

balances; how  
and to whom.

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

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

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.

Allowance  
therefor.

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.

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.

Conveyances  
to be binding  
and effectual.

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.

## PUBLIC LANDS.

AN ACT to prevent trespass and other injuries being done to the possession of settlers on the public domain, and to define the extent of the right of possession on the said lands.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa*, That here-  
 after in actions of trespass, *quare clavsum fregit*, tres-  
 pass, ejectment, forcible entry and detainer, as well  
 as forcible detainer only, when any person may be  
 settled on any of the public lands in this Territory,  
 where the same have not been sold by the General  
 Government, his, her, or their possession shall be  
 considered on the trial as extending to the bound-  
 aries embraced by the "claim" of such person or  
 persons, so as to enable him, her, or them, to have  
 and maintain either of the aforesaid actions without  
 being compelled to prove an actual enclosure: *Pro-*  
*vided*, that such "claim" shall not exceed in number  
 of acres the amount limited to any one person, ac-  
 cording to the custom of the neighborhood in which  
 said land is situated, and shall not in any case exceed  
 in extent three hundred and twenty acres: *And pro-*  
*vided*, That such "claim" may be located in two  
 different parcels as will suit the convenience of the  
 holder. But no such holder shall be entitled to hold  
 a "claim" less than the smallest legal subdivision,  
 agreeably to the laws of the United States relative to  
 selling the public lands. And all such claim, or part  
 of a claim, shall be marked out, so that the bound-  
 aries thereof can be readily traced, and the extent of  
 said claim easily known: *Provided*, That no person  
 shall be entitled to sustain either of said actions for  
 possession of, or injury done to, any "claim" (ex-  
 cept mineral lots) unless he has actually made an  
 improvement, as required by the custom of the neigh-  
 borhood in which such *claim* or *claims* may be sit-  
 uated.

Possession of  
unenclosed  
public lands or  
"claims."

Proviso.

Proviso.

Proviso.

SEC. 2. A neglect of a *claim* by the owner, and  
 those under whom he claims, for a period of six  
 months, or more, shall be considered such an aband-  
 onment as to preclude said owner from sustaining  
 either of the aforesaid actions.

Abandonment.

SEC. 3. Nothing in this act contained shall be con-  
 strued to prevent any person from sustaining either  
 of the aforesaid actions, when there shall be an  
 actual enclosure, for an injury done within the same,  
 although the "claim" of such person, enclosed and

Particular case  
in which ac-  
tions may be  
sustained.

unenclosed, may exceed in the whole three hundred and twenty acres.

APPROVED, January 25, 1839.

## QUO WARRANTO.

AN ACT relating to information in the nature of *quo warranto* and regulating the mode of proceeding thereon.

**SEC. 1.** *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That when any person or persons shall usurp, intrude into, or unlawfully hold or exercise any public civil office, or any franchise within this Territory or any office in any corporation created by the authority of this Territory, or when any public civil officer shall have done, or suffered any act, which, by the provisions of law shall work a forfeiture of his office, or when any association of persons shall act as a corporation within this Territory without being lawfully incorporated, the District Attorney of the proper county shall, when directed by the Governor, the District Court of the proper county, or the Legislative Assembly, or he may, upon his own relation, or the relation of any private individual, upon leave granted by said court in term time, or the judge thereof, in vacation, file an information in the nature of a *quo warranto* in the said court.

When, against whom, by whom, and at whose instance, an information, in the nature of a *quo warranto*, may be filed.

**SEC. 2.** Whenever any such information shall be filed a summons shall be issued thereon which shall be served and returned forthwith, and whenever the same shall be returned served, the clerk of the court shall enter the defendant's appearance.

Summons, service, return & appearance.

**SEC. 3.** Whenever any such information shall be filed against any person for usurping any office, as in the first section provided, the District Attorney in addition to the other matters required to be set forth in the information, may also set forth therein the name of the persons, if any there should be, who may claim to be rightfully entitled to such office, with an averment of his right thereto, and in every such case judgment shall be rendered upon the right of the defendant, and also upon the right of the party so averred to be entitled, or only upon the right of the defendant, as justice shall require.

What right determined by the judgment.

**SEC. 4.** If judgment be rendered upon the right of the person so averred to be entitled, and the same be

Oath of office, bond and de-