

**SEC. 3. Claimant to make oath as to what payments have been made.** Before any executor or administrator shall allow or pay any debt demanded as due from the deceased, founded on any judgment, decree, bond, note, bill or bills or [of] account, the person claiming such debt shall make affidavit that nothing has been paid or delivered towards the satisfaction of the same, except what is mentioned or credited, and that the sum demanded is justly due, which affidavit shall be attached to and filed with the instrument of writing or account, (upon which the claim is founded,) in the probate office.

**SEC. 4. If refused, claimant to apply to probate court, giving 10 days notice—if court rejects claim, claimant to pay costs.** If any executor or administrator shall refuse to allow any claim or demand against the deceased after the same may have been [40] exhibited to him, in accordance with the provisions of this act, such claimant may present his claim to the court of probate for allowance, giving the executor or administrator ten days notice of such application to the court: provided, that if said court should also reject such claim, then and in that case, the said claimant shall pay all the cost of such appeal.

**SEC. 5. Executors to administer oaths.** The executor or administrator is hereby authorized to administer oaths to witnesses or creditors and examine them touching the validity of any claim presented to him against the estate of his testator or intestate.

**SEC. 6. Widows dower secured.** The dower of widows shall be and remain as fixed by the common law.

**SEC. 7. Vacancy in office of probate judge, county commissioners to appoint one for the remainder of the term.** That when any vacancy shall happen in the office of judge of probate by death, resignation, removal from the county or otherwise, it shall be the duty of the clerk of the county commissioners court to immediately inform the county commissioners of such vacancy, who shall appoint some suitable person to discharge the duties of said office until the next annual election.

**SEC. 8. No claims less than \$25 to be presented to judge until administrator refuses to allow.** No demands for a less sum than twenty-five dollars shall be presented to the court of probate for allowance, until after the executor or administrator shall have refused to allow and class the same; and in all such cases, if the claimant be allowed his claim by the court, he shall be entitled to his costs.

**SEC. 9. Conflicting portions of amended act, repealed.** That all of the seventh chapter of an act to which this is amendatory, except the first section; and all other parts of said act that conflict with the provisions of this act, be, and the same are, hereby repealed.

Approved, June 10th, 1845.

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[41] CHAPTER 22.

TITLES TO HALF BREED LANDS.

AN ACT to provide for the better settling and adjudicating of the several titles set up to the Half Breed Lands in the county of Lee.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa:*

Whereas, the public tranquility in Lee county, requires that the fee simple title to the tract of land in said county, commonly known as the Sac and

Fox half breed reservation should be ascertained and settled as speedily as possible: and whereas, it would necessarily lead to greater excitement, as well as work manifest injustice to the settlers on said lands that either of the several claims of title to said lands should be competent, in a judicial proceeding, to dispossess or eject said settlers from their improvements and premises, unless fully and fairly established, whereby the settlers, when a judgment is rendered against them on any action brought for the recovery of said lands, may ascertain, with certainty, in whom a good title is vested, and make purchase of the same in case the owner is inclined to sell; therefore,

*Be it enacted by the Council and House of Representatives of the Territory of Iowa:*

**SECTION 1.** Plaintiff, if a half breed or claiming under one, in any real action to recover land, must show the partition of lands under which he claims—if he claims under judicial proceeding, must show that he complies with all necessary forms. That in any real or possessory action brought for the recovery of said lands, or any portion thereof, the following particulars shall be complied with by the plaintiff, to enable him to make out a *prima facie* case: first, if the plaintiff be a half breed etc. claiming title in right of himself, or being any other person claiming by, through or under right acquired of a half breed etc., he shall be required to show there has been made a partition of said reservation or lands, of which he, or those under whom he claims, was admitted a party therein; and that all the provisions of the general laws of partition regulating judicial proceedings in relation thereto, commencing with the bill or petition and continuing until, and with, the decree or deed of partition, have been substantially complied with: second, that the plaintiff, if he derive title by, through, under or by virtue of any judicial proceedings otherwise than by partition as aforesaid, shall [42] be required to show that such proceedings, commencing with the publication or original process, and including all the other records in the case, have, if such proceedings were based on the provisions of a public act or acts, substantially complied with the provisions of said act or acts, or if based on a private act or acts, has fairly and strictly complied with the directions thereof: third, if the plaintiff claim under and by virtue of a tax title, he shall show that the provisions of the general act in relation to tax, assessments, delinquencies, and sales, has been substantially complied with.

**SEC. 2.** Defendants allowed to show titles outstanding superior to that of plaintiff. The defendant or defendants in any such action or actions, whatever may be the nature of his or her interest in said lands, or whether they are merely occupants without any interest therein except their possessory rights, shall be permitted to show in evidence for the defeat of the plaintiff's claim that there are still superior titles outstanding to that under which the plaintiff claims, and every matter of defense which the holder of any such outstanding claims or titles might himself be permitted to prove, for the contravention of the plaintiff's title, may be relied upon by the defendant who claims no other than a possessory right in said lands.

**SEC. 3.** Court to give such construction to this act, as will prove real ownership. It shall be the duty of the court to give this act such liberal construction as will most tend to the ascertainment of the real or valid title to said reservation or lands.

**SEC. 4.** Act to take effect after passage. This act shall take effect and be in force from and after its passage.

Secretary's office, Iowa City,  
June 11, 1845.

This act having been returned by the governor, with his objections to its passage, to the legislative council (in which house it originated) was duly passed by a majority of two thirds—sent to the house of representatives, and there passed by a similar vote. By the organic law said act thereby became a law, and I hereby so declare it.

S. J. BURR,  
Secretary of Iowa Territory.

[43] CHAPTER 23.

STEAM BOATS.

AN ACT to prevent and punish the owners and masters of steam boats committing trespass upon the property of persons living in this territory, and for other purposes.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa:*

SECTION 1. **Master taking wood, etc., to leave written notice on the spot.** That it shall be the duty of every master or owner of any steamboat navigating any river within or bordering upon this territory, whenever he or they shall take any wood or other property belonging to any citizen or citizens of this territory without the consent of such owner or owners, or in his or their absence, to make out or cause to be made out, a card or notice specifying the number of cords of wood and the amount and description of such other property with the day and date when the same was taken by said master or owner, and leave such card or notice in some conspicuous place where such wood or other property was taken, and where the same may be found by such owner or owners.

SEC. 2. **Failure to comply with first section, guilty of misdemeanor—fine not over \$100, nor less than \$10—imprisonment not exceeding 30 days.** If any master or owner of any steam boat, as aforesaid, shall neglect to comply with the provisions of the first section of this act, or shall fail to pay for said wood or other property when called upon to do so by such owner or owners thereof, every captain or owner of such steam boat shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding one hundred dollars, nor less than ten dollars, and shall moreover be liable to the party injured for the value of said wood or other property, also be imprisoned not exceeding thirty days at the discretion of the court.

SEC. 3. **Suit before justice, if damages exceed his jurisdiction, recoverable by presentment in district court.** Suit may be instituted before any justice of the peace of the proper county, for any violation of the first section of this act; and should the amount of the damages exceed the jurisdiction of the justice of the peace, the same shall be recovered by presentment or indictment in the district court.

[44] SEC. 4. **Master taking any water craft, liable to double damages.** If the master or owner of any steam boat, as aforesaid, shall at any time hereafter take or cause to be taken, any flat, keel-boat or other water craft from any person in this territory, for the purpose of aiding or assisting them in lighting said boat, or in any way conveying freight from, or to, said boat, or lighting the freight of said boat over either the upper or lower rapids of the Mississippi river or any bar or shoal or other place on said river, or any river of this territory, without the consent of the owner or owners, or