

dreds of dollars, shall be redeemed by the issue of certificates of stock of said company.

Sec. 4. The amount of the tax and interest shall be a <sup>Lien.</sup> lien on the taxable property of said city, and shall be collected in time to meet the said bonds and interest, and shall be held by the authorities of said city separate and apart from said funds, as a special fund, sacred for the liquidation of said bonds and interest thereon.

Sec. 5. This act shall take effect from and after its publication in the Gate City and Times, newspapers of said city, without cost to the State.

Approved Jan. 29, 1857.

CHAPTER 240.

ORIGINAL NOTICES.

AN ACT to regulate the service of original notices, in courts of record, in certain cases.

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa,* That where the person on whom the service of an original notice is to be made, cannot be found within the State, and the fact appears by affidavit to the satisfaction of the court, or a district judge, or of the county judge of the county where the trial is to be had, and it in like manner appears that a cause of action exist against the defendant in respect to whom the service is to be made, or that he is a proper party to an action relating to real property in this State, such court or judge may grant an order that the service be made by the publication of such original notice in either of the following cases:

First. Where defendant is a foreign corporation, has property within the State, or the cause of action arose therein. <sup>Publication.</sup>

Second. Where the defendant, being a resident of this State, has departed therefrom with intent to defraud his creditors or to avoid the service of process or keep himself concealed therein with the like intent.

Third. Where he is a non-resident of this State, but has property therein, and the action arises on contract, and the court has jurisdiction of the subject of action.

Fourth. Where the subject of the action is real or personal property in the State, and the defendant has or claims a lien on interest, actual or contingent, therein, or the relief demanded consists wholly or partly in excluding the defendant from any interest or lien therein.

Fifth. Where the action is for divorce in the cases prescribed by law.

Sixth. Where the proceeding is against lands as a defendant, in case foreclosing the right of redemption under the laws now in force.

The order of publication may be made without a return "not found," on the process, but such return may be required if deemed necessary by the judge, and for this purpose the sheriff may be required to return the process in vacation. The order must direct the publication to be made in some newspaper designated as most likely to give notice to the person to be served, for such length of time as may be deemed reasonable, not less than once a week for four weeks, and must also direct a copy of the original notice and petition to be forthwith deposited in the post office, directed to the person to be served, at his place of residence, unless it appear that such residence is neither known to the party making the application, nor can with reasonable diligence be ascertained by him; the affidavit upon which the order was granted, the order where granted out of term time, the affidavit of publication, and the affidavit showing a compliance with an order directing the deposit of a copy of the original notice and petition in the post office, must be filed with the clerk of the court where the cause is pending. The service shall be deemed complete at the expiration of the time prescribed in the order of publication.

Sec. 9. The defendant against whom publication is ordered, or his representatives, on application and sufficient cause shown at any time before judgment, must be allowed to defend the action, and except in an action for divorce, the defendant against whom publication is ordered, or his representatives, may in like manner, upon good cause shown, be allowed to defend after judgment, or at any time

Time.

Send copy.

Defendant.

within one year after notice thereof, and within seven years after its rendition, on such terms as may be just, and if the defence be successful, and the judgment or any part thereof have been collected, or otherwise enforced, such restitution may therefor be compelled as the court directs: *Provided*, the title to property sold under such judgment to a purchaser in good faith, shall not be affected thereby.

SEC. 3. All acts inconsistent with this act are hereby repealed.

Approved Jan. 29, 1857.

## CHAPTER 241.

### RAILROAD TAX IN KEOKUK.

AN ACT to authorize the city of Keokuk to levy a direct tax of not to exceed \$150,000 for the benefit of the Keokuk, Mount Pleasant and Muscatine Railroad Company.

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa*, That the mayor or mayor pro tem., of the city of Keokuk, is hereby authorized (and if required by the city council, he shall be bound) to order an election of the legal voters of said city, at which shall be submitted the following proposition, viz: "Will the city of Keokuk levy a direct tax of one hundred and fifty thousand dollars, for the benefit of the Keokuk, Mt. Pleasant and Muscatine railroad company, (or less, as the said company may request) principal and interest on same sum, at rate of not to exceed ten per cent. per annum, to be collected one-third (and interest on whole sum ordered) in one year, one third (and interest on two-thirds) in two years, and one-third (and interest on same) in three years from the date of the issue of bonds, to be issued in pursuance of the provisions of this act. The votes shall be printed respectively, "For the levy of the tax," and "Against the levy of the tax." Question submitted.

SEC. 2. In case the majority of the votes cast at said election shall be in favor of the tax, then the mayor, or the mayor pro tem., of said city, shall be authorized to issue the bonds of said city of Keokuk for the