

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 Acts repealed.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

inhabitants of said county shall be entitled to all the privileges to which, by law, the inhabitants of other organized counties of this state are entitled, and the said county shall constitute a part of the third judicial district of this state.

SEC. 2. First election, duty of sheriff, etc.—time of election. That for the purpose of organizing said county, it is hereby made the duty of the sheriff of Mahaska county, to proceed to order an election in said county for the purpose of electing three county commissioners, one judge of probate, one sheriff, one clerk of the district court, one prosecuting attorney, one county recorder, one clerk of the board of county commissioners, one surveyor, one coroner, and such number of justices of the peace, and constables, as may be directed by the officer ordering said election; the officer having due regard for the convenience of the people; which election shall be on the first Monday in the month of April next; and that the officer ordering said election, shall appoint as many places of holding elections in said county as the convenience of the people may require, and shall appoint three judges of election for each place of holding elections in said county, and issue certificates to said judges of their appointment; and the officer ordering said election shall give at least fifteen days notice of the time and place of holding such election, by at least three written or printed notices, which shall be posted up at three of the most public places in the neighborhood where each of the polls shall be opened as aforesaid.

SEC. 3. Duty of sheriff as to polls, certificates, etc. That the officer ordering the election as aforesaid, shall receive and canvass the polls, and grant certificates to the persons selected to fill the several offices mentioned in this act. The officer ordering the election shall perform the duties of a clerk of the board of county commissioners, until there shall be a clerk of the board of county commissioners elected and qualified for said county under the provisions of this act.

SEC. 4. Election, how conducted. That said election shall, in all cases not provided for in this act, be conducted under the laws of this state regulating general elections.

[56] **SEC. 5. Term of office.** That the officers elected under the provisions of this act, shall hold their offices until the next general election, and until their successors are elected and qualified.

SEC. 6. Books and papers of election. That the officer ordering the election in said county, shall return all the books and papers which may come into his hands by virtue of this act, to the clerk of the board of county commissioners forthwith after said clerk shall be elected and qualified.

SEC. 7. Fees. That the officer conducting said election shall be allowed the same fees for services rendered by him under the provisions of this act, that are allowed by law for similar services performed by the sheriff or county commissioner's clerk for services in similar cases.

SEC. 8. Actions in Mahaska county. That all actions at law in the district court for the county of Mahaska, commenced prior to the organization of said county of Poweshiek, when the parties, or either of them, reside in said county of Poweshiek, shall be prosecuted to final judgment, order or decree, as fully and effectually as if this act had not been passed.

SEC. 9. Duty of justices of the peace. That it shall be the duty of all justices of the peace residing in said county, to return all books and papers in their hands, appertaining to said office, to the next nearest justice of the peace which may be elected and qualified for said county under the provisions of this act, and all suits at law or other official business which may be in the hands of such justices of the peace and unfinished, shall be completed or prosecuted to final judgment by the justice of the peace to whom such business or papers may have been returned as aforesaid.

SEC. 10. Assessment of the county. That the sheriff elected under the provisions of this act, for said county, shall proceed to assess said county on the fifteenth day of April next, and he shall make his return to the county commissioners' clerk at the same time, and be under the same obligations and liabilities as sheriffs of other counties are.

SEC. 11. Commissioners of county seat. That David Edmundson, of the county of Jasper, John White, of the county of Mahaska, and John Rose, of the county of Polk, be, and they are hereby appointed commissioners to locate and establish the seat of justice of said county of Poweshiek; said commissioners, or any two of them, shall meet at the house of Mahlan Woodward, Esq., in said county, on the first Monday in June next, or at such other time within one month thereafter, as a majority of said commissioners may agree upon, in pursuance of their duties under this act.

SEC. 12. Oath of commissioners. That said commissioners shall first take and subscribe the following oath, to-wit: "We do solemnly swear (or affirm) that we (or either of us) have no personal interest, either directly or indirectly in the location of the seat of justice of Poweshiek county, and that we will faithfully and impartially examine the situation of said county, [57] taking into consideration the future as well as the present population of said county, also to pay strict regard to the geographical center of said county." Which oath shall be administered by the clerk of the district court of said county of Poweshiek, or any justice of the peace of said county, and the officer administering the same, shall certify to, and file the same in the office of the clerk of the board of county commissioners of said county, whose duty it shall be to receive the same.

SEC. 13. Duty of commissioners. That said commissioners, when met and qualified under the provisions of this act, shall proceed to locate the seat of justice of said county, and as soon as they shall have come to a determination, they shall commit to writing, the place so selected, with such name as they may deem proper, and a particular description thereof, signed by the said commissioners and filed by the clerk of the board of county commissioners, in which such seat of justice is located, whose duty it shall be to record the same, and forever keep it on file in his office, and the place thus designated, shall be the seat of justice of said county of Poweshiek.

SEC. 14. Pay of commissioners. That said commissioners shall each receive the sum of two dollars per day while necessarily employed in the discharge of the duties enjoined upon them by this act, which shall be paid by the county out of the first funds arising from the sale of lots in said seat of justice.

SEC. 15. When to take effect. This act to take effect and be in force from and after its publication in the Iowa Standard and Iowa Capital Reporter.

Approved, January 24th, 1848.

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

CHAPTER 55.

PRACTICE.

AN ACT to amend an act entitled an act regulating practice in the district courts in the territory of Iowa, approved, January the tenth, eighteen hundred and forty-three.

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

SECTION 1. Judgment by scire facias. That hereafter when any person wishes to revive any judgment by *scire facias*, and the party against whom the