

promissory notes or obligations for the purchase of any of said lots, shall be paid to said acting commissioner or his successor in office, which sums as well as moneys heretofore paid him for lots as aforesaid to be by him applied to the erection of the public buildings at Iowa City; and the acting commissioner is hereby required to make a correct exhibit of his accounts to the territorial treasurer, once in three months, whose duty it shall be to audit the same and keep a record thereof; and if the said commissioner shall refuse to comply with this provision of this act, his office shall be vacated.

Surplus.

SEC. 2. After the completion of said buildings, the surplus shall be paid into the territorial treasury for the use of the territory.

Deeds, when and how made.

SEC. 3. Whenever the purchase money shall be paid up in full for the purchase of any lot or lots in the city of Iowa, and as soon as the title to said lands is bona fide obtained from the general government, the acting commissioner shall make out the requisite title deeds to the purchaser or purchasers for the same, in conformity with the certificate of purchase, to be signed by the governor and the seal of the territory affixed thereto, and countersigned and acknowledged by said acting commissioner.

SEC. 4. The acting commissioner shall be and he is hereby allowed the sum of twelve hundred and fifty dollars per annum, as a compensation for his services, to be paid out of any moneys arising from the sale of lots in Iowa City; and the other two commissioners shall be paid, in the same manner, the sum of five dollars per day for the time they are actually employed, and three dollars for every twenty-five miles travel to and from the seat of government.

[Presented to the governor on the 14th January, 1840, and having remained with the governor three days (Sunday excepted) the legislative assembly being in session, this bill became a law January 17th, 1840.]

[Chap. 77.]

AN ACT amendatory of "An act regulating practice, &c.," approved January twenty-five, eighteen hundred and thirty-nine.

Jurisdiction of supreme court over errors in fact.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa.* That the supreme court shall sustain and have jurisdiction in cases of error in fact from the district courts; and

in all cases of appeals, writs of error upon matters of law or fact, if the supreme court cannot render a final judgment in the cause by reason of any error or defect in the proceedings in the court below the said supreme court, shall have power to remand the cause by a writ of procedendo, commanding the court below to proceed in the cause and take such steps as may be necessary to correct such error or defect in the proceedings below, by a new trial by a jury or otherwise, as the case may require, that justice may be done. May remand.

SEC. 2. That appeals from the district courts to the supreme court of this territory, shall be allowed upon all final judgments at law and decrees in chancery, when the judgment or decree appealed from shall amount exclusive of costs, to the sum of twenty-five dollars; and any such appeal shall operate as a supersedeas of the said judgment or decree of the district court: *Provided* Such appeal be prayed for at the time such judgment or decree be rendered: *And provided further*, That the party or some person in his behalf praying for such appeal shall give bond with satisfactory security to be approved of by the said court or the clerk thereof, in a sum sufficient to cover the judgment or decree appealed from, conditioned to prosecute such appeal to effect without delay, and to pay the opposite party the amount of said judgment or decree with all costs, interests and damages that may arise in the supreme court in consequence of such appeal, in the event that the judgment or decree of the district court shall be affirmed, and the obligee in such bond may, at any time, upon a breach of the condition thereof, have and maintain an action at law thereon, as upon other bonds. Appeals from district courts.
Bond.

SEC. 3. That writs of error may be sued out from the supreme court, or any judge thereof in vacation at any time within one year from the rendition of the judgment upon which they are granted, and every writ of error shall operate as a supersedeas of the judgment to be removed: *Provided*, The party or some person in his behalf procuring the same, shall give bond in the manner and with conditions required in cases of appeals from the judgments or decrees of the district courts to the supreme court of this territory. Writs of error
When shall be supersedeas.

SEC. 4. All returns of any original writ, alias, pluries, or other process shall specify the manner Returns to specify.

of service thereof, as a necessary part of the service and return thereto.

Repeal.

SEC. 5. The fiftieth section of the act to which this is amendatory is hereby repealed.

Jury fee.

SEC. 6. In each cause tried by a jury in the district court there shall be taxed in the bill of costs in such cause, three dollars, as a jury fee, which, when collected, shall be paid by the clerk of said court into the county treasury.

By whom cause discharged.

SEC. 7. That in all suits, actions, prosecutions or judicial proceedings now pending or hereafter to be instituted in courts of this territory, the attorney of record only and no other person, shall be competent or able in law or equity to discharge such judicial proceedings or the cause of action on which the same is or shall be founded, except such release or discharge be allowed and presented by the court in open court on notice to such attorney, counsellor, or solicitor, or his legal representatives.

Approved January 17, 1840.

[Chap. 78.]

AN ACT to punish for trespass on school and other lands.

Trustees.

SECTION I. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the several boards of county commissioners are hereby made the trustees of the school lands in their respective counties, and they shall execute the duties of trustees of the school lands so far as relates to the sixteenth section according to law, and the best of their understanding.

Trespasses—penalty.

SEC. 2. That if any person shall hereafter trespass upon the school lands or sixteenth section or other lands selected in lieu thereof, by cutting down, destroying, or hauling from off the same any timber, stone-coal, or minerals of any description, every person so offending shall forfeit and pay double the value of such timber, stone, or stone coal, or minerals of any description, to be recovered in the name of the trustees before any justice of the peace or before any court having competent jurisdiction thereof, or by indictment by the grand jury of the district court of the county, and to be appropriated to the use of the townships for school purposes.

On non-payment to be imprisoned.

SEC. 3. Hereafter when any person shall be found guilty of trespassing on the sixteenth section or other school lands in this territory, and neglects