

Repeal.

SEC. 12. That "An act concerning divorces," approved December twenty-nine, eighteen hundred and thirty nine, is hereby repealed.

Approved January 17, 1840.

[Chap. 82.]

AN ACT to abolish imprisonment for debt.

Affidavit.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That no person shall be arrested upon any original or mesne process, or required to give bail, unless upon an affidavit being filed with the clerk of the court or justice of the peace from which such process is to be issued, stating that the plaintiff verily believes that the person against whom such process is about to issue will leave this territory or move his property out of the same before judgment can be obtained or otherwise abscond so that the process of the court after judgment cannot be issued, and upon such affidavit being filed the clerk shall endorse that bail is required, and in what sum.

Condition not to remove property.

SEC. 2. That when any person may be held to bail in any civil action, the undertaking of the bail shall be that the defendant shall not remove his property or effects out of this territory until the plaintiff's judgment, if one shall be recovered, is discharged.

On nulla bona scire facias against bail,

SEC. 3. That upon a return of no property found on any fieri facias directed to the proper county, it shall be lawful for the plaintiff to cause a scire facias to issue against the bail, suggesting that the defendant has removed his property or effects out of this territory; and should the bail not answer the scire facias upon due execution thereof, or should it appear to the satisfaction of the court, upon issue joined, that the defendant has removed his property or effects out of this territory after the undertaking of such bail, and that the plaintiff's judgment remains unsatisfied, judgment of execution shall be awarded against the bail for the amount of the original judgment or so much thereof as may remain undischarged.

and execution.

Service.

SEC. 4. That a return of not found upon two writs of scire facias directed to the proper county, shall be considered a due execution of the scire facias authorized by this act.

SEC. 5. That upon the trial of any scire facias herein directed to issue, the defendant shall be allowed to plead and prove that the defendant in the original action was insolvent at the time said bail was given, and if that fact be proven, it shall be adjudged a good defence.

SEC. 6. In all cases whenever a right of action against bail in any suit may have heretofore accrued, the party to whom the same shall have so accrued may have his election to proceed by an action on the bail-bond or by a scire facias as above provided, so that the same be adapted to the circumstances of the case.

Approved January 17, 1840.

[Chap. 83.]

AN ACT relating to auctioneers and auction sales.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the governor of this territory shall appoint, upon application from any county within the same, one or more persons as auctioneers for such county; such auctioneer so appointed shall be liable to any tax the county commissioners may think proper, not exceeding one hundred dollars per annum, upon payment of which tax a license shall be granted by said county commissioners to any person appointed as above to act as auctioneer within the county.

SEC. 2. Any person who shall act as auctioneer without appointment and license as provided above, shall be liable to the county in a penalty not exceeding two hundred dollars, to be collected by action of assumpsit in the proper court.

SEC. 3. If any auctioneer shall receive for sale by auction any goods from any minor or servant, knowing him to be such, or shall sell by auction any goods except books, before sunrise or after sunset, he shall forfeit to the county a sum not exceeding two hundred dollars, to be recovered by action of debt or indictment.

SEC. 4. Every auctioneer shall keep a fair and particular account of all goods and chattels sold by him, of the names of the persons of whom the same were received, and the names of the persons to whom the same shall have been sold.

SEC. 5. Nothing in this act shall prevent any person from selling his own property by public sale or