

## CHAPTER 251.

## APPEALS IN CRIMINAL CASES.

AN ACT providing for appeals in criminal cases.

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa,* That in all criminal cases in which judgment may hereafter be rendered by any of the district courts of this State against any defendant, either defendant or the State may, after judgment, appeal from such judgment to the supreme court of the State of Iowa at any time within one year from the rendition of such judgment.

SEC. 2. Any defendant desiring such appeal shall give notice in writing to the prosecuting attorney of the county wherein the case was tried, if such prosecuting attorney was engaged in the prosecution of such case, and if not, then he shall give such notice to the prosecuting attorney of the county where the cause originated, informing such officers that an appeal has been taken in such cause; he shall likewise give notice to the clerk of the district court in which the cause was tried, that he desires to appeal from said judgment or certain specified parts thereof.

SEC. 3. The clerk shall therefore proceed forthwith to transcribe all the papers and records in the case, which may be designated by either the attorney for the State or the defendant, and shall forward the same to the clerk of the supreme court of the State of Iowa.

SEC. 4. When such transcript is received by the clerk of the supreme court, he shall docket the cause, and the same shall be set down for hearing in accordance with the rules of said court.

SEC. 5. In any bailable case the defendant may stay proceedings under any judgment appealed from as contemplated by this act, by filing with the clerk of the district court, where such judgment is rendered, a bond with one or more sureties, to be approved by the said clerk, conditioned that he will be and appear at the next term of the said supreme court, on the first day of that portion of the term of said court, during which, according to the order of said court, causes coming from the district, from which said cause is

appealed, are set down for hearing, and conditioned that he will not depart said court without leave thereof, and shall abide the order of the court, which said bond shall be sent up to said supreme court by the said clerk of the district court.

**Penalty.** SEC. 6. The amount of such bond shall be fixed by the judge of the district, as in case of bail, and the sureties shall justify as sureties are required to do in cases of bail; any neglect to acknowledge such bond, or to have the sureties justify, shall not vitiate said bond.

**If not bailable.** SEC. 7. In cases not bailable, it shall be the duty of the district judge, upon application being made to him, to make such order as the case may require for the custody of the defendant.

**Discharge.** SEC. 8. In all bailable cases, when the defendant shall have filed his bond as above contemplated, he shall be discharged from further custody, and it shall be the duty of the district clerk, where such bond has been filed, to give forthwith to defendant, or his attorney or agent, upon demand, a written certificate, under the seal of his office, showing the fact that an appeal has been taken in such cause, and a bond filed and approved, in accordance with the provisions of this act, and the sheriff or other officers having the custody of such defendant, shall upon being served with such certificate forthwith liberate such defendant.

**Time of trial.** SEC. 9. When any appeal, contemplated by this act, shall be taken within twenty days of the first day of the next succeeding term of the supreme court, it shall not be heard, except by consent of parties, until the term following such first term, and when bonds are given in such cases, they shall provide for the appearance of the defendant at the term when such hearing is to be had.

**Fail to appear.** SEC. 10. If the defendant in any such appealed case fail to appear according to the conditions of his bond, the supreme court shall, upon the request of the attorney for the State, order a forfeiture of the same against the principal and sureties.

**Copy of forfeiture &c.** SEC. 11. Upon the payment of fees by the attorney for the State, for a certified copy of such forfeiture, the clerk of the supreme court shall furnish such copy, together with said bond, upon which suit may be brought against obligors, in any court of the State where either of them reside, or in the county

where the suit originated, or in which the cause was tried before the district court.

SEC. 12. Should the cause appealed be remanded by the supreme court back to the district court for further proceedings, the supreme court shall require the defendant to give new bond for his appearance at the next succeeding term of the district court from which the cause was appealed, which bond shall be conditioned for his appearance at said district court on the first day of the term thereof, there to remain and abide all orders and judgments of said court, in the further proceeding of the same; the said last mentioned bond shall be sent by the clerk of the supreme court to the said district court, in company with the *Case remanded* *procedendo* in said cause,

SEC. 13. If the term of the said district court be commenced within thirty days from the rising of the supreme court at which said appealed cause is heard, then the bond last provided for shall require the appearance of the defendant at the term next following the said first term of the district court aforesaid. *When to appear.*

SEC. 14. Should the defendant fail to appear in accordance with the stipulations of such bond, the district court shall, on the request of the attorney of the State, order a forfeiture of said bond, upon which suit may be brought as in other cases of forfeited bail bonds. *Fail to appear.*

SEC. 15. In all cases of misdemeanors, the defendant may appear by attorney, for all purposes except to answer the final judgment of the court. *May appear by attorney.*

SEC. 16. That if the supreme court, when any such cause is pending before it, an appeal is not sufficiently advised, and desire a continuance of said cause, or for any other reason is not able to determine the same at the term at which the defendant is bound to appear, they may order such defendant to appear at the next succeeding term of said court, on his bond then on file, or they may require him to give new bond for that purpose. *Continuance.*

SEC. 17. When any of the bonds above provided for have been given, any court before whom such cause, after its appeal in the first instance, may in the further proceedings thereon come, may, if such cause is continued, or remanded, order the appearance of such defendant at any fu- *Continuance after appeal.*

ture time and place where his appearance in the further prosecution of the case may be required, without requiring time to give new bond, and such order may be made from time to time, until the final disposition of the cause.

State may appeal.

SEC. 18. The State can take an appeal by giving notice in writing to the defendant or his attorney, of the intention so to do ; the provisions regulating the notice to be given by defendant are applicable to the notices contemplated by this section.

Approved January 29, 1857.

## CHAPTER 252.

### RAILROAD BONDS, LEE COUNTY.

AN ACT authorizing the county of Lee to issue bonds to aid in the construction of the Iowa Southern railroad.

Bonds.

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa,* That the county of Lee is hereby authorized to issue bonds to aid in the construction of the Iowa Southern railroad, to the amount of one hundred and fifty thousand dollars: *Provided,* the county judge of said county shall first submit the question to the vote of the people of said county in the manner provided in sections No. 114 and 115 of the Code

Proposition.

SEC. 2. The proposition of the question must be accompanied by a provision to levy a tax for the payment of the principal and interest of said bonds, in addition to the usual taxes, sufficient to meet the payment of said bonds, principal and interest, not to exceed one per cent. upon the county valuation in one year, and to continue from year to year until the amount of said lands be paid.

Rate of interest.

SEC. 3. The proposition shall state the rate of interest said lands shall draw, and when payable, and at what time the principal of bonds shall fall due and become payable.

Adoption.

SEC. 4. Upon a majority of the votes being cast in favor of the proposition submitted, the county judge shall cause the proposition and the result of the vote to be entered at