

issue against the sureties in said recognizance, commanding them to show cause at the next term of the court why judgment shall not go against them for the amount of said recognizance.

SEC. 8. If, upon the return of said scire facias served, or two returns if not found, the said sureties shall fail to show cause why the same shall not be done, the court shall enter judgment against said securities, in the same way and manner as they would have done against the principal had he appeared and confessed himself to be the father of said child: *Provided*, That they shall in no case be made liable to pay more for the support of the said child than the amount of the penalty of said recognizance.

When judgment against sureties.

SEC. 9. In all cases where the defendant shall be adjudged to be the father of the child, the order for its maintenance shall be entered, in the nature of judgment, upon the record, the different instalments becoming due at the time the court may direct. And whenever any of the instalments shall become due, and shall not be immediately paid, the same shall be collected by execution against the principal and securities as in other cases.

Order to be recorded.

Execution.

Approved January 4, 1840.

[Chap. 25.]

AN ACT regulating marriages.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa*, That male persons of the age of eighteen years, female persons of the age of fourteen years, not nearer of kin than first cousins, and not having a husband or wife living, may be joined in marriage: *Provided always*, That male persons under twenty-one years, female persons under the age of eighteen years, shall first obtain the consent of their fathers respectively, or in case of the death or incapacity of their fathers, then of their mothers or guardians.

Who may be joined.

SEC. 2. That it shall be lawful for any ordained minister of the gospel of any religious society or congregation within this territory, who has or may hereafter obtain a license for that purpose as hereinafter provided, or for any justice of the peace in his county, or for the several religious societies agreeably to the rules and regulations of their respective churches, to join together all persons as husband and wife not prohibited by this act.

By whom.

Minister to be licensed.

SEC. 3. That any minister of the gospel, upon producing to the clerk of the district court of any county in this territory, in which he officiates, credentials of his being a regular ordained minister of any religious society or congregation, shall be entitled to receive from said clerk, a license authorizing him to solemnize marriages within this territory, so long as he shall continue a regular minister in such society or congregation.

License to be produced and noted.

SEC. 4. That it shall be the duty of every minister who is now or shall hereafter be licensed to solemnize marriages as aforesaid, to produce to the clerk of the district court, in every county in which he shall solemnize any marriages, his license so obtained, and the said clerk shall thereupon enter the name of such minister upon record, as a minister of the gospel, duly authorized to solemnize marriages within this territory, and shall note the county from which said license issued, for which services no charge shall be made by such clerk.

Record to be evidence.

SEC. 5. That when the name of any such minister is so entered upon the record by the clerk aforesaid, such record, or the certificate thereof by the said clerk, under the seal of his office, shall be good evidence that the said minister was duly authorized to solemnize marriages.

Parties to obtain license.

SEC. 6. That previous to persons being joined in marriage, a license for the purpose, shall be obtained from the clerk of the district court, in the county where such female resides, agreeably to the provisions of this act: *Provided*, That the society called friends or quakers, may solemnize marriages in their public meetings without the production of such license.

Evidence of legality.

SEC. 7. That the clerk of the district court as aforesaid, may inquire of the party applying for marriage license as aforesaid, upon oath or affirmation relative to the legality of such contemplated marriage, and if the clerk shall be satisfied that there is no legal impediment thereto, then he shall grant such marriage license, and if any of the persons intending to marry shall be under age, the consent of the parents or guardian shall be personally given before the clerk, or certified under the hand of such parent or guardians, attested by two witnesses, one of which shall appear before the clerk and make

And of consent of parties.

oath or affirmation that he saw the parent or guardian whose name is annexed to such certificate subscribe, or heard him or her acknowledge the same, and the clerk is hereby authorized to issue and sign such license, and affix thereto his seal of office. The clerk shall be entitled to receive, as his fee for administering the oath or affirmation aforesaid, and granting license, recording the certificate of marriage and filing all the necessary papers, the sum of one dollar and twenty-five cents; and if any clerk shall, in any other manner, issue or sign any marriage license, he shall forfeit and pay a sum not exceeding five hundred dollars, to and for the use of the party aggrieved.

SEC. 8. That a certificate of every marriage hereafter solemnized, under the hand of the justice, minister, or the clerk or keeper of the records of the societies mentioned in this act, specifying,

Certificate of marriage to be recorded.

First. The christian names and surnames, ages, and places of residence of the parties married;

Second. The time and place of such marriage shall be transmitted to the clerk of the district court of the county where such marriage was solemnized, within three months thereafter, and be recorded by such clerk in a book to be kept by him for that purpose.

SEC. 9. Every justice, minister, or clerk, or keeper of records, in section eight mentioned, failing to transmit such certificate to the clerk of the district court of the county in due time, shall forfeit and pay fifty dollars, to and for the use of the county; and if such clerk shall neglect to record the same, he shall forfeit and pay fifty dollars, to and for the use of the county.

Penalties.

SEC. 10. That the record of a marriage made and kept as before prescribed by the clerk of the district court, or a copy thereof duly certified, shall be received in all courts and places as presumptive evidence of the fact of such marriage.

Record to be presumptive evidence.

SEC. 11. That if any justice or minister by this act authorized to join persons in marriage, shall solemnize the same contrary to the true intent and meaning of this act, the person so offending shall, upon conviction thereof, forfeit and pay any sum not exceeding five hundred dollars, to and for the use of the county where such offence was committed, and if any person not legally authorized shall attempt to solemnize the marriage contract, such person

Penalty for solemnizing marriage contrary to this act.

shall, upon conviction thereof, forfeit and pay five hundred dollars, to and for the use of the county where such offence was committed.

Forfeitures,
how recover-
ed.

SEC. 12. That any fine or forfeiture arising under the provisions of this act to the county, in consequence of any breach of this act, shall be recovered by action of debt, or by indictment, with costs of suit, in any court of record having cognizance of the same.

Marriage of
white and
negro void.

SEC. 13. All marriages of white persons with negroes or mulattoes are declared to be illegal and void.

Repeal.

SEC. 14. That all laws now in force in this territory, not embraced in the statutes of Iowa on the subject of marriages, be and the same are hereby repealed. This act to take effect and be in force from and after the first day of March next.

When to take
effect.

Approved January 6, 1840.

[Chap. 26.]

AN ACT for the limitations of suits on penal statutes and criminal prosecutions.

Actions by in-
formers to be
commenced in
one year.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That all actions, suits, bills or informations which shall hereafter be had, sued, or commenced for any forfeiture on any penal statute made or to be made, the benefit whereof is or shall be by the said statute in whole or in part to the person who shall inform and prosecute in his behalf, shall be had, brought, sued or commenced by any person who may lawfully pursue the same as aforesaid, within one year from the commission of the offences, and not afterwards, and in default of such pursuit, then the same shall be had, brought, or prosecuted by the territory at any time within two years from the commission of all such offences, and not afterwards, and any indictment, complaint, or information for any offence against such statute aforesaid, shall hereafter be made and prosecuted within two years limited as aforesaid, and not afterwards.

Or by terri-
tory in two
years.

Criminal pro-
secutions to
be within two
years, except.

SEC. 2. That all prosecutions for offences except treason, murder, arson, burglary, kidnapping, horse-stealing, and forgery, shall be instituted within two years next after the offence charged may have been committed and not after. *Provided,* That if the per-