

is or may be commenced in any of the courts of this Territory, shall be considered *prima facie* evidence of their execution, and the party denying the same, his agent or attorney, shall deny the same by oath, when the party introducing the instrument shall prove the signature by extrinsic evidence: *Provided*, If the defendant fails to appear at the first term of the court, the plaintiff, in order to obtain judgment against him at that term, must prove the execution of the note, bond, or other instrument.

bills, &c., denied under oath.

Proviso, as to evidence and judgment.

SEC. 11. That all acts, or parts of acts, coming within the purview of this act, be and the same are hereby repealed; and that this act take effect, and be in force, from and after the first day of March next.

Repealing and enforcing clause.

APPROVED, January 4, 1839.

PUBLIC ADMINISTRATORS.

AN ACT to authorize the appointment of Public Administrators in the several counties of this Territory, and to prescribe their duties.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa*, That there shall be elected, biennially, in each organized county in this Territory a suitable person, to be known and named the Public Administrator, whose office and duties shall be prescribed as follows:

Public administrator, biennial election of, in each county.

SEC. 2. That when any person shall die intestate in any county in this Territory, or when any person, a non-resident, shall die intestate, having goods and chattels, rights and credits, or either, in this Territory, and no widow, or next of kin, or creditor, or creditors, shall be living within this Territory, administration of the goods and chattels, rights and credits of such intestate shall be granted to the public administrator of the county, in which such intestate died, or in which the goods and chattels, rights and credits shall be found, in case such intestate shall have been a non-resident, and his successors in office.

To whom administration granted.

Residents and non-residents: the county and effects.

SEC. 3. Each and every public administrator who may at any time be appointed as aforesaid, shall, before entering upon the duties of his office, take and subscribe the following oath, to wit: "I, A. B., public administrator, in and for the county of \_\_\_\_\_ and Territory of Iowa, do solemnly swear (or affirm) that I will well and truly perform all such duties as

Oath of public administrator, before whom taken, in writing, and with whom filed.

may be required of me, by law, as such administrator, to the best of my knowledge and abilities, so help me God:" which said oath shall be taken before the judge of probate of the proper county, reduced to writing, and subscribed by the public administrator, and filed in the office of said judge.

Bond and security.

SEC. 4. It shall be the duty of the public administrator, before entering upon the duties of his office, as aforesaid, to enter into bond with sufficient security, to be approved of by the judge of probate in the sum of \_\_\_\_\_ thousand dollars, conditioned for the due administration, according to law, of all such goods and chattels, rights and credits, and assets as may belong and appertain to the several estates upon which administration may be granted to him as aforesaid; which said bond shall be in the following form,

Form of bond.

to wit: "Know all men by these presents, that we, A. B., C. D. and E. F. of the county of \_\_\_\_\_ and Territory of Iowa, are held and firmly bound unto the people of the Territory of Iowa, in the penal sum of \_\_\_\_\_ thousand dollars, current money of the United States, which payment, well and truly to be made and performed, we and each of us do bind ourselves, our heirs, executors, administrators and assigns jointly, severally and firmly by these presents, as witness our hands and seals this \_\_\_\_\_ day of \_\_\_\_\_

Condition.

18—. The condition of this obligation is such, that whereas the said A. B. has been appointed public administrator, in and for the county of \_\_\_\_\_: Now, if he, the said A. B., as such public administrator, shall well and truly administer all such goods and chattels, rights, credits and assets as shall come to his hands, or possession, or to the possession of any other person, for him, and which may belong to the estate, or estates, of any person, or persons, upon which administration may, at any time, be granted to him, by the judge of probate of said county of \_\_\_\_\_ and do cause to be made, or make himself, a true and perfect inventory of the goods, chattels, rights, credits and assets of all such deceased persons, the administration of whose estates shall be committed to him as aforesaid, and the same so made doth exhibit in the said court of probate, when he shall thereunto be required by law, and do make and render a just account of all his actings and doings, as such, in each separate estate, to the probate court of the proper county, when required so to do, and shall, in general, do and perform all such other duties

as may, from time to time, be required of him by law, then the above obligation to be void, otherwise to remain in full force and virtue," which said bond shall be signed and sealed by the public administrator, and his securities, and attested by the judge of probate, and filed in his office.

To be signed, sealed, attested and filed.

SEC. 5. In all cases, when administration shall have been granted to any public administrator, as aforesaid, and it shall afterwards appear, that there is, or are, a widow, or next of kin, or creditor, or creditors, of the deceased, entitled to the preference of administrator, by this act, it shall be the duty of the court of probate to revoke the letters granted to such public administrator, and to grant the same to such widow, next of kin, creditor, or creditors, as shall be entitled thereto: *Provided*, That application shall be made to the court of probate, of the proper county, by such person, or persons, within six months after letters shall have been granted to the public administrator as aforesaid, saving to such administrators, in all cases, all such sum or sums of money as may be due to him from such estate on account of commission and expenses due to and incurred by him in the management of said estate.

When letters of administration may be revoked.

Proviso and limitation.

Commission and expenses.

SEC. 6. If any balance of any such intestate estate, as may at any time be committed to any public administrator, as aforesaid, shall remain in the hands of such administrator, after all just debts and charges against such estate shall have been fully paid, which shall have come to the knowledge of such public administrator, for two years after the administration of such estate shall have been committed to him, as aforesaid, such administrator shall cause the amount thereof, with the name of the intestate, the time and place of his, or her, decease to be published in some one of the newspapers printed in this Territory, for eight weeks successively, notifying all persons having claims or demands against such estate, to exhibit the same, together with the evidence in support thereof, before the court of probate of the proper county, within six months after the date of such notice, or that the same will be forever barred, and if no such claim be presented for payment, or distribution, within the said time of six months, such balance shall be paid into the county treasury, and the county shall be answerable for the same, without interest, to such person or persons as shall

Balances in the hands of public administrator.

Notice thereof, how given.

Limitation.

County to answer for such

balances; how  
and to whom.

Protection of  
property, &c.,  
before admin-  
istration shall  
have been  
granted.

Allowance  
therefor.

thereafter appear to be legally entitled to the same, if any shall ever appear.

SEC. 7. Upon the death of any person, or intestate, not leaving a widow, or next of kin, or creditor, or creditors, within any county of this Territory, it shall and may be lawful for the public administrator of the county, wherein such person may have died, as aforesaid, or wherein the goods and chattels, rights and credits of such decedent shall be, in case such person shall have been a non-resident, to take such measures as he may deem proper for the protection and securing the property and effects of such intestate, from waste and embezzlement, until administration thereon shall be granted to the person entitled thereto, as aforesaid, the expenses whereof shall be paid to such public administrator upon the allowance of the court of probate, in preference to all other demands against such estate, funeral expenses excepted.

APPROVED, January 19, 1839.

## PUBLIC LANDS.

AN ACT to provide for the collection of demands growing out of contracts for sales of improvements on public lands.

What con-  
tracts, &c.,  
hereafter made  
shall be deem-  
ed valid.

Conveyances  
to be binding  
and effectual.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That all contracts, promises, assumpsits, or undertakings, either written or verbal, which shall be made hereafter in good faith and without fraud, collusion, or circumvention, for sale, purchase, or payment, of improvements made on the lands owned by the government of the United States, shall be deemed valid in law or equity, and may be sued for and recovered as in other contracts.

SEC. 2. That all deeds of quit claim, or other conveyance, of all improvements upon public lands, shall be as binding and effectual, in law and equity, between the parties, for conveying the title of the grantor in and to the same, as in cases where the grantor has the fee simple to the premises conveyed.

APPROVED, January 15, 1839.