

made a reasonable time before sale, if the supposed owner be found in the city.

§ 36. Such sales must be at public auction, and there must be thirty day's notice prior thereto, given as above provided for, notifying the assessment and tax, and in such sale, he who bids to pay the amount due for the least quantity of the land, will be the highest bidder; and the manner of ascertaining the portion purchased, shall be as directed in the State revenue law, now or hereafter existing.

§ 37. The collector shall execute and deliver to the purchaser a deed, running in the name of the State, which shall have the same force and effect of the deed of the Treasurer of the county on sale for county and State taxes, under the law existing at the time. The lands may be redeemed within one year from the day of sale, by the payment of the purchase money and ten per cent. thereof, with any other taxes paid by the purchaser, which payment may be made to the purchaser, his agent, or the Treasurer of the city.

§ 38. This act may be taken and may be pleaded as a public act.

§ 39. This act shall take effect from and after its publication in the Iowa Republican and Clinton Mirror.

APPROVED January 24th, 1855.

I certify that the foregoing Act was published in the Iowa Republican Feb. 7th, and Clinton Mirror Feb. 14th, 1855.

G. W. McCLEARY, Sec'y of State.

## CHAPTER 92.

### MILL DAMS.

#### AN ACT authorizing Mill Dams.

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa, That any person owning lands on one, or both sides, of a stream or water course, and being desirous of building a mill, or erecting other machinery, to be propelled by water power, on said stream, and of erecting a*

May have a dam thereon, may have a writ, *ad quod damnum*, to be writ, A. Q. D. issued by the District Court of the proper county, to be proceeded on as hereafter provided.

Petition.

§ 2. An applicant for said writ shall file his petition in the office of the Clerk of the District Court of the proper county, which petition shall set forth the locality with sufficient certainty, and also the names of the owners of lands to be affected by said dam, and he shall give ten days' notice of his said petition, by serving a copy thereof on each of said persons, or on his or their agents, if to be found, and make proof of such service by affidavit, to be filed with his said petition.

Notice.

Jury.

§ 3. The Clerk of said Court shall thereupon issue said writ, directed to the Sheriff of said county, in which the lands proposed to be affected may lie, commanding him to summon twelve good and lawful men of his county, to meet on a day certain upon the lands in said writ named, and ten days' notice shall be given by the Sheriff to the owners or agents as aforesaid, of the execution of said writ.

Empaneled and sworn.

§ 4. The jury so summoned shall be sworn by the Sheriff impartially, and to the best of their skill and judgment, to view the lands in said writ described, and the lands both above and below said proposed dam, and ascertain and appraise the damages, as by said writ directed, to each of the proprietors of said land proposed to be affected by said dam, and also to ascertain whether the dwelling house, out house, orchard, or garden, of such proprietor shall be overflowed, or otherwise injuriously affected, which inquisition shall be signed by the jurors aforesaid, and returned with the writ aforesaid, to the court whence it issued.

Inquisition.

Sl. Fa.

§ 5. When said inquest shall have been filed, the clerk of the court issuing said writ shall issue a *scire facias* to the parties in said inquisition mentioned, to appear at the next term of the District Court, and show cause, if any they have, why leave should not be granted to build said dam, which notice shall be served and proved as before directed.

District Court.

License.

§ 6. If on such inquest it shall appear to said District Court that neither the dwelling house, out house, garden or orchard, of any proprietor, will be overflowed, or injuriously

affected, and if said court shall judge it reasonable, and for the public benefit, license shall be granted to erect the same, on the applicants paying to the proper parties the damages **Damages** decreed by said court, from the inquisition aforesaid; and if the applicant shall not within one year thereafter begin to build said dam, and finish and have in operation said mill or machinery within three years thereafter, and afterwards keep it in good repair, for the accommodation of the public, or in case said dam or mill or machinery be destroyed, he shall not begin to repair or rebuild it in one year, and finish **Forfeiture.** it in three years, then the said license shall be forfeited.

§ 7. *Provided*, that if the writ shall not be executed by **Continuance.** the Sheriff on the day therein mentioned, said Sheriff may, from time to time, appoint a day, at least ten days' notice thereof being given to the parties interested, as hereinafter provided; and if the inquest cannot be completed in one day, the Sheriff shall adjourn the jury, from day to day, until its completion; and if a portion of the lands to be affected be in another county, the Sheriff may act notwithstanding; **Another co.** and if the owner of any of the lands to be affected by these proceedings be a minor, service on the guardian of his estate **Minors.** shall bind him.

§ 8. *Provided*, also, that no inquest under this act, nor **Not to bar action.** any judgment thereon, shall bar any action which could have been maintained if this act had not been enacted, unless the prosecution or action was actually foreseen, and estimated upon the inquest.

§ 9. Any owner of land affected by any proceedings un- **Person interested:** der this act, who may not have been made party thereto, by reason of want of notice, or from any cause, may be made party thereto by *scire facias*, at any time thereafter.

§ 10. The fees of the Sheriff, jurors and witnesses, un- **Fees.** der this act, shall be the same as in other cases in the District Court, and shall in all cases be paid by the applicant.

§ 11. This act shall apply as well to dams already in **Apply to dams now existing.** existence, and to the heightening of the same, as to those hereafter to be erected.

§ 12. Where the water is backed up by any mill dam **Back water.** belonging to any mill or machinery, is about to break

**Repairs.** through or over the banks of the stream, or to wash a channel, so as to turn the water of such stream, or any part thereof, out of its ordinary channel, whereby such mill or machinery will be injured or affected, the owner or occupier of such mill or machinery, if he do not own such banks, or the lands lying contiguous thereto, may, if necessary, enter thereon, and erect and keep in repair such embankments and other works as shall be necessary to prevent such water from breaking through or over the bank or banks of such stream, or washing a channel, as aforesaid, such owner or occupier committing thereon no unnecessary waste or damage.

**Damages may be recovered.** § 13. Nothing contained in the last section shall be so construed as to bar the owner of such bank or banks, or land lying contiguous thereto, from recovering the amount of any injury which he may actually sustain by the erection or repair of such embankments or other works.

**Injuring.** § 14. If any person shall injure, destroy or remove any such embankment, fortification or other works, the owner or occupier of such mill or machinery may recover of such person all damages he may sustain by reason of such injury, destruction or removal.

**Take effect.** § 15. This act to take effect from and after its publication and distribution.

APPROVED January 24th, 1855.

Published in the Reporter February 7th, and Republican February 14th, 1855, by order of the Governor.

GEO. W. McCLEARY,  
Secretary of State.

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## CHAPTER 93.

### LODGES.

AN ACT to amend Chapter 44 of the Code.

**Lodges.** SECTION 1. *Be it enacted by the General Assembly of the State of Iowa,* That chapter 44, of the Code, is hereby amended,