

[Chap. 3.]

AN ACT to authorize the Legislative Assembly to punish for contempt and to privilege the members from arrest.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa*, That each house of the legislative assembly shall have authority to punish by fine and imprisonment every person not a member who shall be guilty of disrespect by any disorderly or contemptuous behavior in its presence, or who in any place where the legislative assembly is in session shall threaten harm to the body or estate of any of its members for any thing said or done in the assembly, or who shall assault or arrest any witness or other person going or returning by order of either house, or who shall rescue any person arrested by order of either house of the assembly; and a majority of two thirds of either house may expel a member of its own body: *Provided always*, That the Council shall have cognizance only of offences committed as aforesaid against the Council; and the House of Representatives shall have cognizance only of offences as aforesaid against the House of Representatives: *And provided*, That the fine shall not exceed two hundred dollars and the imprisonment shall not exceed forty-eight hours for any one offence.

SEC. 2. *And be it further enacted*, That the members of the Council and House of Representatives shall be privileged from arrest, in all cases except treason, felony, and breach of the peace, during their attendance at the session of their respective houses, and in going to and returning from the same, and from being questioned in any other place for any speech or debate in either house.

SEC. 3. This act to take effect and be in full force from and after its passage.

[Presented to the governor on the 25th November, 1839, and having remained with the governor three days, (Sundays excepted) the legislative assembly being in session, this bill became a law November 28, 1839.]

[Chap. 4.]

AN ACT for the benefit of Settlers, &c. on the Half Breed Lands.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa*, That any person who may have heretofore purchased or may

Value of im-
provements
allowed to
settlers.

hereafter purchase any part or parcel of that tract of land known as the half breed tract, situated in the county of Lee, and Territory of Iowa, and settled upon, and made any improvement upon said land so purchased, or who have made improvements, without settling, on any portion of said lands, by tenants or hands, under a deed of purchase, and by color of title, and who shall, from and after the passage of this act, be ousted by any person having a better title, such person so ousted and dispossessed shall be allowed the price and value of all the improvements made by him on such land, in the manner and form hereinafter provided.

Petition to be
filed.

SEC. 2. If any person who shall be ousted or dispossessed as in the first section mentioned, shall desire to obtain the value of his improvements from the person obtaining possession by virtue of better title, he may file in the clerk's office of the district court in the county of Lee, a petition setting forth the time when the improvements were made, under what color of title, and in what said improvements consist, the name of the person who has obtained possession, and in what manner said possession was awarded; also praying the court to appoint three disinterested commissioners, who shall not be residents on the said half breed tract, to go upon the premises to examine the improvements made by the said petitioner, appraise the real value of said improvements, and make a true report of the nature and value of said improvements.

Summons to
answer peti-
tion.

SEC. 3. Upon the filing of said petition in the clerk's office aforesaid, it shall be the duty of the clerk to issue a summons to the person named in the petition as being in possession of the premises, &c. to answer said petition at the term of the court then next ensuing, or that the facts set forth in the petition will be taken as confessed against him, which said summons shall be served by the sheriff, as in other cases, who shall duly return said writ with his doings thereon.

Witnesses.

SEC. 4. That the petitioner may subpœna as many witnesses as may be deemed necessary to support his petition, and the respondent may also subpœna on his part as many witnesses as may be necessary to support his answer denying the material allegations in the petition.

Interlocutory
judgment for
value of im-
provements.

SEC. 5. After the hearing of the said petition, together with the answer, if any should be put in,

and the testimony of the witnesses in the case, the judge of the said district court, if he shall find that the material facts set forth in the petition are true, shall order interlocutory judgment to be entered against the respondent, for the value of the improvements specified in the petition, and the court, upon the entering up of such judgment, shall appoint three legal voters of the county of Lee, who do not reside on, and who are not interested in the half breed tract, to go upon the premises forthwith, and then and there to make a true and perfect inventory and appraisement of the value of all the improvements made by the petitioner, and report such inventory and appraisement to the court without delay, which said inventory and appraisement shall be sworn to as true, full and correct, according to the best of their knowledge and belief, and they, or a majority of them, shall also subscribe their names to the same. Appraisement.

SEC. 6. After the commissioners have made their report, as in the fifth section directed, the said court shall immediately order final judgment to be entered up against the respondent for the value of the improvements as reported by the commissioners aforesaid, together with judgment for costs in favor of the petitioner, and that execution shall issue against the respondent as in other civil cases, and be levied and returned in the same manner. Final judgment.

SEC. 7. If the petitioner fails to support or maintain the material allegations in his petition, and the answer of the respondent is found to be true by the court, then judgment shall be rendered in favor of the respondent for costs. If petitioner fail, respondent to have judgment.

SEC. 8. On return of the summons, as heretofore authorized by this act, that the respondent is not found within the county of Lee, the court, upon application of the petitioner, shall grant an order of publication against the respondent, which order shall contain the names of the parties, the time of filing the petition, and a brief statement of the contents, and that unless the respondent enter his appearance, and file his answer to the petition on the second day of the succeeding term of said court, that the allegations in said petition will be taken as confessed, and judgment entered accordingly, which order shall be published in some public newspaper in Lee county, if any, if not in one nearest to the said county of Lee, for five weeks successively. Order of notice.

Pay of com-
missioners.

SEC. 9. The commissioners appointed by the court for the purposes aforesaid, shall each receive the sum of three dollars per day while actually engaged in their duty, and two dollars for drawing up their inventory and appraisal and filing the same in court, which amount shall be taxed in the bill of costs against the respondent.

SEC. 10. No want of form shall, in any way, vitiate or retard any of the proceedings authorized by this act.

Approved December 6, 1839.

[Chap. 5.]

AN ACT for the relief of the Administrators of the Estate of the late Benjamin W. Clarke.

Administra-
tors may pur-
chase claims.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That James Grant and James Davenport, administrators of the estate of the late Benjamin W. Clarke, of Scott county, be and they are hereby authorized and empowered to purchase, for the benefit of the heirs at law of said Clarke, all claims upon the public lands which were held by the said Clarke, and pay for the same out of any moneys which they may receive as administrators of his estate, or which they may borrow for that purpose.

May borrow
money.

SEC. 2. The said administrators are hereby authorized to borrow any sum of money not exceeding one thousand dollars, for any period not exceeding five years, at any rate of interest not exceeding twenty per cent, and to use the money so borrowed for the purpose of purchasing the claims aforesaid, and they may give as security for the payment of the money so borrowed, a mortgage on any of the estate purchased, or such personal security as they now have or hereafter may have belonging to the estate of the said Clarke, and of all their acts in virtue hereof, they shall make a return to the judge of probate.

And mort-
gage estate.

Lands to be
held in trust.

SEC. 3. The said lands, when purchased as aforesaid, shall be held by said administrators in trust to pay the debts of said Clarke, or to be divided among the heirs of said Clarke, as in other cases of persons dying intestate in this territory.

May lease
property.

SEC. 4. The administrators are hereby authorized to lease the tavern house in the town of Buffalo, and