

LAWS
OF THE
TERRITORY OF IOWA

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

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

JAMES CLARKE,
Secretary of the Territory.

LAWS OF IOWA

[3] CHAPTER 1.

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

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

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

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

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

THOMAS COX,
Speaker of the House of Representatives.
M. BAINBRIDGE,
President of the Council.

Approved November 23, 1840. Robert Lucas.

[4] CHAPTER 2.

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

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

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

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

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

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

Approved November 27, 1840.

CHAPTER 3.

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

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

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

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

Approved November 30, 1840.

[5] CHAPTER 4.

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

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

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

Approved December 3, 1840.

CHAPTER 5.

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

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

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

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

SEC. 3. This act to take effect and be in force from and after its passage.
Approved December 3, 1840.

CHAPTER 6.

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

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

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

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

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

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

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

Approved December 3, 1840.

CHAPTER 7.

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

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

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

Approved December 8, 1840.

[7] CHAPTER 8.

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

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

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

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

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

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

Approved December 15, 1840.

CHAPTER 9.

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

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

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

Presented to the Executive, December 16, 1840.

[8] CHAPTER 10.

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

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

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

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

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

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

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

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

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

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

Approved December 21, 1840.

CHAPTER 11.

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

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

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

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

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

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

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

Approved December 22, 1840.

CHAPTER 12.

AN ACT relative to incorporated religious societies.

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

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

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

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

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

Approved December 22, 1840.

CHAPTER 13.

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

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

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

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

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

Approved December 23, 1840.

CHAPTER 14.

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

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

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

Approved, December 23, 1840.

CHAPTER 15.

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

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

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

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

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

Approved December 23, 1840.

[12] CHAPTER 16.

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

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

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

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

Presented to the Executive December 23, 1840.

CHAPTER 17.

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

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

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

Approved December 23, 1840.

[13] CHAPTER 18.

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

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

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

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

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

Approved December 23, 1840.

CHAPTER 19.

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

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

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

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

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

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

Presented to the Executive December 29, 1840.

CHAPTER 20.

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

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

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

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

Approved December 30, 1840.

CHAPTER 21.

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

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

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

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

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

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

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

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

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

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

Approved December 30, 1840.

[16] CHAPTER 22.

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved December 31, 1840.

CHAPTER 23.

AN ACT to incorporate the Fairfield Lyceum.

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

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

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

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

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

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

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

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

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

Approved December 31, 1840.

[19] CHAPTER 24.

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

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

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

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

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

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

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

Approved December 31, 1840.

CHAPTER 25.

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

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

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

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

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

Approved December 31, 1840.

CHAPTER 26.

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

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

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

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

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

Approved December 31, 1840.

[21] CHAPTER 27.

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

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

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

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

Approved December 31, 1840.

CHAPTER 28.

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

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

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

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

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

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

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

Approved December 31, 1840.

CHAPTER 29.

AN ACT to amend an act establishing certain territorial roads.

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

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

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

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

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

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

Approved January 7, 1841.

[23] CHAPTER 30.

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

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

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

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

Approved January 7, 1841.

CHAPTER 31.

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

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

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

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

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

Approved January 7, 1841.

CHAPTER 32.

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

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

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

Approved January 7, 1841.

CHAPTER 33.

AN ACT to establish certain territorial roads.

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

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

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

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

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

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

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

Approved January 7, 1841.

CHAPTER 34.

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

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

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

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

Approved January 8, 1841.

CHAPTER 35.

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

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

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

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

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

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

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

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

Approved January 8, 1841.

CHAPTER 36.

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

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

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

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

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

Approved January 8, 1841.

[27] CHAPTER 37.

AN ACT to establish the territorial roads therein mentioned.

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

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

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

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

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

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

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

Approved January 9, 1841.

CHAPTER 38.

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

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

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

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

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

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

Approved January 9, 1841.

[29] CHAPTER 39.

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

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

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

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

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

Approved January 9, 1841.

CHAPTER 40.

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

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

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

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

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

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

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

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

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

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

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

Approved January 9, 1841.

CHAPTER 41.

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

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

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

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

Approved January 9, 1841.

[32] CHAPTER 42.

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

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

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

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

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

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

Approved January 9, 1841.

CHAPTER 43.

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

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

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

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

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

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

Approved January 9, 1841.

CHAPTER 44.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved January 11, 1841.

[37] CHAPTER 45.

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

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

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

Approved January 13, 1841.

CHAPTER 46.

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

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

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

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

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

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

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

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

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

Approved January 13, 1841.

CHAPTER 47.

AN ACT to amend an act regulating conveyances.

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

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

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

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

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

Approved January 13, 1841.

CHAPTER 48.

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

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

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

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

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

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

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

Approved January 13, 1841.

CHAPTER 49.

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

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

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

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

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

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

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

Approved January 13, 1841.

CHAPTER 50.

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

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

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

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

Approved January 13, 1841.

CHAPTER 51.

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

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

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

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

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

Approved January 13, 1841.

CHAPTER 52.

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

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

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

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

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

Approved January 13, 1841.

CHAPTER 53.

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

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

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

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

Approved January 13, 1841.

CHAPTER 54.

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

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

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

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

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

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

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

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

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

Approved January 13, 1841.

CHAPTER 55.

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

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

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

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

Approved January 13, 1841.

[45] CHAPTER 56.

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

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

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

Approved January 13, 1841.

CHAPTER 57.

AN ACT to establish a certain territorial road.

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

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

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

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

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

Approved January 13, 1841.

[46] CHAPTER 58.

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

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

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

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

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

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

Approved January 13, 1841.

[47] CHAPTER 59.

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

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

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

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

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

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

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

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

Approved January 13, 1841.

[48] CHAPTER 60.

AN ACT to establish the county seat of Delaware county.

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

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

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

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

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

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

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

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

Approved January 13, 1841.

[49] CHAPTER 61.

AN ACT for the benefit of insane persons.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved January 14, 1841.

CHAPTER 62.

AN ACT to establish certain territorial roads therein named.

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

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

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

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

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

Approved January 13, 1841.

CHAPTER 63.

AN ACT to charter the Ellenborough Immigration and Ferry Company.

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

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

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

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

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

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

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

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

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

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

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

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

Approved January 14, 1841.

[56] CHAPTER 64.

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

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

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

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

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

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

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

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

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

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

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

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

Approved January 14, 1841.

CHAPTER 65.

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

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

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

Approved January 14, 1841.

CHAPTER 66.

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

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

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

Approved January 14, 1841.

CHAPTER 67.

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

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

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

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

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

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

Approved January 14, 1841.

[59] CHAPTER 68.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved January 14, 1841.

CHAPTER 69.

AN ACT to locate the county seat of Lee county.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved January 15, 1841.

CHAPTER 70.

AN ACT to provide for assessing and collecting county revenue.

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

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

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

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

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

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

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

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

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

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

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

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

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

[69] *Form of Alphabetical List*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved January 15, 1841.

CHAPTER 71.

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 12. To take effect. This act to take effect from and after its passage. Approved January 15, 1841.

CHAPTER 72.

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

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

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

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

Approved January 15, 1841.

CHAPTER 73.

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

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

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

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

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

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

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

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

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

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

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

Approved January 15, 1841.

CHAPTER 74.

AN ACT to incorporate the Presbyterian Church of Dubuque.

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

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

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

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

Approved January 15, 1841.

[86] CHAPTER 75.

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

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

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

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

Approved January 15, 1841.

CHAPTER 76.

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

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

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

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

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

Approved January 15, 1841.

[87] CHAPTER 77.

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

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

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

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

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

Approved January 15, 1841.

CHAPTER 78.

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

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

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

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

Approved January 15, 1841.

[88] CHAPTER 79.

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

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

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

Approved January 15, 1841.

CHAPTER 80.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved January 15, 1841.

CHAPTER 81.

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

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

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

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

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

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

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

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

Approved January 15, 1841.

CHAPTER 82.

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

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

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

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

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

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

Approved January 15, 1841.

CHAPTER 83.

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

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

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

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

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

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

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

Approved January 15, 1841.

CHAPTER 84.

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

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

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

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

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

Approved January 15, 1841.

[95]

CHAPTER 85.

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

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

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

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

Approved January 15, 1841.

CHAPTER 86.

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

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

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

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

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

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

Approved January 15, 1841.

CHAPTER 87.

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

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

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

Approved January 15, 1841.

CHAPTER 88.

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

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

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

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

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

Approved January 15, 1841.

[97]

CHAPTER 89.

AN ACT to incorporate Iowa City.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved, January 15, 1841.

CHAPTER 90.

AN ACT to levy a territorial tax.

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

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

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

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

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

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

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

Approved, January 15, 1841.

CHAPTER 91.

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

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

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

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

Approved, January 15, 1841.

CHAPTER 92.

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

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

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

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

Approved, January 15, 1841.

CHAPTER 93.

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

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

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

Approved January 15, 1841.

CHAPTER 94.

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

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

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

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

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

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

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

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

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

Approved, January 15, 1841.

CHAPTER 95.

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

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

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

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

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

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

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

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

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

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

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

Approved, January 15, 1841.

[105] CHAPTER 96.

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

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

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

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

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

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

Approved, January 15, 1841.

CHAPTER 97.

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

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

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

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

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

Approved, January 15, 1841.

CHAPTER 98.

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

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

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

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

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

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

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

Approved January 15, 1841.

[107] CHAPTER 99.

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

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

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

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

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

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

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

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

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

Approved January 15, 1841.

CHAPTER 100.

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

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

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

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

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

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

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

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

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

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

Approved January 15, 1841.

[109] CHAPTER 101.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 36. **M. B. Cox.** To M. B. Cox & Co., for merchandise furnished librarian, four dollars and fifty cents.

SEC. 37. **John Johnson.** To John Johnson, for work done for librarian, four dollars.

SEC. 38. **Evan Evans—David and Kitchen.** To Evan Evans, the sum of twenty-six dollars; to David and Kitchen, three dollars and fifty cents, as reported by the committee on claims.

SEC. 39. **David Hendershott.** To David Hendershott, for paste furnished the house of representatives, the sum of two dollars.

SEC. 40. **H. W. Moore & Co.** To H. W. Moore and company, for ream of ruled letter paper furnished the house of representatives the present session, the sum of four dollars and fifty cents.

SEC. 41. **E. Lowe.** To E. Lowe, postmaster, for postage of letters, papers, documents, etc., during the present session, five hundred and thirty-eight dollars and eighty-two cents.

SEC. 42. **J. R. Woods.** To John R. Woods, for recording the journal of the house of representatives, one hundred and fifty dollars.

SEC. 43. **Edward Langworthy.** To Edward Langworthy, in trust for nine witnesses called before committee at Iowa City, room rent, and sheriff's fees, forty dollars.

SEC. 44. **President of council, and speaker H. R.** For extra pay to the president of the council, and speaker of the house of representatives, two hundred and twenty-five dollars each.

SEC. 45. **Stephen Whicher.** To Stephen Whicher, for mileage, attendance as witness, and actual expenses before committee, twelve dollars.

SEC. 46. **Thomas H. Curts—A. S. Stoddard.** To Thomas H. Curts, for articles furnished for the use of the house of representatives, two dollars and twenty-five cents; and to A. S. Stoddard, two dollars and seventy-five cents for repairing woodsaw and horse.

SEC. 47. **Members of committee appointed to visit Iowa City.** For extra pay to the members of the committee appointed to visit Iowa City, seventy-five dollars each, making two hundred and twenty-five dollars.

SEC. 48. **Members of committee appointed to visit Fort Madison.** For extra pay to the members of the committee appointed to visit Fort Madison, the sum of forty-five dollars each, making one hundred and thirty-five dollars.

SEC. 49. **John H. McKenny.** To John H. McKenny, for printing in book form the laws of the present session, one thousand three hundred dollars.

SEC. 50. **N. W. Springer.** To N. W. Springer, eight dollars and fifty cents.

SEC. 51. **John Clark.** To John Clark, six dollars.

[112] SEC. 52. **A. L. Holland—Luke Hughs.** To A. L. Holland, one dollar; Luke Hughs, three dollars.

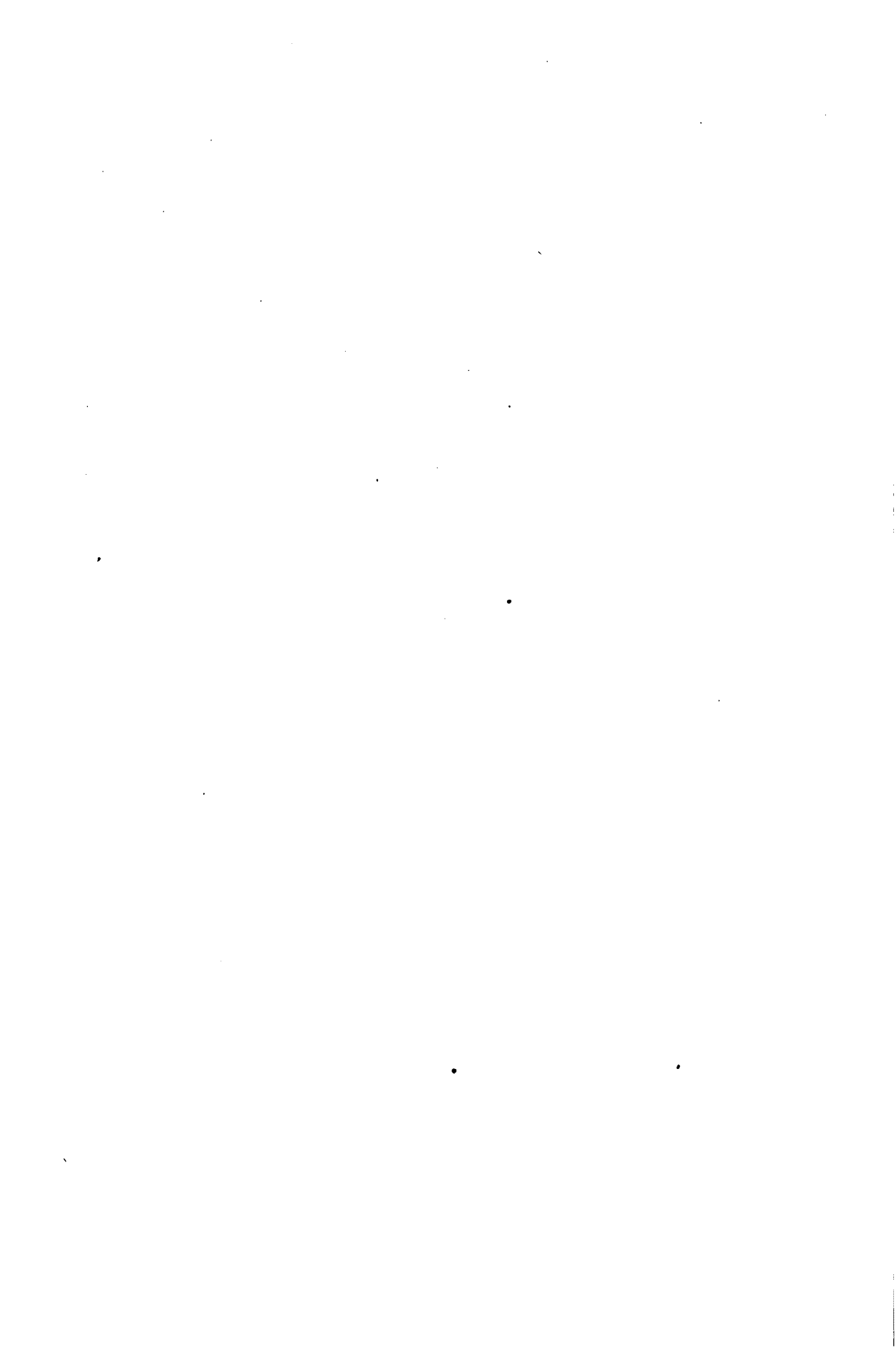
SEC. 54. **Jos. Boyles.** To Joseph Boyles, three dollars.

SEC. 55. **Samuel Moore.** To Samuel Moore, twenty-five cents.

SEC. 56. **W. Annabal.** To Mr. Annabal, the enrolling clerk of the house of representatives for the pay of an assistant, ten dollars.

SEC. 57. **Wm. H. Merritt.** To Wm. H. Merritt, the enrolling clerk of the council, eight dollars for an assistant.

Approved January 15, 1841.



JOINT RESOLUTIONS*

[113] NO. 1.

A RESOLUTION to compensate Francis Gehon for his extra services in taking the census.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

Additional allowance of \$350—secretary of territory authorized to pay. That Francis Gehon be allowed the sum of three hundred and fifty dollars, in addition to what he has already received from said territory, as pay for his extra services in taking the census of said territory, by virtue of a joint resolution passed in January, 1840; and that the secretary of said territory be instructed to pay the same out of any moneys in his hands not otherwise appropriated.

Approved January 15, 1841.

NO. 2.

JOINT RESOLUTION providing for the printing of the laws of the present session.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

J. H. McKenny appointed printer—to give bond in \$10,000—1,500 copies to be printed—index—90 days' time. That John H. M'Kenny be the printer of the laws of the present session, and that he enter into bond immediately [114] to the governor, in the sum of ten thousand dollars, with sureties to be approved of by the governor, conditioned that the said John H. M'Kenny, and his heirs or legal representatives, print, in pamphlet form, in workman-like style, fifteen hundred copies of all the laws passed and to be passed by the legislative assembly at its present session, with an index thereto; and deliver said copies to the secretary of the territory within ninety days next after the adjournment of the present session.

Pay of printer—distribution of laws. Resolved, further, that said secretary is hereby required to pay said printer for doing the said work, the like prices allowed for similar work by congress; and that he distribute the laws in like manner that the laws of last session were required to be distributed.

*All resolutions, except such as are of general character, and have a binding, or legal effect, are omitted, as not coming within the spirit of the law providing for their publication. They are all mere memorials to Congress.—Compiler.

Secretary of territory to prepare laws, etc.—index—allowance, \$250—mode of preparation, etc.—proviso. Resolved, further, that the secretary of the territory is hereby required to prepare for publication and to supervise the printing of the laws of the present session of the legislative assembly, and make an index thereto; and that he be allowed for said service the sum of two hundred and fifty dollars; and that he furnish the printer with copies thereof as soon as practicable, in the order in which they are approved by the governor: provided, that the joint resolutions be printed in their order at the end of the acts.

Presented to the executive, December 31, 1840.

NO. 3.

JOINT RESOLUTION authorizing the secretary to forward copies of the laws under the franking privilege of the executive.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

That the secretary of the territory be instructed to forward, under the franking privilege of the executive, one copy of all the laws of this territory to the governors of the different states and territories of the United States.

Approved January 15, 1841.

[115] NO. 4.

JOINT RESOLUTION reimbursing the auditor of public accounts for certain moneys paid by him.

Resolved, by the Council and House of Representatives of the Territory of Iowa:

That the secretary of the territory be authorized to pay Jesse Williams twelve dollars for money paid by him for seal for the office of auditor of public accounts; also, nine dollars for postage paid by him as auditor.

Approved January 15, 1841.

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