

LAW OF IOWA

[1] CHAPTER 1.

CRIMINAL PROCEEDINGS.

AN ACT to amend an act entitled "An act regulating criminal proceedings," approved January 4, 1839.

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

SECTION 1. Persons charged with criminal offence—the fees of witnesses of prosecution shall be paid out of county treasury—proviso; that if the court is satisfied that private prosecutor has maliciously instigated prosecution, the court shall adjudge the cost of such prosecution against the prosecutor. That in the event of the acquittal of a person charged with a criminal offence, the fees of witnesses on the part of the prosecution and of the defendant, shall be paid by the county, provided the court be satisfied from the report of the grand jury, or by other testimony that any person acting in the capacity of a private prosecutor has maliciously instigated any prosecution, the court shall adjudge the costs of such prosecution against such prosecutor and not against the county as above provided.

SEC. 2. Repeals all laws that conflict with the provisions of this act. That all laws or parts of laws that conflict with the provisions of this act be and the same are hereby repealed.

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

GEORGE W. McCLEARY,
Speaker of the house of representatives.
STEPHEN HEMPSTEAD,
President of the council.

Approved, January 1st, 1846.
JAMES CLARKE.

[2] CHAPTER 2.

ACTIONS OF RIGHT.

AN ACT to amend an act entitled "An act to allow and regulate the action of right," approved, December 29, 1838.

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

SECTION 1. If commissions appointed under 56th section of act to assign dower, report that the property is not susceptible of assignment by metes and

bounds as provided in said section, the court shall decree that the widow shall enjoy one-third of the rents and profits—court shall have chancery power to put widow in possession of dower. That if the commissioners appointed under the fifty-sixth section of said act, to assign dower report that the property is not susceptible of assignment by metes and bounds as provided for in said section, the court may order and decree that the widow shall thereafter enjoy one-third of the rents and profits of said property, and the court shall have full chancery power to make any decree or issue any writ to put the widow into the full enjoyment of her dower.

SEC. 2. Act takes effect from its passage. This act to take effect and be in force from and after its passage.

Approved, January 1st, 1846.

CHAPTER 3.

CENSUS.

AN ACT to authorize and require the county assessors to take the enumeration of the inhabitants of their respective counties for the purpose of making an apportionment at the next session of the legislature of the territory of Iowa.

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

[3] **SECTION 1. County assessors required to take enumeration of inhabitants at the time of taking assessment of property—in counties that are not organized, enumeration to be taken by assessors of adjoining counties.** That the county assessors of the various counties of this territory are hereby authorized and required to take an enumeration of all the inhabitants, of all ages, of their respective counties, at the time they are now required by law to take an assessment of the property of said counties; and in those counties that are not organized it shall be the duty of the assessors residing in the counties next to such counties to take such enumeration in said unorganized counties.

SEC. 2. Made duty of assessors to make correct return of duties performed under this act, under oath to clerk of county board before 1st September, to receive such compensation as county board may allow. It shall be the duty of said assessors to make a correct return of the duties performed under this act, under oath, to the clerks of the boards of county commissioners in their counties, on or before the first day of September next, for which service they shall receive such compensation as the boards of county commissioners may allow.

SEC. 3. Duty of clerk of county board to transmit copy to secretary of the territory before 1st November next. It shall be the duty of the several clerks of the boards of county commissioners to forward a certified copy of said returns to the secretary of the territory, on or before the first day of November next.

SEC. 4. Said enumeration to be taken but once under this act. This act shall only apply to the enumeration of said inhabitants but once as herein provided.

SEC. 5. Act takes effect from its passage. This act shall take effect and be in force from and after its passage.

Approved, January 2d, 1846.