

TITLE 3. session, for a private road leading from his premises, to some convenient public road, and thereupon the said commissioners shall appoint three disinterested householders of the county as viewers, and shall issue an order directing them to meet on a day named in such order, to view and locate a private road according to the application, and to assess the damages to be sustained thereby; and after being duly sworn or affirmed faithfully and impartially to discharge the duties of their appointment, and after at least three days' notice, given to all persons, through whose lands such private road is to be located, such viewers shall proceed to locate and mark out a private road, thirty feet in width, from some certain point on the premises of the applicant, to some certain point on the public road, so as to do the least damage to the lands, through which such private road is located, and they shall also, at the same time, assess the damages sustained by the person or persons owning such lands.

Appoint-ment; view-ers; oath of. of
Notice view. of
Report view. of
Ib. When confirmed. of

SEC. 19. The viewers so appointed or a majority of them, shall make a report to the commissioners at their next regular session, of the private road so located by them, and also the amount of damages, if any, assessed by them, and the person or persons entitled to such damages; and if the commissioners are satisfied that such report is just, and after payment by the applicant, of all costs of locating such road, and the damages assessed by the viewers, they shall order such report to be confirmed, and declare such road to be a private road, and the same shall be recovered as such, and any person, aggrieved by the assessment of damages, may appeal, within twenty days after such confirmation of the report, to the district court, and such appeal shall be tried as appeals from the assessment of damages in case of county roads.

TITLE III.

Of the Manner of locating Territorial Roads.

SEC. 20. Territorial roads, how to be located.

21. Proceedings by commissioners; reports of surveys when to be delivered to the secretary and county commissioners.
22. Commissioners to render account for services; account how paid.
23. Complaint of persons against road, when to be made, and proceedings thereon.
24. Road to remain a highway, how to be opened and worked; proviso.

Location. SEC. 20. Every territorial road, to be hereafter located, shall be viewed, surveyed, and returns thereof made, according to the provisions of this chapter, within one year from the passage of the act, authorizing such road to be laid out, and the width of all territorial roads shall be sixty feet.

Proceedings by commis-sioners. SEC. 21. The commissioners appointed to locate any territorial road, after having taken an oath or affirmation faithfully and impartially to discharge the duties of their appointment, shall proceed to view and locate such road, and shall cause the same to be correctly surveyed and marked throughout, from the beginning to the end, in the same manner that county roads are required to be surveyed and marked, and such commissioners, or a majority of them, shall make a report, descriptive of the general face of the country, over which such road passes, accompanied by a plot of the survey

Ib. Report.

TITLE 4. certified by the surveyor, which report and plot shall, within sixty days after the view and survey, be delivered to the secretary of the territory, to be by him filed and recorded; and within the same period of sixty days, they shall in like manner deposit in the office of the clerk of the board of county commissioners of each county, through which such road passes, a report and plot as aforesaid, of so much of said road as shall be located in such county, to be there recorded as aforesaid.

SEC. 22. The commissioners appointed to locate any territorial road shall, after the completion of the survey of the same, make out a certified account of all the services rendered, as well by themselves as by the surveyor, and other persons employed, charging each county, through which said road may have been laid out, a proportion of the expenses, according to the number of days employed in such county; and the board of county commissioners shall audit, and order the same to be paid out of the county treasury.

SEC. 23. When any person, through whose lands any territorial road may be located, shall conceive that he would be injured by the opening of the same through his premises, he may within six months, after the filing of the report and plot of survey of such road, in the office of the clerk of the board of commissioners of such county, make complaint in writing to such commissioners, setting forth such damage, and thereupon the same proceedings shall be had to assess, and determine the damages sustained by such complainant, as in case of county roads, and such damages shall be paid out of the treasury of the county, in which the lands are situated.

SEC. 24. When any territorial road shall have been located, according to the provisions of this chapter, the same shall be and remain a public highway, and shall be opened and worked by the counties, through which it may be laid out, as county roads are, and such road may be altered or changed in any county, in the same manner as county roads are altered—*Provided*, that all territorial and county roads which have been or may hereafter be located for the term of two years and not opened, shall be considered as vacated.

TITLE IV.

Of Road Supervisors, and their Duties.

SEC. 25. County how divided in road districts.

26. Supervisor how appointed, term of office, oath, bond, &c.
27. Lists by supervisors how made.
28. Estimates and assessment by supervisor.
29. Names of persons omitted on list may be subsequently inserted.
30. Notification by supervisor; penalty for neglecting to obey notice or orders.
31. *Ib.* Process not to issue if such default arise from sickness.
32. Persons notified, when and how required to appear.
33. Fines how collected; proceeds how applied.
34. Duties and power of supervisor.
35. Complaint against supervisor, when and how to be made.
36. Supervisor to erect finger-boards on cross-roads, &c.
37. To remove obstructions and repair bridges and roads.
38. Extra labor of individuals how provided for.
39. Accounts of supervisor when and to whom to be presented: settlement how enforced.

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Ib. Account for services.

Complaint of persons likely to be injured by road.

Road to remain a highway; how opened and worked.

TITLE 4.

SEC. 40. Proceedings when supervisor is unable to collect fine.
41. Liability of supervisor for misconduct.
42. Compensation of supervisor.

Road districts.

SEC. 25. The several boards of county commissioners shall, as often as they may deem necessary, but not oftener than once a year, divide their respective counties, or any part thereof into suitable and convenient road districts, and cause a brief description of the same to be entered on the county records.

Supervisor, his appointment.

SEC. 26. The board of commissioners shall annually, at their session in April, appoint one supervisor of roads for each road district in the county, and may at any time fill vacancies that may occur in such office, and they shall cause the supervisors by them appointed, to be notified thereof in writing.

Term of office, oath, bond, &c.

Each supervisor shall hold his office, until the following April session of the commissioners, and before entering upon the discharge of his duties, shall take an oath or affirmation, faithfully to discharge the duties of his office, and if required by the commissioners, shall execute an undertaking to the board of commissioners, with one or more sureties, in any sum specified by them, not exceeding one thousand dollars, conditioned that he will faithfully account for and pay over according to law, all moneys that may come into his hands by virtue of his office.

Supervisor to make list.

SEC. 27. It shall be the duty of every supervisor of roads, on or before the fifteenth day of May, to obtain the names and make out in alphabetical order, a list of all persons, liable to perform labor on the public roads, residing within his road district, and to affix to each name therein, the number of days' work, which such person shall be assessed to perform.

Estimate and assessments.

SEC. 28. In making such estimate and assessment, the supervisor shall proceed as follows:

1. He shall apportion the labor to be performed in his road district, according to the valuation of taxable property, owned by each person residing or owning real property therein, in the ratio of one day's work for each and every two thousand dollars assessed for county rates, the last preceding year: *Provided*, that any person may, in lieu of each day's work, to be performed according to this act, pay into the hands of the supervisor, the sum of two dollars per day, to be expended in labor on the public road in said road district;

2. He shall assess two additional days' work, to be performed by every male between eighteen and fifty years of age, except persons who are a public charge, or too infirm to perform labor.

Names of persons omitted on list may be subsequently inserted.

SEC. 29. Whenever the supervisor shall from any cause have neglected or omitted to place on his list, and assess any person within the time required by law, he shall at any time afterwards, place the name of such person on the list, and assess the number of days' work to be performed by him, which assessment shall in all respects be valid, as if made in due time.

Notification by supervisor.

SEC. 30. The supervisor shall notify every person within his road district, subject to road labor as aforesaid, between the first days of April and October annually, to perform the work assessed on the public roads within his district, and if any person subject to road labor as aforesaid, shall, after three days previous notice,

TITLE 4.

either personally or by writing, left at his usual place of abode, by the supervisor or any other person by direction of the supervisor, neglect or refuse to attend by himself, or suitable substitute, at the time and place designated by the supervisor; or having attended, shall refuse to obey the directions of the supervisor, or shall pass his time in idleness and inattention to the duties assigned him, every such delinquent shall forfeit and pay for each day he shall neglect or refuse to attend, or for any of the offences above specified in this section, the sum of five dollars, to be recovered in a civil action, at the suit of the supervisor, before any justice of the peace having competent jurisdiction, or if the aggregate amount of such sums be over one hundred dollars, by action in the district court; and all money so collected, shall be appropriated as hereinafter directed.

Neglecting to obey notice, &c.

SEC. 31. Whenever it shall happen in consequence of sickness, absence from home, or any other good cause, that a person liable to perform work as aforesaid does not attend, in obedience to the notice of the supervisor, at the time and place appointed, and such person is willing to perform, or cause to be performed, the labor required by this chapter, no process shall be issued for the recovery of the penalty above prescribed, but the supervisor shall employ such person, or his substitute, at another time and place, to be designated by such supervisor.

Id. If from sickness, &c.

SEC. 32. Every person notified to labor on the public roads, under the provisions of this chapter, shall be required to appear, at the place appointed by the supervisor, at the hour of eight o'clock in the forenoon, with such necessary tools and implements as said supervisor may direct; and such supervisor may, if he deem it necessary, order any person owning the same to furnish a team of horses, mules, or oxen, and wagon, cart, scraper, or plough, to be employed or used on the roads, under the direction of such supervisor, who shall allow such person a reasonable compensation, for the use of such team, wagon, cart, scraper or plough in discharge of any labor due from such person.

When and how required to appear.

SEC. 33. It shall be the duty of every supervisor to collect by suit or otherwise, in his own name, as such supervisor, all fines, forfeitures, and penalties, arising and accruing under the provisions of this chapter, for the non performance of labor, and to expend the same in the employment of men, when necessary, to put the public roads of his road district in good repair, and if any portion of the moneys collected by him shall not be so expended, he shall pay the same over to the county treasurer, on or before the first of April, annually, and take his receipt for the same, which receipt shall be a proper voucher, for the supervisor to settle with the county commissioners for the amount thereof; and the commissioners shall cause all moneys so paid into the county treasury, to be appropriated to repairing the roads in such road district, where such fine, forfeiture, or penalty accrued.

Fines collected: proceeds how used.

SEC. 34. The supervisors of roads shall open, or cause to be opened all public roads, which may have been, or may hereafter be laid out and established according to law, in any part of his road district, and shall keep the same in good repair; and he shall have authority to purchase with any money, which may come into his hands as supervisor, for the use of his road district, any ploughs,

Duties and power of supervisor.

TITLE 4. scrapers, or other implements, which he may think proper; and to enter upon any lands adjoining or near the public road, and gather, dig, and carry away any stone, gravel or sand, and cut down and carry off any trees or wood, necessary for the making and repairing any public road; and to purchase and pay for any timber, plank, or other materials necessary for making or repairing any public road in his district; and to enter upon any lands adjoining or lying near any public road in his road district and cut, open, or construct such drains and ditches, as he shall deem necessary for the making or preservation of such road, doing as little injury as may be to such lands; and any person stopping or obstructing the drains or ditches so made, shall forfeit the sum of twenty dollars for each offence, to be recovered and appropriated as provided in the last section.

Complaint against supervisor. SEC. 35. If any person shall feel aggrieved, by the act of any supervisor cutting or carrying away timber or stone as aforesaid, he may make complaint thereof in writing to the county commissioners, at any regular meeting within six months after the cause of such complaint shall exist, and such commissioners shall proceed to assess and determine the damages, if any, sustained by the complainant, and cause the same to be paid out of the county treasury.

Finger-boards. SEC. 36. Every supervisor shall erect and keep up at the forks of every highway, and every crossing of public roads within his road district, a guide or finger-board, containing an inscription in legible letters, directing the way and specifying the distance to the next town, or public place situated on each road respectively.

Repairing bridges, roads, &c. SEC. 37. If at any time during the year any public road shall become obstructed, by the falling of timber, or from any other cause, or any bridge shall be impaired or become dangerous for the passage of teams or travellers, the supervisor of the road district, upon being notified thereof, shall forthwith cause such obstruction to be removed, or bridges repaired; for which purpose he shall immediately order out such number of the inhabitants of his district, as he may deem necessary to remove such obstruction, or repair such bridge; and all persons so ordered out shall, after having received one day's notice, be subject to the same restrictions, and liable to the same penalties, as if ordered out under the thirtieth section of this chapter.

Extra labor of individuals. SEC. 38. In all cases, when any person shall, under the direction of the supervisor of roads, perform more labor upon the public roads than may be due from him, the supervisor shall give such person a certificate specifying the amount of extra labor so performed, which certificate may be transferred, and received in discharge of the labor of any other person, within the same road district, to the amount of labor specified in such certificate, or may be received from the holder in satisfaction of labor on the roads, in such road district, in any subsequent year, for the amount of labor specified therein.

Accounts of supervisor. SEC. 39. Every supervisor shall keep an account of the number of days' work, performed on the public roads in his road district, and of the persons performing the same; he shall also keep an account of all moneys received by him from delinquents or for fines or penalties, and the persons from whom received; and also an ac-

count of his expenditures as supervisor during his term of office, and such supervisor shall present his accounts to the board of commissioners for settlement, at their April session, in each year, and shall pay over to the county treasurer all moneys, remaining in his hands as such supervisor, taking a receipt therefor; and if any supervisor shall fail to appear, and make a settlement as required in this section, the board of county commissioners may, by an action in the district court of the proper county, against such supervisor, enforce such settlement and recover any balance remaining in his hands.

SEC. 40. In all cases where the supervisor of roads shall be unable to collect from any delinquent the amount of any tax, forfeiture, fine or penalty, as provided in this chapter, it shall be the duty of such supervisor to return a list of such delinquents, certified on oath, to the board of commissioners of the county, at their session in April, and the commissioners shall, after adding ten per cent. to the amount, due by such delinquent, furnish the sheriff of the proper county, with a true copy of such list, and the amount due from each, with a precept thereto attached, under seal of said board of commissioners, and the sheriff shall thereupon proceed to collect the same in like manner, and under the same provisions, that the county revenue is collected.

SEC. 41. Any supervisor of roads, who shall neglect or refuse to perform the several duties, enjoined upon him by this chapter, or who shall under any pretence whatever give or sign any receipt or certificate, purporting to be a receipt or certificate for money paid and labor performed, unless the money shall have been paid or the labor performed, prior to the giving or signing such receipt or certificate, shall forfeit for every such offence, not less than five nor more than fifty dollars for the use of his county, to be recovered before any justice of the peace, having jurisdiction of the same, in the name of the board of commissioners, and it is hereby made the duty of the commissioners to sue for the same—*Provided*, that if any supervisor conceive himself aggrieved by the decision of the justice of the peace, he may appeal to the district court as in other cases.

SEC. 42. Every supervisor of roads shall receive for each day, necessarily employed in the performance of any of the duties required by this chapter, over and above the number of days' work required by law to be performed by such supervisor, the sum of three dollars, to be paid out of the county treasury, on the order of the board of commissioners, after being sanctioned by them, and after the report of the doings of said supervisor shall have been received, approved and settled by said board of commissioners.

TITLE V.

Of the Regulations of Ferries.

- SEC. 43. License for keeping ferries, by whom granted and for how long.
 44. Tax on license to be paid before license granted.
 45. License not to be granted except to owner of land, except, &c.
 46. Notice of application to be posted: proviso.
 47. Applicants to give undertaking before license issued.
 48. Obligations and duties of persons obtaining license.

TITLE 5.
 Settlement of supervisor.

Proceedings when supervisor is unable to collect fine.

Misconduct.

Compensation.

- TITLE 5.** SEC. 49. Passengers to be transported at all hours; unless in cases of danger; fare payable in advance.
50. Rate of fare how established; penalty for extra charges.
 51. List of rates to be posted at ferry; penalty for neglect.
 52. Precedence of passengers.
 53. Exclusive right of ferry to transport passengers.
 54. Liability of ferry masters; when to show cause, &c.
 55. Penalty for keeping ferry without license.
 56. Act when to take effect; "An Act Regulating Ferries" repealed.

License to keep ferry. SEC. 43. The board of commissioners of any county in this territory may grant a license to any person, entitled and applying therefor, to keep a ferry across any lake or stream within their respective counties, upon being satisfied that a ferry is necessary at the point applied for, which license shall continue in force for a term to be fixed by the commissioners, not exceeding five years.

Ib. Tax. SEC. 44. The board of commissioners shall tax such sum as may appear reasonable, not less than one nor more than one hundred dollars per annum for such license, and the person to whom such license shall be granted, shall pay to the county treasurer the tax for one year in advance, taking his receipt therefor; and upon the production of such receipt, the clerk of the board of commissioners shall issue such license under the seal of the board of commissioners.

Ib. To whom granted. SEC. 45. Unless otherwise provided by law, no such license shall be granted to any person, other than the owner of the land, embracing or adjoining such lake or stream where the ferry is proposed to be kept, unless such owner shall neglect to apply for such license, and whenever application shall be made for a license by any person, other than such owner, the board of commissioners shall not grant the same, unless proof shall be made that the applicant caused notice in writing, of his intention to make such application, to be given to such owner, if residing in the county, at least ten days before the session of the board of commissioners, at which application is made.

Notice of application. SEC. 46. Every person, intending to apply for a license to keep a ferry at any place, shall give notice of such intention, by posting up at least three notices in public places in the neighborhood, where the ferry is proposed to be kept, twenty days prior to any regular session of the board of commissioners, at which the application shall be made—*Provided*, that when application shall be made for the renewal of a license where the former license has expired, the same may be granted or renewed, without previous notice or petition.

Proviso. SEC. 47. Every person, applying for a license to keep a ferry, shall, before the same is issued, enter into a bond or undertaking with one or more sureties, to be approved by the clerk of the commissioners, in a sum not less than one hundred nor more than five hundred dollars, conditioned that such person will keep said ferry according to law, and if default shall at any time be made in the condition of such bond or undertaking, damages not exceeding the penalty may be recovered by any person aggrieved, before any court having competent jurisdiction.

Bond of applicants. SEC. 48. Every person obtaining a license to keep a ferry shall provide, and keep in good and complete repair, the necessary boat

Obligations and duties of ferry masters.

TITLE 5. or boats for the safe conveyance of all persons and property, and furnish such boats at all times with suitable oars, setting poles, and other implements necessary for the service thereof, and shall keep a sufficient number of discreet and skillful men to attend and manage the same, and he shall also, at all times, keep the place of embarking and landing in good order and repair, by cutting away the bank of the stream, so that persons and property may be embarked and landed without danger, or unnecessary delay.

SEC. 49. Every person obtaining a license, as aforesaid, shall give constant and diligent attention to such ferry, from daylight in the morning until dark in the evening of each day, and shall moreover, at any hour in the night, if required, except in cases of evident danger, give passage to all persons requiring the same, on the payment of double the rate of ferriage allowed to be taken in the day time; and if he shall at any time neglect or refuse to give passage to any person or his property, he shall forfeit and pay to the party aggrieved, for every such offence, the sum of five dollars, to be recovered before any justice of the peace having jurisdiction, and he shall moreover be liable in an action at law for any special damage which such person may have sustained in consequence of such neglect or refusal; but no forfeiture or damages shall be recovered for a failure or refusal to convey any person or property across such stream, when it is manifestly hazardous to do so, by reason of any storm, flood or ice; nor shall any keeper of a ferry be compelled to give passage to any person or property, until the fare or toll chargeable by law shall have been fully paid or tendered to such keeper.

SEC. 50. Whenever the board of commissioners of any county, shall grant a license to keep a ferry across any lake or stream, such board shall establish the rates of ferriage which may be lawfully demanded for the transportation of persons and property across the same, having due regard to the breadth and situation of the stream, and the dangers and difficulties incident thereto, and the publicity of the place at which the same shall have been established; and every keeper of a ferry, who shall at any time demand and receive more than the amount so designated for ferrying, shall forfeit and pay to the party aggrieved for every such offence the sum of five dollars, over and above the amount which shall have been illegally received, to be recovered before any justice of the peace having jurisdiction.

SEC. 51. Every person licensed to keep a ferry shall post up, in some conspicuous place near his ferry landing, a written or printed list of the rates of ferriage which are chargeable by law at such ferry, which list of rates shall at all times be written or printed in a plain legible manner, and posted up so near the place where persons shall pass across such ferry that the same may be easily read; and if at any time, such keeper shall neglect or refuse to post and keep up such list, it shall not be lawful to charge or take any ferriage or compensation at such ferry, during the time of such delinquency.

SEC. 52. All persons shall be received into the ferry boats and conveyed across the stream, over which such ferry shall be established, according to their arrival at the same, and if any keeper of a

TITLE 5.

Ib. To transport passengers at all hours.

Fare must be paid.

Rate of fare.

Ib. Penalty for extra charge.

List of rates to be posted up.

Precedence of passengers.

TITLE 5. ferry shall act contrary to this regulation, he shall forfeit and pay the sum of three dollars for every such offence, to the party aggrieved, to be recovered before any justice of the peace having jurisdiction—*Provided*, that public officers on urgent business, post-riders, couriers, physicians, surgeons and midwives, shall in all cases be first carried over where all cannot go at the same time.

SEC. 53. Every person licensed to keep a ferry, according to the provisions of this chapter, shall have the exclusive privilege of transporting all persons and property, over and across the stream, where such ferry is established, and shall be entitled to all the fare, arising by law therefrom—*Provided*, that nothing herein contained shall be construed to prevent any person from crossing over such stream at such ferry in his own boat, or to take in and carry over his neighbor, when the same is done without fee or charge, and not with intent to injure any person licensed to keep a ferry.

SEC. 54. If any person, licensed to keep a ferry, shall fail to pay the tax assessed thereon, when due, or shall not provide and keep in good and complete repair, the necessary boat or boats, with the oars, setting poles, and other necessary implements for the service thereof, or shall neglect to employ a sufficient number of skilful and discreet ferrymen, as is provided in the forty-eighth section of this chapter, within three months from the time license shall be granted; or if such ferry shall not at any time be kept in good condition and repair, agreeably to the provisions of this chapter; or if the same shall be abandoned, disused, or unfrequented for the space of six months, at any one time, it shall be lawful for the board of commissioners of the proper county, on complaint being made in writing, to summon the person licensed to keep such ferry, to show cause why such license should not be revoked, and to decide thereon according to the testimony adduced, and the laws of this territory, which decision when made shall be valid, to all intents and purposes, but subject to an appeal to the district court, within twenty days after such decision shall be made—*Provided*, that if any ferry shall be disused by reason of the stream, over which the same is established, being fordable at certain seasons of the year, or by reason of the travel being subject to periodical fluctuations, it shall not work a forfeiture, within the meaning of this section.

SEC. 55. Any person who shall maintain any ferry, and receive pay for ferriage, without first obtaining a license for the same, shall pay a fine of ten dollars for each offence, to be collected for the use of the county, by suit before any justice of the peace having jurisdiction, and any person is hereby authorized to bring such suit—*Provided*, that it shall not be considered unlawful for any person to transport any other person or his property over any stream for hire, when it shall be made evident that there is no ferry, or that the ferry established at such place, was not in actual operation at the time, or in sufficient repair to have afforded to such person or his property a safe and speedy passage.

SEC. 56. This act shall take effect and be in force from and after its passage; and the act entitled "an act regulating ferries," passed the 27th day of September, 1849, is hereby repealed.

Passed January 27th, 1854.

Exclusive right to transport.

Proviso.

When to show cause, &c.

Proviso.

Keeping ferry without license.

Act when to take effect. "An act regulating ferries" repealed.

CHAPTER 1.
AN ACT TO CONFER THE POWER ON COUNTY COMMISSIONERS TO INCORPORATE COMPANIES IN THEIR RESPECTIVE COUNTIES, FOR THE PURPOSE OF BUILDING BRIDGES.

CHAPTER I.

POWER OF COUNTY COMMISSIONERS TO INCORPORATE COMPANIES.

- SEC. 1. Commissioners may incorporate companies to build bridges.
- 2. Proceedings of commissioners before granting charter.
- 3. A bond of applicant to be approved by clerk of commissioners.
- 4. Commissioners may grant license to build bridges into another county.
- 5. Space of ground company may occupy; term of incorporation.
- 6. Liability of company for refusing to give passage.
- 7. Rates of toll to be posted up at the bridge.
- 8. Act when to take effect.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Oregon,* That the county commissioners of the several counties within the territory, be and they are hereby empowered and authorized to incorporate companies within their respective counties, for the purpose of erecting or building bridges across streams, and to demand and receive tolls therefor, at rates to be fixed by said county commissioners.

SEC. 2. When any man or company of men shall apply for a charter under this act, the county commissioners shall appoint three disinterested householders of their county to examine the place or stream proposed to be bridged, and make an estimate of the probable expense of erecting such bridge, and return to the commissioners a statement in writing of such estimated cost, and the plan upon which such estimate is founded, which statement shall be taken into consideration by said county commissioners, in reference to fixing the rates of toll, and the length of time such charter shall run.

SEC. 3. Every person or company thus applying for a charter under this act shall, before the same is granted, enter into a bond to the county, with two or more good and sufficient sureties, to be approved by the clerk of the commissioners, in a sum not less than double the estimated cost of said bridge, conditioned that they will, at all times, keep said bridge in good repair, and at the expiration of their charter, deliver up said bridge in good condition and repair, to the said county commissioners, for free public use; and also that they will, from the time such bridge is erected, until the expiration of such charter, provide some suitable, competent person to give constant and diligent attention at said bridge, from daylight in the morning till nine o'clock in the evening of each day, and also at any hour of the night, if required, such person shall give passage to all persons requiring the same upon payment of double the rates of toll allowed to be taken in the day time.

SEC. 4. In case either of two adjoining counties should think it necessary and proper to build a bridge over or across the line dividing the two counties, one end of said bridge resting in each county, the county commissioners of the county desiring so to do, may proceed to incorporate a company for the purpose intended,

Companies to build bridges, &c.

Proceedings of commissioners after petition.

Bond of applicants.

Commissioners may erect bridge in another county.

CHAPTER 1. in the same manner as if the said bridge was to be constructed entirely within the limits of their own county.

Ground company may occupy; term of incorporation. SEC. 5. No board of county commissioners shall, by any charter or act of incorporation by them granted, confer on any company or person the right to occupy a greater space than one hundred feet from the centre of their bridge, on either bank of any stream over which they are empowered to erect such bridge, nor shall any such incorporators be empowered to enter upon or occupy any lands or hereditaments for the purpose of erecting such bridge as aforesaid, without having first obtained the consent of the owner or owners thereof, and no company shall be incorporated for a longer period of time than ten years.

Liability for refusal to give passage, &c. SEC. 6. If any such incorporated company, or any keeper or tender by them employed, shall unduly neglect or refuse at any time to give passage to any person or his property across said bridge, such company shall forfeit and pay to the party aggrieved the sum of five dollars for every such offence, to be recovered before any justice of the peace having jurisdiction, and such company shall moreover be liable in an action at law, for any special damage which such person may have sustained in consequence of such neglect or refusal; but no forfeiture or damages shall be recovered for a failure or refusal to give any property or person passage over said bridge, until the toll chargeable by law shall have been fully paid or tendered to the keeper in attendance.

Rates of toll be posted up. SEC. 7. Every company incorporated under the provisions of this act, shall post up in some conspicuous place near the entrances to said bridge, a written or printed list of the rates of toll which are chargeable by law at such bridge, which list of rates shall at all times be written or printed in a plain legible manner, and posted up so near the entrances to such bridge, as to be easily read; and if at any time such company shall neglect or refuse to keep such lists posted up, it shall not be lawful to charge or take any toll or compensation for crossing such bridge, during the time of such delinquency.

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

Passed January, 1854.

AN ACT RELATIVE TO THE SUPPORT OF THE POOR.

- SEC. 1. County commissioners to have superintendence of poor.
2. Support of poor by relatives, liability if relatives refuse.
3. Order in which relatives shall support poor persons.
4. Poor, when to be supported from county treasury.
5. Duty of commissioners to bind out minors in certain cases.
6. Person not a pauper falling sick, to be supported in certain cases.
7. Twelve months' residence necessary to entitle pauper to support.
8. Relief on proof of residence, to be removed in case residence is not gained.
9. County commissioners may build work-houses for paupers.
10. Penalty for removing pauper into county.
11. Act when to take effect.

Board of commissioners. SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Oregon*, That the boards of county commissioners of the several counties of this territory, are hereby vested with entire and exclusive superintendence of the poor in their respective counties.

CHAPTER 1. Support of relations. SEC. 2. Every poor person who shall be unable to earn a livelihood in consequence of bodily infirmity, idiocy, lunacy or other cause, shall be supported by the father, mother, children, brothers or sisters of such poor person, if they or either of them be of sufficient ability, and every person who shall fail or refuse to support his or her father, mother, child, sister or brother, when directed by the board of commissioners of the county where such poor person shall be found, whether such relative reside in the county or not, shall forfeit and pay to the county, for the use of the poor of their county, the sum of thirty dollars per month, or such other sum as the commissioners shall find sufficient, to be recovered in the name of the county commissioners for the use of the poor as aforesaid, before any justice of the peace, or any court having jurisdiction; *Provided*, that when any person becomes a pauper from intemperance or other bad conduct, he shall not be entitled to any support from any relation except parent and child.

Proviso. SEC. 3. The children shall be first called on to support their parents, if there be children of sufficient ability; if there be none, the parents of such poor persons shall be next called on, and if there be no parents or children of sufficient ability, the brothers and sisters shall be next called on; but married females, while their husbands live, shall not be liable to a suit.

lb. Order of obligation. SEC. 4. When any poor person shall not have any such relatives in any county in this territory as are named in the preceding sections, or such relatives shall not be of sufficient ability, or shall fail or refuse to maintain such pauper, then the said pauper shall receive such relief as the case may require out of the county treasury, and the county commissioners may either make a contract for the necessary maintenance of the poor, or appoint such agents as they may deem necessary to oversee and provide for the same.

Duty of commissioners to bind minors. SEC. 5. When any minor shall become, or be likely to become chargeable to the county, either because of being an orphan, or because the parents, or other relations, as aforesaid, are unable or refuse to support such minor, it shall be the duty of the county commissioners to bind such minor as an apprentice to some respectable householder of the county, by written indenture, which shall bind such minor to serve as an apprentice, and shall in all respects be to the tenor and effect as required in the chapter concerning apprentices.

Sick persons not paupers. SEC. 6. When any non-resident, or any other person not coming within the definition of a pauper, shall fall sick in any county of this territory, not having money or property to pay his board, nursing, and medical aid, it shall be the duty of the commissioners of the proper county, on complaint being made, to give or order to be given such assistance to such poor person as they may deem just and necessary; and if said sick person shall die, then the said commissioners shall give, or order to be given to such person, a decent burial, and the said commissioners shall make such allowance for board, nursing, medical aid, or burial expenses, as they shall deem just and equitable, and order the same to be paid out of the county treasury.

Burial. Application of pauper; evidence of residence. SEC. 7. When application is made by any pauper to the board of county commissioners of any county in this territory, for relief,

TITLE 1. it shall be necessary for said commissioners to require of said pauper, satisfactory evidence that he has been a resident of said county for twelve months, immediately preceding the day upon which such application was made.

Relief on proof of residence. SEC. 8. When on application made by any pauper to the board of commissioners as aforesaid, it shall appear to the satisfaction of said board that the person so applying for relief has resided in said county agreeably to the provisions of the foregoing section of this chapter, he shall be entitled to all the relief provided by this chapter; but if on the contrary, it shall appear to the satisfaction of said board, that said pauper has not been a resident of said county, agreeably to the provisions of the seventh section of this chapter, they shall proceed to remove from their county, at the expense of said county, such pauper, to the county where such pauper may have his residence.

Building work-houses. SEC. 9. The board of county commissioners, of any county in this territory, may, if they think proper, cause to be built or provided in their respective counties, work-houses for the accommodation and employment of such paupers, as may from time to time become a county charge; and said work-house and paupers shall be under such rules and regulations as said board of commissioners may deem proper and just.

Penalty for removing pauper into county. SEC. 10. If any person shall bring and leave any pauper in any county in this territory, wherein such pauper is not lawfully settled, knowing him to be a pauper, he shall forfeit and pay the sum of one hundred dollars for every such offence, to be sued for and recovered by and to the use of such county, in a civil action, before any court having jurisdiction of the same.

Act when to take effect. SEC. 11. This act shall take effect and be in force from and after the first day of May next.

Passed January 23d, 1854.

AN ACT RELATING TO ESTRAYS AND TO PROPERTY LOST OR UNCLAIMED.

CHAPTER I.

PROPERTY LOST OR UNCLAIMED.

TITLE I. Of Strays.

TITLE II. Of Lost Money and Goods.

TITLE I.

Of Strays.

- SEC. 1. Person taking up boat, raft, &c., when to give notice.
- 2. Who may take up stray animals.
- 3. Notice how given if owner unknown.
- 4. When value of stray is fifteen dollars, appraisal to be made and filed.
- 5. On what terms owner may have stray returned within one year.
- 6. If owner and finder cannot agree upon amount of charges, a justice shall settle same: appeal from justice.

- SEC. 7. Estray when to be sold; notice of sale; excess of proceeds to be applied to schools.
- 8. Penalty on persons taking stray without consent of finder.
- 9. Penalty if finder neglect to advertise, or procure appraisal.

TITLE I.

SEC. 1. Be it enacted by the Legislative Assembly of the Territory of Oregon, That any person taking up any boat, skiff, or other water craft or raft of lumber or logs, shall, within seven days thereafter, notify the owner thereof, if to him known, and request such owner to pay all reasonable charges.

Notice of taking up boat, &c.

SEC. 2. No person shall take up any stray animal, unless such person shall be at the time a resident of the same county wherein such stray shall be found, or unless such stray be found upon the lands owned or occupied by the finder.

Who may take up stray animals.

SEC. 3. If the owner of any stray be unknown, the finder shall, within thirty days after taking up the same, file a notice thereof with the clerk of the board of county commissioners; and if the stray or strays so taken up are of the value of less than fifteen dollars, he shall also post up notices of the taking up of such stray in two or more public places in such county; but if the stray or strays so taken up, are of the value of more than fifteen dollars, he shall cause such notice to be published in the territorial newspaper, which shall be kept on file in the clerk's office of each county in this territory, describing the same by giving marks, natural and artificial, as near as practicable; the name and residence of the finder; and as near as may be, the time at which the same was taken up.

Notice how given if owner unknown.

SEC. 4. Every finder of a stray or strays which when taken up, are of the value of fifteen dollars or more, shall within one month after taking up the same, procure an appraisal thereof by a justice of the peace of his county, which appraisal shall be certified to by such justice, and within the time before mentioned, filed in the office of the clerk of the board of county commissioners; and he shall pay to such justice one dollar for each appraisal and certificate, and ten cents for every mile necessarily traveled in such service.

Appraisal when to be made.

SEC. 5. If the owner or person entitled to the possession of any stray shall appear at any time within one year after the notice is filed with the clerk as aforesaid, and make out his right thereto, he shall have such stray restored to him upon paying all lawful charges which have been incurred in relation to the same.

When owner may claim stray.

SEC. 6. If the owner and the finder of any stray cannot agree upon the amount of such charges, or for the use of any such stray, either party may make application to any justice of the peace of the county where such stray was taken up, to settle the same, and the party making such application shall give notice thereof to the other party, and if any amount shall be found due to the finder by the said justice, over the value of the use of such strays, the same shall be a lien on said stray until paid by the owner; and the costs of such adjudication shall abide the decision of the justice; provided, that either party shall have the same right to appeal to the district court as in other cases.

His disputes with finder as to charges, how settled.

SEC. 7. If the owner or person entitled to the possession of any stray shall not appear and make out his title thereto, and pay the charges thereon within one year from the time when the notice is

When stray to be sold.

TITLE 2. filed with the county clerk as provided in the fourth section of this chapter, such stray shall be sold at the request of the finder, by any constable of the precinct at public auction, upon first giving public notice thereof in writing by posting up the same in three of the most public places in said precinct, at least ten days before such sale; and the finder may bid therefor at such sale; and after deducting all the lawful charges of the finder as aforesaid, and the fees of the constable, which shall be the same as upon a sale on an execution, the remaining proceeds of such sale shall be deposited in the treasury of the county, for the use of common schools; *provided*, that if the owner of the property sold or his legal representatives shall, within one year after such money shall have been deposited in the county treasury, furnish satisfactory evidence to the county commissioners of the ownership of such property, he or they shall be entitled to receive the amount so deposited in the county treasury.

Notice of sale.

Excess of proceeds to be applied to schools.

Penalty for secretly taking stray from finder, &c.

Penalty if finder neglect to advertise, &c.

SEC. 8. If any person shall, without the consent of the finder, take away any stray taken up pursuant to the provisions of this chapter, knowing the same to have been taken up as a stray, without first paying all the lawful charges incurred in relation to the same, he shall be liable to the finder for the value of such stray.

SEC. 9. If the finder of any stray shall neglect to cause the same to be advertised, or a notice thereof to be posted up; or if he shall neglect to procure the appraisal of any stray which shall be of the value of fifteen dollars or more, or if he shall neglect to perform any of the duties required of him by this chapter, he shall be precluded from acquiring any right of property in such stray by the provisions of this chapter, or receiving any damages or charges for keeping the same, and shall forfeit and pay into the county treasury a sum equal to the value of the stray, to be sued for and recovered by the county treasurer in the name of the county, for the use of common schools.

TITLE II.

Of Lost Money and Goods.

- SEC. 10.** When and how finder of money and goods to give notice.
11. When also notice to be published and appraisal procured; certificate of appraisal
 12. Within what time and on what terms owner may have restitution.
 13. Finder when to pay one half to treasurer.
 14. Penalty, &c., on finder, for neglect to give notice when value exceeds five dollars.

Notice of finder.

SEC. 10. If any person shall find any money or goods of the value of five dollars or more, and if the owner thereof be unknown, such person shall, within five days after finding such money or goods, give notice thereof in writing to the clerk of the board of county commissioners of the county in which such property was found; and shall also within said five days, cause a notice thereof to be posted up in two public places in said county.

Id. And appraisal.

SEC. 11. Every finder of lost goods of the value of fifteen dollars or more, shall, in addition to the requirements in the preceding section, within fifteen days after finding the same, cause notice

thereof to be published in a newspaper printed in the county, if there be one published therein; and if there be none, then such notice shall be posted up in three of the most public places in the county; and if no person shall appear to claim the same who may be entitled thereto, he shall, within two months after finding such goods, and before using the same to their injury, procure an appraisal thereof by a justice of the peace of his county, which appraisal shall be certified to by such justice, and filed in the office of the clerk of the board of the county commissioners of such county.

CHAPTER 9.

Certificate of justice.

SEC. 12. If the owner of such lost money or goods appear within one year after notice given to the clerk as aforesaid, and shall make out his right thereto, he shall have restitution of the same or the value thereof, upon his paying all the costs and charges thereon, including a reasonable compensation to the finder for his trouble.

Restitution; when.

SEC. 13. If no owner shall appear within one year, then the finder of such lost money or goods, shall pay one-half the value thereof after deducting all legal charges, to the treasurer of the county; and in case such finder shall neglect to pay the same, on demand, after the expiration of the time aforesaid, the same may be sued for and recovered by the said treasurer in the name of the county.

Finder when to pay one half to treasurer.

SEC. 14. If any finder of lost money or goods of the value of five dollars or upwards, shall neglect to give notice of the same, and otherwise to comply with the provisions of this chapter, he shall be liable for the full value of such money or goods; one-half to the use of the county, and the other half to the person who shall sue for the same; and shall also be responsible to the owner for such lost money or goods.

Penalty for neglect to give notice, &c., where value exceeds \$5.

CHAPTER II.

UNCLAIMED PROPERTY.

- SEC. 1.** Description of property received by consignees and bailees, to be entered.
2. When and how owner to be notified of reception of property.
 3. Property not claimed within one year may be sold.
 4. Notice of sale, how given.
 5. Proceedings, if owner do not appear and take away property upon notice.
 6. Inventory to be made and justice to order property to be sold.
 7. Constable to give notice and sell property at auction.
 8. Constable to make return to justice.
 9. Justice to pay charges, &c., and balance to treasurer, and deliver statement.
 10. Treasurer to enter amount, and file statement.
 11. Owner may receive amount deposited within five years.
 12. If not claimed within five years to belong to county.
 13. When and how perishable property and in a state of decay may be sold.
 14. Fees of officers under this chapter.
 15. Act when to take effect.

SEC. 1. Whenever any personal property shall be consigned to, or deposited with any forwarding merchant, wharf, warehouse or tavern-keeper, or the keeper of any depot for the reception and storage of trunks, baggage, merchandise, or other personal property, such consignee or bailee shall immediately cause to be entered in a book kept by him, a description of such property, with the date of reception thereof.

Consignee to enter property in book.

CHAPTER 2.

To notify owner of reception.

SEC. 2. If such property shall not have been left with such consignee or bailee, for the purpose of being forwarded or disposed of according to directions received of such consignee or bailee, at or before the time of the reception thereof, and if the name and residence of the owner of such property be known to the person having such property in his possession, he shall immediately notify the owner, by letter directed to him and deposited in the post-office, of the reception of such property.

When consignee, &c., may sell.

SEC. 3. If any such property shall not be claimed and taken away within one year after the time it shall have been so received, the person having possession thereof, may at any time thereafter, proceed to sell the same in the manner provided in this chapter.

Notice of sale, how given.

SEC. 4. Before any such property shall be sold, if the name and residence of the owner thereof be known, at least sixty days' notice of such sale shall be given him, either personally or by mail, or by leaving a notice at his residence or place of doing business; but if the name and residence of the owner be not known, the person having the possession of such property, shall cause a notice to be published containing a description of the property for the space of six weeks successively, in a newspaper, if there be one published in the same county; if there be no newspaper published in the same county, then said notice shall be published in a newspaper nearest thereto in the territory; the last publication of such notice shall be at least eighteen days previous to the time of sale.

If owner disregard notice.

SEC. 5. If the owner or person entitled to such property shall not take the same away, and pay the charges thereon after sixty days' notice shall have been given, it shall be the duty of the person having possession thereof, his agent or attorney, to make and deliver to a justice of the peace of the same county, an affidavit setting forth a description of the property remaining unclaimed, the time of its reception, the publication of the notice, and whether the owner of such property be known or unknown.

Inventory by justice.

SEC. 6. Upon the delivery to him of such affidavit, the justice shall cause such property to be opened and examined in his presence, and a true inventory thereof to be made, and shall annex to such inventory an order under his hand, that the property therein described be sold by any constable of the precinct where the same shall be at public auction.

Constable to give notice.

SEC. 7. It shall be the duty of such constable receiving such inventory and order, to give ten days' notice of the sale by posting up written notices thereof in three or more places in such precinct, and to sell such property at public auction to the highest bidder, in the same manner as provided by law for sales under execution from justices' courts.

Return of constable.

SEC. 8. Upon completing the sale, the constable making the same shall indorse upon the order aforesaid, a return of his proceedings thereon, and return the same to the justice, together with the inventory, and the proceeds of sale, after deducting his fees.

Justice to pay charges, &c., and balance to treasurer, &c.

SEC. 9. From the proceeds of such sale, the justice shall pay all legal charges that have been incurred in relation to such property, or a rateable proportion of each charge, if the proceeds of said sale, shall not be sufficient to pay all the charges; and the balance, if any there be, he shall immediately pay over to the treasurer of the

CHAPTER 3.

county in which the same shall be sold, and deliver a statement therewith, containing a description of the property sold, the gross amount of such sale, and the amount of costs, charges and expenses paid to each person.

Treasurer to make entry.

SEC. 10. The county treasurer shall make an entry of the amount received by him, and the time when received, and shall file in his office such statement so delivered to him by the justice.

When owner may claim deposit.

SEC. 11. If the owner of the property sold, or his legal representatives shall, at any time within five years after such money shall have been deposited in the county treasury, furnish satisfactory evidence to the treasurer of the ownership of such property, he or they shall be entitled to receive from such treasurer the amount so deposited with him.

If not claimed, when county's.

SEC. 12. If the amount so deposited with any county treasurer, shall not be claimed by the owner thereof, or his legal representatives, within the said five years, the same shall belong to the county, and may be disposed of as the board of county commissioners may direct.

Sale of decaying and perishable property.

SEC. 13. Property of a perishable kind and subject to decay by keeping, consigned or left in manner before mentioned, if not taken away within thirty days after it shall have been left, may be sold by giving ten days' notice thereof; the sale to be conducted, and the proceeds of the same to be applied in the manner before provided in this chapter; *provided*, that any property in a state of decay or that is manifestly liable immediately to become decayed, may be summarily sold by order of a justice of the peace, after inspection thereof, as provided in section six of this chapter.

Fees.

SEC. 14. The fees allowed to any justice of the peace, under the provisions of this chapter, shall be three dollars for each day's service; and to any constable the same fees as are allowed by law for sales upon an execution, and ten cents a folio for making an inventory of property.

Act when to take effect.

SEC. 15. This act shall take effect and be in force from and after the first day of May.

Passed January 26th, 1854.

AN ACT RELATING TO STALLIONS.

- SEC. 1. When any person may geld stallion running at large.
2. But not if stallion is known to be kept for covering mares.
3. Owner when liable for damages done by stallion, &c.
4. Ridglings included in provisions of last section.
5. Act when to take effect.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Oregon*, That it shall and may be lawful for any person to take up and geld at the risk of the owner, within the months of April, May, June, July, September, and October in any year, any stud horse, jackass, or mule of the age of two years and upwards, that may be found running at large out of the inclosed grounds of the owner or keeper, and if the said animal shall die, the owner shall have no recourse against the person or persons who may have

When one may geld stallions.

TITLE 1. taken up and gelded, or cause to be gelded the said animal, if the same has been done by a person in the habit of gelding, and the owner shall pay the price of so gelding.

Exceptions. SEC. 2. It shall not be lawful for any person or persons to geld any animal, knowing that such animal is kept or intended to be kept for covering mares; and any person so offending shall be liable to the owner for all damages, to be recovered in any court having proper jurisdiction thereof; but if any owner or keeper of the covering animal shall, wilfully and negligently suffer said animal to run at large out of the inclosed grounds of said owner or keeper, any person may take the said animal and convey him to his owner or keeper, for which he shall receive two dollars, recoverable before any justice of the peace of the county; for a second offence, double the sum, and for a third offence, said animal may be taken up and gelded as is provided in the preceding section of this act.

When owner liable for damage done by stud, &c. SEC. 3. If a stud horse, mule, or jackass, while running at large out of the inclosed grounds of the owner or keeper, shall damage any other animal by biting or kicking him, or shall do any damage to person or property, of any kind whatever, the owner of such stud horse, mule or jackass, shall be liable for all damages done by him.

Ridglings included. SEC. 4. That horses commonly called ridglings, shall be included under the provisions of the third section of this act.

SEC. 5. That this act be in force and take effect from and after the first day of May next.

Passed January 10th, 1854.

AN ACT RELATING TO COUNTY PRISONS AND THEIR REGULATIONS.

CHAPTER I.

COUNTY PRISONS.

TITLE I. Of Jails and Prisoners.

TITLE II. Of the Relief of Persons confined in Jails on Civil Process.

TITLE I.

Of Jails and Prisoners.

- SEC. 1. County commissioners to erect jails; jails how to be constructed.
- 2. Commissioners to receive sealed proposals; notice of letting; bond of contractor.
- 3. Election when to be held for erection of jails.
- 4. Jails to be under charge of sheriff and used as prisons for what.
- 5. When prisoner may be ordered to adjoining county jail; expenses of, how paid.
- 6. County commissioners to inspect prisons.
- 7 & 8. Liquor not to be given to prisoners under penalty.
- 9. Male and female prisoners to be kept separate.
- 10. Jails how to be kept; prisoners how provided for.
- 11. Sheriff shall receive prisoners arrested by authority of the United States.
- 12. United States liable for support of such prisoners.
- 13. Charges, &c., when to be paid by county.
- 14. Ib. When by territory.
- 15. Sheriff when to report persons committed for fines or costs to county commissioners; proceedings thereon.

SEC. 1. Be it enacted by the Legislative Assembly of the Territory of Oregon, That the board of commissioners in each county of this territory are hereby authorized, whenever they may deem proper, to erect in such county a jail or prison for the reception and confinement of prisoners and criminals, to be built of such materials and dimensions, and on such place at the seat of justice of such county, as the commissioners may direct; and there shall be constructed in every such jail, one or more cells or dungeons, for the confinement of criminals sentenced to solitary confinement.

SEC. 2. Whenever the commissioners shall determine to erect such jail or prison, they may either receive sealed proposals for the performance of the whole or any part of the work, or for furnishing materials, or may sell the same at public auction to the lowest bidder; but the commissioners, before they enter into any such contract, shall give notice by advertisement, published in some newspaper of general circulation in the county, for at least three weeks in succession, or by putting up advertisements in five public places within the same, three weeks before the time for letting the contract, stating the day on which they will attend at the commissioners' office in said county, for the purpose of receiving proposals, or selling at public auction, (as the case may be,) and entering into such contract; and the contractor shall enter into bond, payable to the Territory of Oregon, for the use of the county, with such securities, and in such sum as the commissioners shall approve, conditioned for the faithful performance of the contract, agreeably to the stipulations thereof.

SEC. 3. Whenever the commissioners shall determine to erect any jail, the costs of which shall exceed twenty-five hundred dollars, it shall be their duty to make an estimate of the same, and post it upon the door of the court-house in such county, at least twenty-five days before the annual election, and at such election, the qualified electors of such county shall vote for or against the erection of such jail, and if a majority of the votes are given in favor of the same, the county commissioners are hereby authorized to levy a tax, sufficient to cover such estimate; and said additional tax shall be assessed, levied and collected, in the same manner and at the same time, that the county tax of such county is assessed, levied and collected.

SEC. 4. The jails now erected, or which shall hereafter be erected in the several counties of this territory, shall be under the charge of the respective sheriffs and shall be used as prisons:

- 1. For the detention of persons charged with offences, and duly committed for trial;
- 2. For the confinement of persons duly committed for any contempt, or upon civil process;
- 3. For the confinement of persons sentenced to imprisonment therein, upon conviction for any offence.

SEC. 5. Whenever there is no jail erected in any county, every judicial or other officer of such county, who shall have power to order, sentence, or deliver any person to the county jail, may order, sentence, or deliver such person to the jail of an adjoining county, or if there be no jail erected in any adjoining county, then in the nearest county jail; and the jailor of any such adjoining or other

TITLE 1. Commissioners to erect county jails.

Dungeons.

Commissioners to receive sealed proposals.

Bond of contractor.

Election for erection of jails.

Jails to be used as prisons.

When prisoner to be delivered to adjoining county jail, &c.

TITLE 1. nearest county, shall receive and keep such prisoner, in the same manner as if he had been ordered, sentenced or delivered to him by any officer or court of his own county; but the county from which he was taken shall pay all the expenses of keeping and maintaining him in said jail.

County commissioners to inspect county prisons.

SEC. 6. The county commissioners of each county shall be inspectors of the prisons therein, and shall visit them at least once in each regular session, and shall examine fully into the condition of such prison, as to health, cleanliness and discipline, and if it shall appear to the said inspectors, that any of the provisions of law have been violated or neglected, they shall forthwith give notice of the same to the district attorney of such district.

Sheriff, &c., not to give liquor to prisoners.

SEC. 7. No sheriff, jailor, or keeper of any prison, shall, under any pretence, give, sell, or suffer to be delivered to any person committed to prison, for any cause whatever, any spirituous, vinous or malt liquors, unless a physician shall certify in writing, that the health of such prisoner requires it, in which case he may be allowed to give the quantity prescribed, and no more; and if any sheriff, jailor or keeper as aforesaid, shall give, sell or knowingly suffer to be delivered, any such liquors, contrary to the provisions of this section, he shall forfeit for every offence, the sum of twenty-five dollars, to be recovered before a justice of the peace for the use of the county.

Penalty.

Ib. For other persons.

SEC. 8. If any person other than those mentioned in the preceding section, shall sell or give to any person committed for any cause whatever, any liquor prohibited in the last section, or shall have in his possession, in the precincts of any prison, any such liquor with the intent to convey or deliver the same to any prisoner confined therein, he shall forfeit for every such offence the sum of fifteen dollars, to be recovered and applied as in the last preceding section.

Male and female to be kept separate. Jails, &c., to be kept clean.

SEC. 9. Male and female prisoners (except husband and wife) shall not be kept or put in the same room.

SEC. 10. The keeper of each jail shall furnish, and keep clean, the necessary bedding and clothing for all prisoners in his custody, and shall also supply them with wholesome food, fuel, and necessary medical aid.

Sheriff, &c. to receive U. S. prisoners.

SEC. 11. Every sheriff, jailor, and prison keeper within the territory, to whom any person shall be sent, or committed by virtue of legal process, issued by or under the authority of the United States, shall be required to receive such person into his custody, and to keep him safely until he shall be discharged by due course of the laws of the United States; and every such sheriff, jailor, or prison keeper, offending against the provisions of this section, shall be liable to the same penalties, and the parties aggrieved shall be entitled to the same redress against them or any of them, as if such prisoner had been committed to their custody by virtue of legal process issued under the laws of this territory.

U. S. liable for support, &c.

SEC. 12. The United States shall be liable to pay for the support and keeping of said prisoners, the same charges and allowance as are allowed for the support and keeping of prisoners committed under the laws of the territory.

SEC. 13. The charges and expenses for safe keeping and maintaining all persons duly committed to the jail of the county for trial, or sentenced to imprisonment in the county jail, or who may be committed for the non-payment of any fine, or for any contempt, shall, unless otherwise provided by law, be paid out of the treasury of the county, the account of the keeper being first allowed by the board of commissioners of the county from which the prisoner was committed.

TITLE 2.
Charges, &c., when paid by county.

SEC. 14. The charges and expenses of safe keeping and maintaining all persons sentenced to imprisonment in the penitentiary, after such persons shall be delivered to the warden or keeper thereof, as well as the necessary expenses of conveying such persons to the penitentiary, shall be paid out of the territorial treasury.

Ib. When by territory.

SEC. 15. When any convict shall have been confined in any jail for the space of ten days for the non-payment of any fine, and costs only or either of them, the sheriff of the county in which such person shall be imprisoned, shall make report thereof to the commissioners of such county, who may require the keeper of the prison to bring such convict before them, and the commissioners shall proceed to inquire into the circumstances of such convict, and may examine him on oath, and if they shall be satisfied that he has not had, since his conviction, sufficient property to pay such fine and costs, or either of them, they may make a certificate thereof to the sheriff of the county, and direct him to discharge such convict from prison, and the sheriff shall accordingly forthwith discharge him, but such convict shall not thereby be released from the payment of such fine and costs, but the same may be collected by execution at any future time.

Person committed for fine, when to be reported by sheriff to county commissioners.

TITLE II.

Of Relief of Persons Confined in Jail on Civil Process.

- SEC. 16.** Execution debtors when may be discharged.
 17. Notice of application for discharge to be given plaintiff.
 18. Notice how served.
 19. Examination of prisoner.
 20. Interrogatories by plaintiff to prisoner.
 21. Judge when to administer oath to prisoner; form of oath.
 22. Certificate of judge; its form.
 23. Jailor to discharge prisoner, on receiving certificate.
 24. Prisoner if not discharged, may apply every succeeding ten days.
 25. Prisoner discharged not liable to re-arrest, unless, &c.
 26. Judgment to remain against property of prisoner discharged.
 27. Prisoner when to pay charges before being discharged.
 28. Plaintiff may order discharge at any time.
 29. Act when to take effect.

SEC. 16. Every person confined in jail on an execution issued on a judgment recovered in an action wherein the defendant is liable to be arrested, may be discharged therefrom, at the end of ten days from his first confinement, upon the conditions hereinafter specified.

Discharge of execution debtors.

SEC. 17. Such person shall cause notice in writing to be given to the plaintiff in the suit, his agent or attorney, that on a certain day and hour, and at a certain place, he will apply to a judge of the

Notice of application for discharge to plaintiff.

TITLE 2. district court, or two justices of the peace of the county, where the person is committed, stating the names of such judge or justices of the peace, for the purpose of obtaining a discharge from his imprisonment.

Notice.
How served. SEC. 18. Such notice shall be served by copy on the plaintiff, his agent or attorney, twenty-four hours before the hour of hearing the application, in cases where the plaintiff, his agent or attorney, lives within twenty miles of the place of hearing, and twenty-four hours shall be added to the time for every twenty additional miles, the plaintiff, his agent or attorney, shall reside from that place.

Examination
on applica-
tion. SEC. 19. At the time and place specified in such notice, such prisoner shall be taken, under the custody of the sheriff or jailor, before such judge or justices, who shall examine him on oath concerning his estate and effects, and the disposal thereof, and his ability to pay the judgment for which he is committed; and he or they shall also hear any other legal and pertinent evidence, that may be produced by the plaintiff or defendant.

Interrogato-
ries by plain-
tiff. SEC. 20. The plaintiff in the action may, upon such examination, propose to the prisoner any interrogatories pertinent to the inquiry, and they shall, if required by such plaintiff, be answered in writing, and the answers shall be signed and sworn to by the prisoner.

Judge when
to adminis-
ter oath to
to prisoner. SEC. 21. If the judge or justices, upon such examination, shall be satisfied that the prisoner has not any real or personal property, conveyed, concealed, or in any way disposed of, with a design to secure the same to his own use, or to defraud his creditors, he or they shall administer to him the following oath; to wit:

Form of oath "I, C. D., do solemnly swear that I have not any estate real or personal, to the amount of twenty dollars, except such as is by law exempt from being taken in execution, and that I have not any other estate now conveyed, or concealed, or in any way disposed of, with design to secure the same to my use, or to defraud my creditors—So help me God."

Certificate. SEC. 22. After administering the oath, the judge or justices shall make a certificate, under his or their hands, as follows:

Its form. "The undersigned, a judge of the district court, (or two justices as the case may be,) hereby certifies that C. D., confined in your jail upon an execution, at the suit of A. B., is entitled to be discharged from imprisonment if he be imprisoned for no other cause."

Prisoner to
be discharg-
ed. SEC. 23. The jailor, upon receiving such certificate, shall forthwith discharge the prisoner, if he be detained for no other cause.

Subsequent
application
for discharge SEC. 24. If such judge or two justices should not discharge the prisoner, he shall be entitled to apply for his discharge at the end of every ten succeeding days, in the same manner as above provided, and the same proceedings shall thereupon be had.

Prisoner not
liable to re-
arrest, un-
less, &c. SEC. 25. The prisoner, after being so discharged, shall be forever exempted from arrest or imprisonment for the same debt, unless he shall be convicted of having wilfully sworn falsely upon his examination, before the judge or two justices, or in taking the oath before prescribed.

TITLE 1.
Judgment to
remain
against pro-
perty of. SEC. 26. The judgment against any prisoner who is discharged as aforesaid, shall remain in full force against any estate which may then, or at any time afterwards, belong to him, and the plaintiff in the action may take out a new execution against the goods and estate of the defendant, in like manner as if he had never been committed on the execution.

When pris-
oner to pay
charges, &c. SEC. 27. If the defendant shall undertake to satisfy the execution, he shall not be entitled to his discharge until he has paid all the charges for his support in prison, in addition to the sum due on the execution, and the cost and charges thereon.

Plaintiff may
order dis-
charge. SEC. 28. The plaintiff in the action may, at any time, order the prisoner to be discharged, and he shall not thereafter be liable to imprisonment for the same cause of action, but the judgment against such prisoner shall remain in full force against any estate which may then or afterwards belong to such discharged defendant.

Act when to
take effect. SEC. 29. This act shall take effect and be in force from and after the first day of May next.

Passed January 25th, 1854.

AN ACT RELATING TO ALIENATION BY DEED, AND THE PROOF AND RECORDING OF CONVEYANCES, AND THE CANCELLING OF MORTGAGES.

CHAPTER I.

ALIENATION BY DEED.

TITLE I. *Alienation by Deed, and Proof and Recording of Conveyances, and the Cancelling of Mortgages.*

TITLE II. *Of the Appointment of Commissioners to take Acknowledgment of Deeds, &c.*

TITLE I.

Alienation by Deed, and Proof and Recording of Conveyances, and the Cancelling of Mortgages.

- Sec. 1.** Conveyance how made.
2. Conveyance by husband and wife; wife bound by covenant in joint deed.
3. Deed of quit claim, &c., effect of conveyance by.
4. Term "heirs" not necessary to convey fee-simple.
5. Conveyance by tenants for life or years.
6 & 7. No covenant to be implied in conveyances or mortgage.
8. Conveyance of lands adversely possessed.
9. Joint conveyances when construed to create tenancy in common.
10. As to the execution and proof of deeds.
11. Deeds how executed and acknowledged in other states, &c.
12. Acknowledgment how authenticated.
13. Deeds executed in foreign country.
14. Acknowledgment by married woman in territory.
15. Proof, &c., of conveyances by married woman residing out of territory.
16. Identity of person acknowledging deed, to be proved.
17. Proofs of deeds by subscribing witness, how to be made.
18. Proof when witnesses are dead, &c., and grantor is dead, or refuses to acknowledge deed.
19. When and how witnesses to deeds may be compelled to testify concerning them.

- TITLE 1.**
- SEC. 20. Penalty and proceedings, &c., on refusal to appear or testify.
 - 21. Certificate of proof to be indorsed on deed; its contents.
 - 22. Conveyance so proved and certified, evidence, and entitled to be recorded.
 - 23. Separate books to be provided for recording deeds and mortgages.
 - 24. Certificate of recorder on conveyance recorded, what to state.
 - 25. Recorder to keep index of deeds and mortgages; entries therein.
 - 26. Unrecorded conveyance of real estate, when void, as against *bona fide* purchasers.
 - 27. Record and transcript evidence; proof, &c., may be contested.
 - 28. Deed when not to be defeated by defeasance.
 - 29. Recording assignment of mortgage, not to be notice to mortgagor, &c.
 - 30. When mortgage recorded, may be discharged by entry of satisfaction.
 - 31. When mortgage may be discharged by recorder.
 - 32. Certificate and acknowledgment to be recorded.
 - 33. Liability of mortgagee, &c., for neglect to discharge mortgage, &c.
 - 34. Powers of attorney and contracts for land when may be recorded; transcript when evidence.
 - 35. Letters of attorney recorded, not affected by revocation, until it be recorded.
 - 36. Effect of deeds, &c., heretofore acknowledged according to law in force.
 - 37. A scroll, &c., attached to deed to have same effect as a seal.
 - 38. Records, &c., may be transcribed on division of county; fees for transcribing.

Conveyances how made. SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Oregon,* That conveyances of lands or of any estate or interest therein, may be made by deed, signed and sealed by the person, from whom the estate or interest is intended to pass, being of lawful age, or by his lawful agent, or attorney, and acknowledged or proved, and recorded as directed in this chapter, without any other act, or ceremony whatever.

By husband and wife. SEC. 2. A husband and wife may by their joint deed, convey the real estate of the wife, in like manner as she might do by her separate deed, if she were unmarried; but the wife shall not be bound by any covenant contained in such joint deed.

Quit claim. SEC. 3. A deed of quit claim and release, of the form in common use, shall be sufficient to pass all the estate, which the grantor could lawfully convey by a deed of bargain and sale.

Term "heirs," not necessary. SEC. 4. The term "heirs" or other words of inheritance, shall not be necessary to create or convey an estate in fee-simple; and any conveyance of any real estate hereafter executed, shall pass all the estate of the grantor, unless the intent to pass a less estate shall appear by express terms, or be necessarily implied in the terms of the grant.

Conveyances by tenant for life and years. SEC. 5. A conveyance made by a tenant for life or years, purporting to grant a greater estate than he possessed or could lawfully convey, shall not work a forfeiture of his estate, but shall pass to the grantee all the estate which such tenant could lawfully convey.

Covenants not implied in conveyance. SEC. 6. No covenant shall be implied in any conveyance of real estate, whether such conveyance contain special covenants or not.

Ib. Or in mortgage. SEC. 7. No mortgage shall be construed as implying a covenant for the payment of the sum, thereby intended to be secured; and when there shall be no express covenant for such payment contained in the mortgage, and no bond or other separate instrument to secure such payment shall have been given, the remedies of the mortgagee shall be confined to the lands mentioned in the mortgage.

Of lands held adversely. SEC. 8. No grant or conveyance of lands, or interest therein, shall be void for the reason, that at the time of the execution

thereof, such lands shall be in the actual possession of another claiming adversely.

SEC. 9. Every conveyance or devise of lands, or interest therein, made to two or more persons, other than to executors and trustees as such, shall be construed to create a tenancy in common in such estate, unless it be expressly declared in such conveyance or devise, that the grantees or devisees shall take the lands as joint tenants.

SEC. 10. Deeds, executed within this territory, of lands or any interest in lands therein, shall be executed in the presence of two witnesses, who shall subscribe their names to the same as such, and the persons executing such deeds, may acknowledge the execution thereof before any judge of the district court, probate judge, justice of the peace, or notary public within the territory, and the officer taking such acknowledgment shall indorse thereon a certificate of the acknowledgment thereof, and the true date of making the same, under his hand.

SEC. 11. If any deed shall be executed in any other state, territory, or district of the United States, such deed may be executed according to the laws of such state, territory, or district, and the execution thereof may be acknowledged before any judge of a court of record, justice of the peace, or notary public, or other officer, authorized by the laws of such state, territory, or district, to take the acknowledgment of deeds therein, or before any commissioner, appointed by the governor of this territory for such purpose.

SEC. 12. In the cases provided for in the last section, unless the acknowledgment be taken before a commissioner, appointed by the governor of this territory for that purpose, such deed shall have attached thereto a certificate of the clerk, or other proper certifying officer of a court of record of the county, or district within which such acknowledgment was taken, under the seal of his office, that the person, whose name is subscribed to the certificate of acknowledgment, was, at the date thereof, such officer as he is therein represented to be, and that he believes the signature of such person subscribed thereto to be genuine; and that the deed is executed and acknowledged, according to the laws of such state, territory or district.

SEC. 13. If such deed be executed in any foreign country, it may be executed according to the laws of such country, and the execution thereof may be acknowledged before any notary public therein, or before any minister plenipotentiary, minister extraordinary, minister resident, charge des affaires, commissioner, or consul of the United States, appointed to reside therein; which acknowledgment shall be certified thereon by the officer taking the same under his hand, and if taken before a notary public, his seal of office shall be affixed to such certificate.

SEC. 14. When a married woman, residing in this territory, shall join with her husband in a deed of conveyance of real estate, situated within this territory, the acknowledgment of the wife shall be taken separately and apart from her husband, and she shall acknowledge that she executed such deed freely, and without fear or compulsion from any one.

TITLE 1.

Joint conveyances.

Execution and proof of deeds.

Ib. In other states.

Ib.

Ib. In foreign countries.

Acknowledgment by married woman in this territory. 16 J. R. 110; 20 J. R. 301; 3 Paige 121; 10 do. 345.

TITLE 1.
SEC. 15. When any married woman not residing in this territory, shall join with her husband in any conveyance of real estate situated within this territory, the conveyance shall have the same effect as if she were sole, and the acknowledgment or proof of the execution of such conveyance by her, may be the same as if she were sole.

SEC. 16. No acknowledgment of any conveyance having been executed shall be taken by any officer, unless he shall know or have satisfactory evidence that the person making such acknowledgment is the individual described in, and who executed such conveyance.

SEC. 17. Proof of the execution of any conveyance may be made before any officer, authorized to take acknowledgments of deeds, and shall be made by a subscribing witness thereto, who shall state his own place of residence, and that he knew the person described in, and who executed such conveyance; any such proof shall not be taken, unless the officer is personally acquainted with such subscribing witness, or has satisfactory evidence that he is the same person, who was a subscribing witness to such instrument.

SEC. 18. When any grantor is dead, out of this territory, or refuses to acknowledge his deed, and all the subscribing witnesses to such deed, shall also be dead or reside out of this territory, the same may be proved before the district court, or any judge thereof, by proving the hand-writing of the grantor, and of any subscribing witness thereto.

SEC. 19. Upon the application of any grantee, or any person claiming under him, verified by the oath of the applicant, setting forth that the grantor is dead, out of the territory, or refused to acknowledge his deed, and that any witness to such conveyance, residing in the county where the application is made, refuses to appear and testify touching the execution thereof, and that such conveyance cannot be proven without his evidence, any officer authorized to take the acknowledgment or proof of conveyances, except a commissioner of deeds, may issue a subpoena, requiring such witness to appear, and testify before such officer, touching the execution of such conveyance.

SEC. 20. Every person, duly served with such subpoena, who shall, without reasonable cause, refuse or neglect to appear, or appearing, shall refuse to answer upon oath, touching the matter aforesaid, shall forfeit to the injured party one hundred dollars, and may also be committed to prison, as for a contempt by the officer, who issued such subpoena, there to remain until he shall submit to answer on oath as aforesaid.

SEC. 21. Every officer, who shall take the proof of any conveyance, shall indorse a certificate thereof, signed by himself on the conveyance; and in such certificate, shall set forth the matters hereinbefore required to be done, known, or proved, together with the names of the witnesses examined before such officer, and their places of residence, and the substance of the evidence by them given.

SEC. 22. Every conveyance, acknowledged or proved or certified in the manner hereinbefore prescribed, by any of the officers before named, may be read in evidence without further proof thereof, and shall be entitled to be recorded in the county in which the lands lie.

Requisites for acknowledgments. 1 J. R. 488; 6 do. 149; 11 do. 484; 2 Cow. 552. (a)

Proof by subscribing witness. 2 Wen. 555; 7 do. 366.

Proof when witnesses and grantor are absent, &c.

When witnesses to deeds compelled to testify concerning them.

Penalty for refusing to appear or testify.

Certificate of proof to be indorsed on deed.

Effect of proof.

(a) 4 Wen. 568; 13 do. 539.

TITLE 1.
SEC. 23. Separate books shall be provided by the recorder of deeds in each county for the recording of deeds and mortgages; in one of which books all deeds left with such recorder, shall be recorded at full length, with the certificates of acknowledgment, or proof of the execution thereof: and in the other, all mortgages left with the recorder shall in like manner be recorded.

SEC. 24. The recorder of deeds shall certify, upon every conveyance recorded by him, the time when it was received, and a reference to the book and page where it is recorded, and every conveyance shall be considered as recorded, at the time it was so received.

SEC. 25. The recorder shall also keep a proper index, direct and inverted, to the books for the recording of deeds, and also one to the books for the recording of mortgages, in which he shall enter alphabetically the name of every party to each and every instrument recorded by him, with a reference to the book and page where the same is recorded.

SEC. 26. Every conveyance of real property within this territory hereafter made, which shall not be recorded as provided in this chapter, within thirty days thereafter shall be void against any subsequent purchaser in good faith, and for a valuable consideration, of the same real property, or any portion thereof, whose conveyance shall be first duly recorded.

SEC. 27. The record of a conveyance duly recorded, or a transcript thereof, duly certified by the recorder, in whose office the same may have been recorded, may be read in evidence in any court in this territory, with the like force and effect as the original conveyance; but the effect of such evidence may be rebutted by other competent testimony.

SEC. 28. When a deed purports to be an absolute conveyance in terms, but is made or intended to be made defeasible by force of a deed of defeasance, or other instrument for that purpose, the original conveyance shall not be thereby defeated or affected, as against any person other than the maker of the defeasance, or his heirs, or devisees, or persons having actual notice thereof, unless the instrument of defeasance shall have been recorded in the office for the recording of deeds and mortgages of the county where the lands lie.

SEC. 29. The recording of the assignment of a mortgage shall not in itself be deemed notice of such assignment to the mortgagor, his heirs or personal representatives, so as to invalidate any payment made by them, or either to the mortgagee.

SEC. 30. Any mortgage that has been or may hereafter be recorded, may be discharged by an entry in the margin of the record thereof, signed by the mortgagee, or his personal representative, or assignee, acknowledging the satisfaction of the mortgage in the presence of the recorder of deeds, or his deputy, who shall subscribe the same as a witness; and such entry shall have the same effect as a deed of release duly acknowledged and recorded.

SEC. 31. Any mortgage shall also be discharged upon the record thereof, by the recorder in whose custody it shall be, whenever there shall be presented to him a certificate, executed by the mortgagee, his personal representatives or assigns, acknowledged or proved and certified as hereinbefore prescribed, to entitle con-

TITLE 1.
 Separate books for deeds and mortgages.

Certificate of recorder on conveyances recorded.

Index of deeds and mortgages.

Unrecorded conveyances when void.

Record, &c., evidence.

When deed not defeated by defeasance.

Recording assignment of mortgage.

How mortgage may be discharged.

ib.

TITLE I. conveyances to be recorded, specifying that such mortgage has been paid, or otherwise satisfied or discharged.

Certificate and acknowledgment to be recorded.

SEC. 32. Every such certificate and the proof or acknowledgment thereof, shall be recorded at full length, and a reference shall be made to the book and page containing such record, in the minute of the discharge of such mortgage, made by the recorder upon the record thereof.

Liability of mortgagee, &c., for neglect to discharge mortgage.

SEC. 33. If any mortgagee, or his personal representative or assignee, as the case may be, after full performance of the condition of the mortgage, whether before or after a breach thereof, shall for the space of ten days, after being thereto requested, and after tender of his reasonable charges, refuse or neglect to discharge the same as provided in this chapter, or to execute and acknowledge a certificate of discharge or release thereof, he shall be liable to the mortgagor, his heirs or assigns, in the sum of one hundred dollars damages, and also for all actual damages, occasioned by such neglect or refusal, to be recovered in an action at law.

Powers of attorney and contracts for land may be proved and recorded.

SEC. 34. Every letter of attorney, or other instrument, containing a power to convey lands, as agent or attorney for the owner of such lands, and every executory contract for the sale or purchase of lands, when acknowledged or proved, in the manner prescribed in this chapter for the acknowledgment or proof of conveyances, may be recorded in the recorder's office of any county in which the lands to which such power or contract relates, may be situated; and when so acknowledged or proved, and the record thereof when recorded, or a transcript of such record duly certified, may be read in evidence in any court in this territory, without further proof of the same.

10 Page 345.

Letters recorded how revoked.

SEC. 35. No letter of attorney, or other instrument so recorded, shall be deemed to be revoked by any act of the party by whom it was executed, unless the instrument containing such revocation be also recorded in the same office in which the instrument containing the power was recorded.

Effect of deeds, &c., heretofore acknowledged.

SEC. 36. All conveyances of real property heretofore made and acknowledged, or proved in accordance with the laws of this territory, in force at the time of such making and acknowledgment of proof, shall have the same force as evidence, and be recorded in the same manner, and with the like effect as conveyances executed and acknowledged in pursuance of the provisions of this chapter.

Scroll used as seal.

SEC. 37. A scroll or device used as a seal upon any deed of conveyance, or other instrument whatever, whether intended to be recorded or not, shall have the same force and effect as a seal attached thereto, or impressed thereon, but this section shall not be construed to apply to such official seals, as are or may be provided for by law.

Transcribing records on division of county.

SEC. 38. When a new county shall be organized in whole or in part from an organized county, or from territory attached to such organized county for judicial purposes, all the records of deeds or other instruments relating to real property in such new county, may be transcribed into the proper books by the recorder of deeds of such new county; which records, so transcribed, shall have the same effect in all respects as original records, and the recorder shall be paid for transcribing the same, such sum as the board of county commissioners in his county may deem just and reasonable.

TITLE II.

TITLE I.

Of the Appointment of Commissioners to take Acknowledgments of Deeds, &c.

SEC. 39. Power of governor to appoint commissioners in other states to take proof and acknowledgment of deeds.

40. Effect of acknowledgment before such commissioner.

41. Commissioner before acting to take oath.

42. Act when to take effect.

SEC. 39. The governor of this territory shall have power to appoint one or more commissioners in any state of the United States, or of the territories belonging to the United States, who shall continue in office during the pleasure of the governor, and shall have authority to take the acknowledgment and proof of the execution of any deed, or other conveyance of lands lying in this territory, or of any letter of attorney, or contract for the sale of such lands.

Appointment of commissioners.

SEC. 40. Such acknowledgment or proof so taken, according to the laws of this territory, and certified to by any such commissioner, under his seal of office, annexed to or indorsed on such instrument, shall have the same power and effect as if the same had been made before any officer authorized to perform such acts in this territory.

Acknowledgment before.

SEC. 41. Every such commissioner, before performing any duty, or exercising any power by virtue of his appointment, shall take and subscribe an oath or affirmation before a judge, or clerk of one of the courts of record of the state or territory in which such commissioner shall reside, well and faithfully to execute and perform all the duties of such commission, under and by virtue of the laws of Oregon, which oath, with a description and impression of his seal of office, shall be filed in the office of the secretary of this territory.

Oath of.

SEC. 42. This act shall take effect and be in force from and after the first day of May next.

Act when to take effect.

Passed January 13th, 1854.

AN ACT RELATING TO FRAUDULENT CONVEYANCES.

CHAPTER I.

FRAUDULENT CONVEYANCES.

TITLE I. *Of Fraudulent Conveyances.*

TITLE II. *Of Fraudulent Conveyances and Contracts, relative to Goods and Chattels.*

TITLE III. *General Provisions.*

TITLE I.

Of Fraudulent Conveyances.

- SEC. 1. Conveyances of land, &c., with intent to defraud purchaser, void as to them.
 2. Qualification of preceding section, as to subsequent purchasers.
 3. Conveyances containing power of revocation; void as to subsequent purchasers.
 4. Certain conveyance by person authorized to revoke former conveyance valid.

- TITLE I.**
- SEC. 5.** Such conveyance valid from the time power to revoke vested.
6. Writing, &c., necessary to convey certain interest in land.
 7. Last section not to extend to wills or certain trusts.
 8. Contracts to sell or lease land, to be in writing.
 9. Consideration need not be specified, but may be proved by other legal evidence.
 10. Power of court to compel performance of agreement not to be affected.

Fraudulent conveyances void, &c. 4 Comst. 211.

Qualification of last section.

Conveyances with powers of revocation, void, &c.

Conveyances by one authorized to revoke former grants.

Ib.

Requisites to convey certain interest in lands. 6 Wen. 461; 10 do. 436; 13 do. 484; 16 do. 26, 30.(a)

Qualification of last section.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Oregon,* That every conveyance or interest in lands, or the rents and profits of lands, and every charge upon lands, or upon the rents and profits thereof, made or created with the intent to defraud prior or subsequent purchasers, for a valuable consideration of the same lands, rents or profits, as against such purchasers shall be void.

SEC. 2. No such conveyance or charge shall be deemed fraudulent in favor of a subsequent purchaser, who shall have actual or legal notice thereof at the time of his purchase, unless it shall appear that the grantee in such conveyance, or person to be benefitted by such charge, was privy to the fraud intended.

SEC. 3. Every conveyance or charge of or upon any estate or interest in lands, containing any provision for the revocation, determination, or alteration of such estate or interest, or any part thereof, at the will of the grantor, shall be void as against subsequent purchasers from such grantor for a valuable consideration, of any estate or interest, so liable to be revoked or determined, although the same be not expressly revoked, determined or altered by such grantor, by virtue of the power reserved or expressed in such prior conveyance or charge.

SEC. 4. Where a power to revoke the conveyance of any lands or the rents and profits thereof, and to reconvey the same, shall be given to any person other than the grantor in such conveyance, and such person shall thereafter convey the same lands, rents or profits, to a purchaser for a valuable consideration, such subsequent conveyance shall be valid, in the same manner and to the same extent, as if the power of revocation were recited therein, and the intent to revoke the former conveyance expressly declared.

SEC. 5. If a conveyance to a purchaser under either of the last two preceding sections, shall be made before the person making the same, shall be entitled to execute his power of revocation, it shall nevertheless be valid from the time the power of revocation shall actually vest in such person, in the same manner, and to the same extent, as if then made.

SEC. 6. No estate or interest in lands, other than leases for a term not exceeding one year, nor any trust or power over or concerning lands, or in any manner relating thereto, shall hereafter be created, granted, assigned, surrendered or declared, unless by an act or operation of law, or by a deed or conveyance in writing, subscribed by the party creating, granting, assigning, surrendering or declaring the same, or by his lawful agent, authorized by writing.

SEC. 7. The preceding section shall not be construed to affect in any manner the power of a testator, in the disposition of his real estate, by a last will and testament; nor to prevent any trust from arising, or being extinguished by implication, or operation of law.

(a) 2 Hill 466; 4 Denio 51; 7 Barb. 59, 191; 11 Paige 406; 2 Barb. Ch. 280; 4 Comst. 404.

SEC. 8. Every contract, for the leasing for a longer period than one year, or for the sale of any lands, or any interest in lands, shall be void, unless the contract, or some note or memorandum thereof be in writing, and signed by the party, by whom the lease or sale is to be made, or by some other person, by him lawfully authorized in writing.

SEC. 9. The consideration of any contract or agreement, required by the provisions of this chapter to be in writing, need not be set forth in the contract or agreement, or in the note or memorandum thereof, but may be proved by any other legal evidence.

SEC. 10. Nothing hereinbefore contained in this chapter, shall be construed to abridge the powers of courts of chancery, to compel the specific performance of agreements, in cases of part performance of such agreements.

TITLE II.

Of Fraudulent Conveyances and Contracts, relative to Goods and Chattels.

- SEC. 11.** Transfers of personal property for use of grantor void as to creditors.
12. Certain agreements to be in writing, and subscribed by party charged.
 13. Requisites for the validity of contracts for sale of personal property.
 14. What to be a memorandum, within last section, of sales at auction.
 15. Certain transfers of goods, &c., fraudulent as to creditors unless delivered, &c.
 16. Who to be deemed creditors within last section.
 17. Qualification of two last sections.
 18. Mortgages of chattels void unless filed, &c.
 19. Last section not to apply to bottomry, &c., contracts, or to assignments, &c., of ships and goods at sea.
 20. Recorder to indorse time of receiving instrument, and deposit of same in office.
 21. Recorder to enter names of parties and note therein time of filing.
 22. Lien ceases after one year unless re-filed.
 23. Affidavit of mortgagee's interest to be renewed.
 24. Evidence of filing.
 25. Fees of recorder.

SEC. 11. All deeds of gift, all conveyances, and all transfers or assignments, verbal or written, of goods and chattels, or things in action made in trust for the person making the same, shall be void as against the creditors, existing or subsequent, of such person.

SEC. 12. In the following cases specified in this section, every agreement, contract, and promise, shall be void, unless such agreement, contract, or promise, or some note or memorandum thereof, be in writing, and signed by the party to be charged therewith, or by some person by him lawfully authorized; that is to say:

1. Every agreement that, by its terms, is not to be performed in one year from the making thereof;
2. Every special promise to answer for the debt, default, or miscarriage of another person;
3. Every agreement, promise, or undertaking, made upon consideration of marriage, except mutual promises to marry;
4. Every special promise made by an executor or administrator, to answer damages out of his own estate.

(a) 11 Paige 431; 2 Barb. 613; 5 do. 364; 7 do. 191; 8 do. 132.

(b) 2 Denio 87; 2 Barb. Ch. 221.

(c) 19 Wen. 563; 24 do. 40, 257; 2 Hill 664; 3 do. 535; 4 do. 179; 5 do. 146, 161, 484; 2 Denio 47, 162, 368; 4 do. 275, 559; 3 Barb. 209; 4 do. 131; 5 do. 501; 2 do. 225, 584; 3 do. 209, 335.

TITLE 2.
Contract to lease or sell lands. 16 Wen. 460; 21 do. 467; 7 Hill 83, 10 Paige 891, 526.(a)

Consideration need not be specified.

Powers of courts of chancery. 6 Barb. 98; 2 Barb. Ch. 555; 3 do. 407, 416.

Certain transfers of void. 6 Hill 434, 439.

Certain agreements to be in writing, &c. 10 Wen. 426; 13 do. 307, 311.

10 Wen. 426; 13 do. 307; 3 Hill 128.(b)

4 Wen. 657; 9 do. 273; 15 do. 345.(c)

10 Wen. 461; 8 Barb. 323.

TITLE 2.

Contracts when to be in writing.

13 Wen. 112; 2 do. 53; 17 do. 335.(a)

Sales at auction.

Delivery and possession necessary to certain transfers of goods.

8 Wen. 373; 12 do. 297; 15 do. 213, 629; 16 do. 523; 17 do. 55, 494; 19 do. 183, 515, 523; 20 do. 17.(b)

Who to be deemed creditors.

Two last sections qualified.

Mortgages void unless filed. 17 Wen. 494; 19 do. 515, 523; 23 do. 629; 1 Comst. 496.

Exemptions to bottomry bonds, assignments of ships and goods at sea.

SEC. 13. Every contract for the sale of any goods, chattels, or things in action, for the price of fifty dollars, or more, shall be void unless:

1. A note or memorandum of such contract be made in writing, and signed by the party to be charged thereby, or by some person by him lawfully authorized; or,
2. Unless the purchaser shall accept and receive part of such goods, or the evidences, or some of them, of such things in action; or,
3. Unless the purchaser shall, at the time, pay some part of the purchase-money.

SEC. 14. Whenever goods shall be sold at public auction, and the auctioneer shall at the time of sale, enter in a sale book, a memorandum, specifying the nature and price of the property sold, the terms of sale, the name of the purchaser, and the name of the person on whose account the sale is made; such memorandum shall be deemed a note of the contract of sale, within the meaning of the last section.

SEC. 15. Every sale made by a vendor of goods and chattels in his possession, or under his control, unless the same be accompanied by an immediate delivery, and be followed by an actual and continued change of possession of the things sold, shall be presumed to be fraudulent and void as against the creditors of the vendor, or subsequent purchasers in good faith; and shall be conclusive evidence of fraud, unless it shall be made to appear to the jury, on the part of the person claiming under such sale, that the same was made in good faith, and without any intent to defraud creditors, or subsequent purchasers.

SEC. 16. The term "creditors," as used in the last section, shall be construed to include all persons, who shall be creditors of the vendor, at any time whilst such goods and chattels shall remain in his possession, or under his control.

SEC. 17. Nothing contained in the last two sections shall avoid or defeat any sale or transfer of any ship, boat, vessel, or goods at sea, or abroad, if the purchaser shall take possession of such ship, boat, vessel or goods, as soon as may be after the arrival thereof.

SEC. 18. Every mortgage or conveyance, intended to operate as a mortgage of goods and chattels, which shall hereafter be made, which shall not be accompanied by an immediate delivery, and followed by an actual and continued change of possession of the things mortgaged, shall be absolutely void as against the creditors of the mortgagor, and as against subsequent purchasers, and mortgagors in good faith, unless the mortgage, or a true copy thereof shall be filed in the office of the recorder of deeds in the county, where the mortgagor resides.

SEC. 19. Nothing contained in the last section, shall be construed to apply to contracts of bottomry or respondentia, nor to assignments, or hypothecations of vessels or goods at sea or in foreign ports.

(a) 20 Wen. 433; 23 do. 471; 26 do. 347; 5 Hill 205; 1 Denio 45; 1 Comst. 261, 295, 297, 90; 4 do. 585.

(b) 23 Wen. 655; 24 do. 121; 25 do. 398; 26 do. 515; 1 Hill 349, 440, 468; 4 do. 274; 8 Barb. 102; 1 Comst. 496; 4 do. 586.

TITLE 3.

Recorder when to deposit instrument.

lb. to enter names of parties, &c.

Every year. 20 Wen. 17; 1 Denio 163; 8 Barb. 102.

Affidavit renewed yearly.

Copy to be received in evidence.

Fees.

SEC. 20. It shall be the duty of the recorder upon the presentation of any such instrument or copy for that purpose, and the payment of his fees, to indorse thereon the time of receiving the same, and to deposit such instrument or copy in his office, to be kept for the inspection of all persons interested.

SEC. 21. Such recorder shall also enter in a book, to be provided by him for that purpose, the names of all the parties to such instruments, arranging the names of all the mortgagors alphabetically, and shall note therein the time of filing each instrument or copy.

SEC. 22. Every such mortgage shall cease to be valid as against the creditors of the person making the same, or subsequent purchasers or mortgagors in good faith, after the expiration of one year from the filing of the same, or a copy thereof, unless within thirty days, next preceding the expiration of the year, the mortgage, his agent, or attorney, shall make and annex to the instrument, or copy on file as aforesaid, an affidavit setting forth the interest which the mortgagee has by virtue of such mortgage in the property therein mentioned, upon which affidavit the recorder shall indorse the time when the same was filed.

SEC. 23. The effect of any such affidavit shall not continue beyond one year, from the time when such mortgage would otherwise cease to be valid, as against the creditors of the person making such mortgage, or subsequent purchasers, or mortgagees in good faith; but within thirty days next preceding the time when any such mortgage would otherwise cease to be valid as aforesaid, a similar affidavit may be filed and annexed, as provided in the preceding section, and with like effect.

SEC. 24. A copy of any such instrument, or of any copy thereof, so filed as aforesaid, including any affidavits annexed thereto, in pursuance of this chapter, certified by the recorder in whose office the same shall be filed, shall be received in evidence, but only of the fact that such instrument, copy, or affidavit was received and filed, according to the indorsement of the recorder thereon, and of no other fact.

SEC. 25. The recorder shall be entitled to receive the following fees, for services under the provisions of this chapter; for filing each mortgage of goods and chattels, or a copy thereof, or affidavit, twenty-five cents; for entering the same in a book, twenty-five cents; for searching for each paper, fifteen cents; and the like fees for certified copies of such instruments or affidavits, as are allowed by law for copies of records, kept by the recorder of deeds.

TITLE III.

Of General Provisions.

- SEC. 26. Instruments relating to real or personal property, made to defraud, void.
27. Grants and assignments of trusts to be in writing.
28. Instruments void as to creditors, to be void as to their representatives.
29. Fraudulent intent, a question of fact.
30. Certain purchases not to be affected by fraud without notice thereof.
31. Meaning of terms "lands" and "estate in interest in lands."
32. Meaning of term "conveyance."
33. Act when to take effect.

SEC. 26. Every conveyance or assignment in writing or otherwise, of any estate or interest in lands, or in goods, or things in

Conveyances charges, &c., made with

TITLE 3. action, or of any rents or profits issuing therefrom, and every charge upon lands, goods, or things in action, or upon the rents or profits thereof, made with the intent to hinder, delay, or defraud creditors, or other persons of their lawful suits, damages, forfeitures, debts, or demands, and every bond or other evidence of debt given, suit commenced, decree or judgment suffered with the like intent, as against the persons so hindered, delayed, or defrauded, shall be void.

Grants of trusts to be in writing. SEC. 27. Every grant or assignment of any existing trust in lands, goods or things in action, unless the same shall be in writing, subscribed by the party making the same, or by his agent, lawfully authorized, shall be void.

Void as to whom. SEC. 28. Every conveyance, charge, instrument, or proceeding, declared by law to be void as against creditors, purchasers, or mortgagees, shall be equally void as against the heirs, successors, personal representatives or assigns of such creditors, purchasers, or mortgagees.

Fraudulent intent, question of fact. SEC. 29. The question of fraudulent intent, in all cases arising under the provisions of this chapter, shall be deemed a question of fact, and not of law.

Construction of act as to purchasers. SEC. 30. The provisions of this chapter shall not be construed in any manner to affect, or impair the title of a purchaser, for a valuable consideration, unless it shall appear that such purchaser had previous notice of the fraudulent intent of his immediate grantor, or of the fraud rendering void the title of such grantor.

Ib. Term "lands." SEC. 31. The terms "lands," as used in this chapter, shall be construed as co-extensive in meaning, with "lands, tenements, and hereditaments," and the terms "estate and interest in lands," shall be construed to embrace every interest, freehold and chattel, legal and equitable, present and future, vested and contingent, in lands as above defined.

Ib. "Conveyance." SEC. 32. The term "conveyance," as used in this chapter, shall be construed to embrace every instrument in writing, except a last will and testament, whatever may be its form, and by whatever name it may be known in law, by which any estate or interest in lands is created, aliened, assigned, or surrendered.

Act when to take effect. SEC. 33. This act shall take effect and be in force from and after the first day of May next.

Passed January, 16th, 1854.

(a) 1 Denio 195; 4 do. 174, 217, 287; 4 Barb. 232, 332, 546; 6 do. 91, 470.

(b) 11 Wen. 251; 23 do. 654; 3 Paige 553; 4 Denio 174.

AN ACT RELATING TO BILLS OF EXCHANGE AND PROMISSORY NOTES.

CHAPTER 1.

CHAPTER I.

BILLS OF EXCHANGE AND PROMISSORY NOTES.

- SEC. 1. Effect of promissory note payable to order or bearer.
2. Same effect given to note signed by an agent.
3. When actions by payees, indorsees and holders to be maintained.
4. Effects of notes made payable to order of maker or fictitious person.
5. Days of grace, when allowed.
6. Last section limited.
7. Acceptance to be in writing.
8. Damages on foreign bills of exchange.
9. Damages on inland bills of exchange.
10. Act when to take effect.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Oregon,* That all notes in writing made and signed by any person, whereby he shall promise to pay to any other person or his order, or unto the bearer, any sum of money therein mentioned, shall be due and payable as therein expressed, and shall have the same effect, and be negotiable in like manner as inland bills of exchange, according to the custom of merchants.

Promissory notes payable to order or bearer negotiable. Their effect.

SEC. 2. Every note signed by the agent of any person, under a general or special authority, shall bind such person, and have the same effect, and be negotiable as provided in the preceding section.

Signature by agent.

SEC. 3. The payees and indorsees of every such note payable to them or their orders, and the holders of every such note payable to bearer, may maintain actions for the sums of money therein mentioned, in like manner as in cases of inland bills of exchange, and not otherwise.

Actions by payees, indorsees and holders.

SEC. 4. Such notes made payable to the order of the maker thereof, or to the order of a fictitious person, shall, if negotiated by the maker, have the same effect, and be of the same validity as against the maker, and all persons having knowledge of the facts, as if payable to bearer.

Effect when payable to order of maker. Hill 115.

SEC. 5. On all bills of exchange payable at sight, or at a future day certain within this territory; and on all negotiable promissory notes, orders and drafts payable at a future day certain, within this territory, in which there is not an express stipulation to the contrary, grace shall be allowed, except as provided in the following section, in like manner as it is allowed by the custom of merchants on foreign bills of exchange, payable at the expiration of a certain period after date, or at sight.

Days of grace when allowed.

SEC. 6. The provision of the last preceding section shall not extend to any bill of exchange, note or draft payable on demand.

Last section limited.

SEC. 7. No person within this territory, shall be charged as an acceptor of a bill of exchange, unless his acceptance shall be in writing, signed by himself or his lawful agent.

Acceptance to be in writing. Hill 584; 2 do. 533; 5 do. 417.

SEC. 8. Whenever any bill of exchange, drawn or indorsed within this territory, and payable without the limits of the United States, shall be duly protested for non-acceptance or non-payment, the party liable for the contents of such bill, shall, on due notice and demand thereof, pay the same at the current rate of exchange

Damages on foreign bills of exchange.

CHAPTER 1. at the time of the demand, and damages at the rate of ten per cent., upon the contents thereof, together with interest on the said contents, to be computed from the date of the protest; and said amount of contents, damages and interest shall be in full of all damages, charges and expenses.

SEC. 9. If any bill of exchange, drawn upon any person, or body politic or corporate out of this territory, but within some state or territory of the United States, for the payment of money, shall be duly presented for acceptance or payment, and protested for non-acceptance or non-payment, the drawer or indorser thereof, due notice being given of such non-acceptance, or non-payment, shall pay said bill with legal interest, according to its tenor, and five per cent. damages, together with costs and charges of protest.

SEC. 10. This act shall take effect and be in force from and after the first day of May next.

Passed January 18th, 1854.

AN ACT TO REGULATE THE INTEREST OF MONEY.

- SEC. 1.** Ten per cent when allowed.
2. Interest allowed from rendition of judgment, &c.; rate of interest same as specified in contract.
3. When interest may be added to principal.
4. Preceding section limited.
5. Act when to take effect.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Oregon,* that creditors shall be allowed to receive interest at the rate of ten per cent. per annum, when no other rate of interest is agreed upon for all moneys after they become due, by any instrument of the debtor, in writing; for money lent or money due on settlement of accounts, from the day of liquidating the same, and ascertaining the balance; for money recovered for the use of another and retained without the owner's knowledge of the receipt; for money due and withheld by an unreasonable and vexatious delay of payment or settlement of accounts, and for all other moneys due, or to become due, for the forbearance of payment, whereof no express promise to pay interest has been made.

SEC. 2. Interest shall be allowed on all money due by judgment at law or decree in equity, from the day of rendering them until satisfaction be made by payment, accord or sale of property; judgments and decrees for money upon contracts bearing more than ten per cent. interest, shall bear the same interest borne by such contract; and all other judgments and decrees for money shall bear ten per cent. per annum, until satisfaction made as aforesaid.

SEC. 3. The parties may, in any contract in writing, whereby any debt is secured to be paid, agree that if the interest on such debt be not punctually paid, it shall become a part of the principal, and thereafter bear the same rate of interest as the principal debt.

SEC. 4. The preceding section shall not be so construed as to allow any creditor by agreement, to compound the interest due him on any contract oftener than once in a year.

SEC. 5. This act shall take effect and be in force from and after the first day of May next.

Passed January 26th, 1854.

AN ACT RELATING TO MARKS AND BRANDS AND TO WEIGHTS AND MEASURES.

CHAP. 1, 2.

CHAPTER I.

OF MARKS AND BRANDS.

- SEC. 1.** Register of deeds to record marks and brands.
3. When persons not to use same brands; who to have preference.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Oregon,* That it shall be the duty of the register of deeds of each county, on the application of any person residing in such county, to record a description of the marks and brands with which said person may be desirous of marking his horses, cattle, sheep or hogs; but the same description shall not be recorded for more than one resident of the same county.

SEC. 2. No two persons, residing within fifteen miles of each other, shall use the same mark or brand, in this territory, but in such cases, the person having the oldest recorded mark shall have the preference, but nothing contained (herein) shall prevent the parties from agreeing which of them shall change his mark or brand; and any person offending against the provisions of this section, shall, on conviction before a justice of the peace, of the proper county, be fined for each offence, in any sum not exceeding five dollars.

CHAPTER II.

OF WEIGHTS AND MEASURES.

- SEC. 1.** What to be the standard of weights and measures.
2. Treasurer of territory shall be sealer.
3. One hundred pounds avoirdupois to be the hundred weight implied in contracts.
4. Standard weight of commodities sold by the bushel.
5. Half-bushel to be the standard for certain articles.
6. Act when to take effect.

SEC. 1. The weights and measures, together with the scales and beams, and those made in conformity therewith, which are now, or may hereafter be deposited in the treasury of this territory, shall be preserved by the treasurer, and be the public standards in this territory.

SEC. 2. The treasurer of the territory shall be the sealer of weights and measures, and he shall have and keep a seal which shall be so formed as to impress the letters O. T. upon the weights and measures, scales and beams to be sealed by him; with which he shall seal all such authorized public standards of weights and measures; and all the weights and measures, scales and beams, to be provided by the several counties, when examined by said treasurer and found to be in conformity with the standard weights and measures, scales and beams aforesaid.

SEC. 3. When any commodity shall be sold by the hundred weight, it shall be understood to mean the net weight of one hun-

CHAPTER 2. dred pounds avoirdupois, and all contracts concerning goods or commodities sold by weight, shall be construed accordingly, unless such construction would be manifestly inconsistent with the special agreement of the parties contracting.

Standard weight of commodities sold by the bushel.

SEC. 4. Whenever wheat, rye, Indian corn, oats, barley, clover-seed, buckwheat, dried apples, or dried peaches, shall be sold by the bushel, and no special agreement as to the measure or weight thereof shall be made by the parties, the measure thereof shall be ascertained by weight, and shall be computed as follows:

Sixty pounds for a bushel of wheat or clover-seed;

Fifty-six pounds for a bushel of rye or Indian corn;

Thirty-six pounds for a bushel of oats;

Forty-six pounds for a bushel of barley;

Forty-two pounds for a bushel of buckwheat;

Twenty-eight pounds for a bushel of dried apples or dried peaches, and sixty pounds for a bushel of potatoes.

Half-bushel to be standard for certain articles.

SEC. 5. The half-bushel and the parts thereof shall be the standard measure for charcoal, fruits and other commodities, customarily sold by heaped measure, and in measuring such commodities, the half-bushel, or other smaller measure, shall be heaped as high as may be, without special effort or design.

Act when to take effect.

SEC. 6. This act shall take effect and be in force from and after the first day of May next.

Passed January 12th, 1854.

AN ACT RELATING TO SEALS.

SEC. 1. Description of seal of territory; where to be deposited; who to have custody of seal.

2. Commissioners to provide seal for district and probate court.

3. When court is without seal how to proceed.

4. Device may be used as seal.

5. Act when to take effect.

Description of great seal, where to be deposited.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Oregon,* That the description in writing of the great seal of the territory, shall be deposited and recorded in the office of the secretary of the territory, and shall remain a public record, and shall be and continue the description of the great seal of the territory; and the person administering the government of the territory, shall have the custody of the said seal; and all such matters and things as issue under the said seal, shall be entered on record in the office of the secretary of the territory.

Who to have custody of seal.

SEC. 2. It shall be, and hereby is made the duty of the board of county commissioners of the several counties of the territory, to provide and furnish seals for such of the several district and probate courts, and board of county commissioners, as are now unprovided with the same, and with such inscriptions and devices as the said courts shall respectively require.

County commissioners to furnish seals for district and probate court.

If court be unprovided with seal.

SEC. 3. When any court of record shall be unprovided with a seal, the judge of said court may authorize the use of any temporary seal, or of any device by way of seal, until the same shall be provided as aforesaid.

SEC. 4. Any instrument to which the person making the same shall affix any device by way of seal, shall be adjudged and held to be of the same force and obligation as if it were actually sealed.

SEC. 5. That this act shall take effect and be in force from and after the first day of May next.

CHAPTER 2.
Device equivalent to seal.
Act when to take effect.

Passed January 18th, 1854.

AN ACT REGULATING INCLOSURES.

SEC. 1. Fields how to be inclosed.

2. Inclosure how to be made.

3. Sufficiency of worm-fence how determined.

4. Liability of owner if cattle break into legal inclosure.

5. Justice when to order view of fence.

6. Penalty for injuring cattle breaking insufficient fence.

7. Act when to take effect.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Oregon,* That all fields and inclosures shall be inclosed with a fence sufficiently close, composed of posts and rails, posts and palings, posts and planks, palisades, or rails alone laid up in the manner commonly called a worm-fence, or turf with a ditch on either side, or wall of rock or stone four and a half feet high.

Fields, how to be inclosed.

SEC. 2. All such fences composed of posts and rails, posts and palings, posts and plank (or) palisades, shall be at least five feet high; those composed of turf shall be at least four feet high, with trenches on either side at least three feet wide at the top, and three feet deep; and what is commonly called a worm-fence, shall be at least five feet high to the top of the rider, if not ridered shall be five feet to the top rail, and the corners shall be locked with strong rails, poles or stakes.

What fence, &c., sufficient.

SEC. 3. In all cases the sufficiency of the worm shall be determined by the persons who may be summoned to view said fence.

Sufficiency of fence how determined.

SEC. 4. If any horse, cattle or stock shall break into any inclosures, the fence being of the height and sufficiency aforesaid, or if any hog, shote or pig shall break into the same, the owner of such animal shall, for the first trespass, make reparation to the party injured, for the true value of the damages he shall sustain, and for every trespass thereafter, double damages, to be recovered with costs before a justice of the peace or in any court of record having cognizance of the same, demanded by the party injured; for the third offence from any of the animals aforesaid breaking into such inclosure, the party injured may take up such animals and keep the same at the expense of the owner; all animals so taken and kept in accordance with the provisions of this section, shall be held as surety for the expenses of keeping; *Provided,* that the owner may at any time pay charges and take such animals away.

Liability of owner if cattle break into legal inclosure.

SEC. 5. Upon the complaint of the party injured to any justice of the peace of the county, such justice shall issue his order without delay to three disinterested householders of the neighborhood, no ways related to the parties, reciting the complaint, and requiring them to view the fence where the trespass is complained of, and

Justice when to order view of fence.

CHAPTER I. take a memorandum of the same, and their testimony in such cases shall be good evidence on the trial touching the lawfulness of the fence.

Penalty for injuring cattle breaking insufficient fences.

SEC. 6. If any person damnified for want of such sufficient fence, shall hurt, lame, kill or destroy, or cause the same to be done by shooting or otherwise, any of the animals in this act mentioned, such person shall satisfy the owner in double damages, with costs.

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

Passed January 18th, 1854.

AN ACT RELATING TO MARRIAGE AND DIVORCE.

CHAPTER I.

OF MARRIAGE.

- SEC. 1. Marriage a civil contract.
2. Who capable of contracting marriage.
3. Who not to marry or intermarry.
4. Marriages by whom to be solemnized.
5. When consent of parent or guardian necessary to marriage of minor.
6. No particular form in solemnization required; two witnesses required.
7. When certificate of marriage to be given and what to contain.
8. Record to be made and certificate to be delivered to recorder of deeds; form of certificate.
9. Certificate to be filed and recorded by recorder; his fees.
10. Forfeiture for neglect to make and deliver, or record certificate.
11. Penalty for making false certificate.
12. Penalty for unauthorized person solemnizing marriage.
13. When marriage by unauthorized person valid.
14. Certificate of marriage and record thereof evidence.
15. Illegitimate children legitimized by marriage of parents.
16. Marriage not solemnized as required by this chapter, when valid.
17. Fines and forfeitures to be paid into county treasury.
18. Quaker marriages valid.

Marriage, a civil contract:

SEC. 1. Be it enacted by the Legislative Assembly of the Territory of Oregon, That marriage, so far as its validity in law is concerned, is a civil contract, to which the consent of the parties capable in law of contracting, is essential.

Who may contract.

SEC. 2. Every male person who shall have attained the full age of eighteen years, and every female who shall have attained the full age of fifteen years, shall be capable in law of contracting marriage, if otherwise competent: Provided however, that nothing in this act shall be construed so as to make the issue of any marriage illegitimate, if the person shall not be of lawful age.

Who not to marry.

SEC. 3. No marriage shall be contracted while either of the parties shall have a husband or wife living; nor between parties who are nearer of kin than first cousins, computing by the rules of the civil law, whether the half or the whole blood.

By whom solemnized.

SEC. 4. Marriages may be solemnized by any justice of the peace in the county in which he is elected, and they may be solemnized throughout the territory by any judge of a court of record, and by ministers of the gospel or such other person as may be authorised by any church.

SEC. 5. If any person intending to marry shall be under the age of twenty-one, if a male, or under the age of eighteen years, if a female, and shall not have had a former wife or husband, the consent in person or in writing of the parent or guardian having the custody of such minor, if he or she have either a parent or guardian living in this territory, shall be given to the person solemnizing the marriage before such marriage shall take place.

CHAPTER I. When consent of parent or guardian necessary, &c.

SEC. 6. In the solemnization of marriage, no particular form shall be required, except that the parties shall declare, in the presence of the judge, minister or magistrate, and the attending witnesses, that they take each other as husband and wife; and in every case there shall be at least two witnesses present, besides the person performing the ceremony.

No particular form required; two witnesses necessary.

SEC. 7. Whenever a marriage shall have been solemnized, the person solemnizing the same shall give to each of the parties, if required, a certificate thereof, specifying therein the names and residences of the parties, and of at least two witnesses present, and the time and place of such marriage, and where the consent of the parent or guardian is necessary, stating that the same was duly given.

When certificate to be given; what to contain.

SEC. 8. Every person solemnizing a marriage shall make a record thereof, and within three months after such marriage, shall make and deliver to the recorder of deeds of the county where the marriage took place, a certificate under his hand, containing the particulars mentioned in the preceding section. The certificate may be in the following form:

Record to be made; certificate to be delivered to the recorder of deeds.

Territory of Oregon, }
County of }

This is to certify that the undersigned, a justice of the peace of said county (minister of the gospel, or judge, &c., as the case may be) did, on the ___ day of ___, A.D. 18___, join in lawful wedlock A. B. and C. D. with their mutual consent, in presence of E. F. and G. H., witnesses.

J. P., Justice of the Peace.

SEC. 9. All such certificates shall be filed and recorded by the said recorder, in a book to be kept by him for that purpose; and for recording the same, such recorder shall receive a fee of one dollar from the person solemnizing the marriage, who shall be entitled to receive the same from the parties before the marriage.

Certificate to be filed, and recorded &c.

SEC. 10. Every person solemnizing a marriage, who shall neglect to make and deliver to the recorder a certificate thereof within the time above specified, shall forfeit for such neglect, a sum not less than ten, nor more than twenty dollars; and every recorder who shall neglect to record such certificate so delivered, shall forfeit the like penalty.

Forfeiture for neglect to deliver or record certificate.

SEC. 11. If any person shall wilfully make any false certificate of any marriage, or pretended marriage, he shall forfeit, for every such offence, a sum not exceeding five hundred dollars, or may be imprisoned in the county jail not exceeding one year.

Penalty for making false certificate.

SEC. 12. If any person shall undertake to join others in marriage, knowing that he is not lawfully authorized so to do, or know-

Marriage by an unauthorized person.

CHAPTER 2. ing to any legal impediment to the proposed marriage, he shall, on conviction, be fined in any sum not exceeding three hundred dollars.

When marriage by unauthorized person valid. SEC. 13. No marriage solemnized before any person professing to be a judge, justice or minister, shall be deemed or adjudged to be void, nor shall the validity thereof be in any way affected on account of any want of jurisdiction or authority in such supposed judge, justice or minister, provided the marriage be consummated with a full belief on the part of the persons so married, or either of them, that they have been lawfully joined in marriage.

Certificate and record, evidence. SEC. 14. The original certificates and records of marriage made by the judge, justice or minister, as prescribed in this chapter, and the record thereof by the recorder of the county, or a copy of such record duly certified by such recorder, shall be received in all courts and places, as presumptive evidence of the fact of such marriage.

Illegitimates legitimized SEC. 15. Illegitimate children become legitimized by the subsequent marriage of their parents with each other.

Without solemnization when void. SEC. 16. Marriages contracted with the consent of the parties, when the residence of the parties is remote from any person duly authorized to solemnize such marriage, in any other manner than is herein prescribed, shall be valid; *Provided*, that no legal impediment shall exist thereto; such contracts shall be made in writing, duly attested, and shall be recorded in the office of the recorder of deeds of the proper county, within sixty days after the execution of the same.

Fines, &c. SEC. 17. All fines and forfeitures arising in consequence of a breach of this chapter, shall be paid into the county treasury, for the use of the county, and in all cases when a violation of the provisions of this chapter, is not declared a misdemeanor, said fines and forfeitures shall be recovered by a civil action, to be brought by any person aggrieved, or by the county treasurer.

Quaker marriages. SEC. 18. All marriages solemnized among the people called "Friends" or "Quakers," in the form heretofore practiced, and in use in their meetings, shall be good and valid.

CHAPTER II.

DIVORCE AND ALIMONY.

- SEC. 1. Marriage when void without divorce.
 2. When void from time its nullity is declared.
 3. When marriage shall not be declared void.
 4. Proceedings to annul a marriage supposed to be void.
 5. When and for what causes divorce may be granted.
 6. Notice to non-resident defendant when sufficient; compulsory proceedings to obtain appearance, &c., when.
 7. Court to make disposition of, and provision for children; child when to be left with mother.
 8. As to the disposition of property of parties by the court.
 9. As to how evidence may be taken, pleadings, &c.
 10. When wife entitled to dower.
 11. Order of divorce, to dissolve marriage contract as to both parties; court may change name of wife.
 12. Act when to take effect.

CHAPTER 2. SEC. 1. All marriages which are prohibited by law, on account of consanguinity between the parties, or on account of either of them having a former husband, or wife, then living, shall, if solemnized within this territory, be absolutely void, without any decree of divorce, or other legal proceedings.

When void from time its nullity is declared. SEC. 2. When either the parties to a marriage, for want of age or understanding, shall be incapable of assenting thereto, or, when the consent of either party shall have been obtained by force or fraud, and there shall have been no subsequent voluntary cohabitation of the parties, the marriage shall be void, from the time its nullity shall be declared, by a court of competent authority.

When not to be declared void. SEC. 3. In no case shall a marriage be adjudged a nullity, on the ground that one of the parties was under the age of legal consent, if it shall appear that the parties, after they had attained such age, had, for any time, freely cohabited together as husband and wife; nor shall the marriage of any insane person be adjudged void, after his restoration to reason, if it shall appear that the parties freely cohabited together, as husband and wife, after such insane person was restored to a sound mind.

Proceedings to annul a marriage supposed to be void. SEC. 4. When a marriage is supposed to be void, or the validity thereof is disputed, for any of the causes mentioned in the two preceding sections, either party may file a complaint in the district court of the county where the parties, or one of them, resided, for annulling the same; and such complaint shall be filed, and proceedings shall be had thereon, as in the case of proceedings in said court for a divorce, and upon due proof of the nullity of the marriage, it shall be adjudged null and void.

When and for what causes divorce may be decreed. SEC. 5. Divorce from the bonds of matrimony may be obtained by complaint under oath to the district court of the county in which the cause therefor shall have occurred, or in which the defendant shall reside or be found, or in which the plaintiff shall reside, if the latter be either the county in which the parties last cohabited, or in which the plaintiff shall have resided for six months before suit be brought for the following causes:

1. Impotency at the time of the marriage, continuing to the time of the divorce;
2. Adultery since the marriage remaining unforgiven;
3. Wilful desertion of either party by the other, for the space of one year;
4. Conviction of felony, or infamous crime;
5. Habitual gross drunkenness, contracted since marriage;
6. Harsh and cruel treatment, or personal indignities, rendering life burdensome;
7. Voluntary neglect of the husband to provide the wife with a home and the common necessities of life for the space of one year.

Notice to non-resident defendant. SEC. 6. If the defendant is not a resident of the territory, or cannot, for any cause, be personally summoned, the court or judge, in vacation, may order notice of the pendency of the suit to be given in such manner and during such time, as shall appear most likely to convey a knowledge thereof to the defendant, without undue expense or delay; and if no such order be made, it shall be sufficient to publish such notice in a weekly newspaper, printed in or nearest to the county in which the suit is pending, four weeks in

CHAPTER 2. succession; and if the defendant fail to appear and make defence, at the first term after such notice, or after ten days personal service of summons, the evidence may be heard, and the cause decided at that term; or compulsory process may be had to obtain an appearance, or answer, if it be necessary, to the disposition of property, or of children.

SEC. 7. The court, in granting a divorce, shall make such disposition of, and provisions for, the children, as shall appear most expedient under all the circumstances, and most for the present comfort and future well-being of such children; and when at the commencement, or during the pendency of the suit, it shall be made to appear to the court, or to any of the judges in vacation, that any child of the wife, whether she be plaintiff or defendant, which is too young to dispense with the care of its mother, or other female, has been, or is likely to be taken, or detained from her, or that any child of either party has been, or is likely to be taken, or removed by, or at the instance of the other party, out of the county, or concealed within the same, it shall be the duty of the court, or of such judge in vacation, forthwith to order such child to be produced before him, and then to make such disposition of the same, during the pendency of the suit, as shall appear most advantageous to such child, and most likely to secure to it the benefit of the final order to be made in its behalf; and all such orders may be enforced, and made effectual by attachment, commitment, and requiring security for obedience thereto, or by other means, according to the usages of courts, and to the circumstances of the case.

SEC. 8. In granting a divorce, the court shall also make such disposition of the property of the parties, as shall appear just and equitable, having regard to the respective merits of the parties, and to the condition in which they will be left by such divorce, and to the party through whom the property was acquired, and to the burdens imposed upon it, for the benefit of children. And all property and pecuniary rights and interests, and all rights touching the children, their custody and guardianship, not otherwise disposed of or regulated by the order of the court, shall by such divorce, be divested out of the guilty party, and vested in the party at whose instance the divorce was granted. And if, after the filing of the petition, it shall be made to appear probable to the court, or any of the judges in vacation, that either party is about to do any act that would defeat or render less effectual any order which the court might ultimately make concerning property or pecuniary interests, an order shall be made for the prevention thereof, to be enforced as such preliminary orders are enforced respecting children.

SEC. 9. The testimony of witnesses, in suits for divorce, shall be given orally in court, with the right to either party, to take and use depositions on the same terms and in the same manner as in actions at law; and the pleadings, proceedings and practice shall conform to those at law, as nearly as conveniently may be; but all preliminary and final orders may be in such form as will best effect the object of this act, and produce substantial justice.

Appearance compelled, when.

Disposition of, and provision for children.

Court how to dispose of property of parties.

Evidence, how taken; pleadings, &c.

SEC. 10. When the marriage shall be dissolved by the husband being sentenced to imprisonment, and when a divorce shall be ordered for the cause of adultery, committed by the husband, the wife shall be entitled to her dower in his lands in the same manner as if he were dead; but she shall not be entitled to dower in any other case of divorce.

SEC. 11. Whenever an order of divorce from the bonds of matrimony is granted in this territory, by a court of competent authority, such order shall fully and completely dissolve the marriage contract as to both parties. And in all suits for a divorce, brought by a female, if a divorce be granted, the court may for just and reasonable cause, change the name of such female, who shall thereafter be known and called by such name as the court shall, in its order or decree appoint.

SEC. 12. This act shall take effect and be in force from and after the first day of May next.

Passed January 17th, 1854.

AN ACT TO ORGANIZE THE MILITIA.

CHAPTER I.

MILITIA.

- SEC. 1. Oregon to constitute one district; appointment of brigadier, his term of office.
2. Regimental officers how elected; company districts when and how formed; company officers when chosen.
3. Captain to appoint non-commissioned officers.
4. Officers to be commissioned by governor; term of office.
5. Colonel when and how may be removed.
6. Other regimental officers how removed; proviso.
7. Appeal from regimental to brigade court martial; court martial, sentence of inoperative till approved.
8. Captain to give annual list to colonel, of persons capable of bearing arms; regimental returns; report of brigadier.
9. When captain may assemble company.
10. When colonel may assemble regiment.
11. Officers may be expelled for refusing to drill.
12. Privates and non-commissioned officers may be fined.
13. Officers to rank according to date of commission.
14. Governor and brigadier to prescribe rules for court martial.
15. As to formation of volunteer companies.
16. Arms when to be sent to county.
17. County commissioners to have care, &c., of arms.
18. Governor to appoint adjutant quartermaster and commissaries generals; duties, &c., of quartermaster.
19. Officers to be commissioned by governor; their oath.
20. Governor to fill all vacancies.
21. Consequence of failing to qualify.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Oregon,* That the territory of Oregon shall constitute one military district for brigade purposes, in which the governor shall appoint a resident citizen thereof brigadier general, who shall hold his office for three years, unless sooner removed by the governor; and each council district in said territory shall constitute one regimental district.

CHAPTER 1.
When wife entitled to dower.

Order of divorce to dissolve the marriage contract as to both parties.

Court may change name of wife.

Act when to take effect.

District of Oregon.

Brigadier general; his appointment &c.

CHAPTER I.

Election of regimental officers.

Company districts.

Company officers how appointed.

Captain to appoint serjeants, &c.

What officers to be commissioned by governor.

Colonel how removed.

Other regimental officers how removed.

Proviso.

Appeal from regimental court martial.

Court martials to be approved, how.

Captain to make list of persons capable of bearing arms. Regimental returns.

Report of brigadier.

Captain may assemble company, when.

When colonel may assemble regiment.

SEC. 2. At the next annual election, the legal voters in each council district shall elect in the usual mode of electing other officers, one colonel, one lieutenant-colonel and one major, who shall assemble at such place within the district as a majority of them shall select, within three months after their election, and proceed to lay off their regimental district into convenient company districts; containing as near one hundred white males as may be, between the ages of eighteen and forty-five years, capable of bearing arms; and shall appoint one captain and two lieutenants in each district, as officers therein.

SEC. 3. Such captain shall appoint four serjeants and four corporals, in each company, who shall continue in office one year.

SEC. 4. All such officers, except serjeants and corporals, shall be commissioned by the governor, and continue in office for the term of two years, unless bodily infirmity or unsoundness of mind prevent them from discharging active duty, or they be removed by a court martial for other good cause.

SEC. 5. Any colonel may be removed after reasonable notice and trial by a brigade court martial, composed of a majority of the colonels of the brigade.

SEC. 6. Any lieutenant-colonel, major, captain, or lieutenant, may be removed after reasonable notice and trial by a regimental court martial, composed of a majority of all the commissioned officers of such regiment; *provided*, that no officer shall be tried by a court martial, without first having been provided with a copy of the charges and specifications at least thirty days previous to such trial.

SEC. 7. Any person aggrieved may appeal from a regimental court martial to a brigade court martial, under such regulations as shall be prescribed by such courts; *provided*, that the proceedings of a regimental court martial shall be inoperative, unless sanctioned by the brigade general; and no brigade court martial shall be operative, without having received the sanction of the governor.

SEC. 8. In each year, every captain shall make out a list of all the persons in his district subject to bear arms, and forward a copy thereof to the colonel of the regiment, who shall thereupon make out and forward to the brigadier general, a regimental return, showing the number of each rank and grade composing his regiment. It shall be the duty of the brigadier general to report annually or oftener if required, to the governor, the state of the militia, the number of regiments, and the number of the different rank and grade in each, together with such other information as shall be in his possession, relating thereto.

SEC. 9. Each captain after giving ten days' written notice, posted up in four public places in his company district, may assemble his company once in each year at a convenient time and place within the district, and drill them according to the tactics of the United States army.

SEC. 10. Each colonel, after thirty days written notice, posted up in four public places in each company district of his regiment, may assemble his regiment at such place as he shall designate in his district, for regimental or battalion drill.

CHAPTER I.

Officers refusing to drill may be expelled.

Ib. Privates, &c., fined.

Fine how appropriated.

Officers to rank by seniority.

Governor and brigadier to prescribe rules.

Volunteer companies may be formed.

Arms when to be sent to county.

County commissioners to have charge of arms, &c.

Governor to appoint quartermaster and commissaries. Quartermaster's duties, &c.

Officers how commissioned; their oath.

Governor to fill vacancies, &c.

SEC. 11. Any commissioned officer, who shall neglect or refuse to attend any company, battalion or regimental drill, as provided for in this act, may be expelled, suspended or reprimanded at the discretion of a court martial.

SEC. 12. Any private or non-commissioned officer, who shall neglect or refuse to attend any company, battalion, or regimental drill, as provided for by this act, or who shall conduct himself in a disorderly manner, while attending such drill, shall be fined in the sum of ten dollars for each offence, and may be prosecuted therefor before any justice of the peace in the county in which he resides, upon complaint of any member of his company; such fine shall be paid over to the captain, and be appropriated for the use of the company, in such manner as a majority of the members thereof shall determine.

SEC. 13. Each officer shall hold rank according to the date of his commission, and in presiding at court martials and drills, in the absence of the superior, the duties to be performed shall devolve upon the next highest officer present.

SEC. 14. The governor and brigadier general shall, from time to time, prescribe all rules and regulations, not herein provided, necessary for the calling and conducting court martials.

SEC. 15. Volunteer companies may be formed within the bounds of any regiment, under such rules and regulations as may be prescribed by the colonel thereof, and approved by the brigadier-general.

SEC. 16. On application by the board of commissioners of any county, by a certified copy of their order therefor, the governor shall cause to be sent to such county, at its expense, its quota of the public arms.

SEC. 17. Such board of county commissioners shall have the care of all public arms within their respective counties, and may transfer them under such regulations as they may prescribe, to such volunteer companies, battalions or regiments, on having the safe-keeping and return thereof, when demanded by the authorized agent of the board, secured by bond and approved sureties.

SEC. 18. The governor shall appoint an adjutant, quartermaster, and commissary generals; and such quartermaster-general shall have the custody of all public arms not distributed among the several counties, and shall preserve the same in good order in some suitable room, at the seat of government, until they are legally disposed of, for which he shall have a reasonable compensation, to be allowed by the legislative assembly.

SEC. 19. All commissioned officers provided for in this act, shall be commissioned by the governor, and on receiving their commission, each shall take an oath to be indorsed on the back thereof, before an officer authorized to administer oaths, that he will support the constitution of the United States, and faithfully discharge the duties of his office, according to law.

SEC. 20. The governor shall fill all vacancies which shall occur by death, absence, resignation, or other disability of officer, mentioned in this act; and in regimental or company districts, when the people fail to elect officers as provided by this act, it shall be the duty of the governor to fill such vacancies by appointment.

TITLE 1.
 Failing to qualify. **SEC. 21.** If any person elected to an office, provided for by this act, shall fail to qualify in thirty days after his appointment or election, the office shall be deemed vacant, and it shall be competent for the governor to fill the same by appointment.

Passed February 2d, 1854.

AN ACT RELATING TO THE GRANTING OF LICENSES TO SELL SPIRITUOUS LIQUORS, AND TO THE LICENSING OF BILLIARD TABLES, BALL ALLEYS AND PEDLERS.

CHAPTER I.

SPIRITUOUS LIQUORS, BILLIARD TABLES, &c.

- TITLE I.** *Of Spirituous Liquors.*
- TITLE II.** *Of Billiard Tables and Ball Alleys.*
- TITLE III.** *Of Pedlers.*

TITLE I.

Of Spirituous Liquors.

- SEC. 1.** License to sell spirituous liquors, how obtained.
- 2. Price of grocery license.
- 3. Commissioners to grant license on receipt of treasurer.
- 4. Bond of applicant to be filed.
- 5. Liquor not to be sold on Sunday.
- 6. Fine for selling without license, appropriated to schools.
- 7. Certain officers to complain of unlicensed groceries.
- 8. Clerk to deliver to grand jury list of licensed persons.
- 9. Duty of grand jury to indict unlicensed persons.

License how obtained.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Oregon,* That no person shall be permitted to sell spirituous liquors in this territory by less measure than one quart, without having obtained a license from the board of county commissioners of the proper county for that purpose.

Price of grocery license.

SEC. 2. Every person applying for a grocery license to sell spirituous liquors in a less quantity than a quart, shall pay into the county treasury, the sum of one hundred dollars per annum, and in the same proportion for a less period; *Provided* that no license shall be granted for a less period than six months.

Commissioners to grant license.

SEC. 3. On the applicant producing to the county commissioners the receipt of the county treasurer for the payment of the sum fixed in the preceding section, they shall give him a license for the term his receipt may call for.

Bond to be filed.

SEC. 4. Every person applying for a license to sell spirituous liquors in a less quantity than one quart, before receiving the same, shall execute to the board of county commissions of the proper county, a bond in the penal sum of five hundred dollars, with two or more sufficient sureties, conditioned that he will keep an orderly house, and that he will not permit any unlawful gaming or riotous conduct in or about his house; and in case of a violation of the foregoing conditions by any person giving such bond, he shall be

liable to pay a fine of not less than ten, nor more than fifty dollars for any such violation; the same to be for the use of the common schools of the county in which the offence was committed, to be recovered in a civil action, as hereinafter prescribed; and the bond so given as aforesaid by such person, shall also be liable to be prosecuted as hereinafter prescribed, for any violation of its conditions.

TITLE 2.

SEC. 5. No person shall keep open any house or room in which intoxicating liquor is kept for retail, on the first day of the week commonly called Sunday, or give or sell, or otherwise dispose of intoxicating liquors on that day; any person violating the section shall be fined in any sum not exceeding twenty-five, nor less than ten dollars for each offence; and such fine to be for the use of common schools in the county in which the offence was committed; *Provided*, that this section, so far as it prohibits keeping open a house or room, shall not apply to tavern-keepers.

Not to sell on Sunday.

SEC. 6. If any person or persons shall barter, sell or dispose of in any manner any spirituous liquors without having first obtained a license agreeably to the provisions of this chapter, he shall, upon conviction thereof, by indictment, in any court having jurisdiction of the same, be fined in any sum not exceeding two hundred, nor less than fifty dollars, for the use of common schools in the county where the offence shall have been committed; and upon failure to pay the fine so assessed, shall be confined in the county jail one day for every two dollars thereof, until said fine be discharged.

Penalty for selling without license.

SEC. 7. And it is hereby made the duty of the prosecuting attorney, sheriffs, constables and justices of the peace, knowing of any violation of the provisions of this chapter, to make complaint thereof to the grand jury at the next session of the district court of the county in which the offence may have been committed after said violation; and the moneys collected on such judgment, except taxable costs, shall be paid to the treasurer of the proper county, for the use of the common schools therein. It shall also be the duty of the clerk of the board of county commissioners to prosecute the bond given by such applicant, as is required by the fourth section of this chapter, for any violation of its conditions.

Certain officers to complain of unlicensed groceries.

SEC. 8. Every clerk of the board of county commissioners shall, on the first day of the term of each district court, deliver to the grand jury an accurate list of all persons holding licenses under the provisions of this chapter, within the county, which list shall show the date and expiration of each license.

Fines. Appropriated schools.

List of licenses to grand jury.

SEC. 9. It shall be the duty of the grand jury at each and every term of the district court in any county in this territory, to make a strict inquiry, and return bills of indictment against every person violating any of the provisions of this chapter.

Duty of jury to indict unlicensed persons.

TITLE II.

Of Billiard Tables and Ball Alleys.

- SEC. 10.** No person to keep billiard table without license.
- 11. License how obtained.
- 12. Tax on billiard saloons.
- 13. Penalty for violating previous sections; fines appropriated common schools.

SEC. 10. No person shall be permitted to keep a billiard table or

License.

TITLE 3. ball alley to let for hire, without obtaining a license from the board of county commissioners of the proper county for that purpose.

How obtained. SEC. 11. Any person wishing to keep a ball alley (commonly called a nine-pin alley) or ball alleys, provided that they are all kept in the same room, shall pay into the county treasury the sum of fifty dollars per annum, and at the same rate for a shorter period; *Provided*, that no license shall be granted for a shorter period than six months. Upon the production of the receipt of the county treasurer by the applicant for the required sum, the county commissioners shall grant said applicant a license for the term to which his receipt may entitle him.

Tax on billiard saloons. SEC. 12. Any person wishing to keep a billiard saloon, or billiard table or billiard tables, providing all said tables are kept in the same room, shall pay into the county treasury the sum of fifty dollars per annum, and at the same rate for a shorter period, provided that no license shall be granted for a shorter period than six months; and upon the applicant producing to the county commissioners the receipt for the required sum, they shall grant said applicant a license for the term to which his receipt may entitle him.

Penalty for violating prior sections. SEC. 13. If any person shall violate the provisions of any of the three preceding sections, he shall be liable to indictment in the same manner as for a violation of the license law relating to spirituous liquors, and shall be subject to the same punishment; and all fines when collected, shall be appropriated in the same way; and it is hereby made the duty of the prosecuting attorney, sheriffs and justices of the peace, to make complaint to the grand jury of the violation of said provisions.

TITLE III.

Of Pedlers.

SEC. 14. Pedlers must obtain license; penalty for peddling without.
15. Pedler when entitled to license.
16. Act when to take effect.

License. SEC. 14. No pedler shall be permitted hereafter to vend, sell or retail at private sale, any goods, wares and merchandise, without first having obtained a license for that purpose from the county commissioners of the county in which said pedler may intend to offer said goods for sale, and paying such sum as said commissioners shall assess, not less than ten nor more than two hundred dollars per annum, or at the same rate for a shorter period; and if any person or persons shall peddle any goods, wares or merchandise within any county in this territory, without first having obtained a license for that purpose, such person or persons so offending shall forfeit and pay any sum not exceeding two hundred, nor less than fifty dollars, to be recovered by action at law, in the name of the county commissioners of the proper county, for the use of said county, before any justice of the peace, or any court of record, having jurisdiction thereof.

When entitled to license. SEC. 15. No person or persons applying for a license or permit, shall be entitled to the same, until he or they shall file with the

clerk of the board of county commissioners a receipt from the county treasurer, for the amount ordered to be paid by such applicant or applicants, agreeably to the provisions of this chapter. **CHAPTER 1.**

SEC. 16. This act shall take effect and be in force from and after the first day of May next. **Act when to take effect.**

Passed January 18th, 1854.

AN ACT PROVIDING FOR THE APPOINTMENT OF A LIBRARIAN, AND DEFINING HIS DUTIES.

CHAPTER I.

APPOINTMENT OF A LIBRARIAN.

- SEC. 1. Election of librarian, term of office, residence and bond.
- 2. Librarian, what to have charge of.
- 3. To provide a library room.
- 4. Library, at what hours to be kept open.
- 5. As to who may draw books.
- 6. When to be kept open for citizens; governor may prescribe rules.
- 7. Salary of librarian, how paid.
- 8. Librarian to make annual report to legislative assembly.
- 9. Act when to take effect.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Oregon,* That there shall be elected annually by the legislative assembly, a librarian, who shall reside at the seat of government, and shall give bond to the secretary of the territory, with sufficient surety, to be approved by said secretary, in the sum of five thousand dollars, conditioned impartially and faithfully to perform the duties of his office. **Election. Residence. Bond, &c.**

SEC. 2. Said librarian shall have the custody and direction of all books, papers, maps, charts, engravings, paintings and all other things properly belonging or appertaining to the library of the territory, and shall take especial care that none of them be lost or injured. **What to have charge of.**

SEC. 3. He shall provide at the seat of government, and as convenient as may be to the rooms occupied by the legislative assembly, a proper room for the safe keeping of said library, and all things appertaining thereto which shall be intrusted to his care. **To provide library room.**

SEC. 4. The library shall be kept open during the sessions of the legislative assembly and the supreme court, from the hour of nine A. M. to nine P. M. of each day. **Library when to be open.**

SEC. 5. No person shall be allowed to remove a book from the library, except the federal officers of the territory, members of the legislative assembly, during the session thereof, and members of the bar during the sessions of courts, who shall, on taking any book from said library, be required to give receipt therefor. **Who may draw books.**

SEC. 6. The library shall be open at all reasonable times for the free admission of all citizens of this territory, and the governor is hereby authorized to prescribe such further rules, not inconsistent with the provisions of this act, for the care and conduct of said library, as the public good may require. **When to be open for citizens. Governor may prescribe rules.**

CHAPTER 1. SEC. 7. The librarian shall annually receive for his services, the sum of two hundred and fifty dollars, payable quarterly by the secretary of the territory, out of the fund appropriated by Congress to defray the expenses of the legislative assembly.

Report. SEC. 8. The librarian shall annually report to the legislative assembly, within ten days after the commencement of each regular session, a detailed statement of the condition of said library, a catalogue of the books, and the incidental expenses incurred in the custody of the same.

Act when to take effect. SEC. 9. This act to be in force from and after its passage.

Passed January 31st, 1854.

AN ACT TO TAKE THE SENSE OF PEOPLE RELATIVE TO THE FORMATION OF A STATE CONSTITUTION.

- SEC. 1. Polls for reception of votes for and against, when to be opened.
 2. Duty of judge and clerk of election.
 3. Ballots what to state.
 4. Vote how to be taken, certified and canvassed.
 5. Secretary of territory when to make and publish abstract; delegates when to be chosen.
 6. Number of delegates to each county: proviso.
 7. Delegates how elected.
 8. When and where to meet.
 9. Their compensation.
 10. Constitution framed by to be submitted, when.

Poll when to be opened. SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Oregon,* That for the purpose of taking the sense of the people of the territory, upon the formation of a state government, a poll shall be opened at the general election, to be held on the first Monday of June next, for the reception of votes for and against a convention.

Duty of judges and clerks of election. SEC. 2. That it shall be the duty of the judges and clerks of elections at each and every precinct within the several counties of the territory, to prepare separate columns, in which shall be entered the votes for and against a convention.

Ballots. SEC. 3. That each qualified voter shall be at liberty to place on his ballot, at said general election, the words—"for a convention," or, "against a convention," according to their desire to vote.

Votes, how taken, &c. SEC. 4. The vote for and against a convention shall be taken, certified and canvassed in the same manner and under like regulations, as by law is provided for the vote for members of the territorial legislature.

Abstract of secretary of territory. SEC. 5. That within twenty days after the vote shall be canvassed in manner aforesaid, it shall be the duty of the secretary of the territory, to make out an abstract of the vote from the several counties, for and against a convention, together with a certificate of the final result of the whole vote, and cause the same to be published in the newspaper authorized by law to do the territorial printing; and if by such abstract and certificate, published as aforesaid, it shall appear that a majority of all the votes cast for and against a convention, shall have been cast for a convention, then, in that case, an election shall be held in the several counties

Delegates when to be chosen.

of the territory, on the first Monday of September following, for the election of delegates to form a constitution and state government.

SEC. 6. Each county shall be entitled to elect twice as many delegates to such convention as such county has representatives in the legislative assembly; *provided*, that in addition to the number of delegates so authorized to be elected, each county attached to another, for the purpose of electing a representative or representatives, shall be entitled to elect one delegate.

SEC. 7. That the election of delegates to the convention shall be conducted, held, canvassed, and certified in the same manner and under like regulations as elections of members of the legislative assembly.

SEC. 8. That it shall be the duty of the delegates elected as aforesaid, to meet at the seat of government of the territory, on the first Monday in February, following the election of delegates, and proceed to the formation of a state constitution.

SEC. 9. The delegates to said convention shall be allowed such compensation as shall be hereafter allowed by law, or appropriated by congress for such payment.

SEC. 10. That the constitution which shall be framed by the convention herein provided for, before taking effect, shall be submitted for adoption, to a vote of the qualified electors within the boundaries of the proposed state, at such time as shall be provided for by the constitution.

Passed January 24th, 1854.

AN ACT TO REPEAL ALL ACTS HERETOFORE PASSED, WITH CERTAIN EXCEPTIONS.

- SEC. 1. Acts herein repealed.
 2. Acts not herein repealed.
 3. Criminal and civil actions heretofore commenced, to be prosecuted as if this act had not been passed.
 4. Act when to take effect.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Oregon,* That all the statutes of a general nature passed or in force before the commencement of the present session of the legislative assembly, except those enumerated in the next section, be and the same are hereby repealed.

SEC. 2. The following acts shall not be repealed by the provisions of the last section, to wit:

"An act to provide against dangerous and vicious cattle," passed September 13th, 1849;

"An act for the establishing of a pilotage on the Columbia and Wallamet river," passed September 19th, 1849;

"An act fixing the rate of toll for grinding," passed January 9th, 1851;

"An act to provide for the selection of places, for location and erection of the public buildings of the territory of Oregon," passed February 1st, 1851:

CHAPTER 1.

Number of delegates.

Proviso.

Delegates how elected.

When to meet.

Their compensation.

Constitution to be submitted, when.

Acts repealed.

Acts not repealed.

CHAPTER 1. "An act to provide for the selection and location of two townships of land, to aid in the establishment of a university," passed December 17th, 1851;

"An act creating the office of commissioner to control, protect and sell the public lands, donated by Congress to the Territory of Oregon, for the establishment and endowment of a university, and to define his powers and duties," passed January 20th, 1852;

"An act supplementary to an act, entitled an act to provide for the selection of places, for the location and erection of the public buildings of the territory of Oregon," passed January 28th, 1853;

"An act to create a board of commissioners to erect the territorial university and to define their duties," passed January 20th, 1853;

"An act to amend an act to provide for the selection of places, for location and erection of public buildings of the territory of Oregon," passed January 22d, 1853.

"An act to create the office of prosecuting attorney," passed January 26th, 1853; and

"An act authorizing county commissioners to locate land for the benefit of county seats," passed January 31st, 1853.

Provision for criminal and civil actions heretofore commenced.

SEC. 3. All crimes and misdemeanors, committed prior to the time when this act shall take effect, shall be prosecuted and punished in the same manner as if this act had not been passed, and all actions and suits in law or equity, commenced prior to that time, shall be prosecuted to final judgment as though this act had not been passed.

Act when to take effect.

SEC. 4. This act shall take effect and be in force from and after the first day of May next.

Passed January 30th, 1854.

AN ACT FOR THE ESTABLISHING OF A PILOTAGE ON THE COLUMBIA AND WALLAMET RIVERS.

- SEC. 1. Board of commissioners; who to constitute; to examine and appoint pilots; pilot may appoint deputies, subject, &c.; vacancies in board, how filled.
- 2. Bond of pilot or deputy; condition of, &c.
- 3. When pilot to take charge of vessel bound into Columbia River.
- 4. Pilot to keep pilot boats, &c.
- 5. Commissioners to establish fees of pilots, &c.
- 6. Penalty for negligence or unskilfulness.
- 7. When master may pilot his own vessel, &c.
- 8. Commissioners authorized to remove pilots upon complaint.
- 9. When consignees liable for pilotage.
- 10. Where fines, penalties, &c., recovered.
- 11. When pilot carried out to sea; compensation.
- 12. Commissioners' compensation; how allowed, and by whom paid.
- 13. Acts repealed.
- 14. When act to take effect.

Board of commissioners.

SEC. 1. Be it enacted by the Legislative Assembly of the Territory of Oregon, That the governor of this territory, John W. Couch, and Nathaniel Crosby, shall constitute a board of commissioners for the purpose of examining candidates for the pilotage of the Columbia River, and appoint one or more suitable persons to be pilots on the

bar of the Columbia; and also one or more pilots on the Columbia River to the head of navigation on that and the Wallamet Rivers, giving each of said pilots a branch or warrant for the execution of his office, with an authority to appoint deputies in the cases to be specified in such branch or warrant: *Provided*, Each pilot shall report his said deputies for the approbation of the said board of commissioners: *Provided also*, That whenever there shall occur a vacancy in such board of commissioners, such vacancy shall be filled by an appointment made by a majority of their own body.

CHAPTER 1.

Pilot.

Deputies.

Vacancies.

Bond of pilots.

SEC. 2. Every such pilot and deputy shall, before entering upon the duties of his or their office, give bond with sufficient security to the said board of commissioners, in the sum of five thousand dollars, for the faithful performance of his or their duties in office.

Duty of.

SEC. 3. Every such branch pilot is authorized and directed, by himself or his deputy, to take charge of any vessel bound into the Columbia River, except vessels of less than twenty-five tons burden, engaged in the coasting trade of the territory of Oregon; said pilot first showing his branch or warrant to the master of any such vessel, if required; the authority to take charge having effect upon the presentation of such branch or warrant.

Cruising boats.

SEC. 4. The pilot or pilots shall always keep such boat or boats to cruise outside the bar, as may be approved as suitable by the power granting such branch or warrant.

Commissioners to fix fees.

SEC. 5. The said board of commissioners are authorized to determine the fees of pilotage, of the pilot or pilots by them appointed, and to specify the same in their respective warrants; and to direct and authorize all arrangements and operations that may be necessary to facilitate the navigation of the Columbia River.

Liability of pilots.

SEC. 6. If any vessel, while under the charge of a branch or warrant pilot or his deputy, shall be lost or run aground, or sustain any damage through the negligence or unskilfulness of such pilot or deputy, such pilot shall be liable both for himself and his deputy, to pay all damages sustained by any person interested in such vessel or her cargo; and may, moreover, be removed from his office.

When master may pilot his vessel.

SEC. 7. Any master of a vessel who may choose to pilot his own vessel from outside the Columbia River bar to Baker's Bay, across said bar, shall be permitted so to do; but he shall, notwithstanding, when bound into the river, pay to such pilot as shall first offer his services outside of Cape Disappointment, or outside of Point Adams, full pilotage, according to the fees specified in his warrant.

Commissioner may remove pilots.

SEC. 8. The said board of commissioners are authorized to hear and determine all complaints exhibited against the pilots appointed by them as aforesaid, and their deputies, and to suspend or remove them, and appoint others in their place.

Consignees when liable for pilotage.

SEC. 9. Should any ship-master omit or refuse to pay the pilotage fees in any instance, when by this law he has become liable, then his consignees shall become liable for the same.

Penalties, &c., where tried.

SEC. 10. That all penalties, forfeitures, and complaints incurred under this act, shall be tried and determined in any court of record having cognizance of the same.

Compensation if pilot carried off.

SEC. 11. That if a pilot acting under the provisions of this act, shall have boarded any vessel outward bound, and shall be de-

CHAPTER 1. tained on board said vessel, and carried out to sea, or to any foreign port, the officers of such vessel so detaining said pilot, shall be liable to pay the pilot so detained, a compensation equal to the pay of the highest officer on board of said vessel for all the time he shall be so detained from his proper post.

Compensation of commissioners. SEC. 12. The said board of commissioners hereby created, shall be entitled to receive a reasonable and just compensation for their services for the time necessarily spent in the performance of the duties assigned them by this act, not exceeding five dollars each per day; to be paid out of the treasury of the territory, upon a warrant of the auditor, who is hereby required to audit and allow the same.

Certain acts repealed. SEC. 13. All acts or parts of acts in any manner conflicting with the provisions of this, are hereby repealed.

Act when to take effect. SEC. 14. This act to take effect and be in force from and after its passage.

Passed September 19th, 1849.

AN ACT FIXING THE RATE OF TOLL FOR GRINDING.

SEC. 1. One-eighth of wheat, rye or other grain, ground and bolted; one-tenth, if ground or chopped only; one-seventh of Indian corn.

2. Liability and duty of millers.

3. Frauds punished by fine, for use of schools.

4. Millers exempt from building bridges, but required to give notice to supervisor before digging race, or supervisor empowered to fill up the race.

Rate of tolls. SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Oregon,* That the owner or occupier of any grist mills within this territory, shall be entitled to one-eighth part of all wheat, rye or other grain ground and bolted; and one-tenth part of all rye, malt, buck-wheat, or other grains, ground or chopped only; and the one-seventh part of all Indian corn ground in said mill.

Liability and duty of millers. SEC. 2. That the owner or occupier of every mill aforesaid, shall be accountable for the safe keeping of all grains received in said mill, for the purpose of being ground therein, and shall deliver the same when ground and bolted (as the case may be) with the bag or bags, cask or casks, which were delivered in said mill, with the grain, to the owner when called for. *Provided,* that the bag or bags, cask or casks, left as aforesaid, be distinctly marked with the name, mark or brand of the owner or owners thereof: *Provided, also,* that nothing in this act shall be so construed as to charge or make accountable any owner or occupier of any mill, for the loss of any grain, bag or bags, cask or casks, which shall happen by robbery, fire or other accident, without the fault or neglect of such owner or occupier, or that of any other miller employed by such owner or occupier.

Frauds, how punished. SEC. 3. That if the owner or occupier of any mill, their representative, agent or miller, shall take a greater proportionate quantity of toll than is hereinbefore authorized, and be duly convicted thereof before any court having jurisdiction of the same, shall be fined for every such offence in any sum not exceeding fifty dollars, at the discretion of the court, for the use of the com-

mon school fund of the county; and shall, moreover, be liable at the suit of the person injured for damages. **CHAPTER 1.**

SEC. 4. That any person or persons having right to a water-privilege, shall not be required to construct or keep in repair a bridge or bridges, across any race conveying water to or from his or their mill on any road or roads: *Provided,* that the person or persons executing or constructing such race or water-course, shall in all cases, give at least thirty days' notice to the supervisor or overseer of roads having jurisdiction of the same; and on neglect to give such notice, said supervisor or overseer of roads shall have power to fill up or demolish such excavation or construction, at the cost of the person or persons making them. **Exemption of millers.** **Proviso.**

Passed the Council, January 1st, 1851.

Passed the House of Representatives, January 9th, 1851.

AN ACT TO PROVIDE FOR THE SELECTION OF PLACES FOR LOCATION AND ERECTION OF THE PUBLIC BUILDINGS OF THE TERRITORY OF OREGON.

SEC. 1. Seat of government established at Salem.

2. Penitentiary at Portland.

3. University at Marysville.

4. Commissioner appointed; their duty; bond required of acting commissioner.

5. Duty of acting commissioner; compensation to be hereafter allowed by law.

6. To report to the assembly, annually, account of moneys.

7. Vacancy to be filled by governor, until the next session of assembly.

8. Penitentiary for one hundred convicts.

9. Commissioners appointed; powers defined.

10. Act in force from its passage.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Oregon,* That the seat of government of this territory be, and hereby is, established and located at Salem, in the county of Marion; and each and every session, either general or special, of the legislative assembly of this territory, hereafter convened, shall be held at the said place above named. **Seat of government.**

SEC. 2. The penitentiary, or state or territorial prison of this territory, shall be, and hereby is, located and established at Portland, in the county of Washington. **Penitentiary at Portland.**

SEC. 3. That the university shall be, and hereby is, located and established at Marysville, in the county of Benton; and all appropriations or donations of money or personal property, and all the proceeds of the sale of land, or lands, granted or donated to this territory for the establishment and endowment of a university, shall be applied to the erection of suitable buildings for an endowment of a university at the said place above named. **University at Marysville.**

SEC. 4. That John Force, H. M. Waller, and R. C. Geer, be and are hereby constituted a board of commissioners to superintend the erection of buildings, at the place designated in the first section of this act, as the seat of government; and the said commissioners, or a majority of them, shall agree upon a plan of said buildings, and shall issue proposals, giving two months' notice thereof, and contract for the erection of said buildings without **Commissioners.**

CHAPTER 1. delay; and the said commissioners shall agree upon one of their number to be acting commissioner; and said acting commissioner shall give bond to the United States in the sum of twenty thousand dollars, to be approved by the governor of this territory, for the faithful performance of his duty; and said bond shall be filed in the office of the secretary of this territory.

Duty of acting commissioner. SEC. 5. It shall be the duty of said acting commissioner to superintend, in person, the rearing and finishing said buildings; and the said acting commissioner shall have power to call the said board of commissioners together, for the purpose of transacting business on this subject; and the said commissioners shall receive such compensation as shall be hereafter allowed by law.

Ib. His report. SEC. 6. The acting commissioner shall annually report to the legislative assembly, a true account of all moneys received and paid out by him.

Vacancies how filled. SEC. 7. If by death, resignation, or any other cause, there shall be a vacancy in said board of commissioners, it shall be the duty of the governor to appoint some person from the district where such vacancy occurred, to perform the duties of such disqualified commissioner: *Provided, however,* That such appointment shall not extend beyond the meeting of the next legislative assembly.

SEC. 8. *And be it further enacted,* That a penitentiary of sufficient capacity to receive, secure and employ one hundred convicts, to be confined in separate cells at night, shall be erected at the place designated in the second section of this act, for the confinement and employment of persons sentenced to imprisonment and hard labor in the penitentiary in this territory.

Commissioners, their powers. SEC. 9. That Daniel H. Lownsdale, Hugh D. O'Bryant, and Lucius B. Hastings, be and are hereby constituted a board of commissioners, to superintend the erection of a penitentiary, at the place designated in the second section of this act, and shall be governed by, and have all the powers, and be subject to all the restrictions contained in sections, four, five, six, and seven of this act, and receive such compensation as may hereafter be allowed by law.

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

Passed the House of Representatives, January 30th, 1851.

Passed the Council, February 1st, 1851.

AN ACT TO AMEND AN ACT TO PROVIDE FOR THE SELECTION OF PLACES, FOR LOCATION AND ERECTION OF THE PUBLIC BUILDINGS OF THE TERRITORY OF OREGON.

SEC. 1. Commissioners appointed, constituted a board; each commissioner to give bond; by whom approved; amount thereof; its condition; his oath; when filed. President of said board chosen; his duties and powers; of a quorum for business.

2. Of the first meeting of said board, and proceedings thereat; of publication of notice to receive proposals, and of letting contracts. Bond to be taken of bidders; conditions thereof. If but one bid, proceedings thereon. Duties of president as soon as qualified. Of the payment of money, and orders therefor; drafts for the same; on whom drawn.

SEC. 3. The governor made treasurer of the fund appropriated, &c.; his duties.

- 4. Compensation of commissioners.
- 5. Certain sections of former act repealed.
- 6. Act when to take effect.

CHAPTER 1.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Oregon,* That Eli M. Barnum, Albert W. Ferguson, and Alvis Kimsey, be and they are hereby constituted and appointed a board of commissioners to erect suitable public buildings at the seat of government of this territory. Each of said commissioners shall enter into bond with good and sufficient sureties to the governor, to be approved by him, in the sum of ten thousand dollars, conditioned for the faithful performance of his duty as such commissioner according to law, and also, to take an oath faithfully and impartially to perform his duties, which shall be filed in the office of the secretary of the territory. The said Eli M. Barnum shall be the president of said board, and preside at all meetings thereof; keep accurate minutes of its proceedings, entering all votes, resolutions, and orders of said board; enter into all contracts or agreements authorized to be entered into by the board, and see that they are faithfully executed according to the terms thereof; and do and perform such other duties as shall be assigned him by said board, compatible with his office; and the president may call meetings of said board as often as he shall deem necessary for the transaction of business, giving reasonable notice thereof to the other members, one of whom, with the president, shall form a quorum for business.

SEC. 2. The first meeting of said board shall be held in the town of Salem, at such time as the president of the board shall appoint, at which first meeting they may adopt such rules and regulations for the government of their proceedings, and adjourn from time to time, as they may deem expedient, and proceed to contract for labor and materials necessary to erect said buildings [upon] the site selected by the commissioners named in the act to which this is an amendment, upon such plan and of such materials as they shall agree upon, by giving notice by publication in some newspaper of the territory, for eight successive weeks, that they will receive sealed proposals for the furnishing of the materials, or performance of the work, specified in the notice; and when said commissioners shall let any contract or contracts, they shall let the same to the lowest responsible bidder, in all cases taking bonds, with approved security, for the faithful performance of such contract; and if there shall be but one bidder, the consent of all the commissioners shall be required to enter into contract: *Provided,* that the said president shall, as soon after he shall be qualified in accordance with the provisions of this act as practicable, demand and receive from the former commissioners, all books and papers connected with the business of their office, and all acts, contracts, and proceedings of the former commissioners, shall be observed by the board hereby constituted, and they shall proceed to execute and complete the same, unless they shall deem that the interest of the territory require that they shall be altered, changed or set aside. When any money shall become due on any contract or for any labor or material performed or furnished for said buildings, the

Commissioners.

Bond.

President of board.

Quorum.

First meeting.

Publication for proposals.

Contractor, his bond.

Proviso.

Payment, for money.

CHAPTER 1. said board shall, if they consider that the same ought to be paid, make an order that the same be allowed and paid, after which order, the president shall draw a draft on the governor for the amount so allowed, in favor of the person to whom such allowance was made, and take the receipt of such person therefor.

Governor
treasurer

SEC. 3. The governor of this territory is hereby declared to be the treasurer of the fund appropriated by the congress of the United States, to be applied to the erection of suitable public buildings at the seat of government, and shall apply for and receive all moneys that are now and may hereafter be appropriated as aforesaid, for the erection of said public buildings, and pay the same on drafts drawn on him by the president of said board as aforesaid, and annually report to the legislative assembly the amount of money so paid.

Compensation
of com-
missioners.

SEC. 4. Said commissioners shall each receive the sum of five dollars per day, for each and every day necessarily employed in attending to the duties of this appointment.

Certain sections of former act repealed.
Act when to take effect.

SEC. 5. That sections four, five and six, of the act to which this is an amendment, be and the same are hereby repealed.

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

Passed the Council, January 21st, 1853.

Passed the House of Representatives, January 22d, 1853.

Buildings
how to be
completed.

Resolved by the Legislative Assembly of the Territory of Oregon, That the commissioners elected to superintend the erection of public buildings at the seat of government, be and they are hereby directed to complete the erection of said buildings in the manner as specified in the diagram and drawings accompanying the report of said commissioners, with the exception of using wood instead of stone, for the outer walls of the same; and that the style of architecture shall be that of the Grecian Doric instead of the "Ionic," as proposed by said commissioners.

Passed January 30th, 1854.

AN ACT, AUTHORIZING COUNTY COMMISSIONERS TO LOCATE LAND FOR THE BENEFIT OF COUNTY SEATS.

SEC. 1. County commissioners to locate land for county seats; number of acres; report to whom made.

2. When act to take effect.

Location of
county seats,
&c.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Oregon, That the county commissioners in each county of this territory, be and are hereby authorized to locate one quarter section of land in their respective counties, for the benefit of county seats, in accordance with an act of Congress, passed May 26, 1824, and report the same to the office of surveyor general.*

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

Passed the House of Representatives, January 29th, 1853.

Passed the Council, January 31st, 1853.

CHAPTER 1.
AN ACT TO CREATE A BOARD OF COMMISSIONERS TO ERECT THE TERRITORIAL UNIVERSITY, AND TO DEFINE THEIR DUTIES.

- SEC. 1.** Commissioners chosen: university, where erected; proviso.
2. Required to give bond, amount thereof, by whom approved, and when filed.
 3. Place and time for first meeting of board, power to adjourn, majority a quorum; when to elect acting commissioner, his power and duties; no member to be interested in contract, under penalty; how collected.
 4. Board to elect one of their number secretary, his duties; journals, by whom signed; general powers of the board; secretary to subscribe an oath, nature of, and where filed.
 5. Of the duties of said board.
 6. Acts of acting commissioners to be under the control of the board; conditions precedent to contract being entered into; proviso.
 7. Vacancies, how filled; how such appointees to qualify, and their term of office.
 8. Of allowances for services, &c., by the board, of orders therefor, on whom drawn, by whom signed and attested; their nature, by whom paid.
 9. When board to draw orders, and secretary to attest them, for what sum; conditions precedent to payment of moneys by treasurer; when board to sanction payments.
 10. Further powers of said board.
 11. Duty of board to report to legislative assembly annually, nature thereof.
 12. Of their compensation.
 13. When act to take effect.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Oregon, That James A. Bennett, John Trapp, and Lucius W. Phelps, be and they are hereby appointed and constituted a board of commissioners, for the construction of the territorial university, at the town of Marysville, in the county of Benton, on such land as shall be donated for that purpose by Jos. P. Friedly; provided, that if, in the opinion of said commissioners, other lands, which can be obtained at or near said town of Marysville, afford a more eligible site, they may accept such other lands, and the said university shall be erected thereon.*

SEC. 2. Each of said commissioners, before entering upon the duties herein assigned, shall enter into bonds, with good and sufficient security, to be approved by the governor, in the penal sum of ten thousand dollars, conditioned for the faithful performance of his duties according to law, which bond shall be filed with the auditor of this territory.

SEC. 3. The first meeting of said commissioners shall be in the town of Marysville, on the first Monday of May next, or so soon thereafter as said commissioners shall agree; and they may adjourn from time to time, as they shall deem necessary; a majority of whom shall constitute a quorum for business. At said first meeting they shall elect one of their number to be acting commissioner, who shall be president of said board, and have the casting vote on all questions before the board when there shall be a tie, and whose duty it shall be to enter into and superintend the performance of all contracts for labor and materials which may have been authorized by the board, to see the terms of the contract are fulfilled, and to do and perform such other business pertaining to the erection of said university buildings, as the board may direct; and the said acting commissioner is authorized to call meetings of the members of said board, as often as he shall deem necessary for the transaction of business: *Provided, that no member of the board shall be directly*

CHAPTER 1. or indirectly interested in any contract connected with the erection of said university buildings, under the penalty of forfeiting the full amount of the contract, to be prosecuted and collected of him and his sureties, by the treasurer of this territory.

Commissioners not to be interested in contract. Secretary. SEC. 4. The said commissioners shall also, at their first meeting, elect one of their number a secretary of said board, who shall keep a true and correct journal of the proceedings of the board, entering all the votes on the journal, and recording the names of the members voting for and against all questions which may be submitted to the decision of said board. The journal of each and every meeting of the board shall be signed by the president and attested by the secretary. The board may assign such other duties to the secretary, compatible with his office, as they may deem proper; and they may adopt such rules for the government of the proceedings of the board, during the meetings thereof, as may be deemed advisable, and not incompatible with the provisions of this act. Said secretary shall, before entering upon the duties of his office, take and subscribe an oath, before some person authorized to administer oaths, that he will faithfully and impartially perform the duties of his office, according to law and the best of his ability; which oath shall be certified by the officer administering the same, and filed with the auditor of the territory.

Journal. Powers of board. Oath of secretary. Duties of board. SEC. 5. At the first meeting of said board of commissioners, or as soon thereafter as practicable, the necessary steps shall be taken, and measures adopted in accordance with the provisions of the first section of this act, to procure a suitable site upon which to erect said university buildings, and for the commencement and completion of said buildings, upon such plan and of such materials, in such style and of such size and extent, as said commissioners or a majority of them shall agree upon.

Acts of commissioner under control of board. SEC. 6. All contracts and other acts of the acting commissioner, shall be under the supervision and control of said board, and no contract shall be entered into for material or labor for the erection of said buildings, until approved by the said board, or a majority, nor until the said board shall have first given notice, by publication in one or more newspapers, printed in the territory, for three successive weeks, inviting sealed proposals for the performance of the labor and furnishing of the materials for the fulfillment of the proposed contract, and specify the character of the bond that will be required for the fulfillment of the contract; and in all cases contracts shall be given by the board to the lowest and best responsible bidder, who will give the security required; *Provided*, that where there shall be but one bidder, the approval of every member of the board shall be required to complete the proposed contract.

Proviso. Vacancies. SEC. 7. Should a vacancy occur in said board of commissioners, by death, resignation, failure to qualify or otherwise, the governor shall appoint a person to fill said vacancy, and the person so appointed shall qualify according to the provisions of this act, and enter upon the duties of a commissioner as herein prescribed; *Provided*, that such appointment shall not extend beyond the next meeting of the legislative assembly.

Allowances for services. SEC. 8. When, by any contract with said commissioners, any sum or sums of money shall become due to any person or persons,

CHAPTER 1. for services or materials furnished for said building, said board may allow and make an order that such sum or sums of money be paid; after such allowance and the making of such order, the president shall draw his warrant on the treasurer, or other officer or person having lawfully in his possession any money or moneys authorized by law to be applied to the establishment and endowment of the university, which warrant shall be signed by the president, and attested by the secretary, requesting said treasurer or other officer or person to pay said contractor, workman or other person, the amount he shall have been allowed on such contract, for work or materials by said board; and the said treasurer or other person, is hereby authorized and required to pay such sum or sums as said warrant was drawn for, out of any moneys in his hands, authorized by law to be applied to the establishment of the university.

SEC. 9. No warrant shall be drawn by said acting commissioner, nor attested by the secretary, unless a previous order shall have been made by said board, and entered upon the journals kept by the secretary, nor for an amount greater than said order; nor shall the treasurer or other person pay, or cause to be paid, money or moneys authorized by law to be applied to the purposes aforesaid, for any purposes, unless upon a warrant ordered by the board, and signed by the president and attested by the secretary; and the board shall, in no case, sanction the payment, unless satisfied that the labor has been performed or the materials furnished, in accordance with the contract entered into under the provisions of this act, for which any such payment is contemplated.

SEC. 10. The board of commissioners hereby constituted, are hereby authorized and empowered, to receive and appropriate to the erection of the said university buildings, any and all such sums of money, lands or other property, as shall be given, granted, donated or bequeathed, by any person or persons or body corporate, to aid or assist in the erection of the said buildings, and to apply the same in accordance with the condition of the gift, grant, donation or bequest.

SEC. 11. The said commissioners shall report to the legislative assembly, at each regular session thereof, an account of all moneys received and expended, and from what source received, to what particular purpose applied, and what amount remains on hand unexpended, and what amount they have allowed and made orders for payment; what contracts they have let, and what have been performed, and also suggest such matters as they shall deem proper in regard to said university.

SEC. 12. The said commissioners shall receive such compensation as shall be hereafter allowed by law.

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

Passed the House of Representatives, January 18th, 1853.

Passed the Council, January 20th, 1853.

CHAPTER 1.

Secretary when to attest orders.

Payment thereof.

Sanction of payment.

Further powers of board.

Report of commissioners.

Compensation.

Act when to take effect.

CHAPTER I.

AN ACT TO PROVIDE FOR THE SELECTION AND LOCATION OF TWO TOWNSHIPS OF LAND, TO AID IN THE ESTABLISHMENT OF A UNIVERSITY.

- SEC. 1. Commissioners appointed to select and locate two townships of land to aid in the establishment of a university.
2. Said commissioners to be sworn, and to inform surveyor-general of the tract or tracts selected.
 3. Commissioners to report a schedule of lands selected by them to the legislative assembly.
 4. Their compensation.
 5. Provision for filling vacancies occurring in board of commissioners.
 6. When act to take effect.

Commissioner.
SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Oregon, That Harrison Linville, Sidney Ford and Jesse Applegate, be and the same are hereby constituted a board of commissioners to select and locate two townships of land in accordance with the provisions of the tenth section of an act of Congress, entitled "an act creating the office of surveyor-general of the public lands in Oregon, and to provide for the survey, and to make donations to the settlers of the said public lands."*

Oath, to inform surveyor-general, &c.
SEC. 2. And said commissioners, after being duly sworn, faithfully to discharge their duties as said commissioners, shall proceed, as soon as practicable, to select and locate said lands, either by allotting special districts of territory to each member of the board, or in such other manner as said commissioners shall decide, and they shall inform the surveyor-general of the precise tract or tracts so selected or located.

Report a schedule, &c.
SEC. 3. Said commissioners shall report and present a schedule of the sections or tracts selected by them, and approved by the surveyor-general, to the legislative assembly of Oregon, at their next annual session.

Compensation.
SEC. 4. Each of said commissioners shall be allowed, out of the treasury of the territory, from moneys not otherwise appropriated, five dollars for each and every day actually employed in performance of the duties of their office.

Vacancies.
SEC. 5. That when any vacancy shall occur in said board of commissioners, either by death, refusal to act, or otherwise, the remaining commissioner or commissioners shall fill such vacancy.

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

Passed the House of Representatives, December 12th, 1851.

Passed the Council, December 17th, 1851.

CHAPTER I.

AN ACT CREATING THE OFFICE OF COMMISSIONER, TO CONTROL, PROTECT AND SELL THE PUBLIC LANDS DONATED BY CONGRESS TO THE TERRITORY OF OREGON, FOR THE ESTABLISHMENT AND ENDOWMENT OF A UNIVERSITY, AND TO DEFINE HIS POWERS AND DUTIES.

- SEC. 1. University land commissioner to be elected; his term of office.
2. Powers of such commissioner.
 3. Commissioner to sue for recovery of damages done to lands.
 4. Commissioner to be a witness.
 5. Commissioner to appraise value of improvements made upon university lands, and value of land exclusive of improvements; to keep a record of appraisements; improvements made after passage of this act not to be appraised.
 6. Persons claiming right to said lands, to pay commissioner their appraised value, or give bond, &c.
 7. Oregon city claim to be sold at public auction.
 8. Commissioner to be sworn; to give bond; to report to the legislative assembly.
 9. Compensation of commissioner.
 10. Notice of sale to be given in some newspaper; lots enumerated in acts of the legislative assembly, of January 29th and February 5th, 1851, not included in this act, block one hundred and eleven likewise not included.
 11. When act to take effect.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Oregon, That there shall be elected by the said assembly on joint vote of both houses, a commissioner, whose title shall be, the university land commissioner, whose term of office shall be two years from and after the first day of February ensuing his election, and until his successor shall be elected and qualified.*

SEC. 2. Said commissioner shall have full power and control over all lands, and the proceeds thereof, donated by Congress to this territory for the establishment and endowment of a university, and for all purposes connected therewith, may sue and be sued in his official capacity, in any court of competent jurisdiction.

SEC. 3. In case there shall have been, or may hereafter be, any trespass committed upon, or other injury done to any of said lands, or any part or parcel thereof shall have been or may hereafter be unlawfully entered upon and detained, or unlawfully detained by any person or persons, it shall be the duty of the land commissioner to bring the proper suit for the recovery thereof in his official capacity except as hereinafter provided.

SEC. 4. In any suit by or against said commissioner in his official capacity, he shall be deemed a competent witness for either party, notwithstanding his being a party to the record.

SEC. 5. In all cases when improvements have been made upon said lands by any person or persons under color of any right or authority, it shall be the duty of said commissioner, as soon as may be, to appraise such improvements at their present actual value; and also to appraise in like manner, the lot or land exclusive of improvements, and to keep a record of any such appraisement; provided, that no appraisement shall be made of any improvements commenced after the passage of this act.

SEC. 6. In case any person or persons claiming right to any of said lands so appraised, his, her or their legal representatives, shall

Election of commissioner.

His powers.

May sue for damages to lands.

May be witness.

Appraisements, by, &c.

Payment of appraisement, &c.

CHAPTER I. pay to said commissioner the appraised value of said lands, or shall give a bond to said commissioner and his successors in office, with security to be approved of by said commissioner, on interest at seven per cent. for the amount of such appraised value, payable within one year from the date of such bond, and execute to said commissioner and his successors in office, a mortgage on said lands, to secure the payment on said bond; it shall be the duty of said commissioner to execute, in due form of law, and deliver to such person or persons, a deed in fee simple of such lot or parcel of land.

Oregon city
claim how
sold.

SEC. 7. That all of said lands so donated by Congress for the purpose above stated, known as the Oregon city claim, not disposed of as above directed, shall be sold at public auction by said commissioner, to the highest bidder, at such time or times and place or places, as he may designate; the purchase-money to be paid or secured, and deed given as prescribed in the preceding section.

Oath of com-
missioner.

SEC. 8. Before said commissioner shall enter upon the duties of his office, he shall take an oath to support the constitution of the United States, and faithfully to discharge the duties of his office, which oath shall be administered by the speaker of the house of representatives, or president of the council, or a judge of the supreme court, and shall give a bond with one or more securities, to be approved of by such speaker, president, judge, or by the territorial auditor, in the penal sum of ten thousand dollars, payable to the Territory of Oregon, conditioned for the faithful discharge of his duties as such commissioner, and faithfully to account for and pay over all moneys and securities for the payment of moneys, which may come to his hands by virtue of his office, to the territorial treasurer, quarterly, and make a report of all his acts, as said commissioner, to the legislative assembly, at the regular session thereof, which bond shall be filed with, and kept by, the territorial auditor, and suit may be brought at any time for a breach of any of the conditions thereof.

Bond.

Report.

Compensa-
tion of.

SEC. 9. Such commissioner shall receive for his services the sum of five dollars per day for each and every day necessarily employed in and about the business pertaining to his office, to be audited and allowed by the territorial auditor, and paid out of any moneys in the territorial treasury; and expenses other than the ordinary expenses of said commissioner, to be audited and allowed by the legislative assembly, to such amount as under the circumstances may be just and equitable.

Sale, notice
of, &c.

Proviso.

SEC. 10. Before said commissioner shall sell any of said lands at auction, as above provided, he shall give notice thereof, and of the time and place of sale, by publication in one of the newspapers published in this territory, once in each week for at least four weeks; *provided*, however, that this act shall not be so construed or so executed as to include for the time being, such lots or parts of lots as are enumerated in an act of the legislative assembly of Oregon territory, entitled an act to confirm the title to certain lots in Oregon city, passed January 29th, A. D. 1851, and in an act passed February 5th, 1851, entitled an act supplemental to an act to provide for confirming the title to certain lots in Oregon city, to the persons therein named, in said acts as passed as aforesaid; and also, the entire block, number one hundred and eleven [111]

in said town of Oregon city, in the territory aforesaid, on which said block stands the court house of Clackamas county in said territory. CHAPTER I.

SEC. 11. This act to take effect and be in force from and after its passage. Act when to take effect.

Passed the Council, January 16th, 1852.

Passed the House of Representatives, January 20th, 1852.

AN ACT TO AMEND AN ACT, SUPPLEMENTARY TO AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE SELECTION OF PLACES FOR THE LOCATION AND ERECTION OF THE PUBLIC BUILDINGS OF THE TERRITORY OF OREGON."

- SEC. 1. Commissioners for construction of penitentiary, how chosen.
2. Oath of, when and how taken; to be indorsed on bond; amount of bond.
3. Commissioners when and where to meet; election of president and secretary; their duties.
4. Governor to fill vacancies; person appointed to qualify.
5. Duty of president; no member to be interested in any contract.
6. Governor treasurer of penitentiary fund.
7. Treasurer when to pay moneys.
8. Commissioners when and how to erect penitentiary.
9. Board to have supervision of contracts; contracts to whom awarded.
10. Commissioners to appoint keeper and deputy keeper; duty of keeper to receive and keep convicts; salary, &c., food of prisoners; how may be secured.
11. Salary of commissioners; commissioner to verify his accounts.
12. Report of commissioners when to be made.
13. Certain laws when repealed.
14. Act when to take effect.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Oregon,* That the legislature in joint convention assembled, shall elect three competent persons, residents of Washington county, who are hereby constituted a board of commissioners for the construction of a penitentiary upon the site already selected at the city of Portland, and who shall continue in office for one year from the passage of this act, or until their successors are elected and qualified.

Commission-
ers how
chosen.

SEC. 2. Each commissioner, before entering upon the duties of his office, shall take and subscribe an oath, to be certified on the back of his bond, before one of the judges of the supreme court, or a judge of probate, to support the constitution of the United States, and the provisions of the act of congress organizing the territory of Oregon, and faithfully and impartially to perform the duties of his office according to law, to the best of his abilities, and shall enter into a bond to the governor of the territory, with two or more good and sufficient sureties to be approved by said governor, in the sum of ten thousand dollars, conditioned for the faithful performance of his duties according to law, which oath and bond shall be filed in the office of the secretary of the territory. Oath.

Bond to be
approved by
governor.

SEC. 3. The persons elected under the provisions of the first section of this act, or a majority of them, shall meet at the said town of Portland, on the second Monday of February, 1854, and after To meet at Portland, when.

CHAPTER 1. due organization, by electing one of their number president of the then board, and appointing one of the number secretary, they shall proceed to demand and recover from the late board of commissioners of the said penitentiary, all books, papers, moneys, rights, credits, effects and property belonging to said penitentiary, and the said board hereby constituted, may adjourn from time to time, as they may deem necessary: *Provided*, that not more than six days in any one month shall be occupied in the meetings of said board.

SEC. 4. Should a vacancy occur in said board of commissioners, by failure to qualify, death, resignation or otherwise, the governor of the territory is hereby empowered to appoint some suitable person, a resident of the territory, to fill such vacancy; and the person so appointed, shall qualify according to the provisions of this act, and shall enter upon the duties assigned to his predecessor.

SEC. 5. It shall be the duty of the president of the board, to preside at the meetings thereof, and superintend the performance of all contracts for labor and material, which may have been authorized by the board, to see that the terms of each contract are fulfilled, and to do and perform such other duties pertaining to the erection of said penitentiary, as the board shall direct: *Provided*, that no member of the board shall be interested directly or indirectly, in any contract of any kind, connected with the erection of said penitentiary, during their continuance in office, under the penalty of five thousand dollars, to be prosecuted and collected of him and the sureties upon his official bond, upon an action of debt, under the direction of the governor of the territory.

SEC. 6. The governor of this territory is hereby declared to be the treasurer of the fund appropriated by the congress of the United States, to be applied to the erection of a penitentiary; and shall make requisition for and receive from the proper officer of the United States treasury, any and all moneys that now are or may hereafter be appropriated for the erection of a penitentiary, and to keep the same in safety, being at all times prepared to pay the drafts of the board, out of such funds as he shall receive by virtue of the provisions of this act.

SEC. 7. No money shall be paid by the treasurer for any purposes, unless on a draft ordered by the board, and signed by the presiding commissioner, and attested by the secretary; and every such draft shall express upon its face, whether the amount so required is for materials furnished or services rendered, or labor performed; and the board shall in no case sanction the payment of any money, unless the labor has been performed or the materials have been furnished in accordance with a contract entered into under the provisions of this act, for which any such payment is contemplated.

SEC. 8. The commissioners shall, after taking into their possession any and all materials, and contracts for materials and labor, proceed with as little delay as possible, to erect a suitable building of stone or brick, proof against fire, and of suitable size and strength to safely and properly keep fifty convicts.

SEC. 9. All the contracts and other acts of any acting commissioner shall be under the supervision and control of said board, and no contract shall be entered into for material or labor for the

Election of president and secretary.

Vacancies, how filled.

Duty of president.

Member not to be interested in a contract.

Treasurer of penitentiary fund.

Treasurer when to pay moneys.

When and how to erect penitentiary.

Board to have supervision of contracts.

erection of said penitentiary, until approved by the said board, or a majority thereof, nor until the said board shall have first given notice by publication in one or more newspapers, printed in the territory, for three successive weeks, inviting sealed proposals for the performance of the labor and furnishing of the necessary materials for the fulfillment of the proposed contract, and specifying the character of the bond which will be required for the fulfillment of said contract; and in all cases contracts shall be given by the board to the lowest and best responsible bidder, who will give the security; *provided*, that when there shall be but one bidder, the approval of every member of the board shall be requisite to complete the proposed contract.

SEC. 10. The said commissioners are hereby authorized and required to appoint some suitable and discreet person to serve as keeper of the penitentiary, and such assistant keepers as they may deem necessary, whose duty it shall be to receive from the sheriffs of the several counties, all persons who now are under sentence, or may hereafter be sentenced to the penitentiary, and keep them safely, according to law, and the said sheriffs are hereby authorized and required to deliver such convicts safely to the said keeper at Portland, in the county of Washington, and take his receipt therefor, which shall fully acquit and discharge said sheriffs from all responsibility for the custody and safe keeping of such convicts; and it shall be lawful and is hereby made the duty of said commissioners to employ all convicts in the penitentiary, so far as they may deem it practicable, in the construction of the penitentiary. The said convicts, so far as respects their employment in the construction of the penitentiary, shall be under the control of said commissioners; and the said keeper shall receive the sum of six hundred dollars per annum, to be paid semi-annually out of the territorial treasury, on the order of the auditor of the territory; and the said keeper of the penitentiary shall further receive the sum of five dollars per week, for the boarding and keeping of each convict, to be paid out of the territorial treasury, as before provided. The daily sustenance of convicts shall consist of healthy, coarse food, with such proportion of meat and vegetables as the commissioners shall deem best for the health of the convicts and interest of the territory; no tea, sugar, coffee, tobacco, snuff, spirituous liquors, or any article of indulgence shall be allowed any convict, except by order of the commissioners, and the said keeper of the penitentiary, after receiving any order from the commissioners in regard to the labor or management of the convicts under his charge, shall be bound to execute such order in all cases, as near as the circumstances of the case will permit; and the said keeper shall secure each and every convict, by the means of chains, rings and balls, or any combinations thereof, as he may deem proper for the safe keeping of such convicts.

SEC. 11. Each member of the board of commissioners for the construction of a penitentiary, shall receive five dollars per day for each day he shall serve as such, and in the payment of his account for services, he shall verify the same by affidavit as to the number of days employed. The presiding commissioner elected as herein

CHAPTER 1.

Appointment of keeper and deputy keepers; their duties.

Allowance of keeper.

Food of prisoners.

Salary of commissioners.

CHAPTER 1. prescribed, shall receive in addition, one hundred dollars per annum, payable quarterly, which compensation shall be paid out of the fund appropriated for the erection of a penitentiary.

Report of commissioners. SEC. 12. The board of commissioners shall make a full report in writing of their proceedings to each session of the legislative assembly, on or before the third Monday of each session.

Laws repealed. SEC. 13. All laws and parts of laws coming within the purview of this act be and they are hereby repealed.

Act when to take effect. SEC. 14. This act to be in force from and after its passage.

Passed January 30th, 1854.