

to perform all the duties of clerk of the district court at each of said places, either by himself or deputy, one of whom shall reside at each of said places.

SEC. 6. Sheriff's office. It shall be the duty of the sheriff of Lee county to keep an office at Fort Madison and at the city of Keokuk, and to perform all the duties of sheriff for the district court at each of said places, either by himself or deputy, one of whom shall reside at each of said places.

SEC. 7. Act repealed. That an act entitled "an act fixing the times of holding district courts in the first judicial district," approved, February twenty-fourth, 1847, and so much of an act entitled "an act fixing the times of holding the district courts in this state, as fixes the time of holding the district courts in the first judicial district," approved, February 17th, 1847, be and the same are hereby repealed.

SEC. 8. Effect of change. No suits, indictments, recognizances, informations, declarations, pleas, or other process or proceedings, returnable at, or pending in the said district court, for any of the counties above named, shall abate, be made void, or in any wise affected in consequence of any change in the time of holding said courts by the provisions of this act, but when the same may have been issued, or may have been made returnable at any day in accordance with the time heretofore fixed for holding said courts, they shall be considered returnable to the term of [53] the courts respectively named in this act; and all jurors, witnesses and other persons, bound in any way or summoned to appear before the courts mentioned above, at the next term thereof, shall be bound to appear at the time first specified for holding courts by this act.

SEC. 9. When to take effect. This act to take effect and be in force from and after its publication in the Keokuk Register and the Iowa Statesman, weekly newspapers in Lee county.

Approved, January 24, 1848.

Published in the Statesman and in the Register, February fifth, eighteen hundred and forty-eight.

CHAPTER 53.

HALF BREED TRACT.

AN ACT concerning claimants on the Half Breed Tract in Lee county.

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

SECTION 1. Persons entitled to improvements. That all persons, their heirs and assigns respectively, being possessed of any lands, town lots or tenements upon the Half Breed Tract, in Lee county, under and by virtue of a color of title to the same, and upon which there are improvements, shall be entitled to the full and appraised value of such improvements.

SEC. 2. Actions of right or ejectment. That in any action of right or ejectment, for any such lands, town lots or tenements, the jury before whom such suit is tried, shall if they find a verdict for the plaintiff, also find and return in such verdict whether the defendant was possessed of such lands, town lots, or tenements under and by virtue of a color of title, which shall be entered of record as a part of said verdict.

SEC. 3. Board of appraisers. That within twenty days after the term of court at which any such judgment is rendered, the plaintiff and defendant or their legal representatives, shall each choose one person as appraiser, and the two thus chosen shall upon notice, forthwith choose a third person, and they shall constitute the board of appraisers of such improvement.

SEC. 4. Duty of board. That it shall be the duty of said board of appraisers to proceed forthwith to appraise said improvements at a fair valuation, and make out under their hands a fair statement of their doings, setting out with common particularity, the land or town lot upon which said improvements are, and the kind of improvements, and the valuation in dollars and cents they place upon it, all of which shall be sealed up by them, [54] and returned by one of said board to the clerk of the district court in said county.

SEC. 5. Duty of district clerk. The clerk of said court shall open said returned statement, and file it as a paper in the case, and it shall be taken and considered as a part of the record.

SEC. 6. Appraised value to be paid. That in all such cases no writ of possession shall issue until the appraised value as aforesaid, shall be paid or tendered to the defendant, his heirs, executors or administrators, and the receipt of the defendant, his heirs, executors or administrators, in any such case, filed with the other papers shall be *prima facie* evidence of such payment.

SEC. 7. In case of tender. That in case tender be made as aforesaid, in lawful money of the United States, to said defendant, his heirs, executors or administrators, and they or either of them, as the case may be, refuse to receive the same, the plaintiff may make affidavit of such facts before said clerk, and a writ of possession may thereupon issue as though said tender had been received.

SEC. 8. Who may bring suit for value of improvement—proviso. That nothing in this act shall be construed to bar the right of any such defendant, his heirs, executors or administrators, to bring suit for the appraised value of such improvements, and of the amount or sum and items of such value, the returned statement of the board of appraisers as mentioned in the fourth section of this act, shall be conclusive evidence: provided, that if it shall appear in the trial of any such suit that a tender was made according to the provisions of the seventh section of this act, the plaintiff shall have judgment for the sum claimed only, and shall pay all the costs of suit.

SEC. 9. Effect of act. That the benefits and provisions of this act shall apply to all actions of right or ejectment pending and undetermined in said county at the taking effect of this act, as well as all others hereafter to be brought.

SEC. 10. Acts repealed. That all acts and parts of acts contravening the provisions of this act, be and they are hereby repealed.

SEC. 11. When to take effect. This act shall take effect and be in force from and after its publication in the Iowa Standard and Capitol Reporter.

Approved, January 24, 1848.

Published in the Standard and in the Reporter, February ninth, eighteen hundred and forty-eight.

[55] CHAPTER 54.

POWESHIEK COUNTY.

AN ACT to organize the county of Poweshiek, and to provide for the location of the seat of justice thereof.

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

SECTION 1. County organized. That the county of Poweshiek be and the same is hereby organized, from and after the third day of April next, and the