

means to secure said defendant for a reasonable time until he can be surrendered to the sheriff of the proper county.

SEC. 34. All costs and expenses incident to the surrendering of the defendant, and giving new bail as aforesaid, shall be paid eventually by the defendant.

Costs on surrender and new bail.

SEC. 35. The plaintiff in the action shall not be entitled to bring any suit on the recognizance of bail until,

When plaintiff entitled to bring suit on recog. of bail.

1st, An execution against the property of the defendant shall have been issued to the sheriff of the proper county, and the same returned unsatisfied in whole or in part. And,

2d, An execution against the body of the defendant, at least fifteen days between the test and the return day thereof, shall have been issued to said sheriff, and by him returned that the defendant could not be found in his county.

SEC. 36. In such action against bail, they may plead that the plaintiff has not pursued the above directions, or that any collusive or fraudulent means were used to prevent the service of either of said writs; and if any such defense be established, it shall entitle the said bail to a verdict.

What the bail may plead in such action.

SEC. 37. Where the defendant in a suit shall die before the rendering of judgment against his bail, or where, being alive, he shall have been surrendered previous to such judgment, such bail shall be released from further liability upon paying the costs of the proceedings against them, if any shall have been had.

Death or surrender of def't before judgment against bail, to release them from liability.

SEC. 38. Where judgment shall be obtained against the special bail in an action, such bail may, on motion, have judgment for like amount against the said defendant, but execution thereon shall only issue for such amount as by the sheriff's return shall appear to have been collected from such bail on the original judgment.

Special bail may have judgment against defendant.

APPROVED, January 25, 1839.

BANKING ASSOCIATIONS.

AN ACT to restrain unincorporated Banking Associations.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa, That no per-*

To issue notes, or bank bills, authority of law required. son, unauthorized by law, in expressed words, shall subscribe to, or become a member of, any association, institution, or company, for the purpose of issuing notes or bank bills, which incorporated banks may or do by virtue of their respective acts of incorporation. And if any person, unauthorized by law as aforesaid, shall hereafter subscribe to, or become a member as aforesaid, he shall forfeit and pay, for every such offence, the sum of one thousand dollars, to be recovered, by any person who shall sue for the same, in an action of debt, one half thereof to his own use, and the other half to the use of the county in which such suit may be prosecuted.

Penalty.

Who may sue.

Form of action.

APPROVED, January 24, 1839.

BILLS OF EXCHANGE.

AN ACT concerning Bills of Exchange.

Foreign bills of exchange protested, how to be paid. SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa*, That when any foreign bill of exchange, which may be drawn for any sum of money, and expressed that the value has been received, shall be duly presented for acceptance or payment, and protested for non-acceptance or non-payment, the drawer or endorser thereof, due notice being given of such non-acceptance or non-payment, shall pay said bill, with legal interest, from the time such bill ought to have been paid, until paid, together with the costs and charges of protest.

Inland bills of exchange protested, how to be paid.

SEC. 2. If any bill of exchange drawn upon any person, or body politic or corporate, out of this Territory, but within the United States or their Territories, for the payment of money, and expressed to be for value received, shall be duly presented for acceptance or payment, and protested for non-acceptance or non-payment, the drawer or endorser thereof, due notice being given of such non-acceptance or non-payment, shall pay said bill, with legal interest, from the time such bill ought to have been paid, until paid, and five per cent. damages in addition, together with cost and charges of protest.

APPROVED, January 24, 1839.