

# L A W S

OF THE

## TERRITORY OF WASHINGTON,

CONTAINING, ALSO, THE JOINT RESOLUTIONS AND  
MEMORIALS, PASSED AT THE FOURTH ANNUAL  
SESSION, BEGUN AND HELD AT OLYM-  
PIA, DECEMBER 1, 1856,

AND OF THE INDEPENDENCE OF THE UNITED STATES, THE EIGHTY-SECOND.

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## ACT OF CONGRESS,

TO AMEND THE ACTS REGULATING THE FEES, COSTS, AND OTHER JUDICIAL EXPENSES OF THE GOVERNMENT IN THE STATES, TERRITORIES, AND DISTRICT OF COLUMBIA, AND FOR OTHER PURPOSES.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That hereafter, before the accounts of the United States marshals, district attorneys, and clerks, are presented to the accounting officers of the Treasury Department for settlement, they shall be examined and certified to by the district judge of the United States in the district in which the officers presenting the accounts officiate, whether in the states or territories, and the same shall be subject to revision upon their merits by said accounting officers, as in case of other public accounts: *Provided however,* That no accounts of fees or costs paid to any witness or juror, upon the order of any judge or commissioner, shall be so re-examined as to charge any marshal for an enormous taxation of such fees or costs.

SEC. 2. *And be it further enacted,* That the accounts of the commissioners of the United States circuit courts shall be examined and certified to by the district judge of the district in which they are appointed, previous to their presentation to, or revision by, the accounting officers of the Treasury Department.

SEC. 3. *And be it further enacted,* That in no case shall the fees of more than four witnesses be taxed against the United States circuit courts, unless their materiality and importance shall first be approved and certified to by the United States district attorney for the district in which the examination shall take place, subject to revision, as in other cases.

SEC. 4. *And be it further enacted,* That in all these cases before mentioned, an appeal shall lie from the decision of the accounting officers to the Secretary of the Interior.

SEC. 5. *And be it further enacted,* That the judges of the supreme court in each of the territories, or a majority of them, shall, when assembled at their respective seats of government, fix and appoint the several times and places of holding the several courts in their respective districts, and limit the duration of the terms thereof: *Provided,* That the said

courts shall not be held at more than three places in any one territory : *And provided further*, That the judge or judges holding such courts shall adjourn the same, without day, at any time before the expiration of such terms, whenever, in his or their opinion, the further continuance thereof is not necessary.

SEC. 6. *And be it further enacted*, That all costs and fees for services rendered by the clerks of the several courts in the District of Columbia, chargeable to others than the United States, shall be payable immediately after the services are performed, and shall be collected by such rules and regulations, not incompatible with law, as may be prescribed by the courts in which such services are rendered, but shall in no case, be paid by the United States.

SEC. 7. *And be it further enacted*, That the several circuit and district courts of the United States, the district courts of the territories, and the criminal court of the District of Columbia, shall have the power to discharge the grand juries of the respective courts whenever they shall be of opinion that the public interests will not be subserved by a further continuance of the session of said grand jury.

SEC. 8. *And be it further enacted*, That no officer of the United States courts, including the bailiffs, guards, or deputies of the United States marshals, whether in the states, territories, or District of Columbia, shall be entitled to witness fees, either before a court or commissioners where he is officiating.

SEC. 9. *And be it further enacted*, That the United States shall hereafter be liable to the justices and constables of the county of Washington, in the District of Columbia, for their fees and services in cases of felony only ; and so much of the fifteenth section of the act of May seventeen, eighteen hundred and forty-eight, entitled, " An act to continue, alter, and amend the charter of the city of Washington," as provided otherwise, is hereby repealed ; said fees shall be paid by the United States marshal, upon the approval of the judge of the criminal court of the District of Columbia, subject to the revision by the accounting officers of the treasury, and to appeal to the Secretary of the Interior.

SEC. 10. *And be it further enacted*, That it shall be the duty of each of the judges of the supreme court of the respective territories of the United States to designate and appoint one person as clerk of the district over which he presides, where one is not already appointed, and to designate and retain but one such clerk where more than one is already appointed, and only such district clerks shall be entitled to a compensation from the United States except for fees taxable to the United States.

SEC. 11. *And be it further enacted,* That so much of the third section of the act of February twenty-six, eighteen hundred and fifty-three, entitled, "An act to regulate the fees and costs to be allowed to clerks, marshals and attorneys of the circuit and district courts of the United States, and for other purposes," as requires "that when the compensation of any clerk shall be less than five hundred dollars per annum, the difference ascertained and allowed by the proper accounting officers of the treasury shall be paid to him therefrom," is hereby repealed.

SEC. 12. *And be it further enacted,* That all accounts of the United States district attorneys for services rendered in cases instituted in the United States or state courts, when the United States is a party in interest, but not of record; or in cases instituted against the officers of the United States or their deputies or duly appointed agents, for acts committed or omitted or suffered by them in the lawful discharge of their duties, shall be audited and allowed as in other cases, assimilating the fees, as near as may be, to those provided by said act of February twenty-six, eighteen hundred and fifty-three, for like or similar services.

SEC. 13. *And be it further enacted,* That no marshal or deputy marshal, of any of the courts of the United States, shall hold or exercise the duties of commissioner of any of said courts, nor receive compensation therefor.

SEC. 14. *And be it further enacted,* That whenever from any cause, it may be impossible for the district attorney to attend at court, it shall be his duty to see that a meet and proper person, learned in the law, residing as near the place where the court is held as possible, does attend to such business as may appertain to the duties of his office, and in all such cases, the fees and charges to be paid shall be only such as the district attorney would have been authorized by law to charge had he personally attended and performed the service: *Provided however,* That before any substitution is sanctioned, or payment made, the necessity thereof shall be shown to the satisfaction of the Secretary of the Interior.

SEC. 15. *And be it further enacted,* That all provisions of law inconsistent with this act are hereby repealed.

APPROVED, August 16, 1856.



# GENERAL LAWS

O F

## WASHINGTON TERRITORY.

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### A N A C T

RELATIVE TO THE TERMS OF THE SUPREME COURT.

Sec. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington,* That the Supreme court shall assemble at the capital, and a term be held on the first Monday in December, in each year, to continue so long as may be required, and that all laws requiring a term of the Supreme court to be held at any other time, be repealed.

PASSED, Jan. 27, 1857.

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### A N A C T

TO DEFINE THE JUDICIAL DISTRICTS.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington,* That the counties of Walla-walla, Skamania, Clarke, Cowlitz, Wahkiakum and Pacific shall constitute the first judicial district.

SEC. 2. The counties of Lewis, Thurston, Pierce, Chehalis, King and Sawamish, shall constitute the second judicial district.

SEC. 3. The counties of Island, Whatcom, Clalm, Jefferson and Slaughter, shall constitute the third judicial district.

## AN ACT

TO AMEND AN ACT ENTITLED, "AN ACT RELATIVE TO CRIMES AND PUNISHMENTS, AND PROCEEDINGS IN CRIMINAL CASES," AND AN ACT ENTITLED, "AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN PROSECUTIONS FOR CRIMES."

- SEC. 1. Practice made to conform to act of Congress, approved Aug. 16, 1856.
1. County and district synonymously construed, when necessary.
  2. Testimony before a committing magistrate to be reduced to writing.
  3. What witnesses shall be recognized, and how subpoenaed.  
When shall be recognized to appear at a succeeding term of court.
  4. Recognizance for appearance at criminal term of probate court.  
Persons held to bail or committed for misdemeanor.
  5. Appeals to criminal terms of probate court.
  6. Of what appeals grand jury shall have cognizance.  
Powers of grand jury specially restricted.  
What shall be submitted to grand jury.
  7. Rules governing changes of venue,
  8. Proceedings in trials same as in civil actions—procedure in argument and instructions of court. Word "Plaintiff" construed to mean "Territory."
  9. Who is liable for cost of custody of prisoners.
  10. County jail free for certain prisoners.  
Allowance for custody and maintainance of prisoner.
  11. Allowance to, and rights of sheriff, for custody of prisoners.  
Charge for board of prisoner restricted.
  12. Disposition of fines and forfeitures under this act.
  13. Duties imposed upon county school superintendents, road supervisors, constables, etc.
  14. Requisites of criminal process.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington*, That so far as the jurisdiction of offences cognizable by the district court, and the trial of criminals, is concerned, each judicial district shall constitute one county, and wherever, in the acts to which this is an amendment, the words "county" or "district" occur, they shall be construed to mean either district or county, whenever such construction shall be required to carry into effect and conform the practice of the courts to the act of congress, approved August 16th, 1856.

SEC. 2. It shall be the duty of every magistrate examining a party charged with an offence, or with an intention to commit an offence, to examine all the witnesses he shall deem material, and reduce their testimony to writing, a copy of which, whether the accused is discharged, committed, or held to bail, or shall take an appeal, he shall transmit to the clerk of the court having jurisdiction of the offence.

SEC. 3. Whenever any person shall be committed or held to bail, charged with a felony, it shall be the duty of the committing magistrate

to recognize the accused, if held to bail, and also such witnesses as are before him upon both sides, and to summon such other witnesses as may be required, if within his county, to appear at the next term of the district court to be held in the district: *Provided*, that if, in the opinion of the magistrate, the distance to the place where the court is held, is such that the parties and witnesses cannot reasonably be required to attend at the next term of the court, then he shall recognize and summon them to appear at the next succeeding term thereof.

SEC. 4. Whenever any person shall be committed or held to bail, charged with a misdemeanor, it shall be the duty of the committing magistrate to recognize the accused, if held to bail, and the witnesses upon both sides who are present before him, and to summon such other witnesses as both parties shall require, if within his county, to appear before the probate court at its next term to be holden within the county for the transaction of criminal business.

SEC. 5. All appeals in criminal complaints from a justice of the peace, and all appeals from a justice of the peace had and taken under the provisions relative to proceedings to prevent the commission of crimes in either of the acts to which this is an amendment, shall be had and taken to the probate court when sitting for the transaction of criminal business.

SEC. 6. The grand jury shall have cognizance of all offences against the laws of the United States, and of such territorial cases only as shall be submitted to them by the court; and no territorial case shall be submitted to the grand jury unless the party accused has been held to bail, committed for trial, or escaped from justice, and is charged with a felony, and such cases of misdemeanor as shall come up by appeal from the several courts of probate, and such other special cases of felony as the court shall deem that the public interest requires to have submitted to them; and in all cases the testimony taken at the preliminary examination shall be laid before the grand jury, and if it be a case appealed from the court of probate, all the proceedings had before said court shall be laid before the grand jury.

SEC. 7. A change of venue in criminal cases shall be governed by the same rules as change of venue in civil cases, and the provisions in section three of the act entitled "an act to amend an act, to regulate the practice and proceedings in civil actions" shall apply to criminal proceedings in the district court.

SEC. 8. The provisions of the 12th section of the act entitled "an act to amend an act, entitled 'an act to regulate the practice and proceedings in civil actions,'" shall apply to criminal proceedings in the district court, construing, when necessary, the word "plaintiff" to mean "territory."

SEC. 9. All persons in custody, charged with the commission of crime within the jurisdiction of the district court, and all persons who may be placed in custody or committed to the district court, shall, in the first instance, be a charge upon the county where they belong, and in custody of the sheriff of that county if he be in attendanee upon the court ; if he be not in attendance, then they shall be in charge of the sheriff of the county in which the court is held.

SEC. 10. The jail of the county in which the district court is held shall be free to all prisoners coming from any county in the district, and in no instance shall more than one dollar a day be allowed for the custody and maintainance of a prisoner.

SEC. 11. All prisoners, whom it may be necessary to convey to the place where the district court is held, or to any place for an examination before the judge, if conveyed beyond the bounds of the county in which they are confined, shall be conveyed to and from their place of confinement by the sheriff of the county in which they are confined, or the sheriff of the county to which such prisoner belongs, at the expense, in the first instance, of the county to which such prisoner belongs ; and such sheriff shall have a right to the custody of the prisoner within the limits of any county in this territory through which he may pass, and for the temporary confinement of his prisoner, may use the county jail of any county free of charge, except for board, which shall not exceed thirty cents a meal.

SEC. 12. All fines and forfeitures shall belong to the counties from which the defendants come, to be applied to the same purposes as if the court was a district court of the county.

SEC. 13. It shall be the duty of all county school superintendents and school directors to make complaint in all cases, which shall come to their knowledge, of a criminal violation of the laws relating to schools and education. It shall be the duty of road supervisors to make complaint in all cases, which shall come to their knowledge, of a criminal violation of the laws relating to roads and highways. It shall be the duty of all constables and all sheriffs to make complaint of all violations of the criminal law, which shall come to their knowledge, within their respective jurisdictions.

SEC. 14. Sections nineteen and twenty in the act entitled, "an act to amend an act entitled, 'an act to regulate practice and proceedings in civil actions,'" shall also apply to criminal process.

PASSEN, January 26, 1857.

## A N A C T

## TO AMEND AN ACT ENTITLED, "AN ACT TO REGULATE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS."

- Sec. 1. Practice in civil actions to conform to act of congress, approved August 16th, 1856.
- For purposes of this act, district to mean county, and *vice versa*.  
Jurisdiction of county officers specially limited.
2. Clerks of district courts of counties, to forward records to district clerk.
  3. Change of venue for prejudice of county disallowed.  
Provisions for cases now changed on account of popular prejudice.  
Such cases tried by jurors made up outside of said county.  
When case may be tried by less than twelve jurors.
  4. Writs of summons abolished.  
Manner of commencement of civil actions.  
Form of notice of commencement of suit.
  5. Duties of clerk of court in commencement of suits.  
Term fixed for trial of cause.
  6. "Summons" construed to mean "notice."
  7. Publication when allowed, and how made.  
Form of publication.  
Publication, when sufficient, and how proven.  
Personal service out of territory equivalent to publication.
  8. "Publication ordered," construed to mean "publication made."
  9. Jurisdiction of the court over cases, when acquired.  
Clerk restrained from filing complaint until service completed.
  10. Courts to prescribe time for filing pleadings subsequent to complaint.
  11. In cases of claim for personal property, when plaintiff may amend complaint.
  12. Argument on the law by counsel—mode of procedure.  
Instructions by the court, how given, and exceptions thereto.  
Jury to take instructions of court into their retirement.  
Manner of summing up by counsel.  
When jury may have additional instructions.  
Exceptions, how taken—when to be disregarded by supreme court.
  13. County auditor of respective counties to record judgments.  
Manner of making record.  
Of what said record shall consist.  
Mode of entering satisfaction of judgment.
  14. Duty of sheriff on serving execution.  
"Execution Docket" to be kept by county auditor.  
Copies of levies and proceedings upon execution to be kept by county auditor.
  15. Lien of judgment, and limitation thereof.  
When lien of judgment suspended.
  16. Witnesses—how compelled to attend—pay and mileage.
  17. Deposition of witnesses, when allowed, and how taken.  
When party taking said deposition shall be liable for costs thereof.
  18. Provision for deposition of witness out of territory.
  19. Process to be directed to sheriff of county where served.
  20. Service of process by other than sheriff.  
When served by other than sheriff, party serving to give security.  
Bond of suretyship—requisites.

Sec. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington,* That for all necessary purposes connected with the district court, each district shall be considered and held to be but one county ; and whenever in the act to which this is an amendment, the words district or county occur, the same may be rendered county or district, as may be necessary to conform the practice of the courts to the act of congress, approved August 16, 1856 : *Provided,* that nothing herein contained shall be construed to confer jurisdiction upon county officers, or extend their powers beyond the limits of their counties.

Sec. 2. The clerk of the district court in the several counties in this territory, or the person in whose custody the books and papers belonging to the district court may be, shall forthwith, either by mail or other opportunity, transmit such books and papers to the clerk of the district court for the district in which such county is situated.

Sec. 3. No change of venue from the district shall be allowed on account of the prejudice of the inhabitants of any particular county, but where a party or his attorney shall make his affidavit that the inhabitants of any particular county are so prejudiced or excited, or so particularly interested in the cause or question that he believes the party cannot have justice done by a jury of that county, or where, in cases now pending, there has already been a change of venue from any particular county ordered on account of prejudice, then no juror for that particular case shall be taken from that county, unless by consent of the party making the objection, but the case shall be tried by the jurors from the other counties, who may be in attendance as grand or petit jurors, and if, from challenges or any other cause, there shall not remain twelve competent jurors, then the case may be tried by a number less than twelve : *Provided,* that the parties litigant consent to so try the case.

Sec. 4. Writs of summons are abolished, and civil actions shall be commenced by the service upon the defendant of a copy of a complaint and notice, which notice shall be signed by the plaintiff or his attorney, and the copies shall be certified to be correct by the officer or person making the service. The notice shall be substantially as follows :

Territory of Washington, }  
County of }

To : You are hereby notified that unless you appear in the district court of the judicial district on the first day of the next term thereof, which shall commence twenty days or more after the service of this complaint, the same will be taken as confessed, and the prayer thereof granted.

Dated 18

SEC. 5. The clerk shall file all complaints where service of notice is had as of the day they are received by him, and no complaint shall be heard at any term except by consent of parties, which shall not have been received and placed on file before the second day of the term, or which shall not appear to have been served on the defendant twenty days or more before the commencement of the term.

SEC. 6. Whenever the word summons is used in the act to which this is an amendment, under the title of "the manner of commencing civil actions," it may be construed to mean notice.

SEC. 7. In case personal service cannot be had by reason of the absence of the defendant, and the defendant is a proper party to an action where personal notice is not required by law, or is a proper party to an action relating to real estate in the district, it shall be proper to publish the notice with a brief statement of the object and prayer of the petition or complaint in some weekly newspaper published in this territory, or in Portland, Oregon territory, which notice shall be published not less than once a week for three months prior to the commencement of the term of the court where such cause shall be heard. Said notice may be substantially as follows :

Territory of Washington, }  
 County of                    }

In the district court of the                    judicial district.

To

—

You are hereby notified that                    has filed a complaint against you in said court which will come on to be heard at the first term of the court which shall commence more than three months after the (here insert the date of the first publication,) and unless you appear at said term and answer, the same will be taken as confessed, and the prayer thereof granted.

The object and prayer of said complaint is (here insert a brief statement.)

(Signature of Plaintiff or his Attorney.)

(Date of filing complaint.)

Before publication is made, the complaint shall be filed with the clerk of the court where the action is to be tried, and forthwith, upon publication, the party shall cause a copy of the notice and complaint, certified by the clerk, to be deposited in the post office, directed to the defendant at his place of residence, unless it shall appear that such residence is not known to, or cannot with reasonable diligence be ascertained by the party, and before hearing the case the court shall be satisfied, by affidavit or other proof, that all the provisions herein contained have been complied with;

and a printed copy of the notice published, with the affidavit of the printer or publisher of the newspaper, that it has been published the requisite length of time, and as is herein provided, shall be placed upon file : *Provided*, that personal service out of the district or territory shall be equivalent to publication. In either case service shall be complete at the expiration of the period prescribed for publication. Nothing in this section contained, shall be construed as enlarging the venue in civil actions beyond the bounds now provided by law.

SEC. 8. The words "against whom publication is ordered," whenever they occur in the act to which this is an amendment, may be construed to mean "against whom publication is made."

SEC. 9. The court shall be deemed to have obtained possession of the case from the time the complaint is filed with the clerk : *Provided*, that no complaint against a defendant who may be served within the district shall be filed until service has been made on one or more of the defendants so liable.

SEC. 10. The court shall establish the rules prescribing the time in which pleadings subsequent to the complaint shall be filed.

SEC. 11. Where the plaintiff in action to recover the possession of personal property, on a claim of being the owner thereof, shall fail to establish upon the trial such ownership, but shall prove that he is entitled to the possession thereof, by virtue of a special property therein, he shall not thereby be defeated of his action, but shall be permitted to amend, on reasonable terms, his complaint, and be entitled to judgment according to the proof in the case.

SEC. 12. When the evidence is closed, the plaintiff, by himself or one counsel, may argue the law to the court ; the defendant, by himself or one counsel, may address the court and reply to the plaintiff upon the law, and if he shall state new propositions, or cite new authorities, the plaintiff, or his counsel, may reply to such new points or new authorities ; the court shall then in writing, if required by either party, instruct the jury upon the law of the case, to which instructions either party may except and request other instructions, which exceptions and instructions shall be in writing. The court may then, in writing, if required by either party, modify its instructions, and the instructions, so modified, shall be placed on file and go the jury in their retirement, as the law of the case, to be afterwards retained on file with the papers in the case as a part of the record.

After the instructions of the jury, the plaintiff, by himself or one counsel, may address the jury upon the facts ; the defendant, by himself and one counsel, or by two counsel, may then address the jury ; the plaintiff, by himself or one counsel, may then close the case, and it shall go to



the jury without further instruction from the court: *Provided*, that if, after the jury shall have retired to consider of their verdict, they shall so desire, or the court shall desire it, they shall come into open court and may ask or receive further instruction on particular points in the case, which shall be given by the court, also in writing, if required by either party or the jury.

At any time before the jury return their verdict, either party may except to any part of the charge given by the court, or to the refusal of the court to give such instructions as are requested, which exception shall not be regarded by the supreme court unless they shall specify the parts excepted to.

SEC. 13. The auditor of each county shall keep in his office a well bound book, which shall be a public record, open to inspection at all reasonable hours, in which he shall enter, whenever a transcript of a judgment from the supreme or district courts, or an execution shall be presented to him for that purpose:

1st. The names at length of all the parties, plaintiffs and defendants.

2d. The date of the judgment, and against whom rendered.

3d. The amount, or nature of the judgment and costs.

4th. An abstract of the costs of each party, and to whom belonging, leaving room, in connection with each case, if practicable, to enter all the subsequent proceedings upon the execution, levies, sales, &c., and when a judgment is satisfied, he shall write across the face in large letters the word "satisfied."

SEC. 14. It shall be the duty of every sheriff, into whose hands an execution may come from the district or supreme courts, before he shall proceed to execute the same, to present it to the auditor of the county for record in the "execution docket." And he shall also present to the auditor for a like purpose, copies of all levies and proceedings made and had by him under and by virtue of said execution.

SEC. 15. Every judgment of a district court shall be a lien throughout the district upon real estate in the same manner as is now provided by law in case of counties for five years from the time it is rendered: *Provided*, that unless a certified copy of the judgment be lodged with the county auditor, or unless a copy of an execution directed to the sheriff of the county be presented to him for entry in his execution docket within twenty days after the close of the term at which it is rendered, the lien upon the real estate in that county shall be suspended until the judgment is so lodged for entry, or the execution so presented.

SEC. 16. Witnesses in civil causes pending before the district court, shall not be required to attend unless a sufficient time prior to the sitting

of the court to enable them to attend, they shall be served with a notice signed by the party or his attorney, requiring their attendance at the time and place specified, and shall also be tendered payment for one day's attendance and mileage, or such other compensation in lieu thereof as may be allowed for going to and returning from the place where the court is held.

SEC. 17. In all civil cases the testimony of a witness residing thirty miles or more from the place of holding the court may be taken by deposition, and any party may, by notice, require a witness to attend from any part of the district: *Provided*, that in all cases when the judge shall not decide that the personal attendance of the witness was necessary, and that his testimony could not properly be taken by deposition, the party calling the witness shall be liable for and pay all the mileage or travelling expenses of the witness for the distance beyond thirty miles from the place of holding the court, without regard to the final determination of the suit.

SEC. 18. The deposition of a witness out of the territory may be taken under a notice in the same manner that depositions are taken in this territory: *Provided*, that the place where such deposition is to be taken is not more than two hundred miles from the place where the court is held, or the party or counsel upon whom the notice is served resides.

SEC. 19. All process issuing out of the district court shall be directed to the sheriff of the county in which it is to be served, and be by him executed according to law.

SEC. 20. When there is no sheriff of a county, or he is disqualified from any cause from discharging any particular duty, it shall be lawful for the officer or person, commanding or desiring the discharge of that duty, to appoint some suitable person, a citizen of the county, to execute the same: *Provided*, that final process shall, in no case, be executed by any other person than the legally authorized officer, or in case he is disqualified, some suitable person, appointed by the court or judge thereof, out of which the process issues, who shall make such appointment in writing, and before such appointment shall take effect, the person so appointed, shall give surety to the party interested, for the faithful performance of his duties, which bond of suretyship shall be in writing, be approved by the court or judge appointing him, and be placed on file with the papers in the case.

PASSED, January 27th, 1857.

## AN ACT

## ENLARGING THE JURISDICTION OF PROBATE COURTS AND JUSTICES OF THE PEACE IN CRIMINAL CASES.

- Sec. 1. Monthly terms of the probate court for criminal business—when and where held.**  
 Constitution of the court.  
 Probate judge to preside.  
 Quorum of the court—adjournment if no quorum appears.  
 Continuance of cases on failure of quorum to be present.  
 No restriction of present jurisdiction of probate courts.
2. County auditor, ex-officio, clerk of said court.  
 His duties as clerk of said court.  
 Delivery of records, etc., to successor in office.  
 When shall make a transcript of record.  
 In cases of appeal to the district court.
  3. Sheriff to attend, and execute all process of the court.
  4. Said court to have a seal.
  5. Clerk to notify probate judge of criminal business.  
 The probate judge to notify the associate justices of the peace.  
 Venire for jurors to attend said terms.  
 No criminal term to be held without notice of business.
  6. Criminal jurisdiction of courts to extend only to misdemeanors.  
 Appeal from probate court to district courts.
  7. Court to fix the bail for appearance at district court.  
 To approve security and recognize witnesses.  
 Appeals from probate court to be treated as a new trial.  
 When case may go over to subsequent term.
  8. Clerk of probate court to certify all the proceedings and list of witnesses.
  9. Forfeiture of recognizances, how treated in district court.
  10. Jury in probate courts to consist of six.  
 Right of challenge, peremptory and for cause.  
 When court may summon talesmen.
  11. Punishment of jurors and witnesses failing to attend.
  12. Nature of complaint and amendment thereof.
  13. Fees of prosecuting attorney, when chargeable to county.  
 Such fees to be taxed in bill of costs, and liability for costs generally.
  14. Fees to clerk, sheriff, court, jurors and witnesses.

**Sec. 1.** *Be it enacted by the Legislative Assembly of the Territory of Washington,* That a regular term of the probate court shall be held at the county seat of each county on the third Tuesday in each month, for the transaction of such criminal business as may be brought before it under the laws of this territory. Such terms shall be called the criminal terms of the probate court. At such terms the court shall be composed of the probate judge and any two justices of the peace of the county, to be selected from term to term by the probate judge, or if there is but one justice of the peace in the county, then the probate judge and the justice shall constitute the court. The probate judge shall preside, and in case of an even division of opinion, his opinion shall prevail. The probate judge and

one justice shall constitute a quorum. Said court shall continue its sittings from day to day until the business before it is completed or continued. If there be no quorum in attendance on the day appointed by law for the commencement of the court, then it shall stand adjourned from day to day until the third day, and if on the third day a quorum does not appear, then it shall stand adjourned until the next regular term, and all cases pending in said court at its said criminal term, and all recognizances and appeals taken thereto, shall stand continued until the next regular criminal term, without prejudice to any person or party: *Provided*, that nothing in this section contained shall be so construed as to contract the jurisdiction already conferred by law on the probate court.

SEC. 2. The county auditor shall, ex-officio, be the clerk of said court at its "criminal terms," and in a well bound book, to be provided for that purpose, shall keep a full and perfect record of all the proceedings of said court at such terms. He shall also take a copy, which he shall retain on file, of all the testimony taken before said court at such term, and shall carefully preserve all books, papers and files committed to his charge, and deliver the same to his successor in office. He shall, on demand and tender of his fees, deliver to any person a certified copy of all records and papers in his custody as such clerk. On appeal taken to the district court, he shall transmit to said court the original copy of the evidence.

SEC. 3. The sheriff of the county shall attend upon the probate court at its criminal terms, and shall execute all process that may lawfully issue from it.

SEC. 4. Said probate court shall have a seal with such device as the court may determine.

SEC. 5. Whenever the clerk of said court shall be advised that there is any criminal business awaiting the action of said court at its criminal term, he shall cause a notice to that effect to be served by the sheriff upon the probate judge, informing him of the nature of the business,—whereupon the probate judge shall order the clerk to summon the particular justices of the peace, who shall be named by him, or the one justice, where there is but one in the county, to meet at the county seat at the time appointed for the next regular criminal term of the probate court, which shall occur three days or more after the date of the order; and the said clerk, at the time of issuing the order to the justices, shall also issue a venire commanding the sheriff to summon six good and lawful men of the county to serve as jurors at said term of the court, and shall also issue a subpoena for all witnesses who may be required by either party in any case to come before the court; and no criminal term of the probate court shall be held unless there is criminal business to come before it.

SEC. 6. The probate court at any criminal term thereof shall have

power to try all persons committed or held to bail charged with a misdemeanor, who by the laws heretofore in force might have been tried in the county, and all appeals in criminal cases from a justice of the peace, and such punishment to inflict as according to the law may be prescribed by the jury, subject to an appeal to the district court by the defendant who may feel himself aggrieved, in all cases where the fine exceeds one hundred dollars, or the imprisonment exceeds sixty days.

SEC. 7. In cases of appeal, the court shall fix the sum in which the defendant shall give bail, and shall approve of the sureties, and on failure of the defendant to give the sureties required, shall commit to the custody of the sheriff, to be safely kept until otherwise discharged by due course of law; the court shall also recognize, with or without security, witnesses on the part of the territory, who are present and whose testimony it deems material, and such witnesses as the defendant may require, who are present or can conveniently be brought before the court, and shall cause to be summoned such other witnesses as either party may require, if within the county, to be and appear at the next term of the district court, to be held within the district where the case shall stand, in all respects as if no trial had been had: *Provided*, that if the court are of the opinion that the witnesses and defendant cannot for want of time, conveniently attend at the next term of the district court, they shall be recognized to appear at the next term thereafter.

SEC. 8. Upon an appeal taken, it shall be the duty of the clerk to transmit to the clerk of the district court a copy of all the proceedings and the evidence in the case, with a list of the witnesses summoned or recognized upon each side.

SEC. 9. Every recognizance taken before the probate court at its criminal term shall be forfeited by the non-compliance of the party bound with its requirements. No formal forfeiture shall be necessary, but an entry thereof shall be made in the journals of the district court of the term when it occurs: *Provided*, that the court may suspend the enforcement of the same for a limited time, and for good cause may at that or a subsequent term remit the whole or part.

SEC. 10. The jury before the probate court at its criminal term, shall consist of six. The defendant and territory may each challenge two peremptorily, and any number for cause, to be determined by the court; and if at any time, by reason of challenges or from any other cause, there shall not be a sufficient number of competent jurors to try any case, the court may order a sufficient number to be summoned from the lawful jurors of the county.

SEC. 11. Jurors or witnesses duly summoned and failing to attend may be attached, and shall, unless excused by the court, be considered

guilty of a contempt and be fined in any sum not exceeding twenty-five dollars, and the court shall have the same power to punish for contempt as is allowed justices of the peace.

SEC. 12. No particular formality shall be required in framing a complaint. It shall be sufficient if it state in a plain manner substantially some offence within the jurisdiction of the court. It may be amended at any time before the case goes to the jury.

SEC. 13. No charges shall be made against the county for the services of an attorney before the court of probate at its criminal terms, unless such attorney was employed under the order of the court, and in that case such sum shall be paid as the court shall order, to be paid out of the county treasury and taxed in the bill of costs against the complainant, if he shall be liable for costs, and against the defendant if he be convicted.

SEC. 14. The clerk of the court shall have the same fees as are allowed the clerk of the district court for similar fees in territorial cases.

The sheriff shall have the same fees as are allowed for similar services.

The probate judge and justices of the peace shall be allowed the same pay and mileage as is allowed county commissioners.

The jurors and witnesses shall be allowed the same compensation as is allowed jurors and witnesses before justices of the peace.

PASSED, Jan. 27, 1857.

## A N A C T

### TO CONFER CIVIL JURISDICTION ON JUDGES OF PROBATE.

- SEC. 1. Concurrent civil jurisdiction to amount of \$500, conferred.
2. All criminal business to be disposed of first.
  3. Fees for services under this act.  
Practice similar to the present practice before justices of the peace.
  4. Justices of the peace not to sit in the trial of civil causes.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington,* That the probate courts of the several counties of this territory at their criminal terms, shall have concurrent jurisdiction in all civil causes when the amount in controversy shall not exceed five hundred dollars.

SEC. 2. At the terms of the probate court referred to in the preceding section, all criminal business that may be pending shall first be

dispensed of, and the court shall then proceed to hear and determine such civil causes as may be ready for trial.

SEC. 3. The judges of the probate courts shall receive the same fees for their services in civil cases as are allowed to justices of the peace for like services, and all laws now in force regulating the practice before justices of the peace, and the manner of taking appeals to the district court, shall apply to the probate courts so far as the same may be applicable.

SEC. 4. Nothing in this act shall be so construed as to allow justices of the peace to sit with the probate judge in the trial of civil causes.

PASSED, January 29, 1857.

## AN ACT

### TO PROVIDE FOR THE MANNER OF SELECTING AND PROCURING THE ATTENDANCE OF JURORS AT THE TERMS OF THE DISTRICT COURT.

- SEC. 1. County auditor to transmit to district clerk statement of number of jurors.  
When such statement shall be transmitted.
2. District clerk to submit statement of jurors to district judge.  
Apportionment by judge of jurors for each county.  
Grand jurors limited to sixteen—petit jurors to twenty-four.  
Clerk to transmit allotments to respective county auditors.
3. County commissioners, when and how shall select jurors.
4. Time and manner of summoning grand and petit jurors.  
One venire for grand and petit jurors.
5. Duties of sheriff in, and manner of summoning jurors.  
Manner of return of service to clerk of court.
6. Mandate to county auditor failing to comply with provisions of sect. 1.  
Mode of service and requisites of mandate.  
Penalty for failing to obey said mandate—how enforced.
7. Counties failing to return summons of jurors, proceeding against.  
When auditor and county commissioners liable to be summoned as jurors.  
Court may fill up panel by summons on any county in district.
8. Until apportionment, judges shall fix the allotment.  
Jurors to be summoned at least ten days before term.
9. Number of grand jury.
10. When court may discharge a grand juror, and fill the panel.
11. After discharge as grand juror, may serve as petit juror.
12. Attachment against juror failing to attend—fine for non-attendance.  
Writ of attachment not to issue till subsequent term.  
At subsequent term, juror may show cause for non-attendance.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington, That, upon the first Monday in May, in each and every*

year, it shall be the duty of every county auditor to transmit to the clerk of the district court of the district in which his county is situated, a statement of the number of qualified grand and petit jurors in his county.

SEC. 2. Upon the receipt of such statements, the clerk of the district court shall submit the same to the judge of the district, who shall determine the number of grand and petit jurors to be drawn from the several counties in the district, to attend at each term of the court for the year ensuing, and until a new allotment is made ; which number shall be proportioned to the whole number of qualified jurors in the district, and shall not exceed sixteen for grand jurors, and twenty-four for petit jurors, and, upon such determination, the clerk shall transmit, under the seal of the court, a copy of the same to the several county auditors.

SEC. 3. At the first meeting of the board of county commissioners, after the auditor shall have received the copy of the determination of the judge, he shall submit the same to the board of county commissioners, who shall select from the qualified jurors the number required to attend at each term of the court for the ensuing year.

SEC. 4. At least thirty days before the time appointed for the holding any term of the district court, the auditor shall issue a summons directed to the sheriff of his county, commanding him to summon the several persons who have been selected as jurors for that term, to attend as such jurors at the time and place appointed for holding the court, on the first day of the term. He shall embrace in one summons all those required for grand and petit jurors, specifying which are grand and which are petit jurors.

SEC. 5. It shall be the duty of the sheriffs of the several counties to call at the office of the county auditor, on or before the thirtieth day prior to the commencement of any term of the district court, and receive from said auditor the summons for jurors, which he shall forthwith serve ; and having endorsed thereon the time and manner of his service, he shall seal the same up, and, directing it to the clerk of the district court, shall immediately transmit it to him by mail or other safe opportunity.

SEC. 6. If the clerk of the district court shall fail to receive the statement mentioned in section one, within fifteen days after the first Monday in May, he shall issue a mandate under the seal of the court to the auditor of the county from which such failure occurs, commanding him forthwith to make and return such statement to his office, which mandate shall be directed to the sheriff of the county and be by him served and returned as other process is served and returned ; and every auditor who, after being duly served with such mandate, shall fail to comply with its command, shall be liable to an attachment for contempt, and may be fined



by the court in any sum not exceeding fifty dollars, and shall be liable to the costs of the attachment.

SEC. 7. If the clerk of the district court shall not receive from any county a return of the jurors summoned, fifteen days before the time appointed for the commencement of the term of the district court, he shall issue his summons to the sheriff of the delinquent county, commanding him to summon the requisite number of grand and petit jurors; which summons the sheriff shall forthwith execute, by summoning the requisite number of qualified jurors, and return as is hereinbefore provided: *Provided*, that if jurors have already been summoned, the sheriff shall return to said writ the names of those summoned, with the time and manner of the service: *And provided further*, that in case the failure has arisen from the neglect of the auditor or board of county commissioners to discharge the duties required of them by this act, they shall themselves be liable to be called as jurors, and shall be summoned by the sheriff. When, from any cause, there are not a sufficient number of qualified and competent grand and petit jurors in attendance, the court may order a sufficient number of qualified jurors to be summoned from any county or counties in the district.

SEC. 8. Until the apportionment and selection of jurors as provided in this act, the judges of the district court shall apportion to each county the number to be furnished by each county, and the clerk of the district court shall issue his summons to the sheriffs of the several counties, commanding him to summon from his county the requisite number of qualified grand and petit jurors, who shall be summoned at least ten days before the commencement of the term of court they are required to attend.

SEC. 9. The grand jury shall consist of not more than sixteen nor less than fourteen.

SEC. 10. In case of sickness, or for other good cause, the court may discharge one or more from the panel of grand jurors, and cause others to be empaneled in their place.

SEC. 11. After the grand jury shall have been discharged as a grand jury, it shall be discretionary with the court to require their attendance as petit jurors during the remainder of the term.

SEC. 12. Any juror, who shall have been personally served with a summons ten days before the term of the court which he is required to attend, and shall fail to attend without sufficient excuse, shall be liable to an attachment, and may be fined in any sum not exceeding fifty dollars: *Provided*, that no writ of attachment shall issue until the next term thereafter, and not then, if the delinquent juror shall, by affidavit or other proof, furnish a sufficient excuse.

PASSED, Jan. 27, 1857.

## A N A C T

TO ESTABLISH THE AMOUNT, AND PROVIDE FOR THE PAYMENT OF COSTS  
IN CERTAIN CASES.

- SEC. 1. Persons making complaints, when liable for costs.  
Costs imposed if complaint be frivolous or malicious.
2. In felony, when complainant is liable for costs.
3. Conviction carries costs of all proceedings had.  
Jury fee, amount of, and how collected.  
Application of said jury fee by clerk.
4. Costs in conviction for felony.  
Bill of costs, how made and approved.  
How credited by territorial treasurer.  
County auditor to notify county treasurer, and duty of said county treasurer.  
Court fund, duty of county treasurer in regard thereto.
5. Compensation of sheriff for conveyance of prisoner out of county.
6. Pay of juror or witness for attending court out of his county.
7. Jury fee in civil cases, when and by whom payable and how taxed.
8. Duty of clerk in compensation of jurors.  
Certificate to be given by clerk of amount unpaid each juror.  
Clerk to certify account of sheriff.  
Clerk to certify amount due witnesses.  
Witnesses to be paid by county where the case belongs.
9. Assessment and collection of taxes to be applied to maintaining prisoners, &c.  
Provisions for raising a court fund.
10. Liability of county for expenses of prisoners, jurors and sheriff.  
Costs to be approved by court, before county rendered liable.
11. When counties not liable for costs.  
County to furnish court house, jail, and expenses of courts.
12. Costs incident to conviction and forfeited recognizances to go to court fund.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington,* That every person making a complaint against another for a threatened breach of the peace or for a misdemeanor shall, in case the complaint is not sustained, or the defendant be finally acquitted, be liable for all the costs of the prosecution: *Provided,* That nothing in this section contained, shall be so construed as to impose costs upon any person making complaint, unless it shall clearly appear that the complaint is without foundation and frivolous or malicious.

SEC. 2. Every person making complaint against another for a felony, where the defendant is discharged or acquitted, shall be liable for the costs in case the court and jury, where the case is submitted to a jury, shall decide that the complaint is frivolous or malicious, as well as without foundation.

SEC. 3. Every person convicted of a crime or held to bail to keep the peace, shall be liable to all the costs of the proceedings against him,

including, when tried by a jury in the district court, twelve dollars for a jury fee, and when tried by jury before a magistrate or before the probate court, six dollars for jury fee, for which judgment shall be rendered and collection had as in cases of fines ; and the jury fee, when collected for a case tried by the district court, shall be paid to the clerk, to be by him applied as the jury fee in civil cases is applied.

SEC. 4. In all convictions for felony, forthwith after final sentence to the penitentiary, the clerk of the district court shall make out a cost bill in the case, which, after being approved by the judge, he shall certify under the seal of the court and transmit to the auditor of the county from which the defendant came ; said cost bill shall be by the county auditor transmitted to the territorial treasurer, who shall credit the county with the amount as so much paid on account of the territorial tax, and charge the same to the "penitentiary labor fund," and he shall transmit to the auditor of the county his receipt for the same. The auditor of the county shall notify the treasurer of the county of the amount of the cost bills by him transmitted, as above provided, from time to time, whereupon the treasurer shall transfer the amount from the amount of territorial tax in his hands, or hereafter to be collected, and credit the same to the court fund.

SEC. 5. Whenever the sheriff shall be required to convey a prisoner out of the limits of his own county, he shall be entitled to receive his actual and necessary expenses in transporting and maintaining said prisoner, in addition to his own mileage, or such other compensation as is provided in lieu thereof.

SEC. 6. Whenever a juror, witness or officer is required to attend a court, or travel on official business out of the limits of his own county, and entitled to mileage, in lieu thereof, he may, at his option, receive his actual and necessary traveling expenses by the usually traveled route in going to, and returning from the place where the court is held, or where the business is discharged.

SEC. 7. In every civil case before the district in which a jury shall render a verdict, the party, in whose favor the verdict shall be, shall, before the same is recorded, pay to the clerk the sum of twelve dollars as a jury fee, which may be taxed against the opposite party as a part of the costs, and no other jury fee shall be taxed in the case.

SEC. 8. At the close of each term of the district court, the clerk shall ascertain the amount due each juror for his mileage and per diem, and if there is any money in his hands belonging to the jury fund, he shall pay the same to the jurors in proportion to the amount due each juror, and shall give a certificate for the balance due each juror, which shall be a charge upon the county to which the juror belongs. And he shall also

certify the amount of fees that may be due to the sheriff of any other county than that in which the court is held, who may have attended the term, having a prisoner in custody, charged with, or convicted of a crime, or for the purpose of conveying such prisoner to or from the county, which, when approved by the court or judge, shall be a charge upon the county to which the prisoner belongs; and he shall also certify the amount which may be due witnesses attending from another county, in a criminal case for their fees, which, when approved by the court or judge, shall be a charge upon the county to which the case belongs, all of which shall be paid out of the "court fund."

Sec. 9. The county commissioners of each county shall, at their June session in each year, set apart a certain portion of the tax assessed for county purposes, which shall be sufficient to cover the expenses of the sheriff in maintaining prisoners charged with crimes, and conveying them out of the county, also his mileage or other compensation in lieu thereof, when required to travel out of the limits of his county, so far as the same is chargeable against the county; also, all the expenses of the district court, which it may devolve upon the county to pay, which portion shall be particularly specified on the assessment roll, and shall be collected in money, and called the "court fund," and shall be applied solely to the purposes for which it was raised.

Sec. 10. Each county shall be liable to pay the per diem and mileage, or other compensation, in lieu thereof, to jurors of the county attending the district court; the fees of the sheriff for maintaining prisoners, charged with crimes, and his costs in conveying them to and from the district court, as well as their board while there; the per diem and mileage, or such other compensation as is allowed in lieu thereof, of the sheriff of the county, when in criminal cases he is required to attend or travel to the district court, out of the limits of his own county; the cost in criminal cases taken from the county to the district court; all of which shall be paid out of the "court fund:" *Provided*, that none shall be so paid by the treasurer unless the particular items shall be approved by the judge, and certified by the clerk under the seal of the court; and, *provided further*, that, for the time or travel which may be paid by the parties, or United States, no payment from the county fund shall be allowed, and no officer, juror, or witness shall receive from the county double pay as a per diem for the same time, or as travelling expenses or mileage for the same travel, in however many different capacities, or in however many different causes they may be summoned, notified, or called upon to testify or attend in.

Sec. 11. The county in which the court is held, shall furnish the court house, a jail or suitable place for confining prisoners, books for record, stationery, lights, wood, attendance, and other incidental expenses of

the court house and court which are not paid by the United States, which shall be paid out of the "court fund" of that county.

SEC. 12. All costs collected against any person convicted for crime, and all sums collected on recognizances of persons accused, or of witnesses in criminal cases for fines and forfeitures, shall belong to the "court fund" of the county from which the case came.

PASSED, January 28, 1857.

## A N A C T

TO AMEND AN ACT ENTITLED, "AN ACT RESPECTING EXECUTORS, ADMINISTRATORS, AND THE DISTRIBUTION OF REAL AND PERSONAL ESTATE."

- SEC. 1. Amending law, so as to allow arbitration of claims against estate.
2. Amending law, and specifying entry of referee.
  3. Amending section 219 of act as to bond of agent.
  4. When agent shall proceed to sell estate.  
Receipts under this act to be in triplicate.
  5. Law of descent modified.  
When shall escheat to county.
  6. Amending clause 7—Section 244 of act, as to escheats.
  7. When venue of cases pending in probate court shall be changed.  
How case shall be transferred to another county.
  8. Proceedings to be valid in vacation as well as in term time.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington,* That section ninety-two, of the act to which this is amendatory, be so amended that it shall read: "If the executor or administrator doubt the correctness of any claim presented to him, he may enter into an agreement in writing, with the claimant, to refer the matter in controversy, to some disinterested person, to be approved by the probate judge. Upon filing the agreement in the probate court, the court shall enter a rule, referring the matter in controversy, to the persons so selected."

SEC. 2. That section ninety-three of the same act, be so amended that it shall read: "The referee shall thereupon proceed to hear and determine the matter, and make his report thereon to the court in which the rule for his appointment shall have been entered. The same proceedings shall be had in all respects, and the referee shall have the same pow-

ers, and be entitled to the same compensation, as if appointed by the district court. The court may set aside the report, and proceed to hear and determine the case, and the judgment of the court shall be valid and effectual in all respects."

SEC. 3. That section two hundred and nineteen of the same act be so amended that it shall read: "Such agent shall give bond to the county in which such estate shall be situated, to be approved by the probate judge, &c."

SEC. 4. That section two hundred and twenty of the same act, be so amended that it shall read: "When the estate shall have remained in the hands of the agent unclaimed for one year, it shall be sold under order of the court, and the proceeds, deducting the expenses of the sale, to be allowed by the court, shall be paid into the county treasury. When the payment is made, the agent shall take triplicate receipts, one of which he shall file with the county auditor, and another with the probate court: *Provided*, that if the said estate be real estate, the court may order the sale to be deferred for any period not longer than five years, and may authorize the agent to lease the same during such period, and if heirs appear and claim such estate, then it shall be treated as lands in the hands of an executor or administrator."

SEC. 5. That section two hundred and thirty-one of the same act, be amended in the third clause, that it shall read: "If he shall leave no issue, nor father, his estate shall descend to his mother, and if he shall leave no mother, then his estate shall descend in equal shares to his brothers and sisters, and to the children of any deceased brother or sister, by right of representation." And the eighth clause of the same section shall be so amended as to read: "If the intestate shall leave no kindred, his estate shall escheat to the county in which such estate shall be situated."

SEC. 6. That the seventh clause of the two hundred and forty-fourth section of the act to which this is amendatory, be so amended that it shall read: "If there be no husband, widow, or kindred of the intestate, the whole shall escheat to the county in which the estate shall be situated."

SEC. 7. That whenever, in the opinion of the probate court of any county, a good and sufficient reason shall be shown, making it expedient so to do, it shall be lawful for said court, on application, to transfer any case, pending before it on the settlement of any estate, or the accounts of any guardian to the probate court of any other county; and upon making such transfer, the court making it shall transmit to the said court to which the case is transferred, the papers and files, and a certified copy of the proceedings in the case.

SEC. 8. That letters of administration may be granted, inventory on account of sale returned, any time during term time, or vacation, and entered on record the same day that such grant or return shall be made.

PASSED, January 29, 1857.

## A N A C T

TO REGULATE THE GRANTING OF DIVORCES IN CERTAIN CASES.

SEC. 1. In cases of continued absence for five years, court may proceed without notice.

Not to apply where both parties reside in territory.

Complainant must have resided two years in territory.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington,* That in all applications to the district courts of this territory for a divorce where the complaint alleges the continued absence of the defendant for a period of five years or more, the court shall hear the cause without requiring notice to be given to the absent party by publication or otherwise. And if, upon the hearing of the cause, it shall be proven to the satisfaction of the court that the continued absence set forth in the complaint amounts to wilful abandonment of the complainant, the court shall thereupon grant an order of divorce as in other cases: *Provided,* that none of the provisions of this act shall apply to cases where both parties are known to be residents of this territory, or where the complainant shall not have resided two years in the territory.

PASSED, January 24, 1857.

## A N A C T

TO AMEND AN ACT ENTITLED, "AN ACT RELATING TO GAMING AND GAMING CONTRACTS.

SEC. 1. Section 3d of law amended, relating to betting.

2. Gambling at cards prohibited.

3. Prosecution for, and penalty of violating, this act.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington,* That the third section of the act to which this [is]

amendatory, be so amended that it shall read, "every person who shall bet any money, other property, thing or things, to represent value, &c."

SEC. 2. That section 4, of the act to which this is amendatory, shall be amended by inserting in the first line of said section after the word "bank," the word "cards," so that it shall read, "every person who shall suffer any gaming table, bank, cards or gambling device, &c."

SEC. 3. That section 6, of the act to which this is amendatory, shall be so amended as to read as follows: "Any person offending against the provisions of this act, may be punished by indictment and trial in the district court, the probate court at their criminal terms, or by a prosecution before a justice of the peace in the name, and for the use of the county where the offense shall have been committed. In all prosecutions before a justice of the peace where a fine shall be imposed, judgment shall be entered against the defendant for the amount of the fine and costs, including a fee of ten dollars for the prosecuting attorney.

PASSED, January 28, 1857.

## AN ACT

### TO PROHIBIT THE EMPLOYMENT OF, AND TRADE WITH NORTHERN INDIANS.

- SEC. 1. Employment and trade with Northern Indians, a misdemeanor.  
 Penalty for violation of this act.
2. Fines collected under this act to go to school fund.
  3. Justices of the peace clothed with jurisdiction.
  4. To take effect after February 15th, 1857.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington,* That any person, or persons, who shall hereafter, within the limits of this territory, employ, or retain in employment, or trade or traffic with any Indian, or Indians, belonging to any of the tribes generally known as the Northern Indians, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, be fined in any sum not exceeding one hundred dollars, to which may be added imprisonment, not exceeding thirty days, in the county jail of the county where the offense shall have been committed.

SEC. 2. All fines imposed on any person, or persons, by the provisions of this act, when the same shall be collected, shall be paid into the



treasury of the county where the offense shall have been committed, to be applied to the use of common schools.

SEC. 3. Justices of the peace shall have jurisdiction of all cases, arising under the provisions of this act, and shall have authority to impose fines to the full amount provided for in section first of this act.

SEC. 4. This act to take effect and be in force from and after the fifteenth day of February, 1857.

PASSED, January 23d, 1857.

## A N A C T

### DEFINING AND PRESCRIBING THE PUNISHMENT FOR THE CRIME OF HORSE STEALING.

- SEC. 1. Offense defined, and punishment prescribed.  
 2. Repealing section.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington,* That if any person shall steal any horse, mare, gelding, foal or filly, ass or mule, of any value, or if any person shall receive or buy any horse, mare, gelding, foal or filly, ass or mule, that shall have been stolen, knowing the same to have been stolen, with intent, by such receiving or buying, to defraud the owner, or if any person shall conceal any horse thief, knowing him to be such, or if any person shall conceal any horse, mare or gelding, foal or filly, ass or mule, knowing the same to have been stolen, every person, so offending, shall be deemed guilty of a felony, and upon conviction thereof, shall be imprisoned in the penitentiary, and kept at hard labor not more than ten, nor less than one year.

SEC. 2. All acts, or parts of acts conflicting with the provisions of this act, are hereby repealed.

PASSED, January 9th, 1857.

## A N A C T

## REGULATING BURYING GROUNDS, AND PLACES OF SEPULTURE.

- SEC. 1. General act of incorporation to associations to procure places of sepulture. Incidents of said corporations.  
To file articles with Secretary of Territory, and be recorded by county auditor.
2. Family lots exempt from taxation, attachment and execution.
  3. Towns may hold cemetery lands, procure hearse, pall, &c.  
May levy and collect taxes to support the same.
  4. Penalty for defacing and destroying tombstones, etc., trees, shrubbery, &c.
  5. Justices of peace and probate judges to have cognizance of offences under this act.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington,* That any number of individuals, in any portion of this territory, may associate for the purpose of procuring and establishing a burying ground or place of sepulture; and, being so associated, they shall, on complying with the provisions of this section, be a body politic and corporate; may choose a president and other officers, may enact by-laws for regulating the affairs of such corporation not inconsistent with the laws of this territory, and compel the observance thereof by suitable penalties; may sue and be sued, and do all acts necessary and proper for the well ordering of the affairs of such corporation: *Provided,* that, before any such association shall be entitled to the privileges granted in this section, they shall lodge with the Secretary of this territory a copy of their articles of association, and shall also cause the same to be recorded in the records of the county where such burying ground is situated.

SEC. 2. Whenever any part of such burying ground shall have been designated and appropriated by the proprietors thereof as the burying place of any particular person or family, the same shall not be liable to be taken or disposed of by any warrant or execution, for any tax or debt whatever; nor shall the same be liable to be sold to satisfy the demands of creditors whenever the estate of such owner shall be insolvent.

SEC. 3. Each and every county, town or city, shall have power to provide a hearse and pall for burial of the dead, and to procure and hold lands for burying grounds, and to make regulations and fence the same, and to preserve the monuments erected therein, and to levy and collect the necessary taxes for that purpose, in the same manner as other taxes are levied and collected.

SEC. 4. Every person who shall wilfully and maliciously destroy, mutilate, deface, injure or remove any tomb, monument, gravestone or other structure, placed within any cemetery, grave yard, or place of public bu-

rial, or any fences, railing, or other work for the protection or ornament of any tomb, monument, grave stone, or other structure aforesaid, or shall wilfully and maliciously destroy, remove, cut, break or injure any tree, shrub, or plant, within any cemetery or grave yard, shall be punished by fine, in any sum not exceeding one hundred dollars.

SEC. 5. Justices of the peace and judges of probate shall have cognizance of all offences violating the provisions of this act.

PASSED, January 27th, 1857.

## AN ACT

TO AMEND AN ACT CREATING THE OFFICE, AND DEFINING THE DUTIES OF TERRITORIAL AUDITOR. "54/408"

- SEC. 1. Territorial librarian to be *ex officio* territorial auditor.  
Liabilities, compensation, and duties of.
2. Repealing clause.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington*, That the territorial librarian shall be *ex officio* territorial auditor, and shall perform all the duties, and be subject to all the liabilities now provided by the law creating the office, and defining the duties of territorial auditor, and shall receive an annual salary of twenty-five dollars, to be paid out of the territorial treasury, for such services in addition to the salary now allowed by law to the territorial librarian, but shall, in no event, be allowed compensation for office rent, lights, or fuel, as territorial auditor.

SEC. 2. That all acts, or parts of acts, conflicting with the provisions of this act, are hereby repealed.

PASSED, Jan. 28, 1857.

**A N A C T**

**TO AMEND AN ACT ENTITLED, "AN ACT RELATIVE TO PROSECUTING ATTORNEYS."**

**SEC. 1.** *Be it enacted by the Legislative Assembly of the Territory of Washington,* That section eight, (8) of the act of which this is amendatory, be, and the same is hereby repealed.

**PASSED, January 24th, 1857.**

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**A N A C T**

**RELATING TO NOTARIES PUBLIC.**

**" Powers extended to all the counties of judicial district in which they belong."**

**SEC. 1.** *Be it enacted by the Legislative Assembly of the Territory of Washington,* That notaries public may exercise all the powers that are conferred upon them by law, or may hereafter be conferred upon them, in any county of the judicial district to which they belong.

**PASSED, January 26, 1857.**

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**A N A C T**

**TO MORE SPECIFICALLY DEFINE THE POWERS AND DUTIES OF COUNTY COMMISSIONERS IN CERTAIN CASES.**

- SEC. 1.** Power to levy special tax, prohibited.
2. Erection of county buildings to be submitted to popular vote, and manner thereof.
  3. County commissioners may erect buildings, if surplus in treasury.

**SEC. 1.** *Be it enacted by the Legislative Assembly of the Territory of Washington,* That the board of county commissioners of the several counties in this territory, shall have no power to levy a special tax for county purposes, except in the manner hereinafter provided.

SEC. 2. When, in the opinion of the commissioners of any county, the public good requires a court house, jail, or other county building, they shall estimate the cost thereof, and submit the same to the people of their county at the next annual election, (notice thereof being given at the same time and place as for other elections,) when, if a majority of the qualified voters of such county, shall vote in favor of such special tax, the commissioners shall assess and cause to be collected such tax in the same manner as other county taxes are collected.

SEC. 3. Nothing in this act shall be so construed as to prevent the county commissioners of any county from erecting any such court house, jail, or other county building, when there is in the treasury of their county a surplus fund sufficient for the erection and completion of such county buildings.

PASSED, January 23d, 1857.

## A N A C T

TO AMEND AN ACT ENTITLED, "AN ACT TO INCREASE COUNTY REVENUE."

- SEC. 1. Petition for license to sell liquors, to be signed by majority of adults of precinct.
2. Rate of license fixed at \$300 per annum.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington,* That section fourth, of the act to which this is amendatory, be so amended that it shall read: "*Provided,* that said commissioners shall, in no case grant any license for the sale of intoxicating liquors, until the applicant shall have presented a petition praying such grant, signed by a majority of all the adult white inhabitants of the election precinct wherein such grocery is to be located."

SEC. 2. Any person obtaining license to keep a grocery, shall, at the time of obtaining such license, pay into the treasury of the county in which said grocery is to be kept, the sum of three hundred dollars for each year.

PASSED, January 28th, 1857.

## A N A C T

TO AMEND AN ACT ENTITLED, " AN ACT APPOINTING COMMISSIONERS TO SELECT A SITE, AND SUPERINTEND THE CONSTRUCTION OF THE PENITENTIARY OF THE TERRITORY OF WASHINGTON."

- SEC. 1. Premium authorized for the best plan of penitentiary.
2. Commissioners to adopt plan—names of, and duties.
3. Notification of commissioners on plans—notice to, and how given.
4. Adoption of the plan.
5. Penitentiary to be erected in accordance with said plan.
6. Compensation of commissioners under this act.

SEC. 1. *Be it enacted by the Legislative Assembly<sup>1</sup> of the Territory of Washington,* That when an appropriation shall be made by congress for the erection of a penitentiary in this territory, it shall be the duty of the commissioners appointed by the act of which this is amendatory, to proceed to issue proposals for plans and specifications for said penitentiary, offering a premium of two hundred and fifty dollars for the best plan and specification that may be offered within five months after the proposals are published, or the one that may be adopted by the persons authorized by the provisions of this act, to decide upon and adopt the same.

SEC. 2. That the following named five persons, together with the commissioners for erection of penitentiary, shall be constituted a board of commissioners to examine the plans and specifications that may be presented, viz: Columbia Lancaster, O. B. McFadden, William M. Simmons, George Harts and Seth Catlin, and they shall have full power to decide upon and adopt the plan and specifications for the penitentiary out of those which may be submitted to them, and they shall also have full power to reject all the plans that may be submitted, if, in their opinion, it is for the public interest to do so: *Provided,* that if all the plans submitted be rejected, they shall decide which is entitled to the premium that may be offered for the best plan submitted, and it shall then be the duty of the commissioners for the erection of the penitentiary, to issue new proposals for plans and specifications to be submitted for their adoption in the same manner as the first were submitted.

SEC. 3. It shall be the duty of the commissioners, appointed to superintend the erection of the penitentiary, as soon as all the plans and specifications are received, to notify the above named five commissioners to assemble at Vancouver, giving them at least ten days' notice of the time at which to assemble.

SEC. 4. It shall be the duty of the commissioners, appointed by this act, to assemble at Vancouver at the time specified, and, after being duly sworn to faithfully and impartially discharge the duties imposed on

them, to proceed to examine all the plans and specifications offered, and a majority of the commission may adopt a plan and specifications for the penitentiary, and the plan so adopted, shall be the plan by which it shall be built.

SEC. 5. When they shall have adopted a plan and specifications, they shall notify the commissioners appointed to superintend the erection of the penitentiary, and deliver the plan and specifications adopted, to said commissioners, and they shall proceed at once to the erection of the penitentiary according to said plan and specifications, as provided in the act of which this is amendatory.

SEC. 6. The commissioners appointed by this act, shall each receive three dollars per day for all time necessarily spent in such services, and the same rate of mileage as is allowed to members of the Legislature, to be paid out of the fund appropriated for the erection of the penitentiary, and all expenses of advertising premiums, and other expenses necessary to carry out the provisions of this act, shall be paid out of the same appropriation.

PASSED, January 24, 1857.

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## A N A C T

ADDITIONAL TO AN ACT TO AMEND AN ACT ENTITLED, "AN ACT ESTABLISHING A COMMON SCHOOL SYSTEM FOR THE TERRITORY OF WASHINGTON."

- SEC. 1. Section 7 of the act of 1854, amended.
2. Section 8, of the act of 1854 amended.  
When district entitled to apportionment of school fund.
3. Directors may be competent judges of qualifications of teachers.
4. Section 9, chapter 4, of act of 1854, amended.  
Forfeiture by district of its share of school fund.
5. Relative to shares undrawn of fund of 1855 and 1856.
6. Repealing clause, and qualification amended.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington,* That section 7, chapter 4, of the acts of 1854, be amended by striking out the seven last words, and so as to read: "That no school district shall be allowed to draw its apportioned county school fund from the treasury, until it shall raise an amount by tax, or otherwise,

in said district, to be expended in paying teachers or building school houses in said district, nor until it shall satisfy the county superintendent that a school has been kept in the district by a qualified teacher for at least three months."

SEC. 2. That section eight, chapter four, of the acts of 1854, be so amended as to read: "When the clerk of any school district shall satisfy the county superintendent that any amount has been raised by tax, or otherwise, in his district, for the support of teachers, or building school houses, and that a school has actually been kept by a qualified teacher, as provided for in the preceding section, the superintendent shall issue an order on the county treasurer in favor of the clerk of such district, for an amount equal to that raised by the district, if that amount of county school funds be in the treasury to the credit of such district."

SEC. 3. School directors may be competent judges of the qualifications of the teachers in their respective districts, and a certificate from the board of directors of any district shall be sufficient evidence of the qualifications of teachers employed by them.

SEC. 4. That section nine, chapter four, of the acts of 1855, be so amended as to read: "Any district failing to comply with the provisions of the preceding sections, for the term of three years after any apportionment, shall forfeit its apportionment, and the amount thereof shall be again added to the county school fund, and divided again among all the districts.

SEC. 5. *And be it further enacted,* That any district, which has failed to comply with the provisions of the 5th section, chapter 4, of the acts of 1854, to which this is amendatory, or any other act, or part of acts, shall not forfeit their apportionment for the years 1855 and '56; but the amount to which such delinquent districts were entitled, shall be set apart as the regular apportionment for such districts for the year 1856."

SEC. 6. All acts and parts of acts conflicting with the provisions of this act, are hereby repealed: *Provided,* that nothing in this act shall be so construed as to be in conflict with the provisions of section third, of the "act to amend an act entitled, 'an act establishing a common school system for the territory of Washington,'" passed, January 26th, 1855.

PASSED, January 20th, 1857.



## A N A C T

IN RELATION TO THE CONSTRUCTION OF ROADS AND HIGHWAYS, AND  
DEFINING THE DUTIES OF SUPERVISORS OF HIGHWAYS.

- Sec. 1. County commissioners to exercise jurisdiction over county roads.
2. At regular term of county court, roads may be established altered or vacated.
3. Provisions for establishment, alteration, or vacation of county roads.  
Notice and petition, requisites of.
4. County auditor to keep road book—how kept.  
Roads to be entered and recorded before declared.  
Road book to be a public record.
5. What road book shall contain.
6. Claims for damages for opening, altering roads, &c.  
When complaint against commissioners shall be dismissed.
7. Width of county roads.
8. When supervisor may expend labor on territorial road.
9. Petitioners for roads, liable for work thereupon.
10. Roads located shall be marked but not surveyed ; exception.
11. When and how road may be turned by owner of land over which it passes.  
Costs of such alteration to be paid by petitioners.
12. Manner of locating private roads.
13. Report of viewers of private roads.  
Damages of parties aggrieved and appeal.
14. Assessment of damages caused by location of territorial roads.  
Damages to be paid by county where road lies.
15. Territorial road declared public highway, and how and by whom repaired.
16. Duties of road supervisors.  
Election of road supervisors—qualification and term of office.  
Special elections, when and how to be held.
17. Penalty for supervisor failing or refusing to act.  
No supervisor compelled to act two successive years.
18. County auditors may appoint supervisors to fill vacancies.
19. County commissioners at June term to fix road districts.  
Road districts to be recorded by auditor.
20. Supervisors to make lists of parties liable for road tax and labor.  
Requisites of list, and when to be made.
21. County commissioners to levy and assess road tax at June session.  
Poll tax nine dollars, and twenty-five cents on every hundred dollars.
22. Who shall be liable for road tax.  
Supervisor failing to notify, does not exempt party from road tax.
23. Person liable may employ substitute.
24. Persons notified proving delinquent—penalty.  
Having worked in other road district for the same year, sufficient excuse  
for delinquency.
25. Supervisor to open and keep in repair all roads laid out according to law.  
May purchase necessary tools, &c.  
May enter adjacent land and carry away earth, trees, &c.  
May buy timber, plank and material.  
May commute road tax for materials, etc.
26. May enter upon land adjacent and make ditches, &c.  
Penalty for obstruction of ditches.
27. Collection of damages for supervisor carrying away materials, &c.

28. Obstruction of roads and damages to bridges by falling timber.  
Supervisor to cause removal of obstruction and repair of bridge.  
Person causing such obstruction or damage, liable for expense.
29. Person performing more labor than due, credited next year.
30. Accounts to be kept by supervisor, and mode of settlement.
31. Supervisor to give certificate of performance of labor, or taxes paid.  
Requisites of said certificate.
32. Certificates to be received at par by county treasurer.  
When county treasurer shall add ten per cent. on tax assessed.
33. Supervisor neglecting duty or giving false certificate—penalty.
34. Omission or neglect to place persons on list—how corrected and supplied.
35. Guide and finger board to be placed at crossing of roads.  
Supervisor to be allowed expense thereof.
36. Compensation allowed by county commissioners to road supervisors.
37. County auditor not to add any per cent. to unpaid road tax.  
Sheriff, auditor and treasurer, not allowed any fees out of road fund.  
Levies by sheriff, officer entitled to same fees as in other cases.
38. Commissioners may cancel tax improperly assessed.  
May also exonerate supervisors and sheriff from collection.
39. Road fund to be paid over to county treasurer and subject to order of county commissioners.  
When payable into the county fund.
40. County commissioners at June term to appertion road fund.
41. Form of certificate of discharge by road supervisor.
42. Repealing clause.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington,* That the board of county commissioners of each county, shall have the sole and conclusive jurisdiction over county roads within their respective counties, subject to such appeals to the district court, and such rules and regulations as may be prescribed by law.

SEC. 2. At any regular meeting, said board may establish, alter or vacate county roads, and cause the same to be laid out, marked or surveyed, and worked and opened, as they shall deem most for the public interest.

SEC. 3. They shall not establish, alter, or vacate any road, unless they shall be satisfied that at least twenty days' public notice has been given of an intention to apply to said board for such alteration, or to vacate said road, with notice of the time when the application will be made, by posting at least three written or printed notices in three of the most public places in the county, one of which shall be at the county seat, and two in the two most public places in the vicinity of the road proposed to be altered or vacated; and at least a majority of the citizens in the district through which said road is located, and in favor of such alteration.

SEC. 4. The board of county commissioners shall cause their clerk to enter in a well bound book, their action upon all roads which they shall establish, alter, or vacate, which book shall be called the "Road Book" of the county; in which book all the records concerning the roads at present established in the county, shall be entered; and no county road

hereafter altered or established shall be opened until the same shall be fully recorded in said road book. Said road book shall be a public record, and be kept in the office of the clerk of the board of county commissioners, and shall be open to the inspection of the public.

SEC. 5. Said road book shall contain the petition, if any, the report of the viewers, a description of the road, with a copy of the survey, if any has been made, and a copy of all claims for damages on the part of any person claiming to have been affected by the location, vacating, or altering of said road, together with all the orders and proceedings of the board touching the same.

SEC. 6. Any person claiming to have been injured by the action of the board of county commissioners, upon any county road, may, within six months after the action complained of, file his complaint against the board of county commissioners, in the district court having jurisdiction over the county, setting forth a full copy of the record, and specifying in what respect he has been injured, of which complaint similar notice shall be given; and the same shall be verified, tried, and determined as is provided in civil actions: *Provided*, that if it shall appear that the party complaining had actual notice of the intended action of the board upon such road, in time to have appeared and presented his claim to said board, and did not so appear and present his claim, or having appeared, took no exception to the action of the board; or having been tendered a reasonable amount of damages, refused to accept the same, or has acted in any other respect, contrary to good faith, then his complaint shall be dismissed.

SEC. 7. County roads shall be sixty feet in width, unless the county commissioners shall, upon the prayer of the petitioners for the same, determine on a less number of feet in point of width.

SEC. 8. In any road district embracing a territorial road within the district, the supervisor of roads may, if the public benefit require it, expend a part of the labor due in his district on said territorial road or roads, beyond the bounds of the county or district in which he is appointed: *Provided*, that such portion of territorial road so worked shall not be included in a road district of the adjoining county, or is so situated that there will not be sufficient labor in the adjoining road district to do the necessary work on said territorial road.

SEC. 9. Any person signing a petition to the county commissioners of any county, asking to open any new road, or to make any alteration in any established road requiring labor thereon, shall be required to perform or furnish two days' labor on such new road or alteration, if the petition be granted.

SEC. 10. Every territorial and county road hereafter to be located,

shall be viewed and plainly marked throughout, but shall not be surveyed except the act locating such road shall expressly require it.

SEC. 11. If any person or persons, through whose lands any public highway is or may be established, shall be desirous of turning such road through any other part of his or their lands, such person or persons may, by petition, apply to the commissioners of the proper county, to permit him or them to turn such road through any other part of his or their land, on good ground, and without materially increasing the distance, to the injury of the public ; and on the receipt of such petition, accompanied by a sufficient bond to pay the costs and expenses to be incurred thereby, the commissioners shall appoint three disinterested householders as viewers, and a surveyor, who, or a majority of such viewers, shall proceed to view the ground over which the road is proposed to be turned, and ascertain the distance such road will be increased by the proposed alteration, and make out a report in writing, stating the several distances so found, together with their opinion as to the utility of making such alteration ; and if the viewers, or a majority of them, shall report to the commissioners that the prayer of the petitioner or petitioners are reasonable, and that the proposed alteration will not place the road on worse ground, or materially increase the distance, to the injury of the public, they shall order the same to be so altered ; and upon receiving satisfactory evidence that the proposed new road has been opened a legal width, and in all respects made equal to the old road for the convenience of travelers, the commissioners may declare such new road a public highway, and make record thereof, and at the same time vacate so much of the old road as is embraced in the new, and the person or persons petitioning for the alteration, shall pay all the costs and expenses of the view, survey, and return of such alteration.

#### OF LOCATING PRIVATE WAYS.

SEC. 12. Any person whose land shall be so situated that it has no connection with any public road, may make application in writing, to the board of commissioners of his county, at a regular 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, faithfully and impartially to discharge the duties of their appointment, and after at least three days' notice given to all persons through whose land such private road is to be located, such viewers shall proceed to locate and mark out 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 said private road is located ; and they shall also at the same time, assess the damages sustained by the person or persons owning such land.

SEC. 13. 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 recorded 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 cases of county roads.

#### OF THE MANNER OF ASSESSING DAMAGES ON TERRITORIAL ROADS.

SEC. 14. When any person, through whose land 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 plat 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. 15. When any territorial road shall have been located according to the provisions of this act, 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.

#### OF THE DUTIES OF SUPERVISORS AND COMMISSIONERS.

SEC. 16. That the supervisor of each road district in this territory, shall at least ten days before the first Monday in April of each year, cause three written notices to be posted up in three conspicuous places in his road district, giving notice that there will be an election held in such district on the first Monday in April, at two o'clock in the afternoon, at some convenient place in said district, to be specified in said notice, for the purpose of electing a road supervisor for said district, for the next

succeeding year ; at which election the old supervisor shall act as chairman of the meeting if present, if not, a chairman shall be elected by the voters present ; the meeting shall also elect a secretary, who shall record the proceedings of the meeting, and all persons in the district who are required to labor on the roads, or who have road taxes to pay, may vote at such election, and the person having the highest number of votes shall be considered duly elected supervisor for that year, and shall act as such until his successor is elected or appointed, and duly qualified : *Provided, however,* from any cause there be no election on the first Monday, the supervisor, or any tax payer of the district, may call a special election, by giving notice as provided in this section, which election to be held within one month from the first Monday in April. And it shall be the duty of the chairman and secretary of such meeting called to elect a supervisor, to notify the county auditor in writing, by or before the regular meeting of the board of commissioners of the county, that the district has elected a supervisor, and give his full name.

SEC. 17. Any person having been elected or appointed supervisor, and failing to act as such, shall forfeit and pay the sum of ten dollars, and the county auditor shall collect the same and pay over to the county treasurer, or return such delinquent to the county commissioners, who shall assess the amount against such person on the tax list, to be collected as other road taxes : *Provided,* no person shall be bound to act in the capacity of supervisor two successive years.

SEC. 18. That if any vacancy shall happen in the office of supervisor by death, removal from the district, or disability in the supervisor to act, or when there has been no election of supervisor, the county auditor, on being notified of such vacancy, in writing, shall appoint some suitable person who is liable to perform labor on the roads in said district, and cause him to be notified in writing, whose duty it shall be to attend before some person authorized to administer oaths, within five days from such appointment, and take the oath of office, and enter upon the duties of his office ; and he shall remain in office until a successor is elected and qualified.

SEC. 19. The county commissioners shall, as often as they may deem necessary, but not oftener than once in a year, (at their June term,) divide their respective counties, or any parts thereof, into suitable and convenient road districts, and cause a brief description of the same to be entered on the county records.

SEC. 20. It shall be the duty of every supervisor, on or before the fifteenth day of May of each year, to obtain a correct list of the names, and make out, in alphabetical order, a list of all persons liable to perform labor on the public roads, or that are liable to pay a property tax, des-

ignating those over fifty years of age, and those who are too infirm to labor on the roads, and to forward such list to the county auditor, prior to the regular session of the board of county commissioners in June.

SEC. 21. It shall be the duty of the board of county commissioners of the several counties in this territory, at their June session, to levy and assess a road tax of nine dollars on every person liable to perform labor on the public roads, and also to assess twenty-five cents road tax on every one hundred dollars of the valuation as returned by the county assessor, which tax shall be collected with the county and territorial tax, and in the manner hereafter described, which shall constitute a road fund ; and the county auditor shall, immediately after the June session, furnish each supervisor of road districts with an abstract or duplicate of the taxes so assessed for road purposes in his road district.

SEC. 22. Every white male inhabitant between the age of twenty-one and fifty years of age, except persons who are a public charge, or who are too infirm to perform labor, shall be liable in each and every year to do and perform three days labor on the public roads, or pay a road tax as provided in this act ; the supervisor of every road district shall give every person within his road district, liable to perform labor on the roads, or who are liable to pay a road tax, at least three days notice of the time and place to appear, which notice may be in writing, or otherwise, and by the supervisor in person, or by his direction, the supervisor shall also notify every person within his road district, the amount of road tax assessed against such person, and such notice shall be given between the first day of June and the first day of August, annually : *Provided*, that if from any cause the supervisor shall fail, or neglect to give notice as required by this section, it shall be lawful to notify such person or persons as soon as the neglect is discovered.

SEC. 23. Whenever it shall happen, in consequence of sickness, absence from home, or any other good cause, the person liable to perform work or to pay a road tax, does not attend in obedience to the notice of the supervisor at the time and place appointed, such person may tender his services, by himself or a sufficient substitute, to perform the labor required to pay the tax assessed ; and in such case the supervisor shall employ such person, or his substitute, at another time.

SEC. 24. Every person notified to labor on the public roads under the provisions of this act, or who are not exempt by the provisions of this act, who does not produce the certificate of the supervisor of some other road district, showing that such person has worked out his road tax for that year in this territory, shall be required to appear at the place appointed by the supervisor, at the hour of seven o'clock in the forenoon,

with such necessary tools and implements as said supervisor may direct ; and on failure of such person to appear at the time and place as aforesaid, and no good cause being shown for such delinquency, the supervisor shall return such fact : and the treasurer and sheriff shall demand of every person who have not paid their road tax in labor, the additional sum of ten per cent, on such road tax.

SEC. 25. The supervisor 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 district, in the purchase of plows, scrapers, or other implements which he may think proper, and to enter upon any lands adjoining or near the public road, and 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 or plank, or other materials, necessary for making or repairing any public road in his district ; and the supervisor has the authority to commute any labor due on his tax duplicate, for materials or tools necessary for his use on the public road, to the amount of tax against any individual, and shall give such person a certificate showing the transaction, and such certificate shall be received for taxes.

SEC. 26. And the supervisor shall have the right to enter upon any lands near, or adjoining any public road in his district, and to cut, open, or dig, any drains or 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 said drains or ditches so made, shall forfeit and pay the sum of twenty dollars for each offence, to be recovered by the supervisor of the district before any justice having jurisdiction, for the use of the district.

SEC. 27. If any person shall feel aggrieved by the acts of a supervisor cutting or carrying away timber or stone, as aforesaid, he may make complaint, in writing, to the county commissioners, at any regular session, within six months after the cause of such complaint shall exist ; and such commissioners shall proceed to determine and assess the damages, which may be paid out of any funds in the treasury, accruing out of penalty for a violation of any provision of this act.

SEC. 28. 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 travelers, the supervisor of the road district, upon being notified thereof, shall forthwith cause such obstructions 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 obstructions, or repair such bridge: *Provided*, that if such obstruction or damages to any road or bridge, be caused by any person or persons, clearing land adjacent to said road or bridge, that they shall be liable for the expense of removing such obstruction, and repairing said road or bridge, and the road supervisor shall authorize said person or persons to remove said obstruction, or repair said bridge, or said supervisor shall proceed to have it done at the proper cost of said person or persons, and the cost of such work shall be recoverable before a justice of the peace, or any court having competent jurisdiction, by civil action in the name of said supervisor; 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 twenty-fourth section of this act.

SEC. 29. In all cases, where 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, and 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.

SEC. 30. 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 the county commissioners; and, also, an account of his expenditures as supervisor during his term of office: and such supervisor shall present his account to the board of commissioners for settlement, at their June session in each year, and shall pay over to the county treasurer all moneys remaining in his hands as such supervisor, taking his receipt therefor. And if any supervisor shall fail to appear and make a settlement as required by 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. 34. The supervisor shall give every person, who labors on the public roads, under his direction, a certificate, certifying to the amount of labor performed by such person, at the rate of three dollars per day, for every day's work; which certificate shall state the precise amount of labor such person has performed, and such certificate shall be received by the tax collector at par value, to the full amount of road tax charged against such person; but such certificates shall not be assignable, nor shall they be received from any person for a greater amount in any one

year, than sufficient to cancel or discharge the road tax or taxes against such person.

Sec. 32. The certificates of the several supervisors, shall be received by the county treasurer at par value, in discharge of any road tax against the person in whose favor such certificate was given, but the treasurer shall add ten per cent. to such road tax if paid in any way except by the certificate of the supervisor.

Sec. 33. If any supervisor of roads, shall neglect or refuse to perform any of the duties enjoined on him by this act, or shall, under any pretense whatever, give or sign any certificate purporting to be a certificate of labor performed, unless such labor has actually been so performed, prior to the giving or signing such certificate, shall forfeit and pay for every such offense, not less than twenty, nor over one hundred dollars, for the use and benefit of roads in the county, to be recovered before any justice having jurisdiction.

Sec. 34. Whenever the supervisor of any district shall, from any cause, have neglected or omitted to place on his list any person within his district, or when it shall happen, from any cause, that a name or names are omitted, or left off the list, which of right, should be on such list, in such case, it is made the duty of such supervisor to place such person, or persons, upon such list, at any time within his term of office, and assess the amount which the commissioners would have had the right to have assessed, which assessment shall, in all respects, be as valid, as if made in due time, and furnished to such supervisor by the board of county commissioners, and the supervisor shall receive such labor, and give certificate as in other cases.

Sec. 35. Every supervisor shall erect, and keep 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; and the county commissioners shall allow the supervisor the amount expended by him for such purpose out of any moneys belonging to the road fund, as they may deem proper.

Sec. 36. The county commissioners shall allow the supervisors of highways, what may seem to them reasonable and just, for all extra labor performed by them, not exceeding three dollars per day.

Sec. 37. The county auditor, when he receives any tax roll from the county treasurer, shall not add any per cent. to the unpaid road tax; and the county treasurer, county auditor, and sheriff shall not be allowed any fees out of the fund: *Provided however*, the sheriff levies upon and sells property in the collection of the road tax, he may charge and collect of such person the same fees as in other cases, and may demand of [those]

who pay their road tax in money, ten per cent. in addition to the amount assessed by the county commissioners.

Sec. 38. The commissioners shall have power to cancel or strike from the tax roll any road tax which they believe to have been improperly assessed, and they shall exonerate the sheriff or supervisor having the collection of any road tax which, in their opinion, cannot be collected.

Sec. 39. The sheriff or collector of taxes, shall pay over all moneys which he has collected, belonging to the road fund, to the county treasurer, and such treasurer shall hold such road money subject to the orders of the county commissioners; and that portion of the road tax which may stand charged and unpaid against lands on the first day of January, shall be transferred to the county, and go into the county fund.

Sec. 40. The county commissioners shall, at their June session, apportion to the several road districts their amount of road money which may have been collected by the treasurer, sheriff, or other officer, and the supervisors shall receive the same, and lay out such money in the improvement of roads in his road district.

Sec. 41. The following form of certificate shall be observed by supervisors of road districts, as far as the same may be applicable :

I hereby certify that (A. B.) has performed labor on the public highways in \_\_\_\_\_ county, Washington Territory, under my direction, to the amount of \_\_\_\_\_ dollars, and \_\_\_\_\_ cents, in discharge of (or say in part payment,) of his road tax for the year 18—.

Dated at \_\_\_\_\_, the \_\_\_\_\_ day } D. C.,  
of \_\_\_\_\_, 185—. } Sup. Road Dist. No. \_\_\_\_\_.

Sec. 42. All acts or parts of acts, inconsistent with the foregoing act are hereby repealed. This act to take effect and be in force from and after its passage.

PASSED, Jan. 28, 1857.

## AN ACT

### RELATIVE TO THE CONSTRUCTION OF STATUTES.

Construction of words implying the singular or plural.

Construction of words implying "gender."

Person may mean "United States," "Territory" "State," when necessary.

"Officer" shall include any person discharging duties of officer.

Sec. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington, That in any law of this territory, now in force, or hereafter*

to be enacted, every term implying one only, shall, when required, be construed to mean two or more, and every term implying two or more, shall also be construed to mean, when required, but one, except in cases where the number is a substantive part of the act ; and every term implying sex, shall, with a like exception, when necessary, be construed to mean both, either, or neither.

Whenever the term "person" is used to denote the party to a suit, or the party whose property is the subject of the action, or of an offence, or against whom any thing is done, with intent to injure or defraud, the term may be construed to include the United States, this Territory, or any State or Territory, or any public or private corporation, as well as an individual ; and,

Whenever the word "officer" is used, it shall be construed to mean any person discharging the duties of such officer.

PASSED, January 27th, 1857.

## AN ACT

TO AMEND AN ACT ENTITLED, "AN ACT RELATING TO ELECTIONS AND THE MODE OF SUPPLYING VACANCIES."

Extending power of Governor to order special election of member of Legislature,

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington,* That the thirty-second section of "an act relating to elections, and the mode of supplying vacancies," be amended by striking out the words "and a session of the legislature is to take place before the next annual election," in lines "seven" and "eight" of said section. *Provided,* that when such vacancy may occur after the adjournment of any regular session of the Legislative Assembly, and no special session thereof may intervene, the election to fill such vacancy shall be held on the day of the next annual election. Should such vacancy, however, occur after said general election, and before the adjournment of the next session of the legislature, then a special election shall be ordered.

PASSED, December 15th, 1856.

## A N A C T

TO APPORTION THE REPRESENTATION OF THE TERRITORY OF WASHINGTON.

- Sec. 1. Council apportionment.  
 2. Apportionment of Representatives.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington*, That the apportionment of the members of the council shall be as follows : Walla Walla, Skamania and Clarke shall elect two ; Cowlitz, Pacific and Wahkiakum shall elect two ; Lewis and Chehalis shall elect one ; Thurston and Sawamish shall elect two ; Pierce shall elect one ; King and Slaughter shall elect one ; Whatcom, Island, Clallam and Jefferson, shall elect one.

SEC. 2. The members of the House of Representatives shall be as follows : Walla Walla and Skamania shall elect one. Clark shall elect five ; Cowlitz shall elect one ; Cowlitz and Wahkiakum shall elect one ; Pacific shall elect one ; Chehalis shall elect one ; Lewis shall elect two ; Thurston shall elect five ; Thurston and Sawamish shall elect one ; Pierce shall elect three ; King shall elect two ; Slaughter shall elect two ; Island shall elect two ; Whatcom shall elect one ; Jefferson shall elect one, and Clallam shall elect one.

PASSED, January 24, 1857.



**P R I V A T E L A W S .**





# PRIVATE LAWS

OF

## WASHINGTON TERRITORY.

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### AN ACT

TO PROVIDE FOR THE PRINTING OF THE SCHOOL AND ROAD LAWS OF WASHINGTON TERRITORY.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington,* That the Territorial Printer be, and he is hereby, required to print, in pamphlet form, five hundred copies each, of all laws relating to schools and roads.

SEC. 2. It shall be the duty of the Secretary of the territory to forward to each county auditor in the territory, twenty-eight copies each of said school and road laws, to be by him distributed among the several road and school districts of his county.

PASSED, January 27, 1857.

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### AN ACT

TO FILL CERTAIN VACANCIES IN THE BOARD OF PILOT COMMISSIONERS.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington,* That George T. Easterbrook and Job Lamley be, and they are hereby, appointed pilot commissioners in the place of James Johnson, deceased, and D. K. Welden, who has left the territory.

PASSED, January 26, 1857.

## A N A C T

## TO CREATE AND ORGANIZE THE COUNTY OF SLAUGHTER.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington,* That all that portion of the counties of King and Jefferson embraced within the following boundaries, to-wit : commencing at a point in the main channel of Colver's passage, and running west, following the old boundary line of King to the head of Case's Inlet ; thence westerly along said line to the head of Hood's Canal ; thence following the main channel of said canal to junction with Admiralty Inlet ; thence following the main ship channel of said inlet to its junction with Colver's passage ; thence following the main channel of said passage to the point of beginning, is hereby constituted and organized into a separate county, to be known and called Slaughter county.

SEC. 2. That said territory shall compose a county for civil and military purposes, and shall be under the same laws, rules, regulations and restrictions, as all other counties in the territory of Washington, and entitled to elect the same officers as other counties are entitled to elect.

SEC. 3. That the county seat of said county be, and the same is hereby, temporarily located on G. A. Meigs' land claim, on the bay of Port Madison.

SEC. 4. That Dan. S. Howard, G. A. Meigs, and Cyrus Walker, be, and the same are hereby, appointed a board of county commissioners, and that G. A. Page be, and is hereby, appointed sheriff, and that Delos Waterman be, and is hereby, appointed auditor, and that S. B. Hines be, and is hereby, appointed Assessor, and that S. B. Wilson be, and is hereby appointed treasurer, and that Wm. Heebner, Wm. Renton, M. S. Drew, be, and they are hereby appointed justices of the peace in their respective precincts, in and for the county of Slaughter, who shall continue to hold and discharge the duties of their respective offices until their successors are duly elected and qualified.

SEC. 5. That the persons hereby appointed officers by the fourth section of this act, shall, before entering upon the discharge of their respective duties, qualify in the same manner, and with like restrictions, as those elected at an annual or general election.

PASSED, January 16th, 1857.

## A N A C T

SUPPLEMENTARY TO AN ACT TO CREATE AND ORGANIZE THE COUNTY OF SLAUGHTER.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington,* That the legal voters of Slaughter county, at their next annual election, shall decide by ballot, a name for said county: the name having the highest number of votes, shall be the name of said county, and it shall be the duty of the county auditor to report the name having the highest number of votes, to the Secretary of the territory at the same time at which he makes return of the other elections.

PASSED, January 27, 1857.

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## A N A C T

TO APPOINT PROBATE JUDGE FOR THE COUNTY OF SLAUGHTER.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington,* That Henry C. Wilson be, and is hereby appointed probate judge in, and for, the county of Slaughter.

PASSED, January 24th, 1857.

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## A N A C T

TO PROVIDE FOR THE ASSESSING AND COLLECTING OF COUNTY AND TERRITORIAL REVENUE IN COUNTIES KNOWN AS SLAUGHTER AND JEFFERSON.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington,* That all persons liable to taxation in the counties known as Slaughter and Jefferson shall, before the first day of July in each year, pay their taxes to the county treasurer.

PASSED, Jan. 26, 1857.

## A N A C T

TO AUTHORIZE THE VOTERS OF COWLITZ COUNTY TO PERMANENTLY LOCATE THE COUNTY SEAT.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington,* That it shall be the duty of the proper officers in Cowlitz county to provide the clerks of election in each of the several precincts in the county of Cowlitz, at the next annual election, with a separate poll book, to take the sense of the qualified voters upon the location of the county seat for said county.

SEC. 2. Every qualified voter shall be permitted to cast his ballot in favor of the place where he desires the county seat to be located, which ballot shall be placed in the ballot box provided for that purpose; the list of the names voting for the county seat shall be kept in the separate poll books; said votes to be counted and certified in the same manner that other votes are counted and certified, and the county commissioners shall canvass said votes in the same manner that other votes are canvassed, and the place having the majority of the votes of the qualified voters of the county, shall be the legal county seat of said county, until otherwise provided by law: *Provided,* that if no one place shall receive such majority at the first election, then it shall be the duty of the proper officers to cause a vote to be taken on the same question, and in the same manner, at the next annual election, and at every succeeding annual election, until a majority of the voters of the county decide where the county seat shall be located.

PASSED, January 26th, 1857.

## A N A C T

TO LEGALIZE THE ASSESSMENT OF CHEHALIS COUNTY, AND OTHER COUNTIES.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington,* That the assessment made by James H. Whitcomb, in Chehalis county, in the year eighteen hundred and fifty six, though not made at the time required by an act providing for the collecting county and territorial revenue, shall not be invalid on that account, but is hereby legalized.

SEC. 2. The assessment of all counties, but after the time required by law, are hereby legalized.

PASSED, January 27th, 1857.

## A N A C T

TO FILL VACANCIES IN THE BOARD OF COUNTY COMMISSIONERS OF KING,  
COUNTY.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington*, That Francis McNatt and Edward Ranford be, and they are hereby, appointed county commissioners for the county of King.

SEC. 2. Said commissioners shall qualify in the same manner as commissioners elected at a general election, and shall hold their offices until the next annual election, and until their successors are duly elected and qualified.

PASSED, January 23d, 1857.

## A N A C T

APPOINTING A BOARD OF COMMISSIONERS, AND GIVING THEM AUTHORITY TO BUILD A BRIDGE ACROSS THE WESTERN ARM OF BUDD'S INLET, AT OLYMPIA.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington*, That Wm. Cock, Wm. Rutledge, jr., E. Marsh, W. W. Miller, Wm. McLane, B. F. Harned, Joseph Cushman, James K. Hurd, J. L. Clark, Elwood Evans, C. H. Hale, and S. W. Percival, of Thurston county, and W. M. Morrow, of Sawamish county, and their successors in office, be, and they are hereby appointed a board of commissioners, with authority, and for the purpose of building a bridge across the western arm of Budd's Inlet, at Olympia, Thurston county, Washington territory.

SEC. 2. The board of commissioners, as above designated, or a majority of them, shall meet at the time and place, as hereinafter provided, and shall organize by the election of one president, one secretary, and one treasurer, whose duties shall be such as their respective offices import; and a majority of said board shall, at all subsequent meetings of the commissioners, constitute a quorum to do business. And said treasurer shall be authorized to receive subscriptions or donations of property of any kind, (subject always to the order or control of the aforesaid commissioners, or a majority of them,) which commissioners shall have full power to do every thing necessary to construct a good and substantial bridge.

SEC. 3. Said bridge shall commence at or near fourth street, as laid down upon the town plat of Olympia, and extend across said western arm of Budd's Inlet, to the most practicable point on the opposite shore; *Provided*, that nothing contained in this act shall be so construed as to prevent the commencement of the construction of said bridge at either or both ends simultaneously.

SEC. 4. Said bridge shall be provided with a good and suitable "draw," of sufficient width to admit vessels to pass through it, of the usual size that ply upon said Inlet, in the vicinity where said bridge is proposed to be constructed.

SEC. 5. Said bridge shall be free for all persons to cross upon the same, with teams, stock or otherwise, subject only to such regulations as may be deemed necessary for the board of commissioner to adopt for the convenience and safety of passengers, and the preservation of the bridge. Said commissioners shall have authority to prevent the running of horses over the bridge, and adopt such other regulations as may be deemed requisite to insure the safety of the bridge, and convenience and safety of persons crossing the same, by subjecting offenders to fines and penalties, not exceeding the sum of fifty [dollars,] to be graduated according to the nature of the offense, as may, in the judgment of the boards of commissioners, or a majority of them, be deemed right and proper; and to be recovered in the same way that fines for other offences are recoverable.

SEC. 6. Should it so transpire, that the commissioners as above constituted, succeed in the full construction of the bridge as contemplated, during the recess of the territorial legislature, it shall hereby be made the imperative duty of said commissioners to employ some person or a sufficient number of persons to attend to the shifting of the "draw," specified in the 4th section of this act, and see to it that navigation above or below the bridge, is in no wise impeded in consequence of said bridge being constructed across said western arm of Budd's Inlet.

SEC. 7. The commissioners enumerated in this act, or as many of them as may consent to serve as such, shall hold their offices for the term of two years, or until their successors are appointed by the legislature, or as is hereinafter provided. They shall organize by meeting on the first Monday in February, 1857, or as soon thereafter as practicable, at Olympia, and electing the officers designated in the 2nd section of this act; and if deemed necessary, such other officers, or boards, as may be deemed expedient to insure a successful and speedy construction of the bridge. They shall also appoint such stated times of meeting as may be considered necessary; and should any vacancy or vacancies occur in the board of commissioners during the recess of the legislature, such vacancy or vacancies may be filled by the appointment of such person or persons as a ma-

majority of the commissioners may determine, who shall hold their appointment or appointments for the unexpired term or terms of the vacancy or vacancies, for which he or they may be appointed.

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

PASSED, January 24th, 1857.

## A N A C T

TO LOCATE AND ESTABLISH A TERRITORIAL ROAD FROM OLYMPIA, IN THURSTON COUNTY, TO TIDE-WATER ON THE CHEHALIS RIVER, IN CHEHALIS COUNTY.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington,* That Edward W. Austin and John R. Dixon, of Thurston, and Thomas Metcalf of Chehalis county, be, and they are hereby, constituted a board of commissioners to view and locate a territorial road from the west side of the bay opposite Olympia, in Thurston county, at a point in range with 4th street, as marked in the town plat of Olympia; thence westerly keeping the west side of, and as near the base of the Black river hills as practicable, to an eligible point for a ferry on the Chehalis river at tide-water, in Chehalis county, and thence across said river and intersect the road leading from Mimi prairie to a point known as Roundtree's Point, on the south shore of Gray's Harbor.

SEC. 2. Said commissioners or a majority of them shall meet at Olympia on the second Monday in March, 1857, at one o'clock p. m., or as soon thereafter as circumstances will permit, and after being duly sworn faithfully to view and locate said road, shall proceed to view, locate, and mark the same on the nearest and most practicable route from point to point as above described in section one.

SEC. 3. Said commissioners shall have authority to adjourn from time to time, and from place to place, to fill any vacancies which may happen in their board, and after their first meeting as provided in section two, the said commissioners shall have authority to administer any oaths necessary and proper to carry into effect the provisions of this act.

SEC. 4. And the commissioners aforesaid shall cause a report of their proceedings to be made, and a true copy of the same to be deposited with the county auditor of Thurston and Chehalis counties, and secretary of the territory, who shall file and preserve the same; after which, said

road shall be, in every respect, a territorial road, and shall be opened and kept in repair as other territorial roads.

SEC. 5. Said commissioners shall make their report to the county auditor and the secretary of the territory, immediately after they shall have completed their commission, and the commissioners aforesaid shall receive no compensation except voluntary contributions for their services as commissioners.

PASSED, January 13th, 1857.

## AN ACT

TO LOCATE AND ESTABLISH A TERRITORIAL ROAD FROM OLYMPIA, IN THURSTON COUNTY, TO A POINT ON THE SOUTH SHORE OF GRAY'S HARBOR, IN CHEHALIS COUNTY.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington*, That Samuel Williams, J. L. Scammons, and C. F. Porter, be, and they are hereby, constituted a board of commissioners with full power to view and establish a territorial road from the west side of the bay opposite the town of Olympia, and at a point in range with 4th street according to the plat of said town, in Thurston county; thence westerly the south side of Black river mountains. and on the nearest and most practicable route for a road to a point on the south shore of Gray's Harbor, known as Roundtree's point, in Chehalis county.

SEC. 2. The said commissioners, or a majority of them, shall meet at Olympia on the first Monday in March, 1857, at one o'clock in the afternoon, or as soon thereafter as circumstances will permit, and after being duly sworn faithfully and impartially to act as such commissioners, shall proceed to view, locate and mark the said road from point to point as provided in section one.

SEC. 3. The commissioners shall have authority to adjourn from time to time, and from place to place, as may be necessary, and shall have power to fill all and any vacancies which may happen in their board, and also to administer any and all oaths which may be necessary to carry into effect the provisions of this act.

SEC. 4. And the commissioners aforesaid shall cause a full report of their proceedings to be made, a certified copy of which shall be, by said commissioners, deposited with the county auditors of Thurston and Chehalis counties; the said auditors shall file and preserve the same, and



after which, said road shall be opened and kept in repair as other territorial roads.

SEC. 5. That said commissioners shall receive no payment for their services except by voluntary subscription ; and no charge shall be made against any county in this territory for viewing, surveying, or locating said road.

PASSED, January 16th, 1857.

## A N A C T

DECLARING THE LINE SURVEYED AND MARKED BY J. W. GOODELL, J. AXTELL, AND DAVID F. BYLES, MARCH, 1855, A TERRITORIAL ROAD.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington,* That the line surveyed, marked out, and reported to the county commissioners in March, 1855, by J. W. Goodell, J. Axtell, and David F. Byles, acting as viewers, appointed by the county commissioners of Thurston county, which line extends from the south line of J. W. Goodell's land claim, to the dwelling house of David Kindred, in Thurston county, be, and the same is hereby, declared a territorial road : *Provided,* nothing in this act shall affect any other road which has been located by law.

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

PASSED, January 27th, 1857.

## A N A C T

TO VIEW AND LOCATE A TERRITORIAL ROAD FROM THE HOUSE OF L. H. DAVIS, IN LEWIS COUNTY, TO THE TOWN OF OLYMPIA, IN THURSTON COUNTY.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington,* That Henry Miles and L. H. Davis, of Lewis county, and William Cooper, Charles Van Wormer, and Sidney S. Ford, Sen., of Thurston county, be, and they are hereby constituted a board of com-

missioners, with full power and authority, and it is hereby made their duty to review and re-locate so much of the territorial road leading from Olympia to Monticello as lies between L. H. Davis' dwelling house, in Lewis county, and J. W. Goodell's dwelling house in Thurston county; and also to view and locate a territorial road from the said Goodell's dwelling house, thence on the most direct and practicable route to the town of Olympia, in the county of Thurston: *Provided*, nothing contained in this act shall, in any manner, affect the location of that part of the territorial road lying between Olympia and J. W. Goodell's dwelling house, in Thurston county, also, between said Goodell's and L. H. Davis, in Lewis county, as at present established and located by law.

SEC. 2. Said commissioners, or a majority of them, shall meet at the house of J. W. Goodell, on the third Monday in February, 1857, at one o'clock, P. M., or as soon thereafter as circumstances will permit, and after being duly sworn faithfully and impartially to act as such commissioners, shall proceed to the discharge of their duties.

SEC. 3. Said board of commissioners shall have authority to adjourn from time to time, and from place to place, and to fill any and all vacancies which may happen in their board, and shall cause a true report to be made of their proceedings, a copy of which to be deposited by said commissioners with the county auditor of the counties in which said road is situated or located, and by such auditors to be filed and preserved.

SEC. 4. It shall be at the discretion of the said commissioners at what time to review and report upon that portion of the road over which the military [road] has been laid, the same, however, to be performed within one year from the passage of this act, but that part lying between the said Goodell's and Olympia, to be acted and reported upon at their earliest convenience, after which said road shall be opened and kept in repair the same as other territorial roads.

SEC. 5. Said commissioners shall receive no payment for their services except by voluntary contribution, and no charge shall be made against any county in this territory for services of viewing, surveying, or locating said road.

PASSED, January 28, 1857.

## A N A C T

RELATIVE TO THE TERRITORIAL ROAD LEADING FROM CATHLAMET TO THE HOUSE OF SIDNEY S. FORD, AND TO PROVIDE FOR THE RE-LOCATION OF CERTAIN PARTS THEREOF.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington*, That Thompson Dray, James Birnie, jr., and Charles McCall, of the county of Wahkiakum, be, and they are hereby, appointed commissioners, and authorized to re-locate any portion of said road south of the north end of the Bois Fort prairie.

SEC. 2. Said commissioners, or a majority of them, after they shall have taken the oath of office, shall have full authority to change and re-locate any portion or portions of said road, for the purpose of shortening the distance, or improving the ground over which the road passes, as they shall deem most for the public interest.

SEC. 3. When said commissioners shall have completed the discharge of their duties, they shall report to the Secretary of the territory such alterations as they shall have made, and to the auditor of each county all alterations made within the limits of such county.

SEC. 4. If, for any cause, any one or more of said commissioners shall fail to qualify, or having qualified, shall fail or cease to act, the acting commissioner, or commissioners, shall select and appoint some person, or persons, to fill such vacancy, and the person, so appointed, shall have the same powers, and discharge the same duties as though he had been originally appointed.

SEC. 5. This act shall continue in force until the first day of March, 1858.

SEC. 6. The said commissioners shall receive no compensation for their services, except by voluntary subscription.

PASSED, January 7th, 1857.

## A N A C T

TO REVIEW SO MUCH OF THE TERRITORIAL ROAD LEADING FROM CATHLAMET TO THE HOUSE OF SIDNEY S. FORD, AS LIES BETWEEN L. H. DAVIS' AND THOMAS FORD'S DWELLING HOUSE, IN LEWIS COUNTY.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington*, That L. H. Davis, Charles Spinning, and H. A. Judson,

as viewers, and Henry N. Stearns, as surveyor, be, and they are hereby, constituted a board of commissioners to review so much of the territorial road leading from Cathlamet, on the Columbia river, to Sidney S. Ford's, in Thurston county, as lies between L. H. Davis' and Thomas Ford's dwelling house.

SEC. 2. Said commissioners, or a majority of them, shall meet at the dwelling house of H. A. Judson, in Lewis county, on the first Monday of February, 1857, at one o'clock in the afternoon of said day, or as soon thereafter as circumstances will permit, and, after being duly sworn faithfully to discharge their duties, shall proceed to review said road.

SEC. 3. Said commissioners and surveyor are hereby authorized and empowered, if they should deem it of public benefit, to discontinue any portion of said road within the limits above described, and proceed to view and locate so much thereof of said road lying within the limits aforesaid, as in their opinion, public good may require.

SEC. 4. Said commissioners shall cause a true report of their proceedings, and a certified copy thereof, to be deposited with the county auditor of Lewis county within sixty days from the meeting of said commissioners.

SEC. 5. No charge for services shall be made by said viewers or surveyor, against the county of Lewis.

PASSED, December 13th, 1856.

## A N A C T

TO RE-LOCATE SO MUCH OF THE TERRITORIAL ROAD AS LIES BETWEEN  
BAKER'S BAY AND THE PACIFIC COAST.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington*, That G. T. Easterbrooks, Richard Carruthers, and E. G. Loomis, be, and they are hereby, appointed a board of commissioners to re-locate so much of the territorial road as lies between Baker's Bay and the Pacific coast, in Pacific county.

SEC. 2. Said commissioners, or a majority of them, shall meet at the house of Gilbert Stevens, on the first Monday in April next, or as soon thereafter as circumstances will permit; and, after being duly sworn,

faithfully and impartially to discharge their duties as such commissioners, shall proceed to re-locate so much of said road as lies between Baker's Bay and the coast.

SEC. 3. Said commissioners shall cause a true report to be made and a certified copy of the same to be deposited with the clerk of the board of commissioners of Pacific county, who shall file and preserve the same, and when said report is so deposited as aforesaid, said road [shall] be to all intents and purposes, a territorial road, and shall be opened and kept in repair as other territorial roads.

SEC. 4. Said commissioners shall receive no payment for their services, except by voluntary contribution, and no charge shall be made against Pacific county for services for running, surveying, or locating said road.

PASSED, January 27th, 1857.

## AN ACT

TO LOCATE A TERRITORIAL ROAD ON THE EAST SIDE OF THE COWLITZ RIVER.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington*, That the county road on the east side of the Cowlitz river, beginning at crossing of Coweman river, in Cowlitz county, and extending to the Eden Prairie, in Lewis county, be, and the same is hereby, declared a territorial road.

SEC. 2. *And be it further enacted*, That, where said road is not yet opened, the supervisor or supervisors shall have power to change said territorial road to the place they may think best.

PASSED, January 23d, 1857.

## AN ACT

ESTABLISHING THE RATES OF FERRIAGE ACROSS THE COLUMBIA RIVER, IN CLARKE COUNTY.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington*, That the following shall be established as the rates of

ferriage which may be lawfully demanded for the transportation of persons and property across the Columbia river in Clarke county :

For a foot passenger, 50

A man and horse, \$1 00

In case, however, of a single horse and man, 50 per cent. may be charged in addition thereto.

Horses and cattle, per head, 50

Sheep, hogs and calves, per head, 25

A wagon, \$1 50

And every animal attached thereto, 50

SEC. 2. Every keeper of a ferry, who shall, at any time, demand and receive more than the amount above designated, for ferrying, shall be liable to the penalties hereinbefore provided by law ; *Provided*, that nothing in this act shall be construed as to affect the rates of ferriage already established for any ferry below the mouth of the Cathlapoodle river in said county.

PASSED, January 9th, 1857.

## A N A C T

TO RE-ENACT AND AMEND AN ACT ENTITLED, "AN ACT AUTHORIZING WASHINGTON HALL TO ESTABLISH A FERRY ACROSS THE COLUMBIA RIVER." 56/17

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington*, That the act entitled, "an act authorizing Washington Hall to establish a ferry across the Columbia river," is hereby renewed, and put in full force as of this date, notwithstanding any forfeiture that may have been heretofore incurred : *Provided*, that said act be so amended that it shall not require said Hall to provide for the transportation of live animals.

PASSED, January 29th, 1857.

## AN ACT

TO REPEAL AN ACT AUTHORIZING JAMES C. COCHRAN TO ESTABLISH A FERRY ACROSS THE CHEHALIS RIVER.

*Be it enacted by the Legislative Assembly of the Territory of Washington,* That the act authorizing James C. Cochran to establish a ferry across the Chehalis river be, and the same is hereby repealed.

PASSED, January 26th, 1857.

## AN ACT

TO INCORPORATE THE NORTHERN PACIFIC RAIL ROAD COMPANY.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington,* That Isaac I. Stevens, Wm. Cock, R. M. Walker, Wm. W. Miller, Wm. H. Wallace, Lafayette Balch, M. T. Simmons, Edward Lander, Elwood Evans, Charles H. Mason, George Gibbs, B. F. Kendall, Arthur A. Denny, David Phillips, Alexander S. Abernethy, J. P. Keller, James Tilton, E. H. Fowler, Samuel D. Howe, Edward C. Fitzhugh, Walter Crockett, Sen., Lewis H. Davis, C. C. Pagett, John R. Jackson, Seth Catlin, William Strong, William Dillon, Sumner Barker, Wm. Kelley, Ira Patterson, Harry D. Huntington, N. Ostrander, B. B. Bishop, of the territory of Washington, and James O'Neal, W. S. Ladd, G. W. Vaughn, Thos. Carter, F. A. Sauvier, and Thomas Pritchard, of Oregon; Alexander Ramsay, Henry M. Rice and James Shields, of Minnesota; John Fitzgerald, Julius White, E. W. Pelter and James Duane Doty, of Wisconsin; H. H. Gear, John B. Turner and Ira Minard, of Illinois; Alvin Sanders, Enoch Hill and Bernhart Henn, of Iowa, A. J. Pope and W. C. Talbot, of California; Charles Foster, Stephen C. Foster and Jeremiah O'Brien, of Maine, Thomas M. Mayhew, of New York, and all such persons as shall hereafter become stockholders in said company, hereby incorporated, shall be a body corporate and politic, by the name and style of the Northern Pacific Railroad Company, with perpetual succession, and under the name and style shall be capable of suing and being sued, impleading and being impleaded, defending and being defended against in law and equity, in all courts and places whatsoever, in like manner and as fully as natural persons. May make and use a common seal, and alter or renew the same at pleasure, and by their said cor-

porate name and style, shall be capable in law of contracting and being contracted with ; shall be, and are hereby, invested with all the power, privileges, immunities and franchises, and conveying real and personal estate, which may be needful to carry into effect fully the purposes and objects of this act.

SEC. 2. The said corporation is hereby authorized and empowered to survey, locate, construct, complete, alter, maintain and operate a railroad, with one or more tracks or lines of rails, commencing at one of the passes in the Rocky mountains between the territories of Washington and Nebraska, and connecting with such road passing through the territories of Minnesota and Nebraska, as the company may elect ; thence extending westwardly through the territory of Washington by the Bitter Root valley, crossing the Cœur d'Alaine mountains by the most practicable route ; thence across the great plain of the Columbia with two branches, one down the Columbia to Vancouver, the other over the Cascade mountains to the Sound, with a connection from the river to the Sound.

SEC. 3. The capital stock of said company shall consist of fifteen millions of dollars, and may be increased to thirty millions of dollars, to be divided into shares of one hundred dollars each. The immediate government and direction of said company shall be vested in thirteen directors, who shall be chosen by the stockholders of said company in the manner hereinafter provided, who shall hold their office one year after their election, and until others shall be duly elected and qualified to take their places as directors ; and the said directors, a majority of whom, shall form a quorum for the transaction of business, shall elect one of the members to be the president of the company. The said board of directors shall have power to appoint all necessary clerks of business of said company.

SEC. 4. The said company are hereby authorized, by their agents, surveyor or engineers, to cause such examinations and surveys to be made of the ground and country between all the points mentioned in the second section of this act, as shall be necessary to determine the most advantageous route for the proper line or course whereon to construct the said rail road ; and it shall be lawful for the said company to enter upon, and take possession of and use, all such lands and real estate as may be necessary to the construction of and maintainance of the said rail road, its depots, water stations, side tracks, machine shops, engine houses and buildings, all appendages necessary to the construction and working of said rail road : *Provided*, that all lands or real estate entered upon, taken possession of, and used by said company for the purpose and accommodation of said railroad, or upon which the aforesaid rail road shall have been



located or determined by the said corporation, shall be paid for by said company in damages, if any be sustained by the owner or owners thereof, by the use of the same for the purposes of said rail road, and all lands entered upon and taken for the use of said corporation, which are not devoted to said corporation, at such prices as may be mutually agreed upon by said corporation and the owners of said lands or real estate ; and in case of disagreement, the price shall be estimated, fixed, and recovered in the manner provided for taking lands for the construction of public roads, canals or other public works.

SEC. 5. The time of holding the annual meeting of said company for the election of directors shall be fixed and determined by the by-laws of said company, and at all meetings such stockholders shall be entitled to vote, in person or lawful proxy, one vote for each share of stock he, she, or they may hold, bona fide, in said company, upon which all installments called have been paid.

SEC. 6. The persons named in the first section of this act are hereby appointed commissioners, who, or a majority of whom, after a meeting duly called by thirty days' notice in a newspaper published at Olympia, are hereby authorized to open subscription books for said stock, at such places as they may deem proper, and shall keep such books open until one hundred and fifty thousand dollars of said capital stock shall be taken. Said commissioners shall require each subscriber to pay five dollars on each share subscribed at the time of subscribing. Said commissioners shall immediately thereafter call a meeting of the stockholders, by giving thirty days' notice in such newspapers as may be deemed necessary, and at such meeting it shall be lawful to elect the directors of said company, and when the directors of said company are chosen, the said commissioners shall deliver said subscription books, with the sums of money received by them as commissioners, to said directors. No person shall be a director in said company unless he shall own at least one share of the capital stock.

SEC. 7. That the right of, and the real estate purchased for the right of way by said company, whether by mutual agreement or otherwise, or shall become the property of the company by operation of law, as in this act provided, shall, upon the payment of the amount of money belonging to the owner or owners of said lands as a compensation of the same, become the property of said company in fee simple.

SEC. 8. The corporation may take and transport on said rail road any person or persons, merchandise or other property, by the force and power of steam or animals, or any combination of them ; may fix and establish, and receive such rates of toll for all passengers and property transported upon the same as the said directors shall establish. The di-

rectors are hereby authorized and empowered to make all necessary rules and by-laws, regulations or ordinances that they may deem necessary and expedient to accomplish into effect the provisions of this act, and further transfer assignments of the stock, which is hereby declared personal property, and transferable in such manner as shall be provided by the by-laws of the said company.

SEC. 9. The directors of said company, after the same is organized, shall have power to open books in the manner prescribed in the sixth section of this act, to fill up the additional capital stock, or any part thereof, at such times as they may deem it for the interest of said company ; and all installments required to be paid on the stock originally to be taken, and what may be taken to increase the said capital, shall be paid at such times and in such sums as the directors may prescribe.

SEC. 10. In case of the death or resignation of the president or vice president, or any director, at any time between the annual election, such vacancies may be filled for the remainder of the year, whenever they may happen, by the board of directors ; and in case of absence of the president and vice president, the board of directors shall have power to appoint a president or vice president, *pro tem.*, who shall have and execute such powers and functions as the by-laws of said corporation may provide. In case it should at any time happen that an election shall not be made on any day, in pursuance of this act, it shall not invalidate such election, and the corporation for that cause, shall not be deemed dissolved, but such election shall be held at any other time, as directed by the by-laws of said corporation.

SEC. 11. Said company shall have power to unite its rail road with any other rail road now constructed, or which may hereafter be constructed, at either termini, or at any point at which it may cross the same, within this territory, upon such terms as may be mutually agreed upon between said rail road corporations so connecting ; and for that purpose, full power is hereby given to said company to make and execute such contract with any other company that may secure the objects of such connection : *Provided*, that no cars shall run upon the line or track of the road constructed by the company hereby incorporated, except at the points of crossing or intersecting the same.

SEC. 12. Said company is hereby authorized, from time to time, to borrow such sum or sums of money as may be necessary for completing and furnishing and operating the said rail road, and to assume and dispose of the bonds in denominations of not less than five hundred dollars, bearing a rate of interest not exceeding seven per centum per annum, for any amount so borrowed, and mortgage the corporation property and franchises, or convey the same by deed of trust to secure the payment of any

debt contracted by said company for the purposes aforesaid ; and the directors of said company may confer on any bondholder of any bond issued for money borrowed as aforesaid, the right to convert the principal due or owing thereon, into stock of said company, at any time not exceeding ten years from the date of the bond, under such regulations as the directors of said company see fit to adopt ; and all sales of stock bonds that may be made at less than par value, shall be good and valid and binding upon said corporation as if such bonds had been sold for the full amount thereof.

SEC. 13. This act shall be deemed a public act, and shall be favorably construed for all purposes therein expressed and declared, in all courts and places whatsoever, and shall be in force from and after its passage : *Provided*, said rail road shall be commenced within three years, and completed within ten years from the passage of this act.

PASSED, Jan. 28, 1857.

## A N A C T

TO INCORPORATE THE CITY OF VANCOUVER.

### ARTICLE I.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington*, That the city of Vancouver shall be bounded as follows : Commencing at the south-west corner of the military reservation at Vancouver, in the county of Clarke ; thence westerly along the south line of Mrs. Esther Short's land claim, to the south-west corner of said claim ; thence north three-fourths of a mile ; thence east to the west line of the military reservation, and thence southerly along said line thirty chains ; thence east fifty chains ; thence south to the Columbia river ; thence west along the meanders of said river, to the place of beginning.

SEC. 2. The inhabitants of said city of Vancouver shall be, and they are hereby, constituted a body politic and corporate, by the name and style of "The City of Vancouver," and by that name they and their successors shall be known in law, and have perpetual succession, sue and be sued, plead and be impleaded, in all courts of law whatever, and receive property, personal and real, within said city, for public buildings, public

works and city improvements, and may dispose of the same in any way for the benefit of the city. May purchase property beyond the limits of the city to be used for burial purposes, and for the establishment of a hospital for the reception of persons affected with contagious diseases.

## ARTICLE II.

SEC. 1. For the government of the city, there shall be elected, in the manner hereinafter provided, the following officers: A common council, (consisting of seven members,) a mayor, recorder, a treasurer, a marshal, an assessor, who shall hold their offices two years, and until their successors shall be duly elected and qualified, and there shall be appointed every two years, by the city council, a city attorney, a street commissioner, a city surveyor, and a city collector.

## ARTICLE III.

SEC. 1. That a general election for all city officers of the corporation, required to be elected under this act, shall be held on the first Monday in November, 1857, and on the same day of November, in every two years thereafter.

SEC. 2. No person shall be entitled to vote at any city election who shall not be an elector for territorial officers, and have resided in this city three months next preceding the day of election; and no person shall be eligible to any office under this charter, who is not a qualified voter of said city.

SEC. 3. At all elections for city officers, the vote shall be by ballot, at the time and place designated by the city council.

SEC. 4. That all vacancies happening before the general election, shall be filled by the city council.

SEC. 5. That all elections for city officers shall continue for one day, during which time, the polls shall be kept open from ten o'clock A. M., to 4 o'clock, P. M.

SEC. 6. The person who shall have received a plurality of votes for any office shall be declared duly elected, and the clerk shall issue to him a certificate of election; upon presentation of the same by him to the council, he shall be sworn into office.

SEC. 7. The treasurer and collector, before they are sworn into office, shall execute a bond to the council for the faithful performance of their duties, which bond shall be deposited with the city recorder, when approved by the council.

## ARTICLE IV.

SEC. 1. The members of the common council shall fix the time and place of holding their stated meetings, and may be convened by the Mayor at any time. A majority of the members shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members.

SEC. 2. Any ordinance which shall have been passed by the common council shall, before it becomes a law, be presented to the mayor for his approval; if he approves, he shall sign it, if not, he shall, within ten days, return it with his objections in writing to the common council, who shall cause the same to be entered in their journal, and shall proceed to re-consider the same. If, after such re-consideration, two-thirds of the members of the common council shall agree to pass the same, it shall become a law.

SEC. 3. The mayor and common council shall have power within the city—

1st. To make by-laws and ordinances not repugnant to the laws of the United States, or the laws of this territory, necessary to carry into effect the provisions of this chapter.

2d. To levy taxes not to exceed one-half of one per centum per annum upon all real and personal property made taxable by law for territorial and county purposes.

3d. To make regulations to prevent the introduction of contagious diseases into the city, and for securing health, peace, cleanliness and good order of the city.

4th. To prevent and restrain any disturbance or disorderly conduct, or any indecent and immoral practices within the limits of said city.

## ARTICLE V.

SEC. 1. The mayor and members of the common council shall receive no pay for their services, until the city shall contain two thousand five hundred inhabitants, and then such pay to be determined by a vote of the city.

SEC. 2. The recorder shall receive the same fees for his services as justices of the peace are entitled to by law for services of a similar nature.

SEC. 3. The marshal shall receive the same fees for his services as constables are entitled to by law for services of a similar nature, and for other services such compensation as may be provided by ordinance.

SEC. 4. All other officers provided for by this act, or to be created, shall receive such compensation as may be established by ordinance.

## ARTICLE VI.

SEC. 1. It shall be the duty of the mayor to communicate to the common council at least once in each year, of the condition of the city, its finances and improvements.

SEC. 2. The recorder shall reside within the limits of the city.

SEC. 3. It shall be the duty of the city marshal, in addition to the duties prescribed by the common council, to execute and return all processes issued by the recorder.

SEC. 4. It shall be the duty of the assessor, in addition to the duties prescribed by the common council, to make out, within such time as the common council shall order, a correct list of all the property taxable by law within said city.

SEC. 5. It shall be the duty of the collector to issue all licenses granted by the city authority, to collect all moneys and taxes, and pay the same over to the treasurer monthly, and he shall have the same power to enforce the payment of taxes or other moneys due the city, as the county collectors now, or may have, and shall resort to the same means provided, or that may hereafter be provided, for the collection of county funds.

SEC. 6. It shall be the duty of the treasurer to receive all moneys that shall come to said city by taxation or otherwise, and pay out the same as directed by the common council.

SEC. 7. It shall be the duty of the city attorney to attend to all suits, matters and things in which the city may be legally interested, give his advice and opinion in writing upon each matter when required by the mayor or common council, and attend to all prosecutions against offenders of the city ordinances.

SEC. 8. The common council shall define the duties of all officers by ordinance, which are not herein prescribed.

## ARTICLE VII.

SEC. 1. Until such time as the officers before mentioned in this act, shall have been elected and qualified, Sumner Barker, Joseph Brant, Moses E. Goodwin, John F. Smith, Guy Hayden, Samuel Marsh, and Henry C. Morse, shall be the common council, and shall elect one of their body to fill the office of mayor; Patrick Ahem shall be recorder; B. L. Gardner, marshal; N. Bateman, assessor; Paul E. Eubank, collector; and Henry S. Burlingame, treasurer.

## ARTICLE VIII.

SEC. 1. All officers appointed, or to be elected under this act, shall,

before entering upon the duties of their office, take an oath or affirmation before any person competent to administer oaths.

SEC. 2. All resolutions and ordinances, calling for the appropriating of any sums of money exceeding one hundred dollars (\$100 00) shall lie over at least two meetings.

PASSED, January 23d, 1857.

## A N A C T

### TO INCORPORATE THE PUGET SOUND WESLEYAN INSTITUTE.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington,* That there shall be established in the town of Olympia, in the county of Thurston, an institution of learning, to be called the Puget Sound Wesleyan Institute and that D. R. Bigelow, G. A. Barnes, C. B. Baker, F. A. Chenoweth, A. A. Denny, G. M. Berry, R. H. Lansdale, A. S. Abernethy, James Biles, W. S. Parsons, William Wright, J. S. Smith, W. D. Van Buren, T. F. Berry, B. F. Yantis, W. N. Ayers, Edward Lander, William Miller, J. F. Devore, John Briscoe, G. K. Willard, Isaac Dillon, L. A. Davis, William Rutledge, Jr., Morris Littlejohn, R. M. Walker, C. H. Hale, and Elwood Evans, as trustees, and their associates and successors, are hereby declared and constituted a body corporate and politic in law, by the name and style of the "Puget Sound Wesleyan Institute."

SEC. 2. *And be it further enacted,* That said corporation shall have continual perpetual succession, and shall have power to acquire, receive and possess by donation, gift or purchase, and to retain and enjoy property, real, personal, and mixed, and the same to sell, grant, convey, rent, or otherwise dispose of at pleasure: *Provided,* that no part of the resources thereof shall ever be used for any other than educational purposes, as is herein contemplated: *And provided further,* that the yearly income accruing from said property to said institution, shall not exceed five thousand dollars. Said corporation shall have power to contract and be contracted with, sue and be sued, plead and be impleaded, in all courts of justice, both at law and in equity. They shall cause to be made for their use a common seal, impressed with such devices and inscriptions as they shall deem proper, by which said seal, all deeds and acts of said corporation shall pass and be authenticated, and they shall have power to

alter or amend said seal at their pleasure. They shall have power to form and adopt a constitution and by-laws for their government, to make and carry into effect all necessary regulations for the management of their fiscal concerns, to appoint subordinate officers and agents, to make, ordain and establish such ordinances, rules and regulations, as they may deem necessary or expedient for the good government of said institution, its officers, teachers and pupils: *Provided*, that said ordinances, rules and regulations, shall in no manner conflict with the constitution of the United States, nor the laws of this territory.

SEC. 3. *And be it further enacted*, That said trustees shall meet at least once a year, and that seven of their number shall constitute a quorum at any regular meeting for the transaction of business. The said trustees shall elect one of their number to be president of the board, and when it may be deemed expedient to add to the number of said trustees, or become necessary to fill vacancies, which may occur in said board by death, resignation, or otherwise, the annual conference of the Methodist Episcopal church, which shall include within its boundaries the town of Olympia, shall elect said additional trustees, and fill said vacancies.

The first meeting of said board of trustees after the passage of this act, shall be called by D. R. Bigelow, and shall be held at the Masonic Hall, in the town of Olympia.

SEC. 4. *And be it further enacted*, That all deeds and other instruments of conveyance, shall be made by order of the board of trustees, sealed with the seal of the corporation, signed by the president, and by him acknowledged in his official capacity.

SEC. 5. *And be it further enacted*, That the legislature shall have power at any subsequent session, when the necessities of the institution, or considerations of public good require it, to alter or amend this act at pleasure.

PASSED, December 17th, 1856.

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## A N A C T

TO INCORPORATE STEILACOOM LODGE NO. 8, OF FREE AND ACCEPTED  
MASONS.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington*, That the masters, wardens, and members of Steilacoom



Lodge No. 8, of "Free and Accepted Masons," their associates and successors, be, and they are hereby, constituted and declared a body corporate and politic, to be known by the name and style of "Steilacoom Lodge No. 8, of Free and Accepted Masons."

SEC. 2. Said lodge may, by their corporate name, sue and be sued, plead and be impleaded, defend and be defended against, in all the courts of law and equity in this territory, and may receive and hold all moneys and other property coming to their hands, by voluntary subscriptions, contributions, or otherwise; also all legacies and devises of real or personal estate, and to have, hold, possess or acquire lands and tenements, furniture, chattels, regalia, and property of any description, incident to such bodies, to an amount not exceeding twenty thousand dollars; and the estate aforesaid to lease, grant, convey and dispose of in such manner as they may deem expedient.

SEC. 3. The said lodge may, at any of their meetings for business, enact and pass such rules, regulations and laws for the government of said lodge, and its management, as they may deem necessary: *Provided*, the same be not inconsistent with the laws of the United States or of this territory.

SEC. 4. That said lodge may hold its meetings at such times and places, and elect such officers for the management and government of its affairs as they may deem proper.

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

PASSED, January 27th, 1857.

## A N A C T

TO INCORPORATE THE GEOGRAPHICAL AND STATISTICAL SOCIETY OF WASHINGTON TERRITORY.

SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Washington*, That Isaac I. Stevens, Alexander S. Abernethy, Edward Lander, J. F. Devore, J. P. Keller, William Strong, W. W. Miller, Columbia Lancaster, Seth Catlin, E. C. Fitzhugh, R. M. Walker, Jno. Briccoe, Joel Knight, J. S. Smith, William H. Wallace, Henry Miles, Henry Rhoeder, Henry C. Wilson, Elwood Evans, James Tilton, William Kelley, A. H. Robie, R. H. Lansdale, R. L. Doyle, Wm. P. Dougherty, J. S.

M. Van Cleave, Lafayette Balch, Wm. Dillon, James Doty, R. V. Peabody, A. A. Denny, David Phillips, J. B. Webber, U. D. Warbass, Jas. K. Lumm, H. M. Sterns, David Shelton, J. W. Anderson, W. N. Ayers, Wm. Cock, B. F. Shaw, Geo. Gibbs, O. B. McFadden, James A. Graham, S. S. Ford, sen., Jefferson Huff, T. J. Hanna, E. H. Fowler, H. L. Yesler, I. N. Ebey, S. D. Howe, J. K. Hurd, Wm. M. Morrow, C. Giesy, G. F. Whitworth, William Huntington, O. P. Meeker, H. D. Huntington, N. Ostrander, Henry Caples, B. B. Bishop, J. D. Holman, B. L. Henness, T. D. Hinkley, Wm. Rutledge, James Catlin, Richard Covington, J. Davis, George Drew, Frank Clark, H. R. Stevens, James Birnie, J. K. Thorndyke, R. S. Robinson, D. R. Bigelow, J. M. Chapman, A. C. Anderson, and Lewis Van Vleet, (their associates and successors, be, and they are hereby, declared a body politic and coporate, under the name and style of the "Geographical and Statistical Society of Washington territory.")

SEC. 2. The object of this association shall be the collection and diffusion of geographical and statistical information, in relation to the condition and resources of this territory.

SEC. 3. The said corporation shall possess all the powers and privileges incident to such bodies, and may pass by-laws for their government, and perform all other acts not in violation of, or inconsistent with, the constitution of the United States, the organic act, and the laws of this territory.

SEC. 4. The object of this association being for the promotion and general improvement of affairs in the territory, it shall be allowed for these purposes only, to take, hold, and convey real and personal estate, the former not to exceed in value ten thousand dollars.

SEC. 5. The said society shall, by its constitution and by-laws, provide the times of meeting, and may institute such measures as shall be deemed necessary by the society for the promotion of the objects for which it is organized.

SEC. 6. It shall be the duty of said society to elect one of their number as treasurer, who shall be required to give bond with sufficient security, in such penal sum as the executive committee may prescribe, conditioned for the performance of such duties as the by-laws may require of him.

SEC. 7. The executive committee shall faithfully apply all funds collected for said society according to their best judgment: *Provided*, that in case any donation, devise or bequest, shall be made for particular purposes accordant with the objects of this association, and the society shall accept the same, every such donation, devise or bequest, shall be expressly applied in conformity with the conditions prescribed by the donor or devisor.

SEC. 8. All property, of whatever kind and description, belonging or appertaining to said society, shall be and forever remain free and exempt from all taxation for any and all purposes whatever.

SEC. 9. It shall be the duty of said society to report annually to the legislative assembly.

SEC. 10. This act shall be a public act, and be in force from and after its passage.

PASSED, January 28th, 1857.



# **JOINT RESOLUTIONS.**



# JOINT RESOLUTIONS

OF THE

## TERRITORY OF WASHINGTON.

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### JOINT RESOLUTION

RELATIVE TO PRINTING BILLS, &C.

*Resolved by the Legislative Assembly of the Territory of Washington,*  
That hereafter, when any bill, resolution or memorial originating in either branch of the legislature, shall be ordered to be printed, that the joint committee on printing be instructed to procure one hundred copies thereof, to be furnished both houses in proper proportions, which copies shall be distributed by the seargeant-at-arms of the respective houses.

PASSED, December 10th, 1856.

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### JOINT RESOLUTION

RELATIVE TO THE APPOINTMENT OF A JOINT SELECT COMMITTEE, TO REVISE THE STATUTES OF THE TERRITORY RELATIVE TO TERMS OF COURT.

*Resolved by the Legislative Assembly of the Territory of Washington,*  
That there be appointed a joint select committee of two on the part of the council, and three on the part of the house, charged with the duty of adjusting the statutes of this territory, to the late law of congress, relative to the U. S. district courts.

PASSED, December 8th, 1856.

## JOINT RESOLUTION

RELATIVE TO THE REPORT OF FREDERICK W. LANDER, CIVIL ENGINEER.

*Resolved by the Legislative Assembly of the Territory of Washington,* That our delegate in congress be, and he is hereby, requested to procure one hundred copies of the "Report of the reconnoissance of a railroad route from Puget Sound via the South Pass to the Mississippi river, by Frederick W. Lander, civil engineer," and a similar number of copies of the reports of the survey of the different railroad routes to the Pacific Ocean, and as early as practicable, forward the same to the secretary of the territory, to be by him distributed to the county auditors of the several counties in proper proportions.

PASSED, December 15th, 1856.

## JOINT RESOLUTION

RELATIVE TO THE PAYMENT OF THE EXPENSES OF THE DISTRICT COURT WHILE THIS TERRITORY WAS EMBRACED WITHIN THE LIMITS OF OREGON.

*Resolved by the Legislative Assembly of the Territory of Washington,* That our delegate in congress be instructed to call the attention of the proper department to the fact, that the expenses of the several district courts of the United States held within the limits of this territory while it was embraced within the limits of Oregon, are still, in a great measure, unpaid, and that large sums are due to the citizens of the territory on this account; and that he be instructed to urge, either before congress or the proper department, as he may find necessary, that provisions be made for their payment through the marshal of Washington territory, at the earliest practicable period.

PASSED, January 7th, 1857.



## JOINT RESOLUTION

RELATIVE TO THE NON-PAYMENT OF UNITED STATES JURORS.

WHEREAS, it has come to the knowledge of this assembly that large amounts are due to citizens of this territory for attendance as jurors at the United States district courts, in the years 1853, 1854 and 1855, the non-payment of which we consider as injustice to them, therefore

*Be it resolved, by the Legislative Assembly of the Territory of Washington,* That our delegate in congress be instructed to call the attention of the proper department to the non-payment of said jury fees, and use his influence to have the same paid as soon as possible.

And that the secretary of the territory be instructed to forward copies of this joint resolution to our delegate, and also to the secretary of the interior, and to the first comptroller of the treasury department.

PASSED, December 19th, 1856.

## JOINT RESOLUTION

RELATIVE TO CONFIRMING TITLES TO LAND TO SETTLERS DRIVEN OFF BY INDIAN HOSTILITIES.

WHEREAS, In many parts of this territory settlers are unable to return to their claims by reason of danger from hostile Indians, and many others are prevented from returning to their claims by reason of the total destruction of their property in the late Indian hostilities, making them dependent for the support of themselves and families on the labor of their own hands, without the necessary implements to again engage in the pursuits of husbandry, lacking the necessary food and clothing to support them while again commencing their usual pursuit, and believing that many persons will lose their claims by reason of their inability to comply with the requisitions of the donation laws from the causes mentioned ; therefore be it

*Resolved by the Legislative Assembly of the Territory of Washington,* That our delegate in congress be, and is hereby, instructed to use his influence to procure the passage of a law by congress, giving to every settler who was actually a resident on his claim at the commencement of Indian hostilities in 1855, a patent for his claim, the same as if he had actually resided thereon for four years.

PASSED, January 17th, 1857.

## JOINT RESOLUTION

RELATIVE TO EXTENSION OF PRE-EMPTION LAW OF 1841, TO LANDS IN WASHINGTON TERRITORY.

*Resolved by the Legislative Assembly of the Territory of Washington,* That our delegate in congress be, and he is hereby, instructed to exert his influence to have the pre-emption law of September 4th, 1841, extended to lands in this territory, whether surveyed or unsurveyed, by "an act of congress approved July 17th, 1854," so amended as to allow a claimant on unsurveyed land the privilege when the public surveys shall have been extended over the land claimed by him, of taking his claim by contiguous 40 acre legal subdivisions, whether the same be in one or more sections, and allowing his claim to form either an oblong, an L, or a square.

PASSED, January 16th, 1857.

## JOINT RESOLUTION

RELATIVE TO THE FINAL MUSTER ROLL OF COMPANY "A," SECOND REGIMENT WASHINGTON TERRITORY VOLUNTEERS.

WHEREAS, It has come to the knowledge of the legislative assembly, that James Tilton, surveyor general of the territory of Washington, who has during the past year acted as adjutant general of the volunteer forces of Washington territory, employed in the recent Indian war, and in that capacity, has refused to receive the final muster roll of company "A," of the second regiment Washington territory volunteers, which company had fully served out the period of their enlistment and received honorable discharge for such service; therefore be it

*Resolved by the Legislative Assembly of the Territory of Washington,* That the said James Tilton be, and is hereby, instructed to receive and place on file in the office of the adjutant general of Washington territory the final muster roll of said company "A," and that said company be placed in all respects on the same footing as all other companies of the said second regiment W. T. volunteers.

*Resolved,* That copies of this resolution be sent to the said James Tilton, and to the governor of Washington territory.

PASSED, December 24th, 1856.

## JOINT RESOLUTION

RELATIVE TO THE SERVICES AND PAY OF COMPANY "A," OF THE SECOND REGIMENT WASHINGTON TERRITORY VOLUNTEERS.

WHEREAS, Company "A," of the 2nd regiment of Washington territory volunteers, has faithfully served out the time for which it was enlisted ; and whereas, an attempt has been made to prejudice the claims of said company on the government of the United States for remuneration for its services on account of alleged disobedience of the orders of the commander-in-chief, and insubordination ; and whereas, after a full investigation of the charges against said company, it clearly appears that they are without sufficient foundation ; therefore

*Resolved by the Legislative Assembly of the Territory of Washington,* That it is the deliberate sense of this body, that company "A" is justly entitled to full pay for the full period of its term of service, and that it ought to be placed in all respects in the same position of the other companies of the same regiment.

2d. That company "A" is hereby recommended to the favorable consideration of the commissioners appointed by the authority of congress, to audit the war debt of Oregon and Washington territories.

3d. That the Secretary of the territory is hereby required to furnish to said commission a copy of this preamble and resolution, and also the testimony taken in the committee of the whole in the house of representatives of this territory, while said committee had under consideration council joint resolution number 5, of the present session of the legislature.

PASSED, January 15th, 1857.

## JOINT RESOLUTION

RELATIVE TO THE PROCLAMATION AND ENFORCEMENT OF MARTIAL LAW OVER THE COUNTIES OF PIERCE AND THURSTON.

WHEREAS, Isaac I. Stevens, governor of this territory, declared martial law over the counties of Pierce and Thurston for the express purpose, as shown by his proclamation and vindication, of suspending the writ of habeas corpus—interfered with, and broke up the courts of said counties, and attempted to try citizens on the charge of treason before a military commission.

And whereas, in his message to this body, he "invites a rigid scrutiny into the necessity of his proclamation, and the measures taken to enforce it ;" therefore

*Be it resolved, by the Legislative Assembly of the Territory of Washington,* That, in thus attempting to suspend the writ of habeas corpus, the governor undertook to exercise a power conferred by the constitution of the United States on congress alone.

That, in any attempt to interfere with our courts of justice, or to try citizens before a military tribunal, he acted in direct violation of the constitution and laws of the United States, and that any such attempt to exercise unconstitutional power, tends to the subversion of our free institutions, and calls at our hands for the strongest condemnation.

PASSED, January 16th, 1857.

## JOINT RESOLUTION

RELATIVE TO GRANTING EXTRA PAY TO CERTAIN SOLDIERS FOR MERITORIOUS SERVICES AT THE CASCADES.

*Resolved by the Legislative Assembly of the Territory of Washington,* That our delegate be, and he is hereby, instructed to exert his influence to procure the passage of an act by congress granting to sergeant Kelly and privates Housser, Roach, Sheridan, Bernear, Smiley and Williams, Company H, 4th Infantry, as a mark of commendation for their efficient aid in protecting the citizens that escaped the massacre at the Cascades, on 27th March last, and their gallant conduct in defending the block house at that place against the combined attack for three days of several hundred Indians, the extra pay allowed during the Mexican war to such non-commissioned officers and privates as received certificates of merit for distinguished services.

PASSED, January 24th, 1857.

## JOINT RESOLUTION

REQUESTING COMMANDER SWARTWOUT, U. S. N., TO CONTINUE TO CRUISE  
IN THE NORTHERN WATERS OF THIS TERRITORY.

*Resolved by the Legislative Assembly of the Territory of Washington,* That Commander Swartwout, of the U. S. Steamer Massachusetts, be requested to continue to cruise along the northern waters of this territory, and afford such protection as may be in his power, to the frontier settlements of our citizens.

PASSED, January 20th, 1857.

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## JOINT RESOLUTION,

RELATIVE TO THE TIME FOR ELECTION OF TERRITORIAL OFFICERS.

*Resolved by the Council of the Territory of Washington, the House concurring,* That the election of territorial officers designated by law to be elected on joint ballot of the two houses of the Legislative Assembly, shall take place on the 27th day of January, 1857.

*Resolved by the Council, the House concurring,* That the Council and House of Representatives meet in joint convention on the 27th instant, for the purpose of electing one territorial auditor, one territorial treasurer, one territorial librarian, one territorial printer, one brigadier general, one adjutant, one quartermaster, and one commissary general; *Provided however,* in the event in the mean time, of any of the above offices being abolished, or of any of them being consolidated, then such of the above offices as remain separate, and such as may be consolidated, to be elected by the name by which such office may be designated in the act consolidating and creating the same.

PASSED, January 24th, 1857.

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## JOINT RESOLUTION,

RELATIVE TO THE ADJOURNMENT OF THE LEGISLATURE OVER THE HOLIDAYS.

*Resolved by the House, the Council concurring,* That, when the legislature adjourns on Wednesday, the 24th day of December, 1856, the adjournment shall be until Monday, the 5th day of January, 1857.

PASSED, December 18, 1856.

## JOINT RESOLUTION

RELATIVE TO PUBLISHING LAWS IN PIONEER AND DEMOCRAT.

*Resolved by the House, the Council concurring,* That the joint committee on printing be instructed to procure the printing of all such laws passed at the present session of the legislature, in the Pioneer and Democrat, as in the opinion of the committee the public interest would seem to require, and as soon after the passage of such laws as can be done.

PASSED, January 13th, 1857.

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## JOINT RESOLUTION

RELATIVE TO WAITING UPON THE GOVERNOR.

*Resolved by the House, the Council concurring,* That a joint committee be appointed, to consist of three from the House, and two from the Council, to wait upon the Governor, and inform him that the Legislative Assembly is now ready to adjourn *sine die*, and enquire if he has any further communication to make to them.

PASSED, January 29, 1857.

MEMORIALS.





# MEMORIALS

OF THE

## TERRITORY OF WASHINGTON.

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### MEMORIAL,

PRAYING THAT A STEAM VESSEL OF WAR AND BARGES BE STATIONED  
WITHIN THE WATERS OF PUGET SOUND.

*To the Honorable, the Secretary of the Navy:*

Your memorialists, the Legislative Assembly of the territory of Washington, would again call your attention to the inadequate protection afforded to the settlements on Puget Sound. These settlements, hitherto flourishing, and only now retarded by the general feeling of insecurity of life and property that is everywhere entertained in that portion of our territory, are continually in danger of being attacked, not only by the Indians within our borders, which alone on the shores of the Sound number upward of six thousand, but what is more to be feared from their hardy, warlike and revengeful character, by the Indians inhabiting the Islands and coast to the northward—large and powerful tribes, capable of bringing to bear a concentrated force of several thousand warriors. Their numbers, their superiority, both mentally and physically, their courage, as evinced always by their readiness to contend with the whites, man to man, their means of transportation, canoes carrying from 50 to 75 men each, and moving with rapidity against wind and tide, their thorough equipment in arms and ammunition, having also in their possession small pieces of artillery, render them a far more formidable foe than those living in our midst.

The recent outrages committed by these Indians in the lower part of the Sound are sufficient evidence that they are about to commence a systematic plan of hostilities, having in view the entire destruction of isolated settlements. The only effectual manner of preventing their designs, or preserving that portion from abandonment, would be by the stationing a steam vessel of war of large size and speed, with two efficient steam barges to be kept actively cruising amongst the Islands and in the neighborhood of the Straits of Fuca, which request, we earnestly urge, should be at once granted.

PASSED, January 17th, 1857.

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## MEMORIAL,

PRAYING FOR AN APPROPRIATION FOR THE CONSTRUCTION OF A MILITARY ROAD FROM FORT STEILACOOM, ON PUGET SOUND, TO THE MILITARY POST AT BELLINGHAM BAY.

*To the Honorable the Senate and House of Representatives  
of the United States in Congress assembled :*

Your memorialists, the Legislative Assembly of the territory of Washington, would respectfully represent, that there is no means of communication between Fort Steilacoom, on Puget Sound, and the Military Post at Bellingham Bay, except by water : that the travel by water between the above mentioned points is at all times attended with much difficulty and delay, especially so in the winter season : that a road by land can be made over a much shorter route by which the protection, so essential to the safety of a large portion of the citizens, would be greatly increased. Wherefore, your memorialists would respectfully pray your honorable bodies to pass an act appropriating the sum of forty thousand dollars, to be applied to the construction of a military road from Fort Steilacoom to the Military Post at Bellingham Bay.

PASSED, December 20th, 1856.

## MEMORIAL,

PRAYING THE EXTINGUISHMENT OF THE RIGHTS OF THE HUDSON'S BAY  
AND PUGET SOUND AGRICULTURAL COMPANIES TO LANDS IN THE  
TERRITORY OF WASHINGTON.

*To the Honorable, the Senate and House of Representatives  
of the United States, in Congress assembled :*

The memorial of the Legislative Assembly of the territory of Washington, would respectfully represent: That the large portions of land held by the Hudson's Bay and Puget Sound Agricultural Companies, in Washington territory, under the treaty of 1846, are greatly retarding the growth and prosperity of the territory, and are a serious inconvenience to those of our citizens living and occupying lands in their neighborhood: that these companies claim and hold possession of large tracts of land, embracing some of the very best soil and most eligible situations in the territory: that the said companies do not cultivate or improve the lands they claim, and in fact only occupy the same at isolated spots and points, many miles apart, thus preventing the healthful growth of the country, the formation of school districts, the erection of schools and churches, and operating as a most formidable obstruction to the social comfort and advancement of the people: that owing to the uncertain and indefinite character of the boundary lines to the lands claimed by said companies, many of our citizens have settled and made valuable improvements upon the lands so claimed, in good faith, honestly believing that the same were vacant, in consequence whereof, (in addition to the evils above mentioned,) numerous vexatious law suits have arisen between said companies and our citizens, thus creating mutual distrust, and much bitter and ill feeling on the part of said citizens, as well as on that of the agents, factors and servants of said company.

That the existence, under any circumstances, of foreign corporations on American soil, is a matter much to be deplored, and their speedy removal a consummation devoutly to be wished.

Wherefore, your memorialists pray your honorable bodies to pass an act making such provisions, as to your honorable bodies shall seem most expedient and proper, for the speedy extinguishment of the rights of said companies to lands in this territory.

PASSED, January 27th, 1857.

## MEMORIAL,

RELATIVE TO THE CREATION OF THE OFFICE OF ENGROSSING AND ENROLLING CLERKS.

*The Honorable, the Senate and House of Representatives  
of the United States, in Congress assembled :*

Your memorialists, the Legislative Assembly of the territory of Washington, would respectfully represent, that the duty of properly engrossing and enrolling the laws passed by this Legislative Assembly, which now devolves upon the regular clerks of the two houses, are so arduous as to make it almost impossible to be performed by them.

We would, therefore, respectfully ask your honorable bodies to provide by law for an engrossing and enrolling clerk for each branch of the Legislative Assembly of this territory.

PASSED, January 29th, 1857.

## MEMORIAL,

PRAYING THE SEPARATION OF THE OFFICES OF GOVERNOR AND SUPERINTENDENT OF INDIAN AFFAIRS.

*To the Senate and House of Representatives  
of the United States in Congress assembled :*

Your memorialists, the Legislative Assembly of the territory of Washington, would respectfully represent to your honorable bodies that, in consequence of the recent Indian war, the relations between the government of the United States and the white settlers of this territory with the Indian tribes in our midst, are in a very precarious and unsettled condition, imposing very arduous labor upon the superintendent of Indian affairs, sufficient, in our opinion, to occupy his sole and undivided attention to its duties.

Your memorialists would therefore respectfully request your honorable bodies to make such alterations in the act organizing this territory as will separate the offices of governor and superintendent of Indian affairs for this territory.

PASSED, January 16th, 1857.

## MEMORIAL,

FOR THE RELIEF OF MICHAEL T. SIMMONS.

*To the Honorable, the Senate and House of Representatives  
of the United States, in Congress assembled :*

The memorial of the Legislative Assembly of the territory of Washington to your honorable body, would respectfully represent : That Michael T. Simmons, having been appointed special Indian agent by the governor and superintendent of Indian affairs of Washington territory, on the ninth day of March, 1854, did discharge all the duties of a full Indian agent for said territory from the date of his said appointment to the thirteenth day of May, 1856, at which time he entered upon the duties of a full Indian agent, under an appointment from the President of the United States, confirmed by the Senate ; and whereas, during said time, there were but two full agents appointed by the President, although three were authorized by law of congress ; and whereas, during the time aforesaid, the duties of a full agent devolved upon, and were discharged by said Michael T. Simmons, for which he has only received pay as special agent.

Therefore, your memorialists would respectfully request that the proper officer be authorized and directed by an act of your honorable bodies to pay to the said Michael T. Simmons the difference between the pay of a full agent, and that of a special agent, for his services during said period.

PASSED, January 7th, 1857.

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