaid, to the auditor of state by the holder, the auditor shall audit the amount due as shown by said statement, with ten per cent interest upon each sum so paid on said contract, certificate or patent, from the time of payment until the time said account shall be audited as aforesaid, and shall draw his warrant on the treasurer of state for the amount so audited.

SEC. 3. **\$4000 appropriated.** There is hereby appropriated out of any monies in the state treasury not otherwise appropriated, the sum of four thousand dollars, or so much thereof as may be necessary to pay any claims to be audited under the provisions of this act.

[71] SEC. 4. **Certificates to be filed in the office of the register of the state land office.** The contracts, certificates or patents, or in case of loss, the proof of said contracts, certificates or patents, as returned to the governor, shall be filed in the office of the register of the state land office.

SEC. 5. **Holders of land not compell'd to comply with this act—may dispose of improvements—claimant receiving pay shall have no further claim against the state—legal rights against other parties not affected.** No person holding any contract, certificate or patent for any of the lands aforesaid, sold by said commissioner, shall be required to present the same as provided for under the provisions of this act; and no person presenting the same and receiving the money to be paid as herein provided, shall be prohibited, in any manner, from receiving under color of title or otherwise, for any improvements made upon said lands, included in any contract, certificate or patent, as aforesaid, and no person receiving money under the provisions of this act, shall, in any manner, have any further claim on the state by reason of said contract, certificate or patent, and the receiving of the money as aforesaid, and making settlement with the state as provided by this act, shall in no way prejudice any legal rights of the party so receiving it, which he may have against any other party, the state only excepted as aforesaid.

SEC. 6. **May recov'r pay for improvements made upon lands.** Any person who may have made valuable improvements upon any of said lands, patented to the Des Moines Navigation and Rail Road Company by the state, and before that time sold by said school fund commissioner, or the assignee of the person so making such improvements, may commence suit against said company, or the person claiming title under said company, for the value of said improvements, and such person shall be entitled to receive the value of said improvements made before the passage of the act, conveying said lands to said company from the party who is at the time of the commencement of such suit, the owner of said land.

SEC. 7. This act to take effect and be in force from and after its publication in the Weekly Iowa State Register and Fort Dodge Sentinel.

Approved April 2, 1860.

I hereby certify that the foregoing act was published in the Iowa State Register April 25th, 1860.

ELIJAH SELLS, Sec. of State.

[72] [S. F. 218.]

CHAPTER 64.

[Chap. 95.]

REPRESENTATIVE APPORTIONMENT.

AN ACT apportioning the State of Iowa into Representative Districts.

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

SECTION 1. That one representation to seven thousand five hundred inhabitants, or fraction thereof exceeding one-half in each representative district, is hereby constituted the ratio of apportionment.

SEC. 2. **1st district.** Lee county is the first district, and entitled to four representatives.

SEC. 3. **2d district.** Van Buren county is the second district, and entitled to two representatives.

SEC. 4. **3d district.** Davis county is the third district, and entitled to two representatives.

SEC. 5. **4th district.** Appanoose county is the fourth district, and entitled to two representatives.

SEC. 6. **5th district.** Wayne county is the fifth district, and entitled to one representative.

SEC. 7. **6th district.** Decatur county is the sixth district, and entitled to one representative.

SEC. 8. **7th district.** Des Moines county is the seventh district, and entitled to three representatives.

SEC. 9. **8th district.** Henry county is the eighth district, and entitled to two representatives.

SEC. 10. **9th district.** Jefferson county is the ninth district, and entitled to two representatives.

SEC. 11. **10th district.** Wapello county is the tenth district, and entitled to two representatives.

SEC. 12. **11th district.** Monroe county is the eleventh district, and entitled to one representative.

SEC. 13. **12th district.** Lucas county is the twelfth district, and entitled to one representative.

SEC. 14. **13th district.** Clarke county is the thirteenth district, and entitled to one representative.

SEC. 15. **14th district.** Fremont county is the fourteenth district, and entitled to one representative.

SEC. 16. **15th district.** Mills county is the fifteenth district, and entitled to one representative.

[73] SEC. 17. **16th district.** Louisa county is the sixteenth district, and entitled to one representative.

SEC. 18. **17th district.** Washington county is the seventeenth district, and entitled to two representatives.

SEC. 19. **18th district.** Keokuk county is the eighteenth district, and entitled to two representatives.

SEC. 20. **19th district.** Mahaska county is the nineteenth district, and entitled to two representatives.

SEC. 21. **20th district.** Marion county is the twentieth district, and entitled to two representatives.

SEC. 22. **21st district.** Warren county is the twenty-first district, and entitled to one representative.

SEC. 23. **22d district.** Madison county is the twenty-second district, and entitled to one representative.

SEC. 24. **23d district.** Pottawattamie county is the twenty-third district, and entitled to one representative.

SEC. 25. **24th district.** Muscatine county is the twenty-fourth district, and entitled to two representatives.

SEC. 26. **25th district.** Johnson county is the twenty-fifth district, and entitled to two representatives.

SEC. 27. **26th district.** Iowa county is the twenty-sixth district, and entitled to one representative.

SEC. 28. **27th district.** Poweshiek county is the twenty-seventh district, and entitled to one representative.

SEC. 29. **28th district.** Jasper county is the twenty-eighth district, and entitled to one representative.

SEC. 30. **29th district.** Polk county is the twenty-ninth district, and entitled to one representative.

SEC. 31. **30th district.** Dallas county is the thirtieth district, and entitled to one representative.

SEC. 32. **31st district.** Scott county is the thirty-first district, and entitled to three representatives.

SEC. 33. **32d district.** Clinton county is the thirty-second district, and entitled to two representatives.

SEC. 34. **33d district.** Cedar county is the thirty-third district, and entitled to two representatives.

SEC. 35. **34th district.** Jackson county is the thirty-fourth district, and entitled to two representatives.

SEC. 36. **35th district.** Jones county is the thirty-fifth district, and entitled to two representatives.

[74] SEC. 37. **36th district.** Linn county is the thirty-sixth district, and entitled to two representatives.

SEC. 38. **37th district.** Benton county is the thirty-seventh district, and entitled to one representative.

SEC. 39. **38th district.** Tama county is the thirty-eighth district, and entitled to one representative.

SEC. 40. **39th district.** Marshall county is the thirty-ninth district, and entitled to one representative.

SEC. 41. **40th district.** Story county is the fortieth district, and entitled to one representative.

SEC. 42. **41st district.** Boone county is the forty-first district, and entitled to one representative.

SEC. 43. **42d district.** Dubuque county is the forty-second district, and entitled to four representatives.

SEC. 44. **43d district.** Delaware county is the forty-third district, and entitled to one representative.

SEC. 45. **44th district.** Buchanan county is the forty-fourth district, and entitled to one representative.

SEC. 46. **45th district.** Black Hawk county is the forty-fifth district, and entitled to one representative.

SEC. 47. **46th district.** Hardin county is the forty-sixth district, and entitled to one representative.

SEC. 48. **47th district.** Clayton county is the forty-seventh district, and entitled to two representatives.

SEC. 49. **48th district.** Fayette county is the forty-eighth district, and entitled to two representatives.

SEC. 50. **49th district.** Bremer county is the forty-ninth district, and entitled to one representative.

SEC. 51. **50th district.** Chickasaw county is the fiftieth district, and entitled to one representative.

SEC. 52. **51st district.** Allamakee county is the fifty-first district, and entitled to one representative.

SEC. 53. **52d district.** Winneshiek county is the fifty-second district, and entitled to two representatives.

SEC. 54. **53d district.** The counties of Howard and Mitchell shall constitute the fifty-third district, and be entitled to one representative, and the votes therein for representative shall be canvassed at the county seat of Mitchell county.

SEC. 55. **54th district.** The counties of Floyd, Cerro Gordo, Worth and Winnebago shall constitute the fifty-fourth district, [75] and entitled to one representative, and the votes therein for representative shall be canvassed at the county seat of Floyd county.

SEC. 56. **55th district.** The counties of Butler, Grundy and Franklin shall constitute the fifty-fifth district, and entitled to one representative, and the votes therein for representative shall be canvassed at the county seat of Butler county.

SEC. 57. **56th district.** The counties of Hancock, Kossuth, Emmett and Palo Alto shall constitute the fifty-sixth district, and entitled to one representative, and the votes cast therein for representative shall be canvassed at the county seat of Kossuth county.

SEC. 58. **57th district.** The counties of Humboldt, Wright, Hamilton and Webster shall constitute the fifty-seventh district, and entitled to one representative, and the votes cast therein for representative shall be canvassed at the county seat of Hamilton county.

SEC. 59. **58th district.** The counties of Dickinson, Clay, Buena Vista and Pocahontas shall constitute the fifty-eighth district, and entitled to one representative, and the votes cast therein for representative shall be canvassed at the county seat of Clay county: Provided, that the unorganized counties of Osceola and O'Brien shall be attached to this district.

SEC. 60. **59th district.** The counties of Plymouth, Cherokee, Ida and Woodbury shall constitute the fifty-ninth district, and entitled to one representative, and the votes cast therein for representative shall be canvassed at the county seat of Woodbury county: Provided, that the unorganized counties of Sioux and Buncombe shall be attached to this district.

SEC. 61. **60th district.** The counties of Sac, Calhoun, Carroll and Greene shall constitute the sixtieth district, and entitled to one representative, and the votes cast therein for representative shall be canvassed at the county seat of Greene county.

SEC. 62. **61st district.** The counties of Audubon, Guthrie, Cass and Adair, shall constitute the sixty-first district, and entitled to one representative, and the votes cast there- [76] in for representative, shall be canvassed at the county seat of Adair county.

SEC. 63. **62d district.** The counties of Taylor, Ringgold and Union, shall constitute the sixty-second district, and entitled to one representative, and the votes cast therein for representative, shall be canvassed at the county seat of Taylor county.

SEC. 64. **63d district.** The counties of Adams, Montgomery and Page, shall constitute the sixty-third district, and entitled to one representative, and the votes cast therein for representative, shall be canvassed at the county seat of Adams county.

SEC. 65. **64th district.** The counties of Shelby, Harrison, Monona and Crawford, shall constitute the sixty-fourth district, and shall have one representative, and the votes cast therein in said district, shall be canvassed at the county-seat of Harrison county.

SEC. 66. This act to take effect and be in force from and after its publication according to law.

Approved April 2, 1860.

[S. F. 221.]

CHAPTER 65.

[Chap. 99.]

SENATORS.

AN ACT to provide for the allotment of terms of Senators.

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

SECTION 1. **Allotment—mode of determining.** That whenever under the provisions of the constitution it becomes the duty of the senate to determine by lot the members elect, who shall hold respectively for the terms of two years, and of four years, the same shall be determined at the first session by depositing in a box, to be provided by their secretary, a number of folded ballots equal to the whole number of new members elected, the proper proportion of each number so as to equalize the classes as nearly as possible, shall bear the writing "for two [77] years," and the remainder "for four years," which ballots shall be prepared and deposited by the secretary of the senate, and then the roll of such new members shall be called, and as each member's name is called he shall draw one of such ballots from the box, and hand the same to the secretary, who shall announce the term so drawn, and if any such member shall refuse to draw his ballot, or is absent when his name is called, or being present shall refuse to draw, the president shall in like manner draw and announce the term so drawn; and the term so drawn shall be the term of office for which said senator shall be taken and held to have been elected, and shall be accordingly entered on the journal of the senate.

SEC. 2. **Senators elected in 1859 hold for four years.** The members of the senate elected at the October election in the year one thousand eight hundred and fifty-nine, except those elected to fill vacancies, shall hold their said office for the term of four years, but their successors, if it shall then be necessary to equalize the classes of members holding for the respective terms aforesaid, shall determine the terms for which each shall hold his said office by lot, as provided in the preceding section.

Approved April 2d, 1860.

[S. F. 24.]

CHAPTER 66.

[Chap. 101.]

DELINQUENT TAXES.

AN ACT to enforce the collection of delinquent taxes for the year 1858.

WHEREAS, chapter 152 of the laws of the seventh general assembly went into force and effect on the fourth day of July, 1858, and made no provision for the assessment and levy of taxes for that year, and whereas, the taxes for that year were assessed and levied in pursuance of the laws in force prior to the taking effect of said chapter of the acts of the [78] said assembly, and by reason thereof many persons against whose property said taxes are assessed refuse to pay the same, Now therefore,

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

SECTION 1. **The assessment and levy of taxes for the year 1858, legalized.** That all assessments and levies of taxes in this state for the year 1858, made

in pursuance of the laws in force prior to the fourth day of July, 1858, whether made before or after said fourth day of July, if the same were made in said year 1858, be and the same are hereby declared to be legal and valid with like effects as if chapter 152 of the acts of the seventh general assembly had not been enacted.

SEC. 2. **Collection of delinquent taxes.** That it shall be lawful for, and is hereby made the duty of the several collectors of taxes in this state to proceed and collect all taxes described and legalized in section first of this act that may remain delinquent, together with like interest and costs, as in other cases of like delinquent taxes annexed in pursuance of law.

SEC. 3. **Title vested in purchaser.** That the title to all property, whether real or personal that may be sold in the collection of the delinquent taxes in this act legalized, shall vest in the purchaser with like effect as if said taxes had been legally assessed in the first instance and said sales taken place in pursuance of law.

SEC. 2. **Take effect.** This act to be in force from and after its publication in the Iowa State Register and Iowa State Journal.

Approved April 2d, 1860.

I hereby certify that the foregoing act was published in the Iowa State Journal April 28th, 1860.

ELIJAH SELLS,
Secretary of State.

[79] [H. F. 207.]

CHAPTER 67.

[Chap. 104.]

ROAD TAX.

AN ACT to legalize the levy of the road tax of Mitchell county for the year 1858, and the collection of the taxes of said county, for said year.

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

SECTION 1. **Collecti'n of taxes for the year 1858, legalized.** That the levy of the road tax in Mitchell county, for the year 1858, be and the same is hereby declared valid and binding in law.

SEC. 2. *Be it further enacted,* That the collection of road, county, school and state taxes, by J. M. Smith, the treasurer and recorder of said county, for said year, be and the same is hereby declared to be legal and valid, as though the warrant of the county judge of said county had been attached to the tax list of said county, as required by law.

SEC. 3. This act shall be in force from and after its publication in the Iowa State Journal, published at Des Moines, and the North Iowan, published at Osage, in said county.

Approved April 2d, 1860.

I hereby certify that the foregoing act was published in the Iowa State Journal, April 14th, 1860.

ELIJAH SELLS,
Secretary of State.

[H. F. 228.]

CHAPTER 68.

[Chap. 107.]

CITY OF CAMANCHE.

AN ACT legalizing certain bonds issued by the City of Camanche.

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

SECTION 1. **Issue of bonds for \$15,000 legalized.** That the \$15,000 bonds issued by the city of Camanche, to the Camanche, Albany and Mendota Railroad

Company, in lieu of a stock subscription to said railroad, voted for by the said city, be and the same are hereby declared legal and binding on said city.

[80] SEC. 2. **Repealing.** All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

SEC. 3. **Take effect.** This act shall be in force from and after its publication in the Iowa State Register and the Iowa State Journal without expense to the state.

Approved April 2, 1860.

[H. F. 355.]

CHAPTER 69.

[Chap. 108.]

FORT MADISON.

AN ACT to legalize the acts of the City Council of the city of Fort Madison, in Lee County, in vacating Oriental Street, and to confirm the title of said Street to the State of Iowa.

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

SECTION 1. **Act of the city council legalized.** That the acts of the city council of the city of Fort Madison, in Lee county, in vacating Oriental street in said city, and attempting thereby to give the title thereto to the state of Iowa, for the use of the penitentiary of Iowa, be and the same is hereby legalized, and the title of the state of Iowa, to said street so far as the aforesaid city council attempted to vacate the same for the uses and purposes aforesaid, is hereby confirmed as fully and completely as though all the forms of law had been fully complied with.

Approved April 2, 1860.

[H. F. 151.]

CHAPTER 70.

[Chap. 110.]

MUSCATINE ISLAND.

AN ACT to amend an act entitled "an act to provide for levying a tax on certain lands to complete and keep in repair a levy on Muscatine Island, and for the election of a Levee Commissioner, to superintend the same.

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

SECTION 1. **Com'rs term of office one year—vacancy fill'd by special election.** That the term of office of the levee [81] commissioner, whose election is provided for in the 5th section of the act to which this is amendatory, be and is hereby limited to one year; and should said office become vacant by death, removal from the island or other cause, it shall be the duty of the county judge of the county in which such vacancy occurs to order a special election to be held as provided after publication thereof for three weeks in the papers of the county in which such vacancy occurs.

SEC. 2. **Take effect.** This act to take effect from and after its publication in the Muscatine Journal and Wapello Republican, and Iowa State Register, or either of them, without expense to the state.

Approved April 2, 1860.

I hereby certify that the foregoing act was published in the Iowa State Register April 25, 1860.

ELIJAH SELLS,
Secretary of State.

[H. F. 227.]

CHAPTER 71.

[Chap. 113.]

PENITENTIARY.

AN ACT making an appropriation for building fifty-four cells and repairing the fence, and also to provide for the support of the Iowa Penitentiary.

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

SECTION 1. **\$35.000 appropriated for general support.** That there is hereby appropriated out of any monies in the treasury, not otherwise appropriated, the sum of thirty-five thousand dollars for the general support of the Iowa penitentiary, until the first day of January, 1862, the same to be drawn from the treasury only as provided by law, and no part of the money appropriated by this section shall be used for any other purpose.

SEC. 2. **\$6400 for repairing wall and building cells.** There is also hereby appropriated the further sum of six thousand and four hundred dollars for repairing the wall around the prison grounds, and for the building of fifty-four cells therein, and no part of [82] the money appropriated by this section shall be used for any other purpose, unless it be for the general support of the prison.

SEC. 3. **\$300 for purchasing safe.** There is hereby also appropriated out of the state treasury the further sum of three hundred dollars, or so much thereof as may be necessary to purchase a fire-proof safe for the use of the penitentiary, the same to be audited and paid on the order of the warden, accompanied with a bill of the same.

SEC. 4. **\$15.000 to pay guards.** There is also appropriated out of the treasury the sum of fifteen thousand dollars or so much of the same as may be necessary to pay expenses of guarding the premises, the same to be paid monthly, on the order of the Warden, accompanied with a statement of the number of hands employed, and the amount paid to each.

SEC. 5. **\$90 to pay Jas. H. Reynolds, deputy ward'n.** The further sum of ninety dollars is hereby appropriated to pay James H. Reynolds, for two months' services as deputy warden, for services performed in the year 1859, the same not having heretofore been provided for; this sum shall be paid on the order of the warden.

SEC. 6. This act shall take effect and be in force from and after its publication in the Iowa State Register and Iowa State Journal.

Approved April 2d, 1860.

I hereby certify that the foregoing act was published in the Iowa State Journal April 14th, 1860, and in the Iowa State Register April 25, 1860.

ELIJAH SELLS,
Secretary of State.

[H. F. 347.)

CHAPTER 72.

[Chap. 114.]

APPROPRIATION TO FT. DODGE SENTINEL.

AN ACT providing for the payment of expenses incurred by the Attorney General in the case of the State of Iowa vs. Wm. Tighlman, et al.

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

SECTION 1. [83] **\$48.25 appropriated to Fort Dodge Sentinel.** That there be and is hereby appropriated out of any monies in the state treasury, not

otherwise appropriated, the sum of forty eight dollars and twenty five cents or so much thereof as may be necessary to pay for the publication of the notices in the case of the State of Iowa *vs.* Wm. Tighlman.

SEC. 2. **Bill must be sworn to & certified by the attorney general.** That upon the presentation of the bill for said services, sworn to by the publisher of the Ft. Dodge Sentinel, and the correctness thereof certified by the attorney general the auditor of state is hereby authorized to audit the amount of said claim and draw his warrant for the amount thus audited.

Approved April 2d, 1860.

[H. F. 371.]

CHAPTER 73.

[Chap. 115.]

LEVY FOR STATE TAX, 1860.

AN ACT to provide for a levy of tax for State purposes for the year 1860.

WHEREAS, By section thirty-four (34) and thirty-five (35) of an act in relation to revenues, passed by the seventh general assembly of the state of Iowa, the census board are authorized to fix the rate of state tax to be levied for those years only in which real property is by law required to be assessed, and

WHEREAS, The rate of levy fixed by law when no action of the said board is had, is three mills on the dollar valuation, and

WHEREAS, The law requires no assessment of real property for the year 1860, therefore,

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

SECTION 1. **Clerks of district court to return abstracts.** That it shall be the duty of the several county clerks, to make and certify abstracts of the assessment for 1860, as provided by section thirty-three (33) of said act in relation to revenues, in the same manner as for years in which real property is assessed.

[84] SEC. 2. **Action of equalization board—notice to clerk by auditor.** That the census board shall meet at the time specified in section thirty-four (34) of said act, and shall determine the rate of tax that shall be levied for state purposes for said year, and it shall be the duty of the auditor of state to notify the several county clerks of the rate so fixed.

SEC. 3. **Clerk to transmit to aud. amount of tax.** That immediately before delivering the tax book to the county treasurer, and after the same has been completed, it shall be the duty of the county clerk of each county to transmit to the auditor of state a certified transcript of the assessment in his county showing the aggregate value of lands assessed, the aggregate value of real property in towns, and the aggregate value of personal property, and also the aggregate amount of each separate tax on said tax book.

SEC. 4. This act shall be in force from and after its publication in the Iowa State Register and the Iowa State Journal.

Approved April 2d, 1860.

I hereby certify that the foregoing act was published in the Iowa State Register April 11th, 1860, and in the Iowa State Journal April 21st, 1860.

ELIJAH SELLS,
Secretary of State.

[H. F. 388.]

CHAPTER 74.

[Chap. 116.]

LAWS.

AN ACT to provide for the publication of certain laws.

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

SECTION 1. **15,000 copies for the use of township officers.** That the census board of the state shall as soon as practicable after the adjournment of this session of the general assembly, cause to be printed by the state printer, fifteen thousand copies of a volume, in pamphlet form, containing all the general laws of this state pertaining to the duties of the board of supervisors, supervisors of roads, township trustees, and other township officers, together with such [85] practical forms and suggestions as the board may deem necessary.

SEC. 2. **Distribution.** The secretary of state shall cause said laws to be distributed to the several counties in this state, in the same manner as is or may be provided by law for the distribution of the "revised statutes," and no distribution other than to the several counties, shall be made.

SEC. 3. This act to be in force from and after its publication in the Iowa State Register and Iowa State Journal.

Approved April 2d, 1860.

I hereby certify that the foregoing act was published in the Iowa State Register April 18, 1860.

ELIJAH SELLS,
Secretary of State.

[S. F. 226.]

CHAPTER 75.

[Chap. 117.]

PENITENTIARY.

AN ACT providing for the payment of the indebtedness of the Iowa Penitentiary.

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

SECTION 1. **\$38,500 to pay indebtedness—audited by gov.** That the sum of thirty-eight thousand and five hundred dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any money in the treasury of the state not otherwise appropriated, for the purpose of paying the existing indebtedness of the Iowa penitentiary; Provided, however, that no part of said indebtedness shall be paid out of the monies hereby appropriated until the claim upon which the same is based shall have been audited and allowed by the governor, or by some person appointed by the governor for that purpose.

SEC. 2. Monies hereby appropriated, shall be drawn from the treasury by the warden only as claims are audited and allowed as provided in the first section of this act.

SEC. 3. **Gov. report.** The governor shall report in writing to the [86] next session of the general assembly all claims allowed and paid under this act.

SEC. 4. **Take effect.** This act shall take effect and be in force from and after its publication in the Iowa State Register and Iowa State Journal.

Approved April 2d, 1860.

I hereby certify that the foregoing act was published in the Iowa State Journal April 14th, 1860, and in the Iowa State Register April 25th, 1860.

ELIJAH SELLS,
Secretary of State.

[S. F. 202.]

CHAPTER 76.

[Chap. 118.]

POLK COUNTY.

AN ACT authorizing the County Judge of Polk County to appropriate a portion of the proceeds of the Swamp Lands for the completion of the Court House of said County.

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

SECTION 1. **Co. judge may appropriate swamp lands to complete court house.** That the county judge of Polk county is hereby authorized to appropriate, for the purpose of completing the court house of said county, such a portion of the proceeds of the sales of the swamp lands in said county as may be necessary for such completion; Provided, that nothing in this act shall be so construed as to authorize the said county judge to sell or otherwise dispose of, or encumber any of said swamp lands belonging to Polk county without first submitting the question to the electors of said county, and it shall have received the approval of a majority of said electors at a special or general election held for that purpose.

SEC. 2. All acts or parts of acts conflicting with this act are hereby repealed.

SEC. 3. This act shall take effect from and after its publication in the Iowa State Journal and the Iowa State Register, without expense to the state.

Approved April 2, 1860.

I hereby certify that the foregoing act was published in the Iowa State Register April 18th, 1860.

ELIJAH SELLS,
Secretary of State.

[87] [S. F. 231.]

CHAPTER 77.

[Chap. 123.]

INSANE HOSPITAL.

AN ACT making appointment of a Commissioner for the erection of the State Hospital for the Insane, and providing for filling vacancies in said Board.

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

SECTION 1. **Wm. H. Postlewait, commissioner.** That William H. Postlewait, of Burlington, be and he hereby is appointed a commissioner for the erection of the Iowa hospital for the insane, to supply the vacancy caused by the resignation of Edward Johnstone.

SEC. 2. **Vacancy fill'd by appointm't, by the governor.** In case the said William H. Postlewait refuses to accept said appointment, or in case any other vacancy may occur in said board, the governor is hereby authorized to fill the same by appointment.

SEC. 3. **Take effect.** This act to take effect and be in force from and after its publication in the Iowa Register and Iowa Journal.

Approved April 2, 1860.

I hereby certify that the foregoing act was published in the Iowa State Journal, April 21st, 1860, and in the Iowa State Register May 2, 1860.

ELIJAH SELLS,
Secretary of State.

[H. F. 398.]

CHAPTER 78.

[Chap. 125.]

APPROPRIATION.

AN ACT making appropriations for the per diem of Members and Officers of the Eighth General Assembly and for other purposes

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

SECTION 1. That the following sums be and are hereby appropriated out of any money in the treasury not otherwise appropriated.

SEC. 2. **Newspapers furnish'd the house of representatives.** For the payment of the subscription for newspapers taken by the members of the house of representatives, the following sums:

[88] Iowa State Register, Des Moines,.....	weekly,	\$1655 50
do do do do	daily..	536 00
Iowa State Journal, do	weekly	1684 50
do do do do	daily..	152 00
Hawkeye, Burlington,	weekly	32 50
do do	daily..	94 00
Dubuque Times, Dubuque,	weekly	37 50
do do do	daily..	54 00
Davenport Gazette, Davenport,	weekly	12 00
do do do	daily..	20 00
Dubuque Herald, Dubuque,	weekly	4 00
do do do	daily..	26 00
Democrat and News, Davenport.....	weekly	4 00
do do do	daily..	8 00
Guardian, Independence,	weekly	5 50
Civilian, do	weekly	50
Der Democrat, Davenport,	weekly	74 00
do do do	daily..	2 00
Gate City, Keokuk,	weekly	4 50
do do do	daily..	8 00
National Democrat, Dubuque,	weekly	7 00
do do do	tri-weekly	2 00
Eureka, Anamosa,		1 00
Herald, Clarinda,		5 00
Register, Marion,		11 00
North Western Farmer, Dubuque,	monthly	57 50
North Iowa Times, McGregor,		3 00
Rough Notes, Decorah,		50
Lansing Mirror, Lansing,		1 00
Journal, Garnavillo,		50
Valley Press, Guttenburg,		50
Delaware Democrat, Delhi,		50
Fayette Co. Pioneer, West Union,		50
Courier, Waterloo,		1 50
Visitor, Indianola,		2 00
News, Mt. Vernon,		10 50
Chieftan, Centerville,		2 50
Gazette, Burlington,		50
Transcript, Toledo,		6 00
Republican, Wapello,		1 00
[89] Cedar Co. Democrat, Tipton,		50
Linn Co. Herald, Marion,		1 00

Free Press, Newton,	12 00
Boone Co. News, Boonsboro,	2 50
Hamilton Freeman, Webster City,	37 50
Journal, Muscatine,	45 00
do do	20 00
do do	daily..
Cedar Valley Times, Cedar Rapids.....	54 00
Democratic Standard, Knoxville	40 00
Iowa Democrat, Sigourney,	21 00
Republican, Keosauqua,	50
Republican, Centerville,	2 00
Press, Washington,	25 50
Zietung, Muscatine,	1 00
Staats Zietung, Dubuque,	1 50
Volks Blaaf, Keokuk,	1 00
Frie Presse, Burlington,	1 00
Republic, Decorah,	1 00
Democrat, Delhi,	1 00
Visitor, Marengo,	10 00
Courier, Bellevue,	1 50
Enquirer, Muscatine,	1 00
Excelsior, Maquoketa,	1 00
Pioneer, Leon,	4 00
North Iowan, Osage,	50
Republican, New Hampton,	50
Standard, Dewitt,	2 50
Herald, Clinton,	1 50
Advocate, Lyons,	1 50
Mirror, Lyons,	1 50
Journal, Knoxville,	5 00
Republican, Iowa City,	60 00
News, Mt. Pleasant,	17 50
Valley Whig, Keokuk,	33 00
do do do	daily..
do do do	2 00
Public Review, West Union,	1 00
Cedar Valley News, Bradford,	1 00
Herald, Pacific City,	50
Advertiser, Tipton,	15 50
Press, McGregor,	2 50
[90] Republican, Waverly,	3 50
Intelligencer, St. Charles City,	3 50
Press, Mason City,	50
Herald, Oskaloosa,	15 00
Times, do	1 00
Transcript, Waukon,	2 00
Patriot, Chariton,	10 50
Madisonian, Winterset,	19 00
Sentinel, Fort Dodge,	9 50
Bugle, Council Bluffs,	14 00
South West, Bedford,	4 00
Register, Sioux City,	4 50
Gazette, Pella,	1 50
Courier, Osceola,	15 50
Republican, Magnolia,	2 00
Home Journal, Mt. Pleasant,	5 50
Ledger, Fairfield,	24 50
Nonpariel, Council Bluffs,	22 00

Times, Marshalltown,	50
Reporter, Iowa City,	4 50
Eagle, Vinton,	12 50
Clarion, Bloomfield,	3 50
Courier, Ottumwa,	50
Journal, Keokuk,	50
Commonwealth, Des Moines,	2 00
Monroe Sentinel, Albia,	2 00

SEC. 4. **Newspapers furnished the senate.** For the payment of the subscription for newspapers taken by the members of the senate, the following sums:

Advertiser, Tipton,	\$ 12 50
Advocate, Lyons,	50
Argus, Waverly,	2 00
Bugle, Council Bluffs,	3 50
Courier, Waterloo,	3 00
Courier, New Hampton,	13 00
Courier, Bellevue,	2 00
Courier, Osceola,	3 50
Democrat, Glenwood,	50
Der Democrat, Davenport,	58 50
do do	8 00
[91] Democratic News, Davenport,	50
do do do	4 00
Eureka, Anamosa,	2 50
Eagle, Vinton,	13 00
Free Press, Burlington,	3 00
Free Press, Newton,	3 00
Gate City, Keokuk,	5 00
do do do	22 00
Gazette, Davenport,	6 00
do do	24 00
Guardian, Independence,	6 00
Hawkeye, Burlington,	17 50
Intelligencer, St. Charles,	1 50
Herald, Dubuque,	5 00
do do	10 00
Herald, Clinton,	50
Herald, Clarinda,	1 00
Herald, Oskaloosa,	2 00
Home Journal, Mt. Pleasant,	5 00
Journal, Clayton County,	50
Hamilton Freeman, Webster City,	3 00
Journal, Keokuk,	1 50
Journal, Knoxville,	5 50
Journal, Muscatine,	3 50
do do	12 00
Journal, Des Moines,	128 00
do do	704 00
Ledger, Fairfield,	27 50
Madisonian, Winterset,	51 00
Union, Lyons,	1 50
Mirror, Lansing,	2 50
National Democrat, Dubuque,	1 00
do do do	1 00
North Iowan, Osage,	1 00

News, Mt. Pleasant,	50
News, Delhi,	50
News, Bradford,	3 00
North Iowa Times, McGregor,	3 50
Nonpariel, Council Bluffs,	19 50
Patriot, Chariton,	50
[92] Pioneer, West Union,	1 50
Press, McGregor,	1 00
Press, Washington,	15 00
Public Review, West Union,	3 50
Plain Dealer, Fort Madison,	1 50
M. V. Register, Guttenburg,	1 50
Rough Notes, Decorah,	2 50
Reporter, Iowa City,	3 50
Republican, Sigourney,	8 50
Register, Marion,	1 00
Republican, Keosauqua,	50
Republican, Waverly,	2 00
Republic, Decorah,	50
Record, Honeytown,	50
Register, Des Moines,	394 50
do do	daily 328 00
Republican, Iowa City,	4 50
South West, Bedford,	50
Standard, Knoxville,	6 50
Standard, Dewit,	1 00
Times, Cedar Rapids,	10 00
Times, Marshall,	3 00
Times, Dubuque,	3 00
do do	daily 26 00
Transcript, Waukon,	5 50
Visitor, Indianola,	1 00
Visitor, Marengo,	4 50
Volks Blaaf, Keokuk,	3 50
Zietung, Muscatine,	3 50
Zietung Staats, Dubuque,	4 00
Sentinel, Fort Dodge,	5 00
Register, Sioux City,	2 00
SEC. 4. Miscellaneous. That there be paid to the following named persons the sums set opposite their respective names, the bills for the same being on file in the auditor's office:	
C. P. Luse & Co., hardware	\$ 17 35
G. M. Hippee	73 35
Keyes & Crawford	23 25
J. & I. Kuhn	14 37
H. Strathern	62 35
[93] W. W. Moore	21 25
Latshaw & Woodwell	26 63
Childs & Howell	9 05
I. Brandt	3 80
— Thomas	4 50
James Crane	9 75
J. H. Gower	23 76
Terry & Butler	1 40
E. R. Clapp, American Flag	56 00
S. S. Daniels, as extra clerk for auditor	30 00

J. M. Newcombe, as extra clerk for auditor.....	30 00
W. Warr, flag staff on state house.....	60 00
H. Stephenson	5 60
U. S. Express Company, two bills.....	12 50
J. G. Weeks, for abstract of title.....	10 00
G. M. Hippee	1 50
Goodwin & Purdee, one pen.....	3 00
W. Warr, repairing state house and for furniture.....	95 00
John Hyde, well	60 00
John Hyde, making curb	30 00
Alex. Shaw, postage for house of representatives.....	484 63
Alex. Shaw, postage for senate	74 81
Jonathan Jones, sergeant-at-arms pro tem. of the senate, 7th general assembly	8 00
H. B. Curtis, messenger pro tem. of the senate of 7th general assembly	6 00
David Sells, clerk for special committee on printing 28 days.....	30 00
F. M. Mills, witness fees	2 00
J. C. Brown, witness fees	2 00
E. B. Stillman, witness fees	2 00
J. P. Rodgers, witness fees	3 00
J. D. Edmundson, paste furnished house of representatives.....	10 00
Postage house representatives. Wesley Redhead, postage of the house of representatives	2,342 37
Same. To meet the postage for the balance of the session of the house of representatives, and [94] to mail matter to the members, the sum of one hundred and forty dollars, or so much thereof as may be necessary.	
Stationery. Wesley Redhead, for stationery furnished the house of representatives, as per bill	220 70
Same. G. W. Ells & Co., for stationery furnished the house of representatives, as per bill	130 00
Same. Mills & Co., for stationery furnished the house of representatives, as per bill	97 15
Mills & Co., for stationery and binding for code commissioners, as per bill	13 37½
Translating into the Holland language. H. P. Scholte, for translating and superintending the printing of the message and inaugural in Holland language	80 00
Postage. For paying further postage for this general assembly, two hundred dollars, or so much thereof as may be necessary.	
John Watson. For pay of John Watson, four days services as fireman before the commencement of the session.....	12 00
Speaker. John Edwards, speaker, eighty-five days at three dollars per day	255 00
Watching. J. J. Safely, night watch forty-seven days at three dollars per day	141 00
Post master. E. H. Brown, post-master 10 days.....	30 00
Mail carrier. E. H. Brown, mail carrier eighty-six days at two dollars and fifty cents per day.....	215 00
Librarian. L. Coulter, salary as state librarian from the first of November to thirty-first of December, 1859, the sum of.....	50 00
Western Stage Company. Western Stage Co., for transporting documents from Pella	4 00

SEC. 5. **Members house representatives.** For the payment of the per diem of the members and officers of the house of representatives, the sum of sixteen

thousand five hundred dollars, or so much thereof as their certificates may entitle them to.

SEC. 6. **Members senate.** For the payment of the per diem of the members and officers of the senate, the sum of nine thousand dollars, or so much thereof as their certificates may entitle them to.

[95] SEC. 7. **Dillon's digest.** For the purpose of carrying out the concurrent resolution authorizing the secretary of state to furnish members and clerks of the senate and house with a copy of the revised statutes of Iowa, and the Iowa digest, and for forwarding a copy of the same to each state and territory of the union, the sum of one thousand dollars, or so much thereof as may be necessary.

Miscellaneous. Maturin L. Fisher, to pay clerk hire.....	93 33
Edward Neally, to pay clerk hire.....	50 00
Z. Washburn, eighty-six days as fireman.....	258 00
Edward Zitschke, for translating governor's message.....	40 00
Edward Zitschke, for translating Kirkwood.....	40 00
Willis Conard, for paste	5 00
Will Tomlinson, for computing the journals of 1856 and 1858.....	2 50
W. W. Maynard, for same	2 50
J. P. Rodgers, for same	2 50
N. W. Mills, for same	2 50
As per senate resolution	
Geo. W. Ells & Co., stationery.....	178 75
Wesley Redhead, for stationery to senate as per bill.....	144 90
Fort Dodge Sentinel office, for publishing an act to create the county of Humboldt	5 00
U. S. Express Co., for transporting governor's message.....	16 10
Senate postage. Wesley Redhead, for senate postage bill.....	1,316 68
“ “ “ “ “ “ “ “	90 00

or so much thereof as may be necessary for postage hereafter to be paid for the session.

Stationery. N. W. Mills & Co., bill of stationery.....	79 57
Investigation insane asylum. Expenses of investigating com. to insane asylum, fees paid and services rendered.....	175 70
General expenses	180 90
To David Simpson, mechanic (bal.).....	13 30
J. Stover, architect, (bal.).....	45 00
John S. Bartruff, bailiff (bal.).....	15 00
E. S. Gardener, furnisher	34 00
Swan & Langdon, services	30 00
[96] To L. G. Palmer, as notary public.....	10 00
A. O. Patterson, (com.) mileage.....	50 00
Dan Anderson, (com.) mileage.....	50 00
J. C. Hall, (com.) mileage	50 00
Ed. Wright, (com.) mileage	50 00
G. W. Bemis, (com.) mileage	50 00
W. F. Davis, as clerk to the committee and expenses, and for assisting enrolling cl'k,	162 25
Penitentiary investigation. John W. Jones, for money advanced as expenses to penitentiary investigating com.....	300 00
I. C. Curtis, com. and mileage.....	60 00
M. W. Robinson, com. and mileage.....	60 00
D. D. Sabin, com. and mileage.....	60 00
N. Udell, com., milage and expenses.....	79 35
Jesse Bowen, com., and mileage and expenses.....	74 00
Wm. Gray, clerk to com., (per diem).....	98 65

Geology. To meet a deficiency in the appropriations heretofore made to continue the survey of the geological survey, and publishing the reports, &c.....	2,309 58
Enrolling. M. H. King, for 16 days services in enrolling bills, and for three evenings' work.....	42 50
Post master. W. W. Maynard, for 76 days services as post-master @ \$3 per day	228 00
For the chaplains, to be divided among themselves.....	258 00
Agr. reports. For publishing reports of sec'y of agricultural college for the years 1860 and 1861.....	500 00
R. J. Thomas. R. J. Thomas, for traveling expenses when acting as sec'y for code commissioners.....	50 00
To Lieut. Gov. Faville, mileage and per diem attending the opening of the present session (if not heretofore appropriated).....	87 00
President senate. To Lieut. Gov. Rusch, for 86 days services as president of the senate during the present session, @ \$6 00.....	516 00

Approved April 2, 1860.

[97] [S. F. 232.]

CHAPTER 79.

[Chap. 128.]

GENERAL BANKING.

AN ACT to amend an act entitled "an act authorizing General Banking in the State of Iowa," passed by the Seventh General Assembly.

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

SECTION 1. **May commence banking with a capital of \$25,000.** That chapter one hundred and fourteen of the acts of the seventh general assembly be so amended, that when the words "fifty thousand" occur in the seventh section of said act, it shall read, "twenty-five thousand."

Approved April 2, 1860.

[S. F. 225.]

CHAPTER 80.

[Chap. 130.]

BANKING.

AN ACT providing for the submission to the people of an act to amend the General Banking Law.

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

SECTION 1. **A vote of the people upon banking with a capital of \$25,000.** That at the next general election there shall be submitted to the people, the question whether or not, an act entitled "an act to amend an act, entitled an act, authorizing general banking in the state of Iowa," passed at the regular session of the eighth general assembly, shall go into effect or in any manner be in force.

SEC. 2. **Ballots.** Every person voting at said election, shall have the right to use a ticket or ballot with the words written or printed thereon, "For amendments to General Banking law," or "Against amendments to General Banking Law."

SEC. 3. **Abstract of votes to be transmitted to the sec'y of state—canvass.** In making the abstract of votes given at said election, as now required by law, the proper officers shall make an abstract of the votes given under the provisions of this act, and which shall be transmitted [98] to the secretary of state within the time and in the same manner as is now required in the election of state officers; said abstract shall be endorsed "Abstract of votes for and against amendments to General Banking Law," or in words clearly indicating the contents of the paper, and the abstracts so transmitted shall be opened and the votes canvassed in the time and manner, and by the officers provided for in relation to the elections of state officers.

SEC. 4. **Certificate.** It shall be the duty of the officers canvassing the votes for and against amendments, aforesaid, as soon as said state canvass shall be made, to make a certificate under their hands of the facts, stating the number of votes given for and against the law aforesaid, and file the same in the office of the secretary of state.

SEC. 5. **Proclamation of the governor.** If it shall appear from such certificate that a majority of all the votes cast at such election, "For amendments to General Banking Law," and "Against amendments to General Banking Law," has been cast, "For amendments to General Banking Law," the governor shall immediately and within ten days from the filing of such certificate in the office of the secretary of state, issue his proclamation declaring such result of said election; and upon the issuing of such proclamation, the said act, entitled "An act to amend an act, entitled an act authorizing General Banking in the State of Iowa," shall go into effect and be in full force, and not otherwise.

Approved April 2, 1860.

[S. F. 35.]

CHAPTER 81.

[Chap. 131.]

RAIL ROAD BONDS.

AN ACT to legalize certain Rail Road Bonds of Mitchell County.

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

SECTION 1. **Mitchell county bonds legalized.** That the election held in Mitchell [99] county on the 4th day of December, 1858, under and in pursuance of a proclamation issued by the county judge on the 30th day of October, 1858, be and the same is hereby declared to be legalized, and the bonds of said county which have been issued to the Cedar Falls and Minnesota Rail Road Company, in pursuance of such proclamation and election, are hereby declared to be to all intent and purposes, legal, and of binding force and effect upon said county of Mitchell.

SEC. 2. This act shall take effect and be in force from and after its publication in the Iowa State Register and State Journal.

Approved April 2, 1860.

[H. F. 292.]

CHAPTER 82.

[Chap. 133.]

HOWARD COUNTY TAX.

AN ACT to legalize the taxes levied in Howard County for the year 1859. WHEREAS, The board of equalization changed the rate of county tax after the regular levy was made, from two mills to three and one-half mills on the dollar of the taxable property of said county, and WHEREAS, The clerk of said county failed to complete the tax list by the time required by law, and

WHEREAS, The warrant of the county judge was not attached to the tax list at the time required by law, therefore,

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

Levy of 1859 legalized. That none of the taxes levied for the year 1859, in said county of Howard, shall be held void by reason of the illegal acts of any of the several officers in and about the assessment equalization, or other matters connected therewith; but the taxes assessed and levied for the year 1859, in said county, shall be held legal and binding, and the proper officer is author- [100] ized to collect the same as though no informalities ever existed.

This bill having remained with the Governor three days, Sundays excepted, the General Assembly being in session, has become a law, this the 3d day of April, 1860.

ELIJAH SELLS,
Secretary of State.

[H. F. 277.]

CHAPTER 83.

[Chap. 134.]

SCHOOL HOUSE TAX.

AN ACT to legalize the levy of a school house tax in the District Township of Jefferson, in Poweshiek County, Iowa.

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

SECTION 1. Tax in Jefferson township, Poweshiek c o. legalized. That the tax heretofore levied in the district township of Jefferson, Poweshiek county, Iowa, for school house purposes, be and the same is hereby legalized, and made as valid as though the same had been made in strict conformity with the provisions of the law.

SEC. 2. Take effect. This act shall take effect and be in force from and after its publication in the Daily Iowa State Register and Daily State Journal, papers published at Des Moines, anything in section 21 of the code to the contrary, notwithstanding.

This bill having remained with the Governor three days, Sunday excepted, the General Assembly being in session, has become a law this 3d day of April, 1860.

ELIJAH SELLS,
Secretary of State.

[H. F. 325.]

CHAPTER 84.

[Chap. 135.]

APPROPRIATION.

AN ACT making appropriations for the pay of State Officers, and other purposes, and defining the duties of State Officers in certain cases.

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

SECTION 1. [101] That the following sums of money be, and the same are hereby appropriated for the purposes hereinafter designated.

SEC. 2. Salary and contingent expenses governor's office. For the salary of the governor for two years, ending the 31st day of December, A. D. 1861, the sum of four thousand dollars; and for contingent expenses of the executive office for the term of two years, ending as aforesaid, the sum of twelve hundred dollars; and for contingent expenses of the adjutant general's department, four hundred dollars.

SEC. 3. **Sec'y of state.** For the salary of the secretary of state, for the term of two years, ending the 31st day of December, A. D. 1861, the sum of three thousand dollars; for supplying the deficiency in the appropriation for the year ending the 31st day of December, A. D. 1859, the sum of one hundred and twenty-five (\$125) dollars; and for the pay of clerks and deputies, in the office of secretary of state, for the term of two years ending as aforesaid, the sum of two thousand dollars.

SEC. 4. **Auditor of state.** For the salary of the auditor of state, for the term of two years, ending the 31st day of December, A. D. 1861, the sum of three thousand dollars; for supplying the deficiency in the appropriation for the year ending the 31st day of December, A. D. 1859, the sum of three hundred and seventy-five dollars; and for the pay of clerks and deputies in the office of auditor of state, for the term of two years ending as aforesaid, the sum of two thousand dollars.

SEC. 5. **State treasurer.** For the salary of the treasurer of state, for the term of two years ending the 31st day of December, A. D. 1861, the sum of three thousand dollars; for supplying the deficiency in the appropriation for the year ending the 31st day of December, A. D. 1859, the sum of three hundred and seventy-five dollars; and for the pay of clerks and deputies in the office of treasurer of state, for the term of two years ending as aforesaid, the sum of twelve hundred dollars.

SEC. 6. **Register state land office.** For the salary of the register of the state land office, for the term of two years ending the 31st day of December, 1861, the sum of three thousand dol- [102] lars; for supplying the deficiency in the appropriation for the year ending the 31st day of December, A. D. 1859, the sum of three hundred and forty-five dollars; and for the pay of clerks and deputies in the office of the register, for the term of two years ending as aforesaid, the sum of two thousand dollars.

SEC. 7. **Sec'y board of education.** For the salary of the secretary of the board of education, for the term of two years, ending the 31st day of December, 1861, the sum of three thousand dollars; for supplying the deficiency in the appropriation for the year ending the 31st day of December, A. D. 1859, the sum of three hundred and thirty-seven dollars; for traveling expenses and for the pay of deputy for the term of two years ending as aforesaid, the sum of eighteen hundred dollars, provided said deputy shall act as state librarian.

SEC. 8. **Judges of the supreme court.** For the salaries of the judges of the supreme court, for the term of two years ending the 31st day of December, A. D. 1861, the sum of eleven thousand seven hundred and seventy-seven dollars, in addition to the sum now appropriated and unexpended. For the contingent expenses of the supreme court, for the term of two years ending as aforesaid, the sum of three thousand dollars, or so much thereof as may be necessary; provided, that all the expenses incurred under section 1548 of the code, chapter 142 of the acts of the sixth general assembly, and chapter 82 of the acts of the seventh general assembly, shall be charged to said contingent fund, and all bills properly charged to said contingent fund shall contain the items for what said fund may be expended, and be certified to by one of the judges of said court before being audited.

SEC. 9. **Att'y general.** For the salary of the attorney general for the term of two years, ending the 31st day of December, A. D. 1861, the sum of one thousand seven hundred and seventy-five dollars, in addition to the sum now appropriated and unexpended; and for fees and mileage, as allowed by section seven of the acts of the seventh general assembly, the sum of eight hundred dollars, or so much thereof as may be necessary, for the term of two [103] years, as aforesaid, and for contingent expenses of the attorney general for two years, four hundred dollars.

SEC. 10. **Dist. judges.** For the salaries of the district judges for the term of two years, ending the 31st day of December, A. D. 1861, the sum of thirty-five thousand two hundred dollars.

SEC. 11. **District atty's.** For the salaries of the district attorneys for the term of two years, ending the 31st day of December, A. D. 1861, the sum of seventeen thousand six hundred dollars.

SEC. 12. **Warden penitentiary.** For the salary of the warden of the penitentiary, for the term of two years, ending the 31st day of December, A. D. 1861, the sum of two thousand dollars; and for supplying the deficiency in the appropriation for the year ending the 31st day of December, A. D. 1859, the sum of two hundred and fifty dollars.

SEC. 13. **Dept'y warden.** For the salary of the deputy warden of the penitentiary, for the term of two years, ending the 31st day of December, A. D. 1861, the sum of fifteen hundred dollars; and for supplying the deficiency in the appropriation for the year ending the 31st day of December, A. D. 1859, the sum of one hundred and twenty-five dollars.

SEC. 14. **Clerk of the penitentiary.** For the salary of the clerk of the penitentiary, for the term of two years, ending the 31st day of December, A. D. 1861, the sum of fifteen hundred dollars; and for supplying the deficiency in the appropriation for the year ending the 31st day of December, A. D. 1859, the sum of one hundred and twenty-five dollars.

SEC. 15. **Chaplain penitentiary.** For the salary of the chaplain of the penitentiary, for the term of two years, ending the 31st day of December, A. D. 1861, the sum of one thousand dollars, or so much as may be necessary; and for supplying the deficiency in the appropriation for the year ending the 31st day of December, A. D. 1859, the sum of seventy-five dollars.

SEC. 16. **Inspectors.** For the salaries of the inspectors of the penitentiary, up to the time they go out of office, according to the laws of this session, the sum of one hundred [104] dollars, or so much thereof as may be found due them by the governor.

SEC. 17. **Contingent fund.** All officers who are provided with a contingent fund, or other fund herein provided beyond their regular salary, shall keep a correct account thereof, by items, of the expenditure from said funds, and report in detail to the general assembly, or to such person or persons as the governor may appoint to examine the accounts of such office, and all bills properly chargeable to said fund shall contain the items for which said fund may be expended, and be certified to by the officer having control of said fund, before being audited.

SEC. 18. **Salaries paid monthly.** All salaries of the state officers, and other officers, payable out of the state treasury, shall be paid monthly at the end of each month, if called for, and the state auditor shall in no case issue warrants on the state treasury for the pay of any state officer, or other officers payable out of the state treasury, in advance of service actually rendered.

SEC. 19. **General contingent fund.** For a general contingent fund for the payment of postage of state officers, arrest of fugitives from justice, abstracts of lands entered, necessary repairs and improvements upon state house and grounds, and furniture for state house and offices, renting a warehouse for the storage of the stationery of the state, fuel for state house, and such other necessary expenses as are not specifically provided for, the sum of fifteen thousand dollars, or so much thereof as may be necessary; provided, that all bills properly chargeable to said fund shall be made out by items, and certified to by the officers incurring the expense, and approved by the census board before being audited.

SEC. 20. **Janitors.** For the payment of a janitor or janitors, for the term of two years, ending the 31st day of December, A. D. 1861, the sum of eleven hundred dollars.

SEC. 21. **Interest on state indebtedness.** For the payment of five semi-annual instalments of interest, due and to become due on the bonds issued by the state on the \$200,000 loan, authorized to be made by the seventh general assembly, the sum of thirty-five thousand dollars; for paying the exchange or [105] express charges on the same, the sum of five hundred and twenty-five dollars, or so much thereof as may be necessary; and for supplying the deficiency in the appropriation of the 7th general assembly, for exchange or express charges, the sum of three hundred and fifteen dollars and thirty-four cents, to be drawn from the treasury of the state only when necessary to pay said interest as it may become due.

SEC. 22. **Inter'st on school fund.** For the payment of three annual instalments of interest on school fund loans due and to become due, the sum of thirty-six thousand six hundred and eighty-eight dollars and seventy-two cents, to be drawn from the state treasury only when necessary to pay said interest as it may become due, for supplying the deficiency in the appropriation made by the seventh general assembly, for the payment of interest on school fund loan, the sum of eleven dollars and eleven cents.

SEC. 23. **Rent.** For the payment of the rent of the building now occupied by the general assembly and state officers, the sum of five dollars, or so much thereof as may be necessary; said rent to be paid as it becomes due.

SEC. 24. **Take effect.** This act to take effect and be in force from and after its publication in the Iowa Register and the Iowa State Journal, newspapers published in the city of Des Moines.

Approved April 3d, 1860.

I hereby certify that the foregoing act was published in the Iowa State Journal April 21st, 1860, and in the Iowa State Register May 2, 1860.

ELIJAH SELLS,
Secretary of State.

[S. F. 177.]

CHAPTER 85.

[Chap. 138.]

GRUNDY COUNTY.

AN ACT to legalize the levy of taxes in the County of Grundy, made in October 1858, and the delivery of the tax list to the Treasurer of said county, in November of the same year in said county.

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

SECTION 1. [106] **Levy of tax for 1858 legalized.** That the levy of taxes in the county of Grundy, in the state of Iowa, made in the month of October, 1858, and the delivery of the tax list for said year to the treasurer of said county, be and the same are hereby legalized.

SEC. 2. This act shall take effect and be in full force from and after its publication according to law.

Approved April 3, 1860.

[S. F. 117.]

CHAPTER 86.

[Chap. 140.]

PENITENTIARY.

AN ACT to enforce collection and settlement of claims of the State vs. Winterbottom & Jones, or successors of Winterbottom & Headley, Contractors for the Convict labor of the Iowa Penitentiary.

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

SECTION 1. **Att'y general to settle with contractors.** That it is hereby made the duty of the attorney general of this state, as soon as practicable,

to enquire into the relations of the state of Iowa with Winterbottom & Jones, in relation to a contract made between the state and Winterbottom & Jones, or their assignees, contractors, lessees of the convict labor of the Iowa penitentiary, and all matters connected with said contract, and with action and actions now pending, and report at the earliest possible period to the governor, whether said lessees and contractors are indebted to the state, and if so what amount is due—whether said contract is forfeited by said contractors.

SEC. 2. **Legal proceedings instituted by the gov.** If the attorney general shall report that there is money due the state from said contractors, then the governor may, if said contractors shall not pay the amount so reported due into the state treasury, or secure the same to the state, to the satisfaction of the governor, direct the attorney general to commence and prosecute such legal proceedings as he shall judge necessary for the enforcement of the collection of the claims of the state against said contractors.

[107] SEC. 3. **Contr'ct annull'd.** If the attorney general shall find and report that said contractors have forfeited their right under their contract with the state, he shall commence and prosecute such legal proceedings as may be necessary in the name of the state of Iowa for the purpose of annulling said contract, and placing the state in possession of the property and rights held and used by said contractors.

SEC. 4. **Convict labor.** In case the said contract shall be annulled, the governor shall provide for the employment of the convict laborers of the penitentiary under the charge of the warden, for the benefit of the state; and the same power shall be vested in the governor in case said contractors shall abandon said contract to the state.

SEC. 5. **Attorney gen'l.** The attorney general, for the purpose of carrying into effect the provisions of this act, shall have power to prosecute or discontinue any suit or suits now brought against Winterbottom & Jones, if, in the name, or by the authority of the state, as in his judgment shall be for the interest of the state.

SEC. 6. This act shall be in force and take effect from and after its publication in the Iowa State Journal and Iowa State Register, at Des Moines.

Approved April 3d, 1860.

I hereby certify that the foregoing act was published in the Iowa State Journal April 14th, 1860, and in the Iowa State Register, April 25th, 1860.

ELIJAH SELLS,
Secretary of State.

[S. F. 234.]

CHAPTER 87.

[Chap. 142.]

APPRAISEMENT.

AN ACT providing for the taking effect of Senate File No. 6, an act to provide for the appraisement of property sold under execution on its publication.

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

SECTION 1. **Take effect by publication.** That senate file No. six, a bill for an act to provide for the appraisement of property [108] sold under execution, which passed both branches of the general assembly on Saturday, March (twenty-ninth) 29, 1860, shall take effect and be in force from and after its publication in the State Register and State Journal, anything in the code of Iowa to the contrary notwithstanding.

SEC. 2. That this act shall take effect and be in force from and after its publication in the State Register and State Journal.

Approved April 3, 1860.

I hereby certify that the foregoing act was published in the Iowa State Register April 11th, 1860, and in the State Journal.

ELIJAH SELLS,
Secretary of State.

[S. F. 108.]

CHAPTER 88.

[Chap. 143.]

CITY OF DUBUQUE.

AN ACT to grant to the City of Dubuque title to certain lands.

WHEREAS, The city of Dubuque has purchased of the United States a large tract of land, consisting of low lands and islands, lying between the main channel of the Mississippi river and the main west bank thereof, and has received of the United States patents therefor, and has expended and caused to be expended large sums of money in running streets across, filling and improving said low lands and islands, and the sloughs and ponds of water which intersect the same, and

WHEREAS, Doubts have arisen whether the title of said lands is now in the state of Iowa, therefore,

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

SECTION 1. **State releases title to certain lands and islands.** That there be, and there is hereby granted and released to the city of Dubuque, all the title and interest vested in the state of Iowa, in and to the lands and islands, and in the beds of the sloughs and ponds of water within so much of section number [109] nineteen and thirty, in township number eighty-nine, north of range number three, east of the fifth principal meridian, and also within so much of sections number twenty-four and twenty-five, in township number eighty-nine, north of range number two, east of the fifth principal meridian, as lies east of a line commencing at a point where the north line of said section number nineteen intersects with the west shore of Lake Peosta; thence southerly along the west shore of Lake Peosta, and of the slough, to the north-east corner of lot number five hundred and two, at the foot of twelfth street, in the city of Dubuque; thence on the easterly line of said lot and lots number five hundred and three, five hundred and seven, five hundred and eight, and five hundred and ten, to the north-east corner of lot number four hundred and four; thence on the west line of the levee, as laid out on the plat of the town of Dubuque, made by survey by the government of the United States, to where the same intersects with the south line of the said town of Dubuque, on section number twenty-five aforesaid; thence on the west shore of the slough to the south line of the said section number twenty-five; Provided nothing in this act shall affect the rights of private individuals holding title either from the general government or school fund.

SEC. 2. This act shall in no wise limit or impair the jurisdiction of the state of Iowa upon the lands and territory hereby granted and released.

SEC. 3. This act to take effect from and after its publication in the Daily Dubuque Times and Daily Iowa State Journal, without expense to the state.

Approved March 3d, 1860.

I hereby certify that the foregoing act was published in the Iowa State Journal April 14, 1860.

ELIJAH SELLS,
Secretary of State.

[110] [H. F. 344.]

CHAPTER 89.

[Chap. 144.]

BLIND ASYLUM AT VINTON.

AN ACT making further appropriations for the Blind Asylum at Vinton.

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

SECTION 1. **Gov'nr. appoint com'r.** That one commissioner of the "Institution for the education of the Blind" at Vinton, shall be appointed by

the governor of this state, who shall as soon as practicable after the taking effect of this act, take into possession all money, books, paper and material of whatever kind and character, together with all claims, grounds, &c., that may be in the possession of the present commissioner, or other parties, belonging to said institution, and safely keep the same for the use of the said institution.

SEC. 2. Com'rs give bond. Said commissioner shall give a bond to the state, in the sum of five thousand dollars, which shall be approved by the governor and filed in the office of the secretary of state, and before entering upon his duties, shall take and subscribe an oath faithfully to discharge his duties as such commissioner according to law. Said commissioner shall be removed at the pleasure of the governor.

SEC. 3. \$10,000 appropriated. There is hereby appropriated the sum of ten thousand dollars, or so much thereof as may be necessary to build the wall of the said blind asylum at Vinton, to the top of the third story, above the basement story, and to cover the same with a good, substantial pine shingle roof, and to so enclose the windows and doors as to protect the building from damage—using in said work all the material now on hand, or that may be due from individuals indebted upon subscription.

SEC. 4. Plan of building changed. The internal plan of the building shall be so changed as to dispense entirely with a chapel, and the room designed for a chapel shall be finished the same height of other rooms on the same floor, and the plan shall be so changed as to accommodate the great- [111] est number of pupils, which changes in plan shall be made with the approval of the governor.

SEC. 5. Changes approved by the gov. No part of said appropriation provided for in the third section of this act shall be drawn until the said commissioner shall submit to the governor, plans and specifications, making such changes in the style of finish and in the internal arrangements, as will bring the remaining cost of completing said building, within twenty thousand dollars, as shown by a reliable proposal of responsible parties for the completion of said building according to definite and full specifications accompanying such proposal.

SEC. 6. Auditor issue warrants upon governor's approval. The auditor of state shall issue a warrant or warrants, upon the state treasurer for the payment of said appropriations in section three of this act, only upon the proposal embodying the specifications as required in section 5, accepted by the commissioner and approved by the governor.

SEC. 7. Repealing. That so much of the act entitled an act to locate and provide for the erection of an "Institution for the education of the Blind of the State of Iowa," approved March 22, 1858, by which commissioners were appointed to superintend the same, is hereby repealed.

SEC. 8. Take effect. This act shall take effect from and after its publication in the Iowa State Journal and the Iowa State Register.

Approved April 3, 1860.

I hereby certify that the foregoing act was published in the Iowa State Register April 18, 1860.

ELIJAH SELLS,
Secretary of State.

[112] [H. F. 353.]

CHAPTER 90.

[Chap. 146.]

EVIDENCE.

AN ACT in relation to Evidence.

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

SECTION 1. Parties in interest may be examined. That on the trial of any issue joined, or of any matter, or of any inquiry arising in any action or other

proceeding in any court of justice, or before any person having by law, or by consent of parties authority to hear, receive and examine evidence, no person shall be disqualified by reason of his interest in the same, or in the event of the same—whether such interest be as a party thereto or otherwise. But the party or parties thereto and the person in whose behalf such action or other proceeding may be brought or defended shall, except as hereinafter excepted, be competent and compellable to give evidence either *viva voce* or by deposition according to the practice of the court on behalf of himself or either, or any of the parties to the issue, action or proceeding.

SEC. 2. **Crimin'l not compelled to testify.** But nothing herein contained shall render any person who in any criminal proceeding is charged with the commission of any public offence competent or compellable to give evidence therein for or against himself.

SEC. 3. **Settlement of estates.** No person shall be allowed to testify under the provisions of the first section of this act where the adverse party is the executor of a deceased person, when the facts to be proved transpired before the death of such deceased person; and nothing in such section contained shall in any manner affect the laws now existing in relation to the settlement of estates of deceased persons, infants or persons of unsound mind, or the attestation of any instrument required to be attested.

SEC. 4. **Husband & wife.** The husband or wife shall in no case be a witness for or against the other except in a criminal proceeding for a crime committed by one against the other, or in a civil action or proceeding one against the [113] other, but they may in all criminal proceedings be witnesses for each other.

SEC. 5. All acts inconsistent with this act are hereby repealed.

SEC. 6. **Take effect.** This act shall take effect and be in force from and after its publication in the Iowa State Register and Daily Iowa State Journal.

Approved April 3, 1860.

I hereby certify that the foregoing act was published in the Iowa State Register April 18th, 1860, and in the Iowa State Journal April 21, 1860.

ELIJAH SELLS,
Secretary of State.

[H. F. 377.]

CHAPTER 91.

[Chap. 147.]

DES MOINES RIVER COMMISSIONERS.

AN ACT conferring certain powers on the Board of Commissioners appointed for the purpose of ascertaining the liabilities of the Des Moines River Improvement, and for other purposes.

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

SECTION 1. **Commissioners have full power to make settlement.** That the board of commissioners appointed and provided for by an act entitled, "An act in relation to the Des Moines River Improvement, and abolishing the office of Commissioner thereof," approved March 3d, 1860, shall have the power, and they are hereby authorized and directed to inquire into and examine the liabilities and obligations of all persons to said improvement, or the state on account of said improvement, arising from contracts made by any person or persons with the officers or agents of said improvement, and also all liabilities of any and all persons who may have heretofore acted as agents or officers of said improvement, and also all liabilities of any and all persons who may wrongfully withhold any money or property belonging to

said improvement, or to the state on account of said improvement, or who may have wrongfully taken or trespassed on any of the property be- [114] longing to said improvement, or who may for any cause be liable in any sum to said improvement or the state for or on account of said improvement.

SEC. 2. May compel attendance. Said board for that purpose may, upon their own motion, or on the petition of any other party, issue a citation or notice to any person believed to be indebted or liable in any sum to said improvement, or to the state on account of said improvement, requiring such person to appear before such commissioners at such time and place as they may, in such notice, designate, to answer to such claims, charges and liabilities as may be briefly set forth and specified in said notice. Such notice shall be served by the sheriff, as other notices, and his returns shall have the same force and validity as in other cases. Said commissioners, or any one of them may issue subpoenas for witnesses, which shall, in like manner, be served by the sheriff.

SEC. 3. May award judgment—no appeal. At the time fixed in such notice for the appearance of the person against whom the claim is made, and who may have had the notice required by the preceding section, the commissioners shall (unless, for good cause the hearing is continued,) proceed to determine the liabilities of said party so cited to said improvement, or to the state on account of said improvement, and shall render judgment for any amount due from such party, together with all costs, including the mileage and per diem of the commissioners, which judgment said commissioners shall file in the office of the clerk of the district court of the county in which the board sits, and when said judgment of said commissioners is so filed in said clerk's office, it shall be entered by the clerk in the proper records, and shall have all the force and effect of a judgment rendered in said court, and no appeal shall in any case be allowed from such judgment.

SEC. 4. May employ counsel. Said commissioners shall have power to employ counsel to prosecute before said board any and all the claims aforesaid against any or all persons indebted or liable to said improvement, or the state on account of said improvement, or the property connected [115] therewith, and to that end said commissioners may arrange to pay such counsel such sums or proportion of any amount recovered, as they deem right and just.

SEC. 5. May adopt rules. The true intent and meaning of this act is to confer on said commissioners full powers, judicial and otherwise, to enable them fully to carry out the objects and purposes of this act, and said commissioners may adopt such rules and regulations as they deem proper to aid them in carrying out the objects of this act.

SEC. 6. Disposition of funds. All moneys collected under the provisions of this act shall be applied as provided in section 11 of said act, approved March 3d, 1860, for the disposition of the proceeds of the sales of the dams, water power, &c., connected with said improvement.

SEC. 7. Discretionary power in settlement. Said commissioners may, without the proceedings herein provided for, when practicable, proceed and settle with any party liable to said improvement, and make such provisions for the security and payment of any amounts found due, as they deem just and right.

SEC. 8. This act shall be in force and take effect from and after its publication in the Iowa State Journal and Keosauqua Republican.

Approved April 3d, 1860.

I hereby certify that the foregoing act was published in the Iowa State Journal, April 14th, 1860.

ELIJAH SELLS,
Secretary of State.

[H. F. 396.]

CHAPTER 92.

[Chap. 148.]

PUBLICATION OF LAWS.

AN ACT to authorize the publication of certain laws in the Iowa State Register and the Iowa State Journal.

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

SECTION 1. **Laws required to be published in daily papers may be published in weeklies.** That any laws passed at the present session of the general assembly, and required [116] to be published in the Daily Iowa State Register and Daily Iowa State Journal, may be published in the Weekly Iowa State Register and the Weekly Iowa State Journal, and such publication shall be valid, and said law shall be in force and take effect as though published in the Daily Iowa State Register and the Daily Iowa State Journal.

SEC. 2. All acts and parts of acts inconsistent with this act are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its publication in the Iowa State Register and the Iowa State Journal.

Approved April 3d, 1860.

I hereby certify that the foregoing act was published in the Iowa State Journal April 7th, 1860, and in the Iowa State Register April 11th, 1860.

ELIJAH SELLS,
Secretary of State.

[H. F. 400.]

CHAPTER 93.

[Chap. 150.]

CITY OF DUBUQUE.

AN ACT to cede jurisdiction over certain lots, the property of the United States, in the City of Dubuque.

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

SECTION 1. **Jurisdiction ceded to the United States—state to have concurrent jurisdiction.** That jurisdiction is hereby ceded to the United States over certain lots in the city of Dubuque, owned by the United States government, and held or used for the purposes of a custom house; *Provided*, that such jurisdiction is granted upon the express condition that the state of Iowa shall retain concurrent jurisdiction with the United States, in and over the said lots, so far as that civil process in all cases not affecting the real and personal property of the United States, and such criminal or other process as shall issue under the authority of the state of Iowa against any person or persons charged with crimes or misdemeanors committed within or without the limits of the [117] said lots, may be executed therein in the same way and manner as if no jurisdiction had been hereby ceded.

SEC. 2. **Take effect.** This act to be in force from and after its publication in the Iowa State Journal and Iowa State Register, published at Des Moines, Iowa.

Approved April 3, 1860.

I hereby certify that the foregoing act was published in the Iowa State Journal April 21st, 1860, and in the Iowa State Register May 2, 1860.

ELIJAH SELLS,
Secretary of State.

[H. F. 69.]

CHAPTER 94.

[Chap. 152.]

AGRICULTURE.

AN ACT to amend Chapter 188 of the acts of the Sixth General Assembly, entitled "An act for the encouragement of Agriculture," approved Jan. 28th, 1857.

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

SECTION 1. **Annual report of agr. society.** That the number of copies of the annual reports of the Iowa state agricultural society to be published, shall be limited to three thousand, all of which shall be bound in a manner and style uniform with those bound by the state for the years 1857 and 1858; Provided, said binding shall not cost more than thirty cents per copy.

SEC. 2. **Distribution of report.** The secretary of state shall distribute said reports as follows: Two hundred copies to the secretary of the state agricultural society, for the purpose of making exchanges with other state societies; five copies to the state library; five copies to the agricultural college; one copy to each member of the eighth general assembly; the remainder to the various county societies in the state.

Approved April 3, 1860.

[118] [H. F. 372.]

CHAPTER 95.

[Chap. 153.]

GERMAN PAPERS.

AN ACT to provide for the publication of the laws of a general nature of the Eighth General Assembly, in certain German newspapers.

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

SECTION 1. **General laws to be published in German news papers.** That as soon after the adjournment of the present session of the general assembly of the state of Iowa as practicable, the secretary of the state shall furnish for publication to the following named German newspapers, published in this state, all the laws of a general nature passed at this session of the legislature, except the codes of civil and criminal practice, to-wit: the Staats Zeitung, of Dubuque; National Demokrat, of Dubuque; Der Demokrat, at Davenport, and Muscatine Zeitung; Freie Presse, of Burlington; Volksblatt, of Keokuk; Iowa Post, of Des Moines City.

SEC. 2. **Paid out the state treasury.** There shall be paid out of any money in the treasury not otherwise appropriated, the sum of thirty-five cents per thousand ems, solid matter, for such publication, and the auditor of state is authorized to audit the claims, and to draw his warrant in favor of any publisher of any such papers for the amount due each, when he shall be satisfied of the correctness of such claims.

SEC. 3. This act to take effect from and after its publication in the Daily Iowa State Register and the Iowa Weekly Post.

Approved April 3, 1860.

I hereby certify that the foregoing act was published in the Iowa Weekly Post April 14th, 1860.

ELIJAH SELLS,
Secretary of State.

[H. F. 253.]

CHAPTER 96.

[Chap. 154.]

STATE WAREHOUSE.

AN ACT providing greater safety for books, papers and records belonging to the State.

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

SECTION 1. **\$3500 appropriated for build'ng—fire proof vaults.** That the sum of three thousand five [119] hundred dollars be and is hereby appropriated for the purpose of erecting a building on Capital Square, with fire proof vaults, for the reception of important books, papers and records belonging to the state, and for the use of the state land office, and also for a paper warehouse, to be built under the direction of the secretary of state, with the advice and consent of the census board.

SEC. 2. **Cost limited.** In no case shall the cost of said building exceed the sum of three thousand five hundred dollars.

SEC. 3. **Take effect.** This act to be in force from and after its publication in the Iowa State Register, and Iowa State Journal.

Approved April 3, 1860.

I hereby certify that the foregoing act was published in the Iowa State Register April 25th, 1860, and in the State Journal April 28th, 1860.

ELIJAH SELLS, Secretary of State.

[H. F. 397.]

CHAPTER 97.

[Chap. 157.]

TAX SALE.

AN ACT to repeal Sections 50, 51 and 52 of Chapter 152, acts 7th General Assembly.

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

SECTION 1. **Repeals the law which authorizes the sale of property for delinquent taxes.** That sections fifty, fifty-one and fifty-two of chapter one hundred and fifty-two of the seventh general assembly, be and the same are hereby repealed.

SEC. 2. **Take effect.** This act to take effect and be in force from and after its publication in the Weekly Iowa State Register and the Weekly Iowa State Journal, newspapers published in the city of Des Moines.

Approved April 3, 1860.

I hereby certify that the foregoing act was published in the Iowa State Journal April 28, 1860.

ELIJAH SELLS, Secretary of State.

[H. F. 369.]

CHAPTER 98.

[Chap. 158]

REVISED CODE.

AN ACT to provide for the Printing of the Revision of 1860.

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

SECTION 1. [120] **Com'rs to contract for print'g.** That the governor, secretary, auditor, and treasurer of state and Charles Ben Darwin of the code commission, are hereby appointed commissioners, and authorized and directed to contract for the printing of not more than ten thousand copies of a volume to be known as the "Revised Statutes, of Iowa," which shall contain all laws of the state of a general nature in force, or provided for by the present general assembly, to be in force during its present session and

subsequent to its adjournment; said laws shall be published in one volume, with law type of the usual size, on good book paper, and bound in good law binding, and shall be published under the supervision of one of the code commissioners, to be determined by the general assembly; *Provided*, that said commissioners are hereby prohibited from letting the foregoing work to any person or persons who are not bona fide residents of the state of Iowa.

SEC. 2. **Darwin's notes.** The commissioners hereby appointed shall contract for the printing at the end of each chapter of said volume a synopsis, prepared by Charles Ben Darwin, of all prior laws on the same subject, beginning with those of the state of Michigan, which were in force in the state of Iowa, and continuing down to the present time, stating when each took effect, and when it was repealed, and referring to the book and pages where the original acts are found; also, giving notes and references under each chapter, to all decisions made by the supreme court of this state, on the same or any prior law of the same kind; also giving notes and references to the decisions of the highest courts of those states, from whose laws sections of the code of civil practice have been taken; also to contain an index to the contents of the volume. And the contractor for such printing shall furnish at his own expense the said synopsis notes and references; *Provided*, said notes and references shall not add more than twenty-five cents to the cost of each volume of said book, exclusive of material and printing.

SEC. 3. **Cost not to exceed \$2.50 per copy—damage for delay.** The cost to the state of such volume with [121] the notes and references aforesaid, shall in no case exceed two dollars and fifty cents per copy; and each and every copy of said volume contracted for shall be delivered to the secretary of state in good order, within six months from the time the superintendent appointed by the general assembly, shall notify the contractor that he is ready to superintend the publication of the same; and a failure on the part of the contractor, to deliver said copies of said volume in manner and time herein specified, to the secretary of state, such contractor shall forfeit to the state twenty-five per cent of the entire amount of his compensation under said contract; and shall further forfeit for each month's delay thereafter, the further sum of ten per cent of the entire remaining amount of his compensation; which said forfeitures shall not be included in any damages which the state may be entitled to recover, for any breaches of the conditions of the bond hereinafter provided for.

SEC. 4. **Bond.** The person to whom said contract may be awarded, shall execute and deliver to the secretary of state a bond in such sum, and upon such terms, and with such sureties as the board of commissioners hereby appointed shall deem necessary, conditioned for the faithful performance of said contract.

Pay rent. When the secretary shall receive the said book, he shall give his receipt therefor to the contractor, who, on the production thereof to the auditor of state, shall be entitled to a warrant or warrants for the sum due such contractor by virtue of his contract, and the auditor shall draw the same on the treasurer in favor of said contractor.

SEC. 5. This act shall be in force from its publication in the Iowa State Journal and Iowa State Register, or in any other two papers in this state.

Approved April 3d, 1860.

I hereby certify that the foregoing act was published in the Iowa State Register April 11th, 1860, and in the Iowa State Journal April 21st, 1860.

ELIJAH SELLS,
Secretary of State.

[122] [S. F. 222.]

CHAPTER 99.

[Chap. 160.]

LAWS.

AN ACT providing for the Revision of the laws of this Session into the Revision presented by the Commissioners, and also for Superintending the publication and indexing and distributing of the same.

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

SECTION 1. **Darwin supt. revision.** That Charles Ben Darwin is hereby appointed to incorporate, by proper revision, into the revision prepared by him, and presented to this session by the code commissioners, all the laws of a general nature passed at this session, to the end that the volume of revised laws about to be published, and which shall be known as the revision of 1860, shall contain, when published, all the laws of a general nature which shall be of force in this state, when the laws of this session have taken effect.

SEC. 2. That said Darwin (or, in case of his resignation, or other inability to discharge the duties herein imposed, some other person to be, in that event, appointed by the governor,) shall, within ten days after the adjournment of this session, proceed to complete the revision as herein provided, without any change of language, save as in section five hereof allowed.

SEC. 3. **May employ cl'k.** That said revisor may employ a clerk to assist him, at a compensation of \$3 00 per day, and his certificate of the number of days of such service shall entitle the clerk to compensation for the same.

SEC. 4. **Arrange and index.** That the revisor shall also superintend the order of publication of such revision, and prepare brief marginal notes, as in the code of 1851, and a full and complete index, and arrange and properly number in a convenient and suitable manner, the several divisions and subdivisions, from the beginning throughout; and examine and correct the proof sheets, and cause all clerical, typographical and grammatical errors, and errors of punctuation to be corrected.

SEC. 5. That the same shall be arranged in conformity to the code of 1851, as near as may be, and that [123] such sections of such revision as are part of said code of 1851, shall be indicated also, by the old numbers of such sections, placed within brackets.

SEC. 6. **Appendix.** That an appendix shall accompany the same, as in the code of 1851, wherein shall be placed the constitution of Iowa, and also all the matter included in the appendix of said code of 1851, excepting the index thereof.

SEC. 7. **Sec'y of state furnish copy.** The secretary of state is hereby directed to furnish to the revisor, copies of all the general laws of this session, which said revisor may demand, and to allow him free access to the state archives, for the purpose of comparing any law with the original act.

SEC. 8. **Compensation supt.** For his services to be rendered as herein contemplated, said revisor shall receive the sum of \$1,000, from any money in the treasury not otherwise appropriated, to be paid when the whole work is in print.

SEC. 9. **Session laws.** There shall also be printed and indexed, under the superintendence of the secretary of state, three thousand copies of those acts and resolutions of the eighth general assembly, which are not to be included in the revision; two thousand of which shall be distributed among the counties of this state, according to the population of each, giving eight copies, at least, to each county, for which services he shall be paid the sum of three hundred dollars.

SEC. 10. **Number of copies to be published.** There shall be published 10,000 copies of said revision. When the revision shall have been published

and delivered to the secretary, he shall immediately deliver, or transmit to the governor, two copies; to each other state officer one copy each; retain one in his own office; deposit twenty copies in the state library, and transmit to the secretary of state of each of the United States one copy, and to the executive of each of the United States one copy. He shall also transmit to the clerk of the district court of each county, four copies, which shall be for the use of the county judge—the clerk of the district court—the treasurer—the president of the board of supervisors.

SEC. 11. **Distribution and sale.** Of the remainder of the edition, the secre- [124] tary shall divide seven thousand copies among the counties of the state, in proportion to the population, but giving to no county less than ten copies, and as soon as practicable, transmit to the district court clerk of each county, the number of copies to which his county is entitled, which the clerk is required to sell at three dollars a copy, and pay to the treasurer of his county the amount received by him for them, on or before the first day of December of each year, and the treasurer shall pay the same into the state treasury, at the time of making his next return.

SEC. 12. **Clerk dist. court report to aud.** The said clerk shall also, on or before the first day of December, each year, make out in writing, under oath, a statement of the number of copies sold by him, and not before accounted for, and the number remaining on hand, and the amount paid to the county treasurer, and transmit such statement to the auditor of state, who shall charge the county treasurer with such amount, and the secretary of state shall certify to the auditor the number of copies transmitted to each clerk, and the auditor shall charge such clerk therewith, and subsequently credit him with such as may be sold or otherwise lawfully disposed of.

SEC. 13. **Clerk decline to his successor.** When the clerk goes out of office, having any such copies remaining, he shall deliver them to his successor, taking his receipt therefor, which shall be his sufficient discharge therefor, and every county officer, on receiving a copy, shall give his receipt therefor, and shall pass the copy to his successor, or deliver it in to the clerk for the use of subsequent officers, and each shall be liable therefor on his official bond.

SEC. 14. **Sec'y to sell.** The remainder of the edition of the revision shall be deposited in the office of the secretary of state, and he may in like manner apportion and deliver them to any counties hereafter organized. The secretary may also sell them at the rate above named, after setting apart copies for subsequent distribution, he paying the proceeds into the state treasury.

SEC. 15. For the distribution of the revision, the secretary shall receive fifteen hundred dollars.

[125] SEC. 16. This act shall take effect from its publication in the Iowa State Register and Iowa State Journal, or any other two newspapers printed in this state.

Approved April 2d, 1860.

I hereby certify that the foregoing act was published in the Iowa State Register April 11, 1860, and in the Iowa State Journal April 21, 1860.

ELIJAH SELLS,
Secretary of State.

[H. F. 270.]

CHAPTER 100.

[Chap. 165.]

SCHOOL FUND COMMISSIONERS.

AN ACT to provide for the payment of School Fund Commissioners in certain cases.

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

SECTION 1. **Salary to be paid.** That the school fund commissioners created and acting under and by virtue of chapter 71 of the code, prior to its repeal,

who continued to discharge the duties of that office from April first to October the first, A. D. 1858, by virtue of chapter 36 of the acts of the seventh general assembly of the state of Iowa, shall receive for such service a sum equal to one third of the salary allowed by the county officers, and approved by the superintendent of public instruction for the year 1857.

SEC. 2. Certificate of co judge. Before any school fund commissioner shall be allowed such salary as provided in section first of this act, he shall present to the auditor of the state a certificate from under the hand and official seal of the county judge, countersigned by the clerk of his county, setting forth that _____ has preformed the service as provided in this act, and that he has not received his compensation for said service.

SEC. 3. Aud. and sec'y of the board of education may audit—co. treas. pay. The auditor of the state, upon the receipt of the certificate aforesaid, shall consult with and submit the same to the secretary of the board of education, and, if upon an examination they are satisfied that [126] such allowance is just, and that said school fund commissioner has not been paid, the auditor of the state shall issue a certificate in favor of each of such commissioners and remit the same to the county treasurer, authorizing him to pay the sum so allowed from the interest of the school fund of the county, and such certificate from the auditor when properly receipted shall be a sufficient voucher to the treasurer of the county for the amount thereof.

SEC. 4. Salary allowed and approv'd by supt. pub. instruction may be paid. In all cases in which the salary of school fund commissioners have been allowed by the proper authorities of the county and approved by the superintendant of public instruction with all amounts due said school fund commissioner, as shown by the settlement filed with the auditor of state according to the acts of the 7th general assembly of the state of Iowa, shall be paid in the same manner as is provided for in section 3 of this act.

Approved April 3, 1860.

[127]

JOINT RESOLUTIONS.

NUMBER 1.

[No. 8.]

JOINT RESOLUTION for a grant of land to aid in the construction of a Rail Road from McGregor to the Missouri River.

Resolved by the General Assembly of the State of Iowa, That our senators in congress be instructed and our representatives requested to use their best exertions to procure from the general government a grant of land to the McGregor, St. Peters and Missouri River Rail Road Company, to aid in the construction of a rail road from McGregor, in Clayton county, on the Mississippi river, westward across the state of Iowa to the Missouri river.

Resolved further, That the secretary of state be, and he hereby is directed to forward a copy of this resolution to each of our senators and representatives in the congress of the United States.

Approved March 31, 1860.

NUMBER 2.

[No. 10.]

MEMORIAL AND JOINT RESOLUTION asking for a grant of land to aid in the construction of a Rail Road as herein set forth.

To the Senate and House of Representatives,

Of the United States of America in Congress Assembled:

Your memorialists, the general assembly of the state of Iowa, would respectfully represent that the whole extent of country drained by the Missouri river and its tributaries is wholly destitute of fine timber, and greatly destitute of timber of any kind, unless it be the extreme north and western portions of the country so drained, thereby greatly retarding its settlement and growth. That the distance from the centre of this destitution, say at Council Bluffs, north easterly by the Boyer valley, to the vast pineries upon the head waters of the Mississippi, at some point as St. Peters in Minnesota, is less than 230 miles via. the Boyer valley in the state of Iowa, and it is believed that a railroad communication from the termination of the St. Joe and Council Bluffs railroad on the south line of the state of Iowa, via. Council Bluffs and the Boyer valley to the railroads of Minnesota, at or near St. Peters, would be not only to the states of Iowa and Minnesota, but to the general government, a great source of revenue, commencing at the point on the state line aforesaid, it runs via. Council Bluffs in Pottawattamie county, along the Missouri valley to where the Boyer valley joins it, thence in a north

easterly direction up the Boyer valley, through Harrison, Monona, Crawford, Sac, Buena Vista, Pocahontas, Palo Alto, and Kossuth counties, in Iowa, and Fairbault and Blue Earth counties in Minnesota. It follows the Boyer valley to near its source, thence rising on to the "Plateau Des Praries," it traverses for 25 miles an unsettled and sparsely timbered portion of Iowa, on the great plain forming the divide between the Missouri and the Minnesota rivers, to the state line, thence descending to the valley of the Blue Earth, one of the tributaries of the Minnesota, it follows that valley to its terminus, intersecting in its course the "Land Grant Roads" of Iowa and Minnesota, and terminating contiguous to the great pineries of the north-west.

The formation of the country is singularly adapted for a road of light grades, and cheap construction; nine-tenths of the distance with grades not to exceed 10 feet to the mile, and a maximum grade not to exceed 40 feet to the mile, with a never failing source of revenue. It opens to a market and settlement the lands of a portion of Iowa and Minnesota heretofore excluded, for the want of timber and the facilities of a market. It traverses a portion of the state unprovided with railroads, and with a little additional line of road would give Dakota territory ample railroad facilities for the present. Its cheapness of construction, and light grades adapt it to the distribution of the timber of the pine [129] regions of the north-west through Iowa, Nebraska, Missouri and Kansas, now wholly supplied by water conveyance of nearly 2,000 miles, and when built would give western Wisconsin and Minnesota, by their great thorough-fares now built or building, a direct outlet to the great overland routes to the interior territories and Pacific possessions, together with a direct communication with St. Louis.

The advantages of such a road are to be summed up briefly thus:

First—Its directness and amount of territories and population it would accommodate for its length.

Second—Its rendering available a great portion of the pineries of Minnesota and prairies of Iowa, heretofore unattainable.

Third—Its light cost and easy grades.

Fourth—Its bringing into market and opening to settlement a large portion of the public domain otherwise unavailable for years for want of the necessary facilities for carriage and market.

Fifth—Its cutting at right angles nearly all the land grant roads of Iowa and Minnesota, rendering to each a valuable feeder to the southern roads, of lumber, and to the more northern ones a great outlet to the plains and St. Louis.

Sixth—Its interests not conflicting with any road now projected, building, or built; carries out in part the plan of congress in its land grants to Minnesota, rendering available to that state one of its principal sources of wealth, and saving to the state of Iowa in the item of lumber alone, more than enough to build the entire road.

Your memorialists would, therefore, ask of your honorable bodies that a law may be passed granting to the states of Iowa and Minnesota alternate sections of lands along the line of the proposed road upon the same terms and under like privileges and restrictions with the grants made to the state of Iowa, May 15th, 1856, known as the "Iowa Land Grants," to aid in the construction of such a road aforesaid.

Resolved, That our senators be instructed and our representatives in congress requested to use their influence to procure the passage of a law as asked in the foregoing memorial, and that the secretary of state be instructed to forward a copy of the foregoing memorial and resolution to each of our senators and representatives in congress.

Approved April 2, 1860.

[130]

NUMBER 3.

[No. 11.]

JOINT RESOLUTION for the election of Trustees of the State Agricultural College.

Be it Resolved by the General Assembly of the State of Iowa, That G. W. F. Sherwin, of Cherokee county, Suel Foster of Muscatine county, Peter Melindy of Black Hawk county, E. G. Day of Story county, and J. W. Henderson of Linn county, are hereby elected trustees of the Iowa state agricultural college and farm, who shall hold the office for the term of four years from the fifteenth day of January next, to fill the vacancies which occur at that time by the expiration of the term of office of G. W. F. Sherwin, Suel Foster, J. W. Henderson, Peter Melindy, and E. G. Day, subject to the provisions of the law, approved March 22d, 1858, establishing the Iowa state agricultural college and farm.

Approved April 2, 1860.

[131] AUDITOR'S OFFICE, IOWA, }
DES MOINES, APRIL 18TH, 1860. }

HON. ELIJAH SELLS, *Secretary of State,*

Dear Sir:

In pursuance of article third, section eighteen, of the constitution, I herewith hand you for publication with the laws of the eighth general assembly, the following statement of receipts and expenditures for the two fiscal years commencing November 1st, 1857, and ending November 6th, 1859, inclusive.

Very respectfully,

J. W. CATTELL,

Auditor of State.

1st—RECEIPTS AND DISBURSEMENTS OF REVENUE.

The receipts of revenue into the state treasury, during the past two years have been as follows:

Balance of revenue in treasury, Nov. 1st, 1857,.....	\$ 13,682 90	
Received from county treasurers.....	513,189 79	
Received from interest on school fund as excesses in counties and state treasurer, on loans.....	50,090 43	
Received from sale of state bonds.....	200,005 00	
Received from secretary of state, on sale of laws...	64 75	
Received from register state land office, (fees,)....	1 00	
		777,033 87

DISBURSEMENTS.

For redemption of auditor's warrants.....	702,663 16	
For interest on auditor's warrants.....	15,563 29	
For redemption of appor'ment warrants.....	33,176 68	
		751,403 13

Bal. revenue in S. treasury at this date.....	\$ 25,630 74
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[132] In making the apportionment of school fund interest in March last, under chap. 158, sec. 8, acts of 1858, warrants were issued to the county treasurers, in favor of the temporary school fund of their respective counties, to the amount of \$55,012 60; this being the excess of school fund interest in counties having more than their proportion, together with the amount included in the apportionment as interest on state loans of school fund.

Of this excess, there has been paid into the state treasury, as
 revenue\$50,090 43
 Warrants issued as above have been paid into the state treasury as
 revenue, to the amount of..... 33,176 68

Leaving of said warrants outstanding, a balance over amount of
 excess unpaid, of.....\$16,913 75

The revenue account, therefore, shows a balance of \$16,913 75 greater than the true revenue balance; there being this amount of outstanding warrants, to meet which, revenue must be diverted.

2d—RECEIPTS AND DISBURSEMENTS OF SALINE FUND.

RECEIPTS.

Balance in treasury, Nov. 1, 1857.....	\$ 499 80	
Am't recv'd from Lucas co., Dec. 15, 1857.....	1,292 45	
Am't recv'd from Wayne co., Jan. 1, 1858.....	418 64	
Am't recv'd from Decatur co., Feb. 8, 1859.....	141 08	
Am't recv'd from Wayne co., Feb. 8, 1859.....	571 68	
		\$2,923 65

DISBURSEMENTS.

Amount paid insane asylum in redemption of auditor's warrant No. 8716	499 80
Leaving a bal. of saline fund in treas'ry at this date.....	\$2,423 85

3d—EXPENDITURES.

Showing the amount of warrants issued, and to what account charged, and other expenditures which have occurred during the two fiscal years just passed.

[133] Governor's salary	\$ 4,011 10
Secretary of state—salary	2,875 00
Auditor of state—salary	3,124 65
Treasurer of state—salary.....	3,125 00
Register of state land office—salary.....	3,042 00
Superintendent of public instruction—salary.....	1,800 00
Secretary of board of education—salary.....	1,185 00
Supreme court—judges salary—Wright.....	\$3.750
Stockton	3.750
Woodward.....	3.700—11,200 00
Attorney general—salary	1,766 66
Secretary agricultural college and farm—salary.....	1,583 32
Librarian—salary	700 00
Governor's contingent fund	2,000 00
Secretary of state—contingent fund	2,229 07
Auditor of state—contingent fund	2,255 33
Treasurer of state—deputy account	1,033 33
Register state land office—clerk account	2,082 69
Sec'y ag'l college and farm—contingent fund.....	1,803 16
Supreme court—contingent fund	1,442 93

“	“	expenses	1,336 39
Attorney general—fees and mileage			679 25
Supt. public instruction—contingent fund.....			1,000 00
Sec’y of board of education—contingent fund.....			750 00
Janitor’s wages			1,937 40

JUDGES’ SALARIES—OLD DISTRICTS.

District	No.	1.....	\$2,240 00
“	“	2.....	2,258 36
“	“	3.....	2,000 00
“	“	4.....	1,903 33
“	“	5.....	2,050 00
“	“	6.....	2,000 00
“	“	7.....	1,949 44
“	“	8.....	2,255 00
“	“	9.....	2,383 00
“	“	10.....	2,400 00
“	“	11.....	2,000 00
“	“	12.....	2,414 00
“	“	13.....	2,000 00
“	“	14.....	2,076 00—\$ 29,929 13

[134] JUDGES’ SALARIES—NEW DISTRICTS.

District	No.	1.....	\$1,200 00
“	“	2.....	1,200 00
“	“	3.....	1,180 00
“	“	4.....	1,200 00
“	“	5.....	1,332 66
“	“	6.....	1,167 00
“	“	7.....	1,200 00
“	“	8.....	1,200 00
“	“	9.....	800 00
“	“	10.....	1,200 00
“	“	11.....	1,333 33—\$ 13,012 99

DISTRICT ATTORNEYS’ SALARIES.

District	No.	1.....	\$ 600 00
“	“	2.....	400 00
“	“	3.....	600 00
“	“	4.....	600 00
“	“	5.....	600 00
“	“	6.....	600 00
“	“	7.....	600 00
“	“	8.....	599 99
“	“	9.....	400 00
“	“	10.....	600 00
“	“	11.....	600 00—\$ 6,199 99

Agricultural societies		\$ 14,942 18
“ college and farm		6,065 79
Institution for deaf and dumb		16,000 00
“ for blind at Iowa City		13,740 00
“ for blind at Vinton.....		16,647 00
Insane asylum		107,846 34

“ “ —trustees expenses	33 80
Geological survey	18,064 20
Iowa reports	10,000 00
Swamp lands	1,667 00
State binding	5,856 81
State printing	13,309 24
Military expenses—frontier army	19,800 79
[135] Penitentiary appropriations	41,729 97
“ “ —officers' salaries	4,921 62
Fuel for state house	1,028 49
Expenses of sixth general assembly	194 35
“ “ seventh “ “	49,064 62
Stationery	24,086 95
Constitutional convention	187 00
Special appropriations	23,326 50
Publishing laws in newspapers	4,285 25
Removal of capital	9,797 86
Commissioners of revision	779 00
Capitol square appropriation	1,500 00
Commissions to examine state officers.	603 00
Teachers' institutes	1,799 60
General contingent fund	1,587 40
Census of 1859	466 20
Postage of state offices	1,156 85
Interest on state bonds (N. Y.)	21,315 35
“ “ school fund loan	27,667 80
State house expenses	104 25
State bank expenses	600 50
Abstracts of land entries	642 32
Arrest of fugitives	1,036 75
Board of education	2,012 53
Legislative expenses	61 25
Miscellaneous disbursements	10,117 91
Mileage (by warrants)	1,645 76
Total amount of warrants issued	\$577,797 62
Add interest paid on redeemed warrants	15,563 29
Also, mileage allowed co. treasurers by certificates.	2,742 84
Total expenditures	\$596,102 75
The foregoing includes \$499 80 of saline fund charged to account of insane asylum.	

4TH—WARRANTS.

Amount of warrants outstanding Nov. 1, 1857,	\$155,003 56
Amount issued during the two years.	577,796 62
Total,	\$732,800 18
[136] From which deduct am't redeemed by state treasurer	703,162 96
Leaves now outstanding	\$ 29,637 22
In the amounts of warrants issued and warrants redeemed is included the warrant on saline fund for \$499.80 in favor of the insane asylum. This having been redeemed from a distinct fund is not included in the amount of warrants redeemed as stated under the head of disbursements of revenue.	

[137]

LAWS OF IOWA

The following laws were added by the revising commissioner, Hon. C. Ben Darwin, after the foregoing volume was in print:

CHAPTER 101.

[Chap. 4.]

PATENTS.

AN ACT to repeal part of section 4, of Chapter 148, of the laws of the Seventh General Assembly.

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

SECTION 1. Register of the state land office allowed no fee for using patents. That so much of section four, of chapter one hundred and forty-eight, of the laws of the 7th general assembly, as requires persons entitled to patents to pay the register the sum of one dollar, be and the same is hereby repealed.

SEC. 2. This act to take effect from and after its publication according to law.

Approved January 24th, 1860.

CHAPTER 102.

[Chap. 7.]

SIXTH JUDICIAL DISTRICT.

AN ACT to amend Chapter 150 of the acts of the Seventh General Assembly.

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

SECTION 1. Times of holding courts. That the seventh section of chapter one hundred and fifty of the acts of the seventh general [138] assembly, approved March 23, 1858, be and the same is hereby amended so as to read as follows, to-wit:

Keokuk co. In the sixth judicial district, commencing at Sigourney, in Keokuk county, on the second Mondays in February and August in each year.

Mahaska. At Oskaloosa, in Mahaska county, on the fourth Mondays of February and August in each year.

Poweshiek. At Montezuma, in Poweshiek county, on the second Tuesdays of March and September in each year.

Jasper. At Newton, in Jasper county, on the third Mondays of March and September in each year.

Washington. At Washington, in Washington county, on the second Tuesdays of April and November in each year.

Jefferson. At Fairfield, in Jefferson county, on the fourth Tuesdays of April and November in each year.

Marion. At Knoxville, in Marion county, on the third Monday of May and the second Monday of December in each year.

SEC. 2. Not affect suits pending. All petitions, answers, notices, recognizances, or other pleadings or processes returnable to or pending in said district courts for adjudication at the terms now fixed by the act to which this is amendatory, shall be held returnable to and pending at the terms of said courts as fixed by this act.

SEC. 3. Repealing. All acts or parts of acts contravening the provisions of this act, be and the same are hereby repealed.

SEC. 4. Take effect. This act to be in force from and after its publication in the Iowa State Register, published at Des Moines, and the Democratic Standard, published at Knoxville, in said district.

Approved January 27th, 1860.

I hereby certify that the foregoing act was published in the Iowa State Register February 1, 1860, and in the Democratic Standard February 4, 1860.

ELIJAH SELLS,
Secretary of State.

[139] CHAPTER 103.

[Chap. 12.]

KEOKUK, F. D. & M. R. R. COMPANY.

AN ACT relative to the Keokuk, Fort Des Moines and Minnesota Railroad Company.

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

SECTION 1. Shall not execute addition'l mortgage without consent of the bond holders—bonds shall not issue at a greater rate than \$15000 per mile—construction of bonds. That it shall not be lawful for the Keokuk, Fort Des Moines and Minnesota Rail Road Company to make any deed of trust or mortgage on their rail road and franchises from the city of Keokuk to the city of Des Moines, other than the existing mortgage executed by the said company to Luther C. Clark and Samuel R. Curtis, dated February 16, 1857, except with the consent in writing first had and obtained, of a majority in interest of the holders of the bonds secured by the said existing mortgage, such consent to be acknowledged and recorded in the same manner as the said mortgage is now recorded. And it shall not be lawful for said company to issue their bonds under the aforesaid existing mortgage at any greater rate than fifteen thousand dollars per mile, and in respect to that portion of their rail road lying between the town of Eddyville and the city of Des Moines, it shall not be lawful for said company, except with the consent in writing of a majority of bondholders in the manner aforesaid, to issue their bonds under said existing mortgage, except as the track of their railroad shall have been prepared, and the rails laid thereon and affixed thereto, so that cars can run thereon, and then only at the aforesaid rate of \$15,000 per mile, and the trustees under said mortgage shall certify such bonds only as may be issued as herein provided. But nothing herein contained shall be construed to prevent said company from making and issuing such an amount of

construction bonds as they may deem necessary to provide for the construction and equipment of the said railroad, or to secure the same by pledge of the bonds issued under and secured by the aforesaid existing mortgage.

[140] SEC. 2. **Purchases upon foreclosure of mortgages possessed of franchises, &c.** In case said existing mortgage or deed of trust shall be foreclosed, and a sale of said road be made by the trustees, or by order or decree of court under said mortgage, the road, its appurtenances and franchises shall immediately thereby pass to the purchaser or purchasers, who shall be deemed the successors to said Keokuk, Fort Des Moines and Minnesota Rail Road Company, and as such shall take, have, enjoy and exercise all the rights, powers, privileges and franchises that were possessed by said Keokuk, Fort Des Moines and Minnesota Railroad Company at the time of the execution of such mortgage or deed of trust, or at the time of sale aforesaid.

SEC. 3. **Take effect.** This act shall take effect when accepted by the said company, by a resolution to that effect of the board of directors, duly authenticated by the president and secretary, under the corporate seal of the said company, and filed in the office of secretary of state.

SEC. 4. This act to be in force from and after its publication in the Iowa Citizen and Iowa State Journal, without expense to the state.

Approved February 10th, 1860.

I hereby certify that the foregoing act was published in the Iowa State Journal February 18th, 1860, and in the Iowa State Register February 22, 1860.

ELIJAH SELLS,
Secretary of State.

CHAPTER 104.

[Chap. 16.]

SCHOOL LANDS.

AN ACT to amend Chapter 156 of the Seventh General Assembly, entitled "Preemptions of School Lands," Approved March 23d, 1858.

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

SECTION 1. **Pre-emptor entitled to purchase.** That any claimant or pre-emptor, entitled to purchase any of the lands described in said act, at the time of the approval thereof, and was unable [141] to file a statement under oath, of the date and character of his claim, within the sixty days after the taking effect of the same, be and the same is hereby empowered to make the purchase therein contemplated, on filing with the county judge of the county wherein the land is situated, an oath as in the same act required, and the further statement under oath that the said claimant or pre-emptor was deprived of the benefit of said act in consequence of the expiration of the sixty days before he knew of the passage of the act.

SEC. 2. This said oath shall be filed with the county judge in six months from the taking effect of this act.

SEC. 3. This act shall be in force from and after its publication according to law.

Approved February 11th, 1860.

CHAPTER 105.

[Chap. 23.]

ROAD COMMISSIONERS.

AN ACT to amend section 530 of the Code.

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

SECTION 1. **Must be sworn.** That section 530 of the code, be and the same is hereby amended, so as to read as follows: "The Commissioner, surveyor

and assistants must be sworn by some officer authorized to administer oaths, to the faithful and impartial discharge of their several duties, except that when the County Surveyor is employey he need not be sworn."

Approved March 2d, 1860.

[142] CHAPTER 106.

[Chap. 24.]

AN ACT to repeal part of the sixth section of chapter ninety-three of the acts of the Seventh General Assembly, entitled an act to authorize the construction of Bridges in the State of Iowa.

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

SECTION 1. **Not to apply to the Des river above Scott's bridge.** That so much of section 6, chapter 93, of the acts of the seventh general assembly as provides that the provisions of said section providing for a draw shall not be held to apply to the Des Moines river above a point immediately below the bridge known as Scott's bridge in Polk county, and so much of said section as declares said river not navigable above that point be and the same is hereby repealed.

SEC. 2. This act to be in force from and after its publication in the Weekly Iowa State Journal and the Iowa State Register.

Approved March 2d, 1860.

I hereby certify that the foregoing act was published in the Iowa State Journal March 10th, 1860.

ELIJAH SELLS,
Secretary of State.

CHAPTER 107.

[Chap. 29.]

ARMY OF PROTECTION.

AN ACT to authorize the Governor of the State of Iowa to provide for the protection of certain citizens thereof, to guard against Indian depredations, and making appropriation therefor.

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

SECTION 1. **North west to be proted against Indians.** That for the purpose of protecting the citizens of the north-western portion of the state, and enabling them to defend themselves against the threatened depredations of marauding bands of hostile Indians, the governor be and he is hereby authorized to furnish to said settlers such arms and ammunition, as he may deem necessary for the purposes aforesaid.

[143] SEC. 2. **Minute men enrolled by order of the gov.** That the governor be, and hereby is authorized to cause to be enrolled a company of minute men, in number not exceeding twelve, at the governor's discretion, who shall at all times hold themselves in readiness to meet any threatened invasion of hostile Indians as aforesaid—the said minute men only to be paid for the time actually employed in the service herein contemplated.

SEC. 3. **Minute men act as police.** That of the said minute men under the orders of the governor, at his discretion, and under such regulations as he may prescribe, a number not exceeding four, may be employed as an active police for such time, and to perform such services as may be demanded of

them, who shall be paid only for the period during which they shall be actively employed as aforesaid.

SEC. 4. **\$500 appropriated.** There is hereby appropriated from the state treasury the sum of five hundred dollars, or so much thereof as may be necessary for carrying into effect the provisions of this act.

SEC. 5. This act to take effect and be in force from and after its publication in the Daily Iowa State Register and the Daily Iowa State Journal.

Approved March 9, 1860.

I hereby certify that the foregoing act was published in the Daily Iowa State Register March 13, 1860, and in the Daily Iowa State Journal March 13, 1860.

ELIJAH SELLS,
Secretary of State.

CHAPTER 108.

[Chap. 34.]

WEIGHT OF OATS.

AN ACT to amend section nine hundred and forty of the Code of Iowa.

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

SECTION 1. **33 lbs. per bush'l.** That section nine hundred and forty of the code of Iowa, is hereby amended by striking out after the words "of oats," the words "thirty-five pounds," and inserting instead, the words "thirty-three pounds."

[144] SEC. 2. This act shall take effect immediately after its publication in the Iowa State Journal and the Iowa State Register.

Approved March 13, 1860.

I hereby certify that the foregoing act was published in the Iowa State Register March 21 1860, and in the Iowa State Journal April 21, 1860.

ELIJAH SELLS, Sec. of State.
Secretary of State.

CHAPTER 109.

[Chap. 36.]

OCCUPYING CLAIMANTS.

AN ACT entitled an act to amend section 1240 of the Code of Iowa.

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

SECTION 1. **Shall have color of title and lien for improvem'nt and for taxes paid—ten'nts except'd.** That section one thousand two hundred and forty of the code of Iowa, be amended so as to read as follows: Any person has also such color of title who has occupied a tract of land by himself, or by those under whom he claims for the term of five years; or who has thus occupied the land for a less term than five years, if he, or those under whom he claims, have at any time during such occupancy, with the knowledge and consent, express or implied, of the real owner, made any valuable improvement thereon, or where he or those under whom he claims, have at any time during such occupancy, paid the ordinary county taxes thereon for any one year, and if two years afterwards elapsed without a repayment or proffer of the repayment of the same by the real owner of the land. Provided such occupancy is

continued up to the time at which the suit is brought by which the recovery of the land is obtained as above contemplated. Provided, that nothing in this act shall be construed to give tenants color of title against their landlords.

SEC. 2. This act shall take effect and be in force from and after its publication in the Iowa State Register and North Iowa Times.

Approved March 13th, 1860.

I hereby certify that the foregoing act was published in the Iowa State Register March 21, 1860, and in the North Iowa Times, March 21, 1860.

ELIJAH SELLS, Sec. of State.

[145] CHAPTER 110.

[Chap. 43.]

MORTGAGES.

AN ACT to regulate the foreclosure of Mortgages.

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

SECTION 1. **Foreclosure.** That in actions now commenced, or which may hereafter be commenced, in any of the courts of this state, for the foreclosure of any mortgage or mortgages, the defendants shall not be held to answer therein until the expiration of nine months after the date of the service of the original notice in such actions on the first defendant served, any provision in any law or laws enacted by the general assembly at its present session to the contrary notwithstanding.

SEC. 2. From and after the first day of January, one thousand eighth hundred and sixty-one, this act shall cease to be in force, and the class of actions mentioned in this act, shall be governed by rules of practice concerning such actions in force at that time.

SEC. 3. **Take effect.** This act to take effect and be in force from and after its publication in the Iowa State Register and the Iowa State Journal, newspapers published at Des Moines.

This bill having remained with the Governor three days, Sunday excepted, the General Assembly being in Session, has become a law this 21st day of March, 1860.

ELIJAH SELLS,
Secretary of State.

I hereby certify that the foregoing act was published in the Iowa State Journal, April 7th, 1860, and in the Iowa State Register March 28th, 1860.

ELIJAH SELLS,
Secretary of State.

CHAPTER 111.

[Chap. 49.]

COUNTY JUDGES.

AN ACT limiting the powers and defining the duties of County Judges in certain cases.

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

SECTION 1. [146] **Limited in constructing for public buildings.** That no contract made by any co. judge for the use of, or for the erection of county buildings where the expenditures exceeds two thousand dollars, shall be legal, unless it is first submitted to a vote of the people of his county as provided

in sections one hundred and thirteen (113) and one hundred and fourteen (114) of the code of Iowa.

SEC. 2. All acts and parts of acts inconsistent with this act are hereby repealed.

SEC. 3. **Take effect.** This act shall take effect and be in force from and after its publication in the Iowa State Register and the Iowa State Journal, anything in sections twenty-three (23) and twenty-four (24) of the code to the contrary notwithstanding.

Approved March 22, 1860.

I hereby certify that the foregoing act was published in the Iowa State Register March 28th, 1860, and in the Iowa State Journal April 7th, 1860.

ELIJAH SELLS,
Secretary of State.

CHAPTER 112.

[Chap. 58]

STATE HISTORICAL SOCIETY.

AN ACT entitled an act to amend an act entitled an act to provide for an annual appropriation for the benefit of a State Historical Society, approved Jan. 28th, 1857.

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

SECTION 1. **\$500 appropriated annually to be expended by the society.** That chapter two hundred and three (203) of the laws of the 6th general assembly, approved January 28th, 1857, be amended as follows:

That there is hereby annually appropriated, until the legislature shall by law otherwise direct, to the state historical society, formed in connection with, and under the auspices of the state university, the sum of five hundred dollars, to be expended by said society in collecting, embodying, arranging and preserving in authentic form, a library of books, pamphlets, maps, charts, manuscripts, papers, paintings, statuary and other mate- [147] rials illustrative of the history of Iowa. To rescue from oblivion the memory of its early pioneers, to obtain and preserve varieties of their exploits, perils and hardy adventures. To secure facts and statements relative to the history, genius, progress or decay of our Indian tribes. To exhibit faithfully the antiquities, past and present resources of Iowa. Also, to aid in the publications of such of the collections of the society as the society shall from time to time deem of value and interest. To aid in binding its books, pamphlets, manuscripts and papers, and in paying other necessary incidental expenses of the society.

SEC. 2. This act shall take effect and be in force from and after its publication in the Iowa State Register and Iowa State Journal.

Approved March 26th, 1860.

I hereby certify that the foregoing act was published in the Iowa State Journal April 7th, 1860, and in the Iowa State Register April 4, 1860.

ELIJAH SELLS,
Secretary of State.

CHAPTER 113.

[Chap. 83.]

CHANGE OF VENUE.

AN ACT to authorize change of Venue in certain cases.

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

SECTION 1. **When jury cannot be obtained.** That in any civil action in the district court, where it is made to appear to the judge thereof that a jury of

twelve men cannot be obtained in the county where said action is pending, then, upon application of either party, a change of venue shall be granted to the nearest county in which a jury can be obtained.

SEC. 2. The change of venue herein authorized shall be made in accordance with the laws now in force, or hereafter to be in force, governing change of venue in civil cases.

Approved March 30, 1860.

[148] CHAPTER 114.

[Chap. 103.]

MORTGAGES.

AN ACT to provide for the redemption of Real Estate sold on foreclosure of mortgages.

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

SECTION 1. **Right of redemption allowed.** That in all cases when judgments or decrees are rendered by any of the courts of this state upon a foreclosure of mortgages on real estate, the defendant, judgment creditors, and other creditors having liens on the mortgaged premises, shall, in case of the sale of the mortgaged premises on execution, have the same time to redeem and the same rights to redemption as in cases of sales on ordinary judgments at law, as provided for in chapter 110 of the code, and all acts inconsistent with the provisions of this act, are hereby repealed.

SEC. 2. *And be it further enacted,* That this act shall take effect from and after its publication in the Daily Iowa State Register and the Daily Iowa State Journal, two newspapers published at Des Moines City.

Approved April 2, 1860.

I hereby certify that the foregoing act was published in the Daily Iowa State Journal April 13, 1860, and in the Iowa State Register April 11th, 1860.

ELIJAH SELLS,
Secretary of State.

CHAPTER 115.

[Chap. 106.]

OATH OF OFFICE.

AN ACT requiring Trustees Managers, Commissioners and Inspectors of public buildings, improvements and Institutions to take and subscribe an oath, and punishing violation of the same.

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

SECTION 1. **Offic'r havi'g dispostion of money for the erection of public building shall be sworn, &c.** That every person appointed by the governor, or elected by the legislature, or otherwise appointed or elected a trustee, manager, commissioner or inspector, or a member of any board of [149] trustees, managers, commissioners or inspectors, now or hereafter created or provided by law for the government, control, management or inspection of any public building, improvement or institution whatsoever, owned, controlled or managed, in whole or in part, by or under the authority or direction of this state, shall, before entering upon the discharge of his duties, as such trustee, manager, commissioner or inspector, take and subscribe an oath, in substance and form as follows: "I (here insert affiant's name) do solemnly swear that

I will support the constitution of the United States, and of the state of Iowa; that I will honestly and faithfully discharge the duties of (here describe nature of the office, trust or position as trustee, manager or inspector, as the case may be) according to the laws that now are or that may hereafter be in force, regulating said institution, and prescribing the duties of trustees, managers, commissioners or inspectors thereof, (as the case may be;) that I will, in all things, conform to the directions contained in said law or laws, and that I will not, directly or indirectly, as such trustee, manager, commissioner or inspector, (as the case may be) make, or enter into, or consent to any contract or agreement, expressed or implied, whereby any greater sum of money shall be expended or agreed to be expended than is expressly authorized by law, at the date of such contract or agreement.

SEC. 2. **Contracts must be limited to within the term of the officer contracting.** Any such officer who shall be empowered to expend any public monies, or to direct such expenditures, is hereby prohibited from making any contract for the erection of any building, or any other purpose which shall contemplate any excess of expenditures beyond the terms of the law under which said officer was appointed.

SEC. 3. Any such officer already elected or appointed, who has not already taken such oath, shall forthwith do so, and shall be subject to the provisions of this act.

SEC. 4. **Oath to be filed with the audit'r of state.** All the oaths required by this act shall be filed in the office of auditor of state, and the state [150] auditor shall not draw any warrant upon the state treasurer for the purposes for which any of said officers are appointed until said oaths are so filed.

SEC. 5. **Penalty.** Any person wilfully violating the provisions of this act, shall, upon conviction thereof, be liable to a fine not exceeding five thousand dollars, or imprisonment in the penitentiary not exceeding five years, or both, at the discretion of the court.

SEC. 6. All acts and parts of acts inconsistent with this act are hereby repealed.

SEC. 7. This act shall be in force from and after its publication in the Iowa State Register and Iowa State Journal.

Approved April 2, 1860.

I hereby certify that the foregoing act was published in the Iowa State Journal April 21st, 1860, and in the Iowa State Register May 2, 1860.

ELIJAH SELLS,
Secretary of State.

CHAPTER 116.

[Chap. 120.]

SWAMP LANDS.

AN ACT, to amend an act entitled "an act to prevent trespass or waste on swamp or other lands, in the State of Iowa, and for other purposes" approved January 25th, 1855.

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

SECTION 1. **Prevent trespass or waste—penalty.** That section 3 of an act entitled "a bill to prevent trespass or waste on swamp or other lands in the state of Iowa, and for other purposes" approved January 25, 1855, be and the same is hereby amended so as to read; "on the appearance of the person or persons arrested under said warrant the county judge shall proceed to hear testimony in the case, and if the person or persons so arrested shall be found

guilty of committing trespass or waste contrary to the provisions of this act he or each of them, if more than one is arrested, shall be adjudged to pay a fine not exceeding [151] one hundred dollars, or to be imprisoned in the county jail for a period not exceeding thirty days, at the discretion of said judge. *Provided*, that any person so arrested shall be entitled to be tried by a jury of six disinterested residents of the county, if he or they require it, and the county judge shall have authority to commit such person to the county jail until the fine and costs adjudged against him shall be paid.

SEC. 2. This act to be in force from and after its publication in the Iowa State Register and Iowa State Journal.

Approved April 2, 1860.

I hereby certify that the foregoing act was published in the Iowa State Register April 25, 1860, and in the Iowa State Journal April 21, 1860.

ELIJAH SELLS,
Secretary of State.

STATE OF IOWA—SS.

I, ELIJAH SELLS, Secretary of the State of Iowa, hereby certify that the foregoing acts and resolutions are truly copied from the original rolls on file in my office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the great seal of the state of Iowa. Done at Des Moines, this 9th day of May, A. D., 1860.

ELIJAH SELLS,
Secretary of State.

L. S.

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ACTS AND RESOLUTIONS

PASSED AT THE

EXTRA SESSION

OF THE

EIGHTH GENERAL ASSEMBLY

OF THE

STATE OF IOWA,

WHICH CONVENEED AT THE CAPITOL IN DES MOINES, ON WEDNESDAY,
THE 15TH DAY OF MAY, 1861.

BY AUTHORITY

DES MOINES:
F. W. PALMER, STATE PRINTER.
1861.

ACTS AND RESOLUTIONS

1861

CHAPTER 16

EIGHTH GENERAL ASSEMBLY

ERRATUM.

For date of approval, of Chapter 16, on page 20, read "1861," instead of "1860."

STATE OF IOWA

PRINTED BY THE STATE OF IOWA

BY AUTHORITY

1861

1861

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LAWS OF IOWA.

CHAPTER 1.

FEE BILL.

AN ACT to provide for the compensation of certain officers, and legalizing certain acts relating thereto.

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

SECTION 1. **Curative—reviving old fee bill.** That chapter one hundred and sixty-two (162) as the same is printed in the revision of 1860, of the laws of Iowa, be, and the same is hereby revived and declared to be in full force and effect, except sections 4,136, 4,137, 4,140, 4,141, as printed in said revision.

SEC. 2. **Fees received legalized.** The action of all officers named in said chapter 162, who have received fees agreeably thereto at any time since the first day of September, A. D., 1860, and all judgments rendered for costs agreeably thereto, since the date last above mentioned, are hereby legalized, and said judgments declared to be as binding and valid as if said chapter 162, had not been repealed.

SEC. 3. **Clerks tax costs in certain cases.** In all actions pending and judgments rendered, but not yet satisfied except in those cases when there were judgments by agreement, and in which no costs are claimed, and in those cases which were settled without costs, the clerk of the district court, in the several counties in this state, may tax up and collect fees for services rendered between the 1st day of September, 1860, and the time of the taking effect of this act, where they have not previously been taxed or collected; which fees shall be taxed up and collected; agreeably to the provisions of those portions of chapter 162 hereby revived, and chapter 29 of the revision of 1860. Said fees shall be collected for the benefit of the county or officers or person entitled thereto,

SEC. 4. **Additional fees clerk district court.** Chapter 29 of the revision of 1860, is not affected by the passage of this act. In addition to the fees allowed the clerk [2] of the district court by said chapter 29, he is authorized and required to receive the following fees, to wit:

Entering any final judgment,.....	\$0.75
Filing and docketing transcript of judgment, from another county..	.50
Filing and docketing judgment of justice of peace.....	.50
Entering any rule or interlocutory order.....	.25
Issuing writ of error—for each 100 words.....	.10
Issuing commission to take deposition.....	.50
Entering sheriff's sale of real estate.....	.50
Entering satisfaction of any judgment.....	.25
Entering judgment by confession.....	1.00
Issuing certificate of redemption of land for tax sale.....	.25

SEC. 5. **Additional fees justice of the peace.** Section 4152 of the revision of 1860, shall be amended as follows:—

In any preliminary examination or trial of criminal case, the justice of the peace shall also be allowed for each day of six hours actually employed, the

sum of one dollar, and in all such cases where the state fails, or where the fees cannot be made on execution against the defendant, the same shall be paid by the county; except in cases where the costs are taxed to the private prosecutor.

SEC. 6. This act being deemed by the general assembly of immediate importance to take effect and be in force from and after its publication in the "Daily Iowa State Register," and "Daily Iowa State Journal," anything in the laws of this state to the contrary notwithstanding.

Approved May 27th, 1861.

I hereby certify that the foregoing Act was published in the Daily Iowa State Register of May 29, 1861, and in the Daily Iowa State Journal of June 4, 1861.

ELIJAH SELLS, Sec'y of State.

CHAPTER 2.

COURT HOUSE.

AN ACT in relation to the custody and control of the Court Houses of the Counties.

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

SECTION 1. That the clerks of the district courts of their respective counties shall under the direction of the board of supervisors of the proper county, have the custody and control of the court house therein, and the sheriff may have and keep an office in the court house, provided there is a room therein unoccupied by such officers as are now entitled thereto by law.

SEC. 2. This act being deemed by the legislative assembly to be of immediate importance, shall take effect and be in force from [3] and after its publication in the Iowa State Journal and Iowa State Register, published at Des Moines.

Approved May 27th, 1861.

I hereby certify that the foregoing Act was published in the Iowa State Journal of May 31, 1861, and in the Iowa State Register of June 5, 1861.

ELIJAH SELLS, Sec'y of State.

CHAPTER 3.

SUPPORT OF FAMILIES OF VOLUNTEER SOLDIERS.

AN ACT to legalize the acts of certain Boards of Supervisors and Municipal Corporations in certain cases.

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

SECTION 1. That all and any appropriations heretofore made by any board of supervisors in any counties, or by any municipal corporation of this state, for the purposes either of procuring equipments, munitions of war or for maintaining the families of persons enlisting into the service of the United States government, or to defray expenses of such soldiers prior to their being mustered into service by the United States, are hereby legalized and confirmed, and all such appropriations or applications of the funds of such counties and municipal corporations shall be as valid and effectual as if said

boards of supervisors or municipal corporations had had full power and authority to make such appropriations and applications.

SECTION 2. This act shall take effect and be in force after its publication in the Iowa State Register and Iowa State Journal, anything in the laws of this state to the contrary notwithstanding.

Approved May 27th, 1861.

I hereby certify that the foregoing Act was published in the Iowa State Journal of May 31, 1861, and in the Iowa State Register of June 5, 1861.

ELIJAH SELLS, Sec'y of State.

CHAPTER 4.

CLOTHING, MUNITIONS OF WAR, &C.

AN ACT requiring and authorizing the Governor to purchase arms, powder, clothing, &c., and providing the means of payment.

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

SECTION 1. **Governor purchase munitions of war, clothing, &c.** [4] That the governor of the state of Iowa is hereby directed to procure for the use of the state, as soon as possible, twenty-five hundred approved arms and their proper accoutrements and equipments for military purposes, and he is further hereby invested with authority to purchase twenty-five hundred arms, with their proper accoutrements and equipments in addition to the twenty-five hundred first mentioned.

SEC. 2. The governor of the state is hereby empowered to employ an agent or agents, to make the purchase or purchases aforesaid, and he is hereby authorized, directly or through said agent or agents, in the name of the state of Iowa to make any contract with persons having arms for disposal, or manufacturing establishments in order to execute the power herein conferred on him.

SEC. 3. The governor of the state is hereby authorized to purchase such quantities of powder and other munitions of war, as he may deem necessary to make effective the arms aforesaid.

SEC. 4. The governor of the state is hereby authorized to purchase such clothing, tents, arms and camp equipage, for the use of, and all articles necessary for the subsistence of Iowa regiments now organized and accepted or that may hereafter be organized and accepted into the service of the United States government as he may deem necessary for military effectiveness and the comfort of the troops; *Provided*, that the furnishing of said subsistence shall only extend to the time of mustering said regiments into the United States service.

SEC. 5. The governor of the state is hereby authorized to purchase tents and camp equipage for the use of, and all articles necessary for the subsistence of Iowa regiments, battalions or companies now organized and accepted or hereafter organized and accepted for encampment and drill and discipline duty, as he may deem necessary for military effectiveness and for the comfort of the troops.

SEC. 6. **Agent give bond.** All agents appointed by the governor for the purpose of purchasing the foregoing materials of war, shall give bond, to be approved by the governor, for the faithful performance of such duty, and

they shall also take an oath for the faithful performance of their duties for the best interests of this state, according to the provisions of this act.

SEC. 7. **Payment out of war and defense fund.** To carry into force the provisions of this statute, the governor of the state is hereby authorized to use so much of the fund known as the "War and Defense fund," created by an act of the legislature passed at the present session, as he may deem necessary, he being required to have and file vouchers for the expenditure of all sums of money as therein provided.

SEC. 8. This act being deemed by the legislative assembly to be of immediate importance, shall take effect and be in force from [5] and after its publication in the Iowa State Journal and State Register, published in Des Moines.

Approved May 28th, 1861.

I hereby certify that the foregoing Act was published in the Iowa State Register of June 5, 1861, and in the Iowa State Journal of June 7, 1861.

ELIJAH SELLS, Sec'y of State.

CHAPTER 5.

PENITENTIARY.

AN ACT to amend Section 5176 of Revision of 1860.

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

SECTION 1. That section 5176 be so amended as to read as follows, viz: The warden thus elected and qualified shall take charge of the penitentiary, all the interests of the state therewith connected, and shall appoint some suitable person as clerk, (who shall also act as commissary under the direction of the warden) and one deputy and as many guards as may be necessary to the safe-keeping and government of the convicts, not exceeding one for every ten convicts under his charge, provided that at no time there shall be less than thirteen guards.

SEC. 2. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register and Iowa State Journal and Commonwealth, or any two of them.

Approved, May 28th 1861.

I hereby certify that the foregoing act was published in the Iowa State Register of June 5, 1861, and in the Iowa State Journal of June 7, 1861.

ELIJAH SELLS, Sec'y of State.

CHAPTER 6.

GRAND JURORS.

AN ACT to amend Section 2729 of Chapter 115 of the Revision of 1860, relating to Grand Juries.

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

SECTION 1. [6] That section 2729 of chapter 115 of the revision of 1860 be so amended that the word "July" in the third line of said section shall read January.

SEC. 2. Grand jurors already drawn and selected shall serve until the first day of January 1862, and the time and manner of drawing and selecting such grand jurors be and the same are hereby legalized.

SEC. 3. All acts and parts of acts conflicting with this act are hereby repealed.

SEC. 4. This act the passage being deemed of immediate importance, shall take effect from and after its publication in the Daily Iowa State Register and Daily Iowa State Journal any law to the contrary notwithstanding.

Approved, May 28th, 1861.

I hereby certify that the foregoing Act was published in the Daily Iowa State Register of May 31, 1861, and in the Daily Iowa State Journal of June 4, 1861.

ELIJAH SELLS, Sec'y of State.

CHAPTER 7.

VOLUNTEER SOLDIERS.

AN ACT for the relief of the Volunteer Soldiers of this State.

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

SECTION 1. That in all actions now pending, or hereafter pending in any of the courts of this state or before any justice of the peace, it shall be a sufficient cause for a continuance, on motion of the defendant, his agent or attorney, if it shall be shown to the satisfaction of the court or justice of the peace, that the defendant is absent from home in the actual military service of the United States or of this state, and that the defendant's presence is in any degree necessary for a full and fair defense of the suit. And in such case the costs of the continuance shall abide the event of the suit.

SEC. 2. This act shall take effect and be in force from and after its publication.

Approved May 28th, 1861.

I hereby certify that the foregoing Act was published in Iowa State Journal of June 7th, 1861, and in Iowa State Register of June 5th, 1861.

ELIJAH SELLS, Sec'y of State.

[7] CHAPTER 8.

SWAMP LANDS.

AN ACT giving control of the Swamp Lands in the several Counties of the State to the Board of Supervisors.

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

SECTION 1. The swamp lands in the several counties in the state be and the same are hereby placed under the control of the boards of supervisors of said counties respectively.

SEC. 2. The acts of all boards of supervisors in any county of this state in relation to swamp lands heretofore done and performed are hereby legalized and ratified.

SEC. 3. This act being deemed of immediate importance shall be in force upon its publication in the Iowa State Register, Iowa State Journal and the Commonwealth or either two of said newspapers any law to the contrary notwithstanding.

Approved May 28th, 1861.

I hereby certify that the foregoing Act was published in Iowa State Journal of June 7th, 1861, and in Iowa State Register of June 12th, 1861.

ELIJAH SELLS, Sec'y of State.

CHAPTER 9.

GENERAL APPROPRIATION.

AN ACT making appropriations for the per diem and mileage of members and officers of the Extra Session of the Eighth General Assembly and for other purposes.

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

SECTION 1. That the following sums of money or so much thereof as may be necessary be and the same are hereby appropriated out of any moneys in the treasury not otherwise appropriated.

SEC. 2. **Mileage and per diem of members and officers of the general assembly.** For the payment of the per diem and mileage of the members and officers of the senate, including lieutenant governor, the [8] sum of five thousand dollars or so much thereof as their certificates may entitle them to.

SEC. 3. For the payment of the per diem and mileage of the members and officers of the house of representatives the sum of ten thousand dollars or so much thereof as their certificates may entitle them to.

SEC. 4. **Board of education.** For the payment of the per diem and mileage of the members and officers and the necessary expense of the board of education for their session of 1861 the sum of three thousand dollars or so much thereof as may be necessary.

SEC. 5. **Referees State vs. James D. Eads.** For the payment of the per diem and expenses of the referees in the case of the State vs. James D. Eads and sureties the sum of four hundred and thirty dollars to be divided as per bill on file in the auditor's office.

SEC. 6. **Night watch.** For the payment of a night watch at the capitol, the sum of four hundred dollars to be expended by the direction of the census board.

SEC. 7. **Postage house and senate.** For the payment of the postage of the members of the senate the sum of two hundred and thirty dollars or so much thereof as shall be necessary.

SEC. 8. For the payment of the postage of the members of the house of representatives the sum of five hundred and thirty-two dollars the account to be audited and allowed by the state auditor.

SEC. 9. **Miscellaneous.** For the payment of the miscellaneous expenses of the extra session of the eighth general assembly the sum of three hundred dollars or so much thereof as may be necessary to be audited as per report of the committee on claims of the respective houses or bills in the auditor's office.

SEC. 10. **Chaplains.** For the payment of the chaplains the sum of sixty dollars to be divided among themselves.

SEC. 11. **Newspapers.** For the payment of the subscription for newspapers taken by the members of the house of representatives the following sums: Register, Des Moines, Iowa, \$702,32; Journal, Des Moines, \$546,00; Hawkeye, Burlington, \$22,00; Commonwealth, Des Moines, \$76,60; Clarion, Bloomfield, \$7,50; Times, Dubuque, \$0,80; Herald, Dubuque, \$1,20; Journal, Keokuk, \$2,00; Iowa Post, Des Moines, \$1,80; Democrat and News, Davenport, \$0,80; Gazette, Davenport, \$10,40; Chieftain, Centreville, \$15,75; North Western Farmer, \$2,00; Democrat, Sigourney, \$11,25; Muscatine Journal, \$0,80.

SEC. 12. For the payment of the subscription for newspapers taken by members of the senate the following sums: the Commonwealth, Des Moines, \$61,80; Register, Des Moines, \$168,50; Journal, Des Moines, \$184,85; General E. J. Pleyel, 1000 Iowa Posts, \$30,00.

SEC. 13. **Interest on state bonds.** For the payment of the first installment of interest on the state bonds, issued under an act passed at the extra session [9] of the eighth general assembly the sum of twenty-eight thousand dollars or so much thereof as may be necessary.

SEC. 14. **Repairing capitol.** For the purpose of repairing the capitol building there be and is hereby appropriated out of any moneys not otherwise appropriated the sum of eight hundred dollars to be expended under the direction of the secretary of state by and with the consent of the census board.

SEC. 15. **F. Michael.** For the payment of F. Michael for services, cleaning, arranging and preparing senate chamber and hall of house for extra session \$11,50.

SEC. 16. **Distributing journals.** For preparing and distributing journals of extra session, J. H. Saunders, three hundred dollars, William Thompson, clerk of the house of representatives three hundred dollars.

SEC. 17. This act being deemed of immediate importance shall be in force from and after its publication in the Iowa State Register, Iowa State Journal and Commonwealth or any two of them.

Approved May 28th, 1861.

I hereby certify that the foregoing Act was published in Iowa State Journal of June 7th, 1861, and in Iowa State Register of June 12th, 1861.

ELIJAH SELLS, Sec'y of State.

CHAPTER 10.

AUDITING COMMISSIONERS.

AN ACT providing for auditing all accounts and disbursements arising under the call for volunteers from Iowa, and also for all men organized as the State Militia of Iowa.

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

SECTION 1. **Commissioners to audit accounts.** That John N. Dewey, Isaac W. Griffith and S. R. Ingham of Des Moines in the county of Polk, be and they are appointed as a board of commissioners, whose duty it shall be to audit all accounts and disbursements arising under the laws of this state, having reference to military organizations, arming and subsistence of [10] the same, and the expenditure of the fund known as the war and defense fund, passed at this extra session of the general assembly in regard to the purchasing of arms, uniforms, accoutrements, army supplies and subsistence for any of the companies from the state of Iowa, that have been or may be called

into the service of the general government, or organized and held under the laws of Iowa.

SEC. 2. No claim paid unless audited. That no claim for either arms, uniform, accoutrements, or subsistence, shall be paid out of any appropriation made by this general assembly, unless the same shall have been submitted to said commissioners, and examined and allowed by them under the provisions of this act.

SEC. 3. Claims presented within 3 months. Claims and accounts accruing before the passage of this act, shall be presented within three months from the taking effect of this law, and all other claims and accounts for any of the above articles, are required to be presented within three months from the accruing of the same, or they will be considered as donated to the state, and not thereafter to be allowed by said board, under any pretense whatever.

SEC. 4. Commissioner's oath. That before the members of said board shall enter upon their duties, they shall take and subscribe an oath which shall be filed with the secretary of state, that they will discharge their duties as members of said board of commissioners honestly and faithfully and to the best of their abilities.

SEC. 5. Proving accounts. That in order to protect the interests of the state, that no account shall be allowed unless the same shall be proved before said commissioners in the manner and form that accounts are established in courts of justice in this state, and recognizing the same rules of evidence that there govern and control causes.

SEC. 6. Pay of comm'rs—place of meeting. That said commissioners shall receive no other or further pay than three dollars per day, and the same mileage as members of the general assembly, during the time they are actually engaged in auditing accounts. But they may have the privilege of meeting at any place in the state where troops have been quartered for the convenience of the people in that vicinity, having accounts against the state, giving notice of their time of meeting.

SEC. 7. Commissioners endorse claims—auditor issue warrants to paymaster upon estimates approved by the governor—paymaster give bond and file oath. Whenever the commissioners shall allow any claim under the provisions of this act, they shall endorse on the back thereof that the same was examined and allowed by them, and sign their names thereto, with the time and place of such allowance; which claim, so examined and allowed, when presented to the auditor of the state of Iowa, will entitle the holder thereof to a warrant on the war and defense fund, and no other, for the amount of such claim, provided, however, that the auditor of state may draw warrant on the state treasurer for such sum as paymasters or other disbursing officers under the laws of this session may estimate as necessary for payment of soldiers and others during said month, but such warrant shall not be drawn until said paymaster or disbursing officer shall make oath to the estimate, file a bond to the satisfaction of the audi- [11] tor, and said estimate is approved by the governor. Upon payment of money to said soldiers and others, the said paymaster or disbursing officer shall file the vouchers with the auditor.

SEC. 8. Governor fills vacancies. In case of any vacancy occurring in said board by death resignation or otherwise, the governor of this state shall fill such vacancy.

SEC. 9. Auditor files claims. The auditor of state shall keep a file in his office of all the claims so allowed by the commissioners under the provisions of this act.

SEC. 10. Adjournment of commissioners. That when the said board shall have heard all the claims before them, they shall then give notice in such

newspapers of the state as they desire, that, on a certain day named, they will adjourn, after which all their proceedings shall be turned over to the auditor of the state of Iowa.

SEC. 11. **Commissioners keep record.** That said board shall keep an accurate copy, in a book kept for that purpose, of all accounts presented to them, a memorandum of the evidence in said case and the reasons for the admission or rejection of the same, which said books shall be turned over to said auditor at the close of their term.

SEC. 12. **Payments to be made in coin.** The paymaster general and all other paymasters, or other disbursing officers of this state under any of the acts passed at this session, shall make all payments provided for under any and all of the laws passed at this session, in coin of the United States, and any person violating the provisions of this section, shall be immediately removed from office by the governor, and shall be disqualified from holding any office in this state for the term of five years after said removal from office.

SEC. 13. This act being deemed by the general assembly of Iowa of immediate importance, shall be in force from and after its publication in the Iowa State Register, Iowa State Journal and the Commonwealth or any two of said newspapers, any law of this state to the contrary notwithstanding.

Approved May 28th, 1861.

I hereby certify that the foregoing Act was published in Iowa State Journal of June 7th, 1861, and in the Iowa State Register of June 12th, 1861.

ELIJAH SELLS, Sec'y of State.

CHAPTER 11.

PAY OF VOLUNTEER SOLDIERS

AN ACT for the relief of volunteers who have been or may be mustered into service of the United States Government.

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

SECTION 1. **Pay of volunteers.** [12] That each commissioned and non-commissioned officer and private who has enlisted, or who may enlist under requisitions made or to be made by the United States government on the governor of this state for volunteers, shall be paid out of the "War and Defense Fund" of this state, for the time between the date said volunteers were or may be ordered into quarters by the governor, to the time they have been or may be mustered into the United States army, at the same rate of compensation that the same ranks are entitled to in the United States army.

SEC. 2. If said volunteers are ordered into quarters by the governor for the service referred to in the first section of this act, and subsequently discharged without being mustered into service of the United States government, they shall be paid in the same way and manner as above provided.

SEC. 3. All volunteers which have been ordered into quarters by the governor and rejected before mustering into the service of the United States, shall be paid at the same rate as above provided from the date of order to the date of rejection.

SEC. 4. **Deserters and those refusing to take the oath receive no pay.** No person shall be entitled to any compensation under the provisions of this act, who shall have received or be entitled to any compensation for same

services rendered under any laws of the United States, or any other laws of this state and no commissioned officer, non-commissioned officer, or private who has deserted from the ranks, or refused to take the oath required, shall receive pay for any service he may have rendered.

SEC. 5. This act being deemed by the general assembly to be of immediate importance, to take effect and be in force from and after its publication in the Iowa State Register and Iowa State Journal, anything in the laws of this state to the contrary notwithstanding.

Approved May 28th, 1861.

I hereby certify that the foregoing Act was published in Iowa State Journal of June 7th, 1861, and in Iowa State Register of June 12th, 1861.

ELIJAH SELLS, Sec'y of State.

CHAPTER 12.

PROPERTY DESTROYED BY TORNADO, TAXES REBATED.

AN ACT to authorize the Boards of Supervisors to rebate taxes.

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

SECTION 1. That in all cases where buildings have been or shall hereafter be destroyed by tornadoes or other unavoidable casualty after [13] the same have been assessed for taxes, the board of supervisors of the proper county may on application of the party in interest, his agent or attorney, rebate from the taxes on the assessed valuation thereof, (as the case may require) an amount equal to the tax on or the valuation of the property actually destroyed, so that no tax shall be collected upon that part of the property so destroyed, provided that the provisions of this act shall only extend to such assessments as have been made for the year in which the loss may occur.

SEC. 2. This act being deemed of immediate importance shall take effect from and after its publication in the Iowa State Journal and State Register.

Approved May 28th, 1861.

I hereby certify that the foregoing Act was published in Iowa State Journal of June 7th, 1861, and in Iowa State Register of June 12th, 1861.

ELIJAH SELLS, Sec'y of State.

CHAPTER 13.

COMMISSIONERS.

AN ACT to provide for the payment of certain Commissioners and others.

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

SECTION 1. That the members of any military board of commissioners or of any other commission or agency under the laws passed at this session, shall be paid out of the war and defense fund, any thing in any law passed at this session to the contrary notwithstanding; *Provided*, that in cases where the laws of this session do not establish the compensation of the members of said commission or agency, they shall receive such compensation as the board of auditors established at this session shall deem just and equitable.

SEC. 2. This act being deemed of immediate importance shall take effect and be in force upon publication in the Iowa State Register, Iowa State Journal and the Commonwealth, or either two of them, any thing in the laws of this state to the contrary notwithstanding.

Approved May 28th, 1861.

I hereby certify that the foregoing Act was published in Iowa State Journal of June 7th, 1861, and in Iowa State Register of June 12th, 1861.

ELIJAH SELLS, Sec'y of State.

[14] CHAPTER 14.

JOURNALS OF SENATE AND HOUSE OF REPRESENTATIVES.

AN ACT to provide for the publication and distribution of the Journals of Senate and House of Representatives.

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

SECTION 1. **1000 copies of journal of each house to be published.** That there shall be published one thousand copies of each of the journals of the two branches of the general assembly at the extra session of 1861.

SEC. 2. **Certified copy of journal to be filed in the office of the secretary of state—secretary and clerk to superintend printing and indexing.** The secretary of the senate and the clerk of the house of representatives, shall comply with the provisions of section first of an act of the 8th general assembly entitled, "An Act relating to the Journals of the Senate and House of Representatives" approved March 29th, 1860 and are required to furnish to the state printer, immediately upon the adjournment of this extra session a copy of their respective journals, and prepare a full index of each, and it is hereby made the duty of such secretary and clerk to superintend the publication and indexing said journals, and as soon as said journals are published it shall be the duty of such secretary and clerk respectively to distribute the same as herein provided.

SEC. 3. **Distribution of the journals.** Each member of the senate and house of representatives shall be entitled to three copies of the journal of the house of which he is a member and one copy of the journal of the other house, and three copies shall also be sent to each organized county in the state, directed to the clerk of the board of supervisors and one copy to each officer and reporter of the general assembly; and fifteen copies bound in leather to state librarian, to be preserved by him in the state library; the remainder to be deposited with the secretary of state. The secretary of the senate and clerk of the house of representatives shall make the distribution provided for in this section within thirty days from the time the respective journals are printed and bound, and the said secretary and clerk shall immediately after the journals are printed and bound, transmit by mail or express to each member one copy of the journal of the respective houses, and the remainder in any other manner within the time prescribed in this section.

SEC. 4. **Compensation to secretary and clerk—penalty for neglect of duty.** As a compensation for the services herein required, the secretary and clerk shall each receive three hundred dollars to be paid out of any money in the treasury not otherwise appropriated, [15] to be paid by the treasurer of state, upon warrants issued by the auditor of state, when said auditor shall be satisfied by receipts or otherwise that distribution has been made as above di-

rected; provided however that such secretary and clerk shall not be entitled to receive more than one half of the respective sums aforesaid until such distribution is fully made. And in case of failure to make such distribution within the time prescribed in section three of this act, they shall not be entitled to receive the balance of such compensation.

SEC. 5. This act being deemed of immediate importance, it is ordered that it take effect upon its publication in the Iowa State Register, Iowa State Journal and the Commonwealth or any two of them any thing in the laws of this state to the contrary notwithstanding.

Approved May 28th, 1861.

I hereby certify that the foregoing Act was published in Iowa State Journal of June 7th, 1861, and in Iowa State Register of June 12th, 1861.

ELIJAH SELLS, Sec'y of State.

CHAPTER 15.

PUBLICATION AND DISTRIBUTION OF LAWS.

AN ACT to provide for the publication and distribution of the Laws enacted at the Special Session of 1861.

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

SECTION 1. **10,000 copies published in pamphlet form.** That the secretary of state shall cause to be published ten thousand copies of the acts, joint resolutions and memorials, passed at the special session of the eighth general assembly of 1861, in pamphlet form; said publication to be made as soon as possible after the adjournment of this session.

SEC. 2. **Distribution and compensation.** It shall be the duty of said secretary of state to distribute said statutes, as follows: To each member and officer of this legislature he shall distribute two copies; he shall deposit fifteen copies bound in leather with the state librarian; he shall distribute seven thousand copies to the several counties of this state, in the ratio of the population of said counties, directed to the clerk of the board of supervisors; and he shall retain the remainder in his custody until disposed of by law, and said clerks of said boards of supervisors shall distribute said laws among the county and township officers of their respective counties.

[16] SEC. 3. Said secretary of state shall receive for his compensation, and for his expenses incurred in such distribution and indexing and superintending the same, the sum of four hundred dollars.

SEC. 4. This act being deemed of immediate importance it shall take effect upon its publication in the Iowa State Register, Iowa State Journal and the Commonwealth, any thing in any law to the contrary notwithstanding.

Approved May 28th, 1861.

I hereby certify that the foregoing was published in Iowa State Journal of June 7th, 1861, and in Iowa State Register of June 12th, 1861.

ELIJAH SELLS, Sec'y of State.

CHAPTER 16.

STATE BONDS.

AN ACT to provide for the issue and sale of State Bonds to procure a loan of money for the State of Iowa, to enable it to repel invasion and defend itself in war.

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

SECTION 1. **Issuing bonds—payment of interest, &c.** That the state of Iowa for the purpose of borrowing money to enable the state to repel invasion and defend itself in war, hereby authorizes the issue and sale of the bonds of the state to an amount not exceeding, by virtue of this act, the sum of eight hundred thousand dollars.

The bonds hereby authorized to be issued and sold, shall provide for the reimbursement of the principal, at the expiration of twenty years from the date thereof, and for the payment of interest semi-annually on the first days of January and July of each year, at the rate of seven per cent. per annum, both principal and interest on all bonds over \$100 to be made payable at the Metropolitan Bank in the city of New York. But the governor may cause such payments to be made at any other place in the said city, by giving thirty days public notice of such place in three newspapers in the said city.

SEC. 2. The governor, auditor and secretary of state are hereby authorized and required to issue the said bonds to an amount [17] not exceeding the sum named in the preceding section, from time to time as the wants and necessities of the state for the purposes contemplated in this act, may require, to be determined by the board of commissioners provided for in section 5 of this act. Said bonds shall stipulate for reimbursement of the principal and the payment of the interest in the manner directed by the preceding section. If deemed by the governor, auditor and secretary of state advisable, they may, as nearly as practicable, issue the one-fourth of the said bonds in the sum of \$100 00 each, and another fourth in the sum of \$500 00 each, and the remainder in the sum of \$1,000 00 each; but this direction does not prohibit said officers from issuing all or any part of said bonds in the sums of \$1,000 00 and \$500 00 each, if \$100 00 bonds cannot be sold. Both principal and interest on the \$100 00 bonds, if any are issued, shall be made payable at the treasury of this state.

The governor shall cause the said bonds with interest coupons to be lithographed, and the bonds shall refer to this act by its title and the date of its approval, as the authority under which they are issued, and said bonds shall be signed by the governor, countersigned by the auditor and treasurer, and attested by the great seal of the state of Iowa, but the seal of the state may be omitted from the coupons, which coupons shall be signed by the auditor of state, the necessary expense of which shall be paid out of the war and defense fund. No bonds shall be signed and perfected prior to the time they are actually needed for negotiation and then in such amounts only as may be requisite for the time being, and said bonds shall not be signed and perfected until the agents herein appointed are ready to receive them in person for sale and negotiation as provided in this act.

SEC. 3. **Proceeds of sale of bonds applied to military purposes.** No money arising from the sale of the said bonds, or any part thereof, shall be used or applied in any manner, or for any purposes, except the purposes of purchasing arms and munitions of war for the use of the state, for defraying and paying the expenses already incurred, or which may hereafter be incurred in calling out, troops or organizing, uniforming, equipping, subsisting and pay-

ing the militia of the state when called out under the laws of this state or those of the United States, or such other purposes as are or may become necessary or incident to the repelling of an invasion or the defense of the state in war, and except for the necessary expense of procuring lithograph plates for bonds and the issuing and execution of said bonds, as provided for in section 2 of this act, and except for actual and necessary expenses, and compensation of agents herein appointed for sale or negotiation of said bonds, as provided in section 9 of this act. But for the protection of *bona fide* holders of said bonds, it is hereby declared not to be obligatory on them to look after, or see to the appropriation of the money raised by the sale of the bonds, and any irregularity in the issuing of said bonds shall not impair their validity in the hands of *bona fide* holders.

[18] SEC. 4. **The revenue and faith of the state pledged for payment.** The state doth hereby irrevocably pledge its faith to provide adequate means to pay the interest on the said bonds as the same may become due, and the principal at the expiration of twenty years, and for this purpose, all, or so much as is necessary of the revenue arising from the entire taxable property of the state shall be and the same is hereby set apart and pledged for these purposes. And it is hereby made the duty of the census board, or other proper officer or officers, (which duty may if necessary, be enforced by mandamus) to levy in each year a tax sufficient for these purposes, after payment of all expenses of collection.

No tax shall ever be levied by the state of Iowa on the stock hereby created, nor on the interest which may be payable thereon; and the value of this stock shall in no wise be impaired by the authority of this state, provided nothing herein contained shall be so construed as to exempt from taxation any part of the capital stock of the branches of the state bank of Iowa.

SEC. 5. **Commissioners and their duties.** The governor of the state, Charles Mason of Des Moines county, William Smyth of Linn county, James Baker of Lucas county, and C. W. Slagle of Jefferson county, are hereby appointed a board of commissioners, who, or a majority of whom shall cause to be issued and sold from time to time, only so many of the bonds hereby authorized as in their judgment, the wants and necessities of the state may require, and all moneys or funds arising from such sale or sales, shall be paid into the treasury of the state, and shall be there kept as a separate fund, and the same shall not be subject to the ordinary or general warrants of the auditor of state; but only warrants issued for debts created for objects coming within the meaning and purview of section three (3) of this act. Said fund shall be known as the "War and Defense Fund." The bonds shall be called the "Iowa State Stocks." Any vacancy in the board of commissioners authorized in this section, arising from death, resignation or otherwise, shall be filled by the governor.

SEC. 6. **Agents to sell—their duties—additional security state treasurer.** The treasurer of state and Maturin L. Fisher of Clayton county, be and they are hereby declared to be agents of this state, with full power to negotiate said loan, to sell and transfer the said bonds, and to do all things necessary in the premises; and said agents shall fully report under oath all their doings in the premises to the governor, who shall communicate the same to the legislature at the next session thereafter, and in the case of a vacancy occurring in said board of agents, by reason of death, resignation or otherwise, the governor shall have power to fill the vacancy thus created.

SEC. 7. Before the said agents are entrusted with any of the said bonds, they shall give bond with sureties in the penal sum of at least twice the amount of bonds delivered to them, conditioned for the paying over of all moneys received by them from the sales thereof, and for the faithful per-

formance of their duties, which bond shall be approved by the governor, auditor and secretary of state [19] and filed with the auditor of state, who is directed to record the same in his office.

In case more than one sale is made, similar bonds may be required by the governor.

And the loss of said bonds or money by robbery or otherwise, shall be no defense to an action on the said bond. But the bond of the agents shall stand discharged if they obey the directions herein given, and pay into the state treasury, as prescribed by this act all moneys received by them from the sale or sales of said bonds, and deposit according to the provisions of this act any bonds not sold in the treasury of the state. Any bonds delivered to the agents, and not sold by them as herein directed, shall be delivered by the said agents to the treasurer of state, who shall keep the same in his office until called for by the governor for sale and negotiation, and for the proper performance of his duty, the treasurer and his sureties shall be liable on his official bonds, the amount of which bonds shall be increased, or additional bonds given from time to time, as may be required by the governor, as now provided by law, and it is enjoined upon the governor as a special duty that he shall always see that a good and sufficient bond or bonds are taken from the treasurer to secure in any event the safe keeping of all moneys coming into the hands of the treasurer.

SEC. 8. Bonds to be sold for coin only. All sales of bonds made in pursuance of this act, shall be for specie, payable in hand on delivery of the bonds so sold to the purchaser or purchasers.

SEC. 9. Compensation of agents. As compensation for the risk assumed and services to be performed, the said agents shall be allowed their actual and necessary expenses, and in addition, such an amount, not to exceed, however, one-fourth of one per cent. on the amount sold and paid into the state treasury, as the governor, auditor and secretary of state may deem proper and right, to be paid after the rendering of said service and the incurring of said expense out of the "War and Defense Fund."

SEC. 10. Coupons receivable for taxes. Matured coupons on all bonds, of the denomination of one hundred dollars, shall be receivable in payment of all state taxes.

SEC. 11. Disposition and sale of bonds. If such a course is deemed advisable by the commissioners appointed in section 5 of this act the agents may on the written direction of the said commissioners or a majority of them sell at private sale the said bonds or any part thereof, in this state at their nominal par value, but in no instance for less, except as hereinafter provided. Any sale of the said bonds made in the city of New York, must be made in the following manner, to wit: The said agents shall give at least twenty days notice by advertising in the New York Daily Times, Daily New York Tribune, Daily New York Journal of Commerce, or at least two of them, and Daily Boston Atlas and Daily Boston Post, or at least one of them, and the Daily Chicago Tribune, or other daily newspaper in Chicago, fixing [20] a time and inviting sealed proposals for said loan, which shall be received and opened by them at the Metropolitan bank in said city, where it shall be their duty to keep or have kept at all times before opening any bids a copy of this act for public inspection with such other documents relating thereto as may be necessary and copies of said advertisements and all proposals received by them shall be filed and preserved in the office of the auditor of state and the said agents shall not accept any but the best and highest proposals, and shall not sell bonds at less than par, unless by the written direction of the board of commissioners provided for in this act or a majority of the same,

but after a sale or sales of said bonds have been made in the city of New York as authorized in this section the commissioners or a majority of them may if they deem it advisable authorize the agents to make sales of said bonds at the then current rate in New York, but in no instance for less than the rate obtained at the last preceding sale in that city.—Sales of bonds may be made in New York City from time to time as may in the judgment of the commissioners be necessary upon giving the notice prescribed in this section and complying with all the conditions and restrictions of this act.

SEC. 12. This act being deemed of immediate importance by the general assembly shall take effect and be in force from and after its publication in the Iowa State Register, Iowa State Journal and Commonwealth or any two of them, anything in section 24 of the revision of 1860 to the contrary notwithstanding.

Approved May 28th 1860.

I hereby certify that the foregoing was published in the Iowa State Register of June, 12th, and Iowa State Journal of June 7th, 1861.

ELIJAH SELLS, Sec'y of State.

CHAPTER 17.

[21] MILITIA.

AN ACT to amend the Militia Law of the State of Iowa.

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

SECTION 1. **Assessor list person subject to military duty.** That it shall be the duty of the assessors in each county to make annually, at the time of making the general assessment, lists of the persons in their respective townships subject to military duty under the laws of this state, and file the same duly certified in the office of the clerk of the district court in their proper county.

SEC. 2. **Clerk of district court to return list to adjutant general.** It shall be the duty of the clerk of the district court in each county, on receipt of said lists, to make an abstract showing the number of persons subject to military duty in each township, and the total number in his county, and forward a certified copy of the same, forthwith to the adjutant general of the state, who shall cause the same to be filed in his office.

SEC. 3. **Adjutant general reports annually to president or war department.** It shall be the duty of the adjutant general of this state, annually, on or before the first Monday in August, in each year, after the year 1861, to report to the president or war department of the United States, the aggregate military force of this state.

SEC. 4. **Militia to be divided into two classes.** The said military force shall be divided into two classes, the first to be called the *Volunteer*, and the second the *Reserve Militia*.

SEC. 5. **Organization of volunteer militia.** The volunteer militia shall consist only of those who voluntarily organize themselves into companies of not less than forty privates and non-commissioned officers, nor more than one hundred privates and non-commissioned officers, and who shall be uniformed, and shall elect officers, and assemble themselves for drill, and purposes of military discipline, not less than five nor more than ten days in each year, and who shall be furnished with arms and equipments by the state, and the

first subject to call or draft into service at the requisition of the governor. *Provided*, that upon the order of the governor, the number of days for such drill and discipline may be extended to twenty days. *Provided*, further, no company shall be called out or be assembled for the election of officers or for drill on the day of holding any general or special election.

SEC. 6. **Organization of reserve militia.** The reserve militia shall consist of those who do not organize themselves into companies as aforesaid, but shall be subject to draft, or to be called into service.

SEC. 7. **Election of officers.** Each company shall elect by ballot, one captain, one first lieutenant, and one second lieutenant, four sergeants and [22] four corporals—and may by vote select their place for drill, and make regulations for special meetings, drill or parade.

SEC. 8. **Organization and formation of regiments.** Whenever in the opinion of the governor of this state, the public good requires, he shall, by order, direct the said volunteer companies so organized, to form into regiments of not less than five nor more than ten companies each, and to that end shall designate in such order the several companies which shall form the respective regiments, and the time and place when and where the said companies shall convene for the purpose of electing regimental officers, at which time and place the said companies shall proceed to elect by ballot one colonel, one lieutenant colonel, and one major for each regiment.

SEC. 9. **Organization of brigades and divisions.** In like manner the governor may order the organization of regiments into brigades and brigades into divisions, and the election of brigadier and major generals.

SEC. 10. **Election—commissioners, &c.** All elections under this act shall be made in accordance with provisions of the constitution of this state.

SEC. 11. All commissioned officers shall receive their commissions from the governor. All non-commissioned officers in organized regiments shall receive warrants of rank from the colonel or commanding officer of their regiment. In companies not organized into regiments, the captains shall give their non-commissioned officers certificates of rank.

SEC. 12. **Gov., maj. gen., brigadier gen., col.—staff.** The governor as commander-in-chief may appoint as his staff one adjutant general, who shall also perform the duties of inspector general, with the rank of colonel of cavalry, one quartermaster general, (who shall also perform the duties of commissary general,) with the rank of lieutenant colonel of cavalry, one paymaster general with the rank of lieutenant colonel of cavalry, and one surgeon general with the rank of major of cavalry, and he may also appoint four aids-de-camp with the rank of lieutenant colonel of cavalry, and one military secretary with the rank of lieutenant of infantry.

SEC. 13. Each major general commanding a division may appoint as his staff one assistant adjutant general and one assistant inspector general, each with the rank of major of cavalry, and two aids-de-camp having the ranks of captain of cavalry.

SEC. 14. Each brigadier general commanding a brigade may appoint as his staff, one assistant adjutant general, and one assistant inspector general, each with the rank of captain of cavalry and one aid-de-camp having the rank of lieutenant of cavalry.

SEC. 15. The colonel or commanding officer of each regiment shall appoint as his staff, one adjutant, one quartermaster, one paymaster, and one commissary to said regiment, and he shall appoint all his non-commissioned staff; all of which officers shall have the same rank as the same grade of officers in the United States army.

[23] SEC. 16. **Surgeon's appointment.** The governor shall appoint on the regimental staff, one surgeon and one assistant surgeon, to be selected from persons previously examined and approved by a board of medical examiners, consisting of three persons selected for that purpose by the governor, one of whom shall be professor of surgery of the medical department of the Iowa state university. The sum of five dollars per day, with one half the mileage allowed by law to members of the general assembly, shall be allowed to each of said medical examiners. The time and mileage for which compensation is hereby allowed shall be certified by the president or chairman of said board, and upon presentation of said certificate to the auditor, he shall draw his warrant on the treasurer for the amount so certified as due each member of said board of medical examiners, to be paid by the state treasurer out of the war and defense fund.

SEC. 17. **Staff officers give bond.** The quartermaster general, paymaster general, and assistant quartermaster generals, and the quartermasters, and paymasters of regiments shall file with the governor satisfactory bonds for the faithful discharge of the duties of their respective offices, and upon approval by the governor, said bonds shall be filed with the adjutant general.

SEC. 18. **Pay of troops, adj. gen., quartermaster and paymaster.** The pay and allowances for all troops (except for the staff of the commander-in-chief,) when called into the actual service of the state shall be the same as that of corresponding grades in the United States army.

SEC. 19. During the time employed in calling out and organizing troops for the United States service and during the time such troops remain in the actual service of this state, the adjutant general shall be entitled to the full pay and allowances of a colonel of cavalry in the United States army; and at other times his salary shall be at the rate of \$300 per annum.

SEC. 20. During the time employed in calling out and organizing troops for the United States service and during the time such troops remain in the actual service of this state, the quartermaster general shall be entitled to the full pay and allowances of a lieutenant colonel of cavalry in the United States army and at other times his salary shall be at the rate of \$200 per annum.

SEC. 21. During the time the paymaster general shall be employed in paying troops while they remain in the actual service of the state, he shall be entitled to the full pay and allowances of a lieutenant colonel of cavalry.

SEC. 22. **Companies organized by the authority of the gov.** Companies other than of the infantry arm, to be organized under the provisions of this act must first be authorized by special orders of the commander-in-chief.

SEC. 23. **Adj. gen. duties.** There shall be filed and kept in the adjutant general's office of this state, a complete roll of each of the companies organized under the provisions of this act, and a record of the date of the organization of each company, and of the enlistment of each member thereof.

[24] SEC. 24. Said roll shall be made annually by the captain or commanding officer of each company on or before the first Monday in July, and a copy of the same forwarded to the adjutant general's office of this state.

SEC. 25. A record of the date of all commissions granted under this act shall be kept in the adjutant general's office, and commissioned officers of the same grade shall have rank according to the date of their several commissions.

SEC. 26. **Volunteer militia—term of service—exemption.** The volunteer militia shall serve for the term of six years, unless discharged for legal disability, and shall ever afterward be free from duty in the reserve militia except in case of war, insurrection or invasion, and shall during said service, be free and exempt from personal highway tax and from serving as jurors.

SEC. 27. Officers and members of the volunteer militia elected under the provisions of this act, shall not be subject to the orders of officers of the reserve militia.

SEC. 28. **Assessor and clerk district court—penalty for neglect of duty.** If any assessor or clerk of the district court shall willfully refuse or neglect to perform the duties imposed on him or them, by this act, he shall, on conviction, be fined in any sum, not exceeding five hundred dollars and be removed from office, and shall not thereafter hold any office of honor or profit in this state; for four years after such conviction.

SEC. 29. **Governor and his staff may make rules and regulations.** The governor may make through his proper staff officers, all rules and regulations not inconsistent with the laws of this state for carrying into effect this act, or he may appoint a military board, to consist of not more than five members, to adopt and report such regulations; which, after being approved by the governor, and promulgated in orders, shall govern all concerned.

SEC. 30. **Old commissions annulled.** All military commissions heretofore issued by any governor of this state above the rank of captain except commissions issued to the officers of the three regiments organized and being organized for the service of the United States are hereby annulled.

SEC. 31. **Musicians—chaplains—pay of—fines &c.** When battalions or regiments are placed in encampment or ordered into actual service in accordance with the provisions of this bill, there shall be allowed to each battalion or regiment four musicians who shall receive pay the same as musicians in the United States army and also one chaplain to be appointed by the colonel with the consent of the lieutenant colonel and major, and said chaplain shall receive pay at the rate of fifty dollars per month while in actual service.

Provided, that when troops are assembled only for parade and drill, punishments for the violation of the rules and regulations shall only extend to fines to be collected by the proper civil officers or imprisonment during the term for which the troops are thus assembled or to expulsion from the service.

SEC. 32. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

[25] SEC. 33. This act being deemed by the general assembly of immediate importance shall be in force and take effect from and after publication in the Iowa State Register and Iowa State Journal, any law of this state to the contrary notwithstanding.

Approved May 28th, 1861.

I hereby certify that the foregoing Act was published in the Iowa State Register of June 12th, and in the Iowa State Journal of June 7th, 1861.

ELIJAH SELLS Sec'y of State.

CHAPTER 18.

APPROPRIATIONS FOR VOLUNTEER MILITIA.

AN ACT to appropriate money to pay expenses now or hereafter incurred by the State in calling out, organizing, uniforming, subsisting and equipping the Militia of the State, and purchasing arms and munitions of war for the State, and in complying with the present or any future requisitions of the President of the United States, for Volunteers from this State.

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

SECTION 1. **Appropriation for expenses that have been or may be incurred.** That for the purpose of defraying the expenses that have been incurred by

the state in calling out, organizing, uniforming, subsisting and equipping the militia of this state, and in complying with the requisition of the president of the United States, for volunteers from this state, there be and is hereby appropriated the sum of two hundred thousand dollars or so much thereof as may be necessary for the purposes aforesaid.

SEC. 2. **Payment made out of the "War and Defense Fund."** Any expenses which have been or may be incurred by this state under the laws thereof, including those passed at this session for the purposes set forth in the title of this act, shall be paid out of the "War and Defense Fund," created, and arising from the sale of bonds the issue and sale of which is authorized by an act entitled "An act to provide for the issue and sale of state bonds to procure a loan of money for the state of Iowa to enable it to repel invasion and defend itself in war." And the said "War and defense fund" or so much thereof as is or may be necessary for these purposes, be and the same is hereby appropriated and set apart for said purposes.

Any portion of the sum of two hundred thousand dollars appropriated by the first section of this act, not expended under the provisions of said section may be applied to the purposes named in this section.

SEC. 3. **Warrants to issue upon certificate of the governor.** All payments under this act shall be made out of the [26] war and defense fund by the treasurer, upon warrants drawn by the auditor of state upon vouchers, the correctness of which is certified to by the governor.

SEC. 4. This act being deemed by the general assembly to be of immediate importance, shall be in force from and after its publication in the Iowa State Register and Iowa State Journal, anything in section twenty-four (24) of the revision of 1860 to the contrary notwithstanding.

Approved May 28th, 1861.

I hereby certify that the foregoing Act was published in the Iowa State Register of June 12th, and in the Iowa State Journal of June 7th, 1861.

ELIJAH SELLS Sec'y of State.

CHAPTER 19.

PUBLICATION OF LAWS.

AN ACT relating to the publication of the Laws of the Extra Session, 1861.

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

SECTION 1. That all laws passed at this session (being deemed of immediate importance) be in full force and effect upon publication in the Iowa State Register, Iowa State Journal and the Commonwealth, or either two of said newspapers, notwithstanding anything in said acts or either of them.

SEC. 2. This act being deemed of immediate importance shall be in force from and after its publication in the Iowa State Register, Iowa State Journal and the Commonwealth, or either two of said newspapers.

Approved May 28th, 1861.

I hereby certify that the foregoing Act was published in the Iowa State Register of June 12th, and in the Iowa State Journal of June 7th, 1861.

ELIJAH SELLS Sec'y of State.

CHAPTER 20.

APPROPRIATION—EXECUTIVE DEPARTMENT—PAY PRIVATE SECRETARY AND CONTINGENCIES.

AN ACT making appropriations for the payment of a Private Secretary to the Governor and for extraordinary expenses in the Executive Department.

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

SECTION 1. That the following sums of money be and they are hereby appropriated for the purposes hereinafter designated.

[27] SEC. 2. For the pay of a private secretary to the governor, for the term ending December 31st, A. D. 1861, the sum of five hundred dollars or so much thereof as may be necessary.

SEC. 3. For the payment of extraordinary expenses of the executive department, for the term ending December 31st, 1861, or so much thereof as may be necessary, the sum of ten thousand dollars.

SEC. 4. The governor shall report to the next session of the general assembly a statement of the amount expended by him under the last section of this act, and the purposes for which the same was expended.

SEC. 5. This act being deemed by the general assembly of immediate importance, shall take effect and be in force from and after its publication in the Iowa State Register and Iowa State Journal, any thing in the revision of 1860 to the contrary notwithstanding.

Approved May 28th, 1861.

I hereby certify that the foregoing Act was published in Iowa State Journal of June 7th, 1861, and in Iowa State Register of June 12th, 1861.

ELIJAH SELLS, Sec'y of State.

CHAPTER 21.

MILITIA.

AN ACT for the organization, equipment, and subsistence of the Militia-men of the State of Iowa.

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

SECTION 1. **Organization of infantry, artillery, cavalry and mounted riflemen.** That for the better protection of the exposed borders of this state, to resist marauding parties of Indians and other hostile per- [28] sons, to repel invasion, and to render prompt and efficient assistance to the United States, the governor be, and is hereby authorized and empowered to organize two regiments of infantry, one battallion of not less than three companies of artillery, and one squadron of not less than five companies of cavalry, and one regiment of mounted riflemen for the service of the state, as herein provided.

SEC. 2. **Volunteers to be accepted by the governor.** Said regiments, battallion and squadron, shall be formed of such companies of volunteers as may tender their services for the purposes specified, and those companies shall be accepted which the governor shall deem best suited to the service required, due regard being had to location and efficiency.

SEC. 3. **Plan of regiment and company organization.** Each regiment of infantry shall consist of ten companies; each company of infantry, artillery and cavalry, shall contain not less than 40 nor more than 64 men, and shall be provided with such commissioned and non-commissioned officers as the general regulations direct for similar troops in the army of the United States.

SEC. 4. Said regiment of mounted riflemen shall consist of not less than six nor more than ten companies. Each company shall consist of not less than forty nor more than one hundred men, and shall be officered according to the regulations for similar troops in the army of the United States. They shall be selected from voluntary enrollment of persons in counties of the state most exposed to the inroads of bands of lawless persons, and shall be organized into companies according to convenience of locality, under the orders of the governor, and shall not be ordered into service outside of the border counties, except on the order of the governor of the state or the president of the United States.

SEC. 5. **Uniforms and horses to be furnished by volunteers.** The clothing of said volunteers shall be uniform, according to such general regulations as shall be hereafter provided, and shall be furnished by themselves. Each mounted man shall also furnish a horse suitable for such service, with equipments proper for the same, to be inspected and valued under the orders of the governor.

SEC. 6. **Supplied with approved arms—one regiment ordered into camp.** Each company accepted under this act shall be supplied with the most effective arms that can be procured. As soon as practicable one of said regiments of infantry shall be placed in encampment at such place as the governor may direct, and shall be duly instructed and trained for such time as he may direct not exceeding thirty days, unless he shall be of opinion that the exigencies of the state or the general government demand their continuance in encampment for longer time. And the governor is authorized to call out any company or companies of either arm provided for herein, if in his opinion the exigencies of this state or of the general government demand the same.

SEC. 7. **Troops receive pay while in camp or on active duty by order of the governor.** For and during said times of encampment duty, and for all active service under the orders of the governor, said troops [29] shall receive pay and subsistence at the rates allowed by the laws and regulations of the United States to the same character of arms. For the use of each horse furnished as provided in section five (5) the sum of 30 cents per day shall be allowed.

SEC. 8. **Gov. and his staff shall adopt regulations—distribution and care of arms and equipments.** The governor is hereby authorized and required to make, by his proper staff officers, all necessary regulations for enrolling, preparing, training and instructing said troops, providing for their subsistence while in camp, or in active service, distributing arms and ammunition, and otherwise perfecting their organization and efficiency. Also to provide for the safe keeping, at all times, of such arms and equipments as shall be furnished by the state, and for their restoration to the proper depositories, when said troops shall be disbanded.

SEC. 9. **Gov. may call troops into active actual service.** The governor is hereby authorized and required to use for the public defense any or all of the troops hereby provided, when such action shall be necessary, under the constitution and laws of this state.

SEC. 10. **Volunteers sworn into service—mounted riflemen may be discharged.** All persons enrolled under the provisions of this act shall, before

being accepted, be severally sworn to obey all lawful orders of their superior officers, to maintain the constitution and laws of the United States, and of the state of Iowa, and to tender their services to the United States if demanded by the proper authority, and with the consent of the governor of this state, according to their organization by companies and regiments; *Provided* that any member of the mounted riflemen companies may upon the demand of the governor or president of the United States through the governor of this state for the tender of services, decline such services upon delivery up of all arms, ammunition and equipments in his possession, belonging to the state, and said member of said company shall thereupon be honorably discharged.

SEC. 11. **Gov. muster volunteers into service, upon requisition from the United States.** It shall be the duty of the governor to fill all requisitions made by the United States upon this state from the infantry herein provided, as far as practicable; and should the number of regiments or companies above mentioned, be, from any cause, reduced, or should they be mustered into the service of the United States, the governor is hereby authorized and empowered to raise and equip such additional number of troops as he may deem expedient and necessary, in manner and form as prescribed in this act, until the number shall be equal to the whole number of troops in this act above provided.

SEC. 12. **Officers elected and appointed in conformity with the gen. militia law.** The officers of said companies and regiments shall be elected and appointed in the manner prescribed for the appointment and election of officers of the same grade in an act entitled an act to amend the militia law of the state of Iowa, passed at the present session of the general assembly.

SEC. 13. **Payment to troops made monthly.** The payment of the forces raised under this act shall be monthly by the paymasters of the regiments, through the pay- [30] master general, out of what is known as the war and defense fund, provided by an act of the general assembly passed at the present session.

SEC. 14. **Arms and munitions surrendered upon demand by the gov.** Upon demand of the governor upon the officers and men of any company now organized and having arms in their possession belonging to the state, or of any company organized under the laws of this session of the general assembly who shall receive arms, equipments and munitions of war from the state, they shall deliver up all such arms, equipments and munitions of war, and thereupon the bond given for such arms, equipments and munitions of war shall be canceled.

SEC. 15. This act the general assembly deeming it of immediate importance, shall take effect and be in force from and after its publication in the Daily Iowa State Register and Daily Iowa State Journal, published in Des Moines.

Approved May 29th, 1861.

I hereby certify that the foregoing Act was published in the Daily Iowa State Register of June 12th, and Daily Iowa State Journal of June 7th, 1861.

ELIJAH SELLS, Sec'y of State.

CHAPTER 22.

GOVERNOR'S STAFF.

AN ACT further to regulate the staff of the Commander-in-Chief.

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

SECTION 1. **Gov. additional aids.** That until the next meeting of the general assembly, the governor may in his discretion appoint on his staff, four special aids-de-camp, with the rank of lieutenant colonel of cavalry.

SEC. 2. **Pay and rank of adj't. gen. and quartermaster gen.** The adjutant general and quartermaster general shall be entitled to the full pay of their respective rank, during the time any troops may be in the actual service of this state, to be paid during the time said officers are in actual service only.

SEC. 3. This act being deemed by the general assembly of immediate importance, shall take effect and be in force from and after its publication in the Iowa State Register, Iowa State Journal and Commonwealth, or any two of them.

Approved May 29th, 1861.

I hereby certify that the foregoing Act was published in Iowa State Journal of June 7th, 1861, in Iowa State Register of June 12th, 1861, and Commonwealth of June 11th, 1861.

[31] CHAPTER 23.

SUPPORT OF FAMILIES OF VOLUNTEERS.

AN ACT empowering the Board of Supervisors to make appropriations for the support of the families of volunteers.

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

SECTION 1. That the board of supervisors of any county of this state shall have power to appropriate out of the county funds of their county, such sums as they may decide to be necessary for the support of the families of those persons who have volunteered, and are in the actual military service of either the United States or of the state of Iowa, who are in destitute circumstances, and whose families resided in the county making the appropriation at the time of the enlistment of said volunteers, and whose families still continue to reside in said county.

SEC. 2. This act being deemed by the general assembly of immediate importance shall take effect and be in force from and after its publication in the Iowa State Journal, the Iowa State Register, and the Commonwealth, or either two of said newspapers, any law of this state to the contrary notwithstanding.

Approved May 29th, 1861.

I hereby certify that the foregoing Act was published in Iowa State Journal of June 7th, 1861, in Iowa State Register of June 12th, 1861, and Commonwealth of June 11th, 1861.

ELIJAH SELLS, Sec'y of State.

CHAPTER 24.

REVENUE.

AN ACT to amend an Act, entitled, "An Act in relation to Revenue," being Chapter 45 of the Revision of 1860.

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

SECTION 1. **The rate of levy increased.** That the word "two" in the last line of the first sub-division of section 710 and the word "two in the twelfth line of section 743 of chapter 45 of the revision of 1860, being "An Act in [32] relation to Revenue" be and the same are hereby stricken out and the words 'two and one half' inserted in lieu thereof. And the census board may direct the levy of a tax for state purposes not exceeding two and one half mills on the dollar, any thing in said act or other laws of this state to the contrary notwithstanding.

SEC. 2. **Board supervisors meet in September, to levy taxes, instead of June.** That the board of supervisors of each county shall hold a session on the first Monday in September, in the year 1861 and each year thereafter, at which session they shall levy the several taxes as required by sections 710 and 746 of said chapter as numbered in said revision, and may transact such other business as may legally come before them.

SEC. 3. **Board of co. equalization meet annually.** That the words "and next succeeding the general election" in section 739 be and they are hereby stricken out, and all provisions of said chapter 45 inconsistent with the provisions of this act are hereby repealed.

SEC. 4. **Fee for publishing delinquent tax list reduced—post notices—description by the largest quantity.** That the words "twenty cents" in the 16th line of section 764 of said chapter 45 as numbered in said revision be and the same are hereby stricken out and the words "a sum not exceeding ten cents" be inserted in lieu thereof and that all after the word "sale" in the 16th line of said section is hereby stricken out and the following is enacted in lieu thereof, to wit: The county shall pay the cost of publication, but it shall be the duty of the treasurer to act in good faith, and procure the publication of said delinquent tax list for the lowest sum in his power, and in no case shall the county be liable for more than the amount charged to the delinquent lands for advertising, and if the treasurer cannot procure the publication of said notice for that sum, or if for any other reason the treasurer is unable to procure the publication of said notice in his county, it shall be his duty to post up written notices of said sale in four of the most public places in his county four weeks before sale and notice so given shall have the same force and effect as though the same had been published in a newspaper. In giving notice of the sale of lands or town lots for taxes it shall be the duty of the treasurer in cases where the name of the owner of any delinquent lands or town lots is unknown, to embrace the largest quantity practicable in each description of such lands and it is made the duty of the auditor of state at the earliest practicable day after the passage of this act, to notify the clerks of the respective county boards of supervisors of the passage of this act and transmit to each of them a copy of this act, and such instructions as he may deem advisable.

SEC. 5. That the words, "as the same are recorded on the ta list the amount of taxes for each year," in section 764 of revision of 1860, are hereby repealed and there is hereby enacted in lieu thereof, the words, "for the delinquent taxes of the preceding year and such real property as has not

been advertised for the taxes of previous years, and on which the taxes remain due and delinquent, and the amount of taxes."

[33] SEC. 6. **Taxes collected by sale of any property.** That all of section 759 of the revision of 1860 after the word "title," is hereby repealed, and there is enacted in lieu thereof, the words, "the treasurer is authorized and directed to collect the delinquent taxes by the sale of any property upon which the taxes are levied, or any other personal or real property belonging to the person against whom the taxes are assessed."

SEC. 7. This act being deemed of immediate importance by the general assembly, shall take effect and be in force from and after its publication in the Iowa State Register and Iowa State Journal.

Approved May 27th, 1861.

I hereby certify that the foregoing Act was published in the Iowa State Register of June 12th, and in the Iowa State Journal of June 7th, 1861.

ELIJAH SELLS, Sec'y of State.

JOINT RESOLUTIONS.

NUMBER 1.

ARSENAL AND ARMORY AT ROCK ISLAND.

JOINT RESOLUTION instructing our Senators and requesting our Representatives to procure an Arsenal and Armory at Rock Island.

Be it resolved by the Senate and House of Representatives of the State of Iowa,

That the senators in congress from this state be instructed and the representatives requested to use their utmost exertions to procure the establishment at the earliest possible time by the government of the United States of an arsenal and armory, for the distribution of arms to the north-western states on the island of Rock Island in the state of Illinois.

Resolved, that the secretary of state be directed to forward to each of the senators and representatives in congress, a copy of these resolutions.

Approved May 24th, 1861.

NUMBER 2.

CLOTHING THE FIRST REGIMENT.

JOINT RESOLUTION instructing the Governor to provide additional clothing for the first Regiment of Iowa Volunteers.

WHEREAS, the first regiment of Iowa volunteers was raised in great haste and consequently was not either uniformed or equipped properly, therefore:

Be it resolved by the Senate and House of Representatives,

That the governor of the state of Iowa be instructed to furnish said regiment with a coat, pants and shoes for each non-commissioned officer and private belonging to or connected with said regiment, at the expense of the state, in uniform and to correspond with the second and third regiments furnished from the state of Iowa.

Approved May 24th, 1861.

[36] NUMBER 3.

FORMATION OF A BRIGADE.

MEMORIAL to the President of the United States asking for authority to constitute a Brigade out of the Iowa Regiments called into the National service, or out of the Iowa and Nebraska Regiments, and for the appointment of a General of the Brigade.

Resolved by the General Assembly of the State of Iowa,

That the president of the United States be requested to authorize the formation of a brigade out of the regiments of troops called from Iowa into the

national service, or out of the regiments called from Iowa and Nebraska, and that he appoint or authorize the appointment or election of a general for the brigade.

Resolved, that the governor of Iowa be requested, immediately, to forward a certified copy of these resolutions to the president of the United States and urge a compliance with the request therein contained.

Approved May 28th, 1861.

NUMBER 4.

CAVALRY COMPANY.

JOINT RESOLUTION requesting the President of the United States to accept and muster into service a Regiment of Volunteer Cavalry from the State of Iowa.

WHEREAS, several volunteer companies of cavalry are already organized for the purpose of serving in the present contest, between the revolted states and the general government, therefore,

Resolved by the House of Representatives, the Senate concurring,

That the president of the United States be and he is hereby earnestly requested to accept a regiment of cavalry in the service of the United States, from this state, for a term of three years or during the war.

Resolved, further, that the governor furnish and forward a copy of these resolutions to the president, with a tender of said regiment of cavalry, and request its acceptance.

Resolved, that no charge shall be made against the state for said regiment.

Approved May 28th, 1861.

[37] NUMBER 5.

LEGISLATIVE MANUAL.

A JOINT RESOLUTION for the publication of a Legislative Manual.

Resolved by the General Assembly of the State of Iowa,

That the clerk and the first assistant clerk of the house of representatives be and they are hereby authorized to prepare a legislative manual for the year 1862, to be ready within ten days after the organization of the next general assembly, and to contain among other things, the constitution of the United States, the constitution of the state of Iowa, Jefferson's Manual of Parliamentary Practice, with a list of the members of both branches of the general assembly, with post office address of each, and the county in which each member resides, lists of county officers, post offices, and such other general and statistical information as may be deemed of importance, together with a map of the state, showing the counties, rivers, railroads, coal fields, &c. The matter for such volume shall be submitted to the census board for their approval, and if approved, shall be delivered to the state printer, who shall cause the same to be printed in a neat and compact volume to be bound in black muslin; provided, that when the manual is completed, it shall contain not less than 250 pages, and shall not cost the state to exceed one dollar and twenty-five cents per volume.

Two hundred and fifty copies of said volume shall be printed and distributed as follows: Fifteen copies shall be sent to the state historical society, fifteen copies shall be deposited in the state library, and one copy shall be delivered to each member of the present and of the next general assembly, and the remainder shall be deposited in the office of the secretary of state, for the purpose of making exchanges with other states. If the census board approve such copy when so furnished, they may direct the auditor to pay to the compilers a sum not exceeding sixty dollars therefor, but if the manuscript is rejected, the state shall not be liable for any expense incurred in its preparation.

Approved May 29th, 1861.

STATE OF IOWA—S. S.

I, ELIJAH SELLS, Secretary of the State of Iowa, hereby certify that the foregoing Acts and Resolutions are truly copied from the original rolls on file in my office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Iowa. Done at Des Moines, this 5th day of June, A. D. 1861.

ELIJAH SELLS, Sec'y of State.

L. S.

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