

attorney, to file with the said justice an affidavit in writing, setting forth that the defendant is a non-resident of the territory or has absconded, or concealed himself, or so absented himself from his usual place of abode, that the ordinary process of law cannot be served upon him, and has no personal property upon which to levy, and that he has real estate in the county where such suit is brought; it shall then be the duty of the justice to make out and deliver to the plaintiff a transcript of his proceedings; and on the filing of such transcript in the office of the clerk of the district court of the proper county, a writ of attachment shall be issued by said clerk and such proceedings shall be had thereon, as is provided by the act to which this is amendatory.

SEC. 2. Declaration to be filed ten days before return day of writ. That the nineteenth section of said act be so amended as to authorize the plaintiff in attachment to file his declaration ten days before the return day of said writ.

SEC. 3. Twenty-sixth section of amended act, altered. That the twenty-sixth section of said act be so amended as to read as follows: "If the sum thus realized, together with that obtained from garnishees in the manner hereinafter provided, shall be insufficient to satisfy the judgment, the plaintiff may at any time within five years thereafter sue out execution to satisfy the same."

SEC. 4. Takes effect after August 1, 1845. This act shall be in force and take effect from and after the first day of August next.

Approved, June 7th, 1845.

[36] CHAPTER 18.

MINERS' BANK OF DU BUQUE.

AN ACT to provide for the payment of the debt due to the Miners' Bank of Du Buque.

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

SECTION 1. Treasurer to give notice of sale of lots first Monday of May next. That the territorial treasurer be, and he is hereby, required to give notice that a sale of lots belonging to the territory will take place at the front door of the capitol on the first Monday of May next.

SEC. 2. Notice to be published three months before sale. And be it further enacted, that said notice shall be published in two of the newspapers of this territory, and in some one paper in the city of St. Louis and Cincinnati, at least three months before the day of sale aforesaid.

SEC. 3. Treasurer to sell on above day, on six and twelve months credit, sufficient number of lots to pay debt due the bank. And be it further enacted, that upon the said first Monday of May next, the territorial treasurer shall offer at public sale, on a credit of six and twelve months, to the highest bidder, a sufficient number of lots to pay the debt due the Miners' Bank of Du Buque; and upon all sales thus made, the purchaser or purchasers shall execute to the territorial treasurer, for the use of the territory, his or their bond with sufficient sureties for the payment of the same at maturity; and upon the payment as aforesaid, the said treasurer shall make, execute and deliver, to the purchaser or purchasers of said lots, a good and sufficient title in fee simple.

SEC. 4. Treasurer with proceeds to pay debt and interest to bank. And be it further enacted, that at the maturity of said bonds, the territorial treasurer shall proceed to collect the same as soon as possible and apply the proceeds of the same to the payment of the debt, principal and interest due to the Miners' Bank of Du Buque contracted under the provisions of the act of 15th January, 1841.

SEC. 5. Treasurer to re-sell forfeited lots sold prior to 28th June, 1841—to apply proceeds to pay any debt for erection of capitol. And be it further enacted, that if any lot or lots sold prior to the 28th day of June, 1841, have been forfeited to the territory in consequence of non-payment for the same, it shall be the duty of the territorial treasurer to re-sell the same at the time, with the notice and upon the conditions aforesaid, collect the proceeds of the sale as [37] aforesaid, and apply the proceeds of the same to the payment of any debt or debts contracted by the territorial agent for the erection of the capitol at Iowa city, exclusive of the debt now due to the Miners' Bank of Du Buque.

SEC. 6. Repeals acts and parts of acts contravening the intent hereof. And be it further enacted, that all acts and parts of acts contravening the provisions of this act, be, and the same are hereby, repealed.

SEC. 7. This act to take effect and be in force from and after its passage. Approved, June 10th, 1845.

CHAPTER 19.

COUNTY COMMISSIONERS.

AN ACT to amend an act entitled "An act organizing a board of county commissioners in each county," approved, February 15, 1843.

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

SECTION 1. Spring term of commissioners to be held 2d Monday in April. That so much of the fifth section of said act as makes it the duty of the county commissioners to hold their spring term on the first Monday in April in each year, be, and the same is hereby repealed; and that the said spring term shall be holden hereafter on the second Monday in April in each and every year.

SEC. 2. This act takes effect after passage. This act to take effect and be in force from and after its passage.

Approved, June 10th, 1845.

[38] CHAPTER 20.

CHANGING VENUE.

AN ACT amendatory of an act to provide for changing the venue in civil and criminal cases, approved 13th February, 1843.

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

SECTION 1. Clerk to transmit copy of record to proper court. That when any order shall be made by the court or judge thereof, in vacation, award-