

elections, at least twenty days previous to the general election on the first Monday in August, 1844.

SEC. 7. No debt to be incurred by the territory or state in consequence of such session. That no debt or expense shall be incurred against the territory or future state of Iowa in consequence of the extra session of the legislative assembly provided for by this act.

SEC. 8. Repealing clause. That so much of the laws of this territory regulating general elections conflicting with the provisions of this act be and the same are hereby repealed, so far as the same may apply to the general election in 1844.

SEC. 9. Time of taking effect. This act to take effect and be in force from and after its passage.

Approved, 15th February, 1844.

CHAPTER 27.

CHANCERY.

AN ACT amendatory of an act entitled "An act relative to proceedings in chancery," approved January 23, 1839.

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

SECTION 1. Suit in chancery, how commenced against non-resident; notice of, how given and by whom; effect of. That when any person shall file a petition or bill of complaint in chancery with the clerk of the district court of any county in this territory, against a non-resident of said territory, such complainant or petitioner may file with such clerk an affidavit, stating that the defendant to said petition or bill is a non-resident of this territory. Thereupon the clerk shall make out a notice [50] of the pendency of the petition or bill of complaint, containing a brief statement of the object and prayer thereof, which the said complainant shall cause to be published for six weeks successively in some newspaper printed in the county where the petition or bill is filed, if there be one; if not, then in some newspaper printed in the territory; which notice, when published, shall be equivalent to personal service, to enable the trial to proceed at the next term of said court after said notice shall have been published during the said six weeks.

SEC. 2. Where to be published. When by the provisions of this act, or of the act to which this is amendatory, service of the pendency of any bill, petition or other proceeding, is required to be made by publication in some newspaper, such publication shall be made in some newspaper printed in the county where such bill, petition or proceeding, is pending; and if there is no newspaper printed and published in said county, then in a newspaper printed in the nearest county.

SEC. 3. If plea or demurrer is overruled defendant may answer over. When any plea or demurrer of a defendant shall be overruled, he shall be allowed to answer over upon filing an affidavit of merits.

SEC. 4. How absent defendant to verify his answer, and before whom. When the defendant in any chancery suit is without this territory, or is a non-resident, he may swear or affirm to his answer before any notary public, clerk of a court of record, or judge thereof, of any foreign state or territory.

SEC. 5. Proceedings in default of plaintiff or solicitor. If the complainant, or his solicitor, shall not attend at the time appointed for the hearing of his cause before the court, or before a master or commissioner in chancery for that purpose appointed, the court shall examine the bill, answer replication and proofs, and make such order or decree in the premises as the circumstances of the case and equity may require.

SEC. 6. Decree to bind real estate in a different county, where recorded. Where a decree in chancery is made in relation to any real estate lying in the same or in a different county from that wherein such decree was rendered, said decree or order, to operate as a lien, conveyance or release, upon such real estate, must be recorded in the office of the recorder of deeds in the county where the real estate shall be situated.

SEC. 7. Disobedience of injunction, attachment to issue; proceedings thereon. If any person against whom an injunction has issued shall, after its service, disobey the same, the district court, if in session, or a judge thereof in vacation, may issue an attachment against such person for a contempt; and upon being brought before the court or judge, unless he shall disprove or purge himself of the contempt, the court or judge may commit him to jail until the next sitting of the court thereafter, or take bail for his appearance in said court at the next term thereof, to answer for such contempt, and to abide the order of the court thereon.

SEC. 8. Repealing clause. That the sixteenth, twenty-eighth, twenty-ninth, thirtieth, thirty-third, forty-fifth, sixty-seventh, sixty-eighth, sixty-ninth, seventieth, seventy-first, seventy-second, eighty-fifth and ninety-first sections of the act to which this is amendatory, be and the same are hereby repealed.

Approved, 15th February, 1844.

[51] CHAPTER 28.

WRITS OF ERROR.

AN ACT to provide for and regulate writs of error coram nobis.

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

SECTION 1. Writ, within when to issue after rendition of judgment; when returnable; not to operate as supersedeas unless person suing out same shall file bond with security; penalty of, by whom approved, conditions of. That any party who shall feel himself aggrieved by the judgment of a district court, by reason of any error in fact, may, at any time within one year after the rendition of such judgment, obtain from the clerk of such district court a writ of error *coram nobis*, returnable to the next term thereafter of the said district court; but such writ of error shall not operate as a *supersedeas*, unless the party suing out the same shall give bond to the opposite party, with good security, and in a penalty to be approved by the said clerk, conditioned to prosecute said writ of error to effect, or to pay and satisfy the judgment which may be rendered in case the original judgment shall be affirmed.

SEC. 2. When plaintiff in error to make assignment; issue, how made up. The plaintiff in error shall file his assignment of errors on the first day of the term of said district court to which said writ of error is returnable,