

themselves, under the aforesaid act of incorporation, and consequently are deprived of receiving their proportion of the sales of said town lots, for the want of authorized trustees; therefore,

SECTION 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That the towns of Bellevue and Peru, in the original county of Du Buque, are hereby authorized to elect trustees for said towns, and to be governed in all respects according to the provisions of the said act of incorporation; and to have the same privileges and to do all things which any other incorporated town can or may do, under the provisions of the said act, any thing in any other law to the contrary notwithstanding.

Authorized to incorporate themselves.

Approved Jan. 12, 1838.

No. 36.

AN ACT to divorce Louisa Ann Sibley from her husband, William T. Sibley.

SECTION 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That the bonds of matrimony, heretofore and now existing between Louisa Ann Sibley, and her said husband, William T. Sibley are hereby dissolved; and all obligations arising from said marriage contract are hereby made null and of no effect. And the said Louisa Ann is hereby restored to all the rights and privileges of a *femme sole*. And the said Louisa Ann is hereby authorized to resume her maiden name of Louisa Ann Rollins.

Approved January 12, 1838.

No. 37.

AN ACT to abolish imprisonment for debt, and for other purposes.

SECTION 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That all laws which authorize a *capias ad satisfaciendum* to be

Repeal.

issued against the body or bodies of any debtor or debtors, shall be, and the same are hereby repealed.

When a *capias* may issue.

SECTION 2. Hereafter no person or persons shall 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 or plaintiffs verily believe that the person or persons, 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 judgments cannot be executed; and upon such affidavit being filed, the clerk shall endorse that bail is required, and in what sum.

How person confined upon execution may be liberated.

SECTION 3. From and after the passage of this act, any person or persons who have been committed to close jail, or to the bounds upon order requiring bail, or any *capias ad satisfaciendum*, may, upon giving reasonable notice of such application to the person or persons at whosesuit he or they may have been committed, or to his, her or their agent or attorney, in fact or at law if any such may be in the county, if not, upon filing notice in like manner, in the office of the clerk of the court from which such process issued, apply to a justice of the peace for his discharge; and upon such justice being satisfied that the person or persons so applying is or are confined upon civil process, the said justice shall issue an order to the jailor to discharge such person or persons from custody; and upon such person or persons being discharged under the provisions of this act, the plaintiff or plaintiffs, or person or persons beneficially interested in said demand, in the execution of which the person or persons so discharged may have been in custody, may have a new execution against the property of such person or persons so discharged, without suing out a *scire facias* to revive his judgment.

How persons arrested may take the benefit of the insolvent act.

SECTION 4. When any person or persons arrested under an order requiring bail, or a writ of *ne exeat*, shall desire to be discharged from custody by taking the oath prescribed by the act for the benefit of insolvent debtors, it shall be lawful for such person or persons, upon giving reasonable notice to the party at whose suit he, she or they were arrested, his agent or attorney,

if in the county, if not, upon filing such notice in the office from which was issued the process by virtue of which he, she or they may be in custody, of the time and place of such application, to apply to a justice of the peace for his, her or their discharge; and upon rendering a schedule of his, her or their property, and taking the oath aforesaid, the justice of the peace shall issue an order to the officer in whose custody such person or persons may be to discharge him or them, and the property contained in such schedule shall be vested and disposed of in the same manner, and the same proceedings shall be had thereon as are now authorized in the case of insolvent debtors.

SECTION 5. That when any person may be held to bail in any civil action, the undertaking of the bail shall be that the defendant or defendants shall not remove his, her or their effects out of this territory, until the plaintiff's judgment if one shall be recovered is discharged. Condition of bail bonds.

SECTION 6. That upon a return of no property found on any *feri 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 or defendants have removed his, her or their effects out of this territory; and should the bail not answer to the *scire facias* upon the due execution thereof, or should it appear to the satisfaction of the court upon issue joined, that the defendant or defendants hath or have removed his or their 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. How and when to proceed against bail.

SECTION 7. 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.

SECTION 8. That upon the trial of any *scire facias* herein directed to issue, the defendant or defendants shall be allowed to plead and prove that the defendant or defendants in the original action, was, or were insolvent at the time said bail was given, and if that fact be proven, it shall be adjudged a good defense. Bail may prove that defendant was insolvent.

Approved January 12, 1838.