

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eighty-fifth and ninety-first sections of the act to which this is amendatory, be and the same are hereby repealed.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,

and the issue upon such assignment of errors, shall be made up in accordance with such rules of practice as the said district court may establish.

SEC. 3. Notice to adverse party, when and how served; effect of notice; if sufficient notice not given and voluntary appearance not made, cause to be adjourned—if defendant in error is non-resident, may be brought in by publication—judgment and effect of. The party suing out such writ of error shall cause notice in writing to be served upon the adverse party or his attorney, of the suing out of the same, ten days before the next succeeding term of said district court; and if ten days shall have elapsed from the time of serving such notice and the first day of said term, the court shall proceed to try and determine the said cause, whether the defendant in error appear or not. If ten days do not intervene, the cause shall be continued to the next term of the court, unless the defendant in error shall enter a voluntary appearance. Whenever the defendant in error resides out of the territory, and has no attorney therein, publication of the pendency of such cause may be made according to such rules as the court may establish, and at the next term after such publication, such cause shall be tried in the same manner as if notice had been duly served; and in all cases of affirmance, when the original judgment shall have been superseded, judgment shall be rendered against the plaintiff in error for the amount of the original judgment, together with ten per centum damages, interest and costs.

Approved, 15th February, 1844.

[52] CHAPTER 29.

TERRITORIAL TAX.

AN ACT for assessing territorial tax, and for other purposes.

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

SECTION 1. Territorial tax, amount to be levied. That an annual territorial tax of one half mill shall be assessed on each dollar of the amount of taxable property returned by the several township or precinct assessors of the counties of this territory.

SEC. 2. Duty of clerk of board of county commissioners in relation thereto. That it shall be the duty of the several clerks of the boards of county commissioners to carry out the territorial tax, on the tax lists, in a separate column from the county tax; and the clerks of said boards of commissioners, for each county, shall, on or before the tenth day of December in each year, certify, under his hand, and transmit to the auditor of public accounts, by mail, the aggregate value of the taxable property of the county, as taken from the corrected valuation of the assessment rolls for that year, as corrected and equalized by the commissioners.

SEC. 3. Duty of county treasurer to collect same, his compensation therefor; to settle with the treasurer of the territory and take duplicate receipts; auditors' warrants to be taken for territorial taxes. That it shall be the duty of the county treasurer to collect the said territorial tax in money, and pay over the same, deducting five per cent. therefrom as his collecting fee, into the office of the territorial treasurer, taking duplicate receipts therefor from the treasurer of the territory, one of which he shall retain, and the other he shall deposit with the auditor of the territory: provided, that nothing here-