

CHAPTER 190.

APPEALS.

AN ACT regulating appeals from justices of the peace and mayors in criminal cases.

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa,* That in all criminal cases within the jurisdiction of justices of the peace or mayors, in which judgment may hereafter be rendered against any defendant, the defendant may appeal from the same to the district court of the county by pursuing the course hereinafter required. Appeal.

SEC. 2. The defendant must give notice of such appeal at the time of the rendition of the judgment, and must execute and file with the magistrate a bond in a penalty to be fixed by the magistrate with one or more sufficient securities conditioned that the defendant will appear on the first day of the next term of the district court and will not depart thence without leave, and will abide the judgment of the district court. Notice & bond.

SEC. 3. The defendant must give the prosecuting attorney of the county notice of such appeal, ten days before the next term of the district court, or the appeal may, on motion, be dismissed, provided that where ten days does not intervene between the time of the rendition of said judgment, the first day of the next term of said court, in such case the prosecuting attorney must be notified, on or before the morning of the first day of the term: *Provided*, that such notice need not be given if the prosecuting attorney acted as attorney in the case before the magistrate. Notice to pros. attorney.

SEC. 4. The magistrate who rendered such judgment must, at the time of the rendition of the same, inform the defendant of his right to an appeal, and of the requirements herein made with regard to the same: *Provided*, that if such information is not given by the magistrate at the time of the rendition of the judgment, then in that case the defendant may appeal at any time within ten days of the rendition thereof, and the magistrate is required to make an entry on his docket of the fact of said information having been given. Magistrate inform def't.

Witness recog-
nizance.

SEC. 5. When an appeal is thus taken, the magistrate must cause all material witnesses to enter into an undertaking as in cases of arrest, to testify in the cause at the term to which the appeal is returnable, and shall, on or before the first day of the next term of the district court of the proper county, file in the office of the clerk thereof a certified copy of the entries on his docket, together with all the undertakings and papers in the case.

Trial.

SEC. 6. The cause, when thus appealed, shall stand for trial as an issue of fact on an indictment in district court, and technical errors or defects which have not prejudiced the substantial rights of the defendant, shall be disregarded.

Writ of error.

SEC. 7. A writ of error may be taken from the judgment of district court, in such cases, to the supreme court, and prosecuted the same manner as for a judgment presented by indictment.

Repeal.

SEC. 8. That sec. 3358, 3359, 3360, 3361, 3362, 3363, 3364, 3365, 3366, and 3367, of the code be, and the same are hereby repealed.

SEC. 9 This act shall take effect from and after its passage.

Approved Jan. 28, 1857.

CHAPTER 191.

ORIGINAL NOTICES.

AN ACT regulating the service of original notices.

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa,* That when any original notice, such as is contemplated by sections 1714 and 1715, chapter 1103 of the code of Iowa, has been placed into the hands of any sheriff or other officer, whose duty is to serve the same, he shall, if requested by the plaintiff, forthwith proceed to serve the same, and if defendant cannot be found, the officer shall make a return "not found," and shall forthwith return said notice to the office of the clerk of the district court wherein the cause is pending.