

may be redeemed in the same manner, and within the same period of time, as is or may be provided by law in case of real estate sold for any county taxes.

SEC. 17. This act may be altered, amended, or repealed, by any future legislature of this territory or state.

Approved January 14, 1840.

[Chap. 53.]

AN ACT to provide for an extra session of the Legislative Assembly.

SECTION I. *Be it enacted by the Council and House of Representatives of the Territory of Iowa*, That, for the purpose of apportioning the members of the council and house of representatives equally among the several counties of this territory, there shall be a special session of the legislative assembly, to commence on the second Monday in July next.

General election, when held.

SEC. 2. That the general election for this territory for the year eighteen hundred and forty, be held on the first Monday in October, but ever after on the first Monday of August, as provided for in the act regulating general elections.

[Presented to the governor on the 11th January, 1840, and having remained with the governor three days (Sundays excepted) the legislative assembly being in session, this bill became a law January 15, 1840.]

[Chap. 54.]

AN ACT to prevent Frauds.

Parol leases to have effect of leases at will only.

SECTION I. *Be it enacted by the Council and House of Representatives of the Territory of Iowa*, That all leases, estates, interest of freehold or term of years, or any uncertain interest of freehold or term of years, or any uncertain interest of in or out of any messuages, lands, tenements or hereditaments, made or created by livery and seizin only or by parol, and not put in writing and signed by the parties so making or creating the same, or their agents thereunto lawfully authorized by writing, shall have the force and effect of leases or estates at will only, and shall not, either in law or equity, be deemed or taken to have any other or greater force or effect, any consideration

for making any such parol leases or estates, or any former law or usage to the contrary notwithstanding.

SEC. 2. Except, nevertheless, all leases not exceeding the term of three years from the making thereof, whereupon the rent reserved to the landlord during such term, shall amount unto two-third parts, at least, of what the rent of the premises is really worth.

SEC. 3. And moreover, that no leases, estates or interest of freehold, or of term of years, or any uncertain interest of, in, to or out of any messuages, lands, tenements or hereditaments, shall at any time be assigned or granted, unless it be by deed or note in writing, signed by the party so assigning or granting the same, or their agents thereunto lawfully authorized by writing, or by act or operation of law.

SEC. 4. No action shall be brought whereby to charge any executor or administrator, or upon any special promise, to answer damages out of his own estate, or whereby to charge the defendant upon any special promise to answer for the debt, default or miscarriage of any other person, or charge any person upon any agreement in consideration of marriage, or upon any contract or sale of lands, tenements or hereditaments, or any interest in or concerning them, or upon any agreement which is not to be performed within one year from the making thereof, unless the agreement upon which such action shall be brought, or some note or memorandum thereof shall be in writing, and signed by the party to be charged thereby, or some person by him thereunto lawfully authorized.

SEC. 5. All declarations or creations of trust or confidence of any lands, tenements or hereditaments, shall be manifested and proved by some writing signed by the party, who by law may be entitled to declare such trust or confidence, or by his last will in writing, or else the same shall be utterly void and of none effect: *Provided always*, That when any conveyance shall be made of any lands or tenements, by which a trust or confidence shall or may arise, or result by the implication or construction of law, or be transferred or extinguished by any act or operation of law, then and in every such case, such trust or confidence shall be of the like force and effect as the same would have been if this act had never been passed, anything herein contained to the contrary notwithstanding.

Judgment
lien on real
estate.

SEC. 6. Judgments in the district and supreme courts of this territory, shall have the operation of and shall be liens upon the real estate of the person or persons against whom such judgments may be rendered, from the day of the rendition thereof, in the county within which such judgments may be rendered; and it shall be the duty of the clerks of such courts, when applied to by any person interested in any judgment rendered by any of the courts aforesaid, to make out and deliver to such applicant an attested copy of the record of such judgment, authenticated by the seal of such court, which attested copy may be by such person filed in the office of any clerk of the district court within this territory; and when so filed, the said clerk in whose office the same may be filed, shall record the same among the records of the court of which he is clerk, and enter the same on the judgment docket; and such attested copy, when so filed, recorded and entered as aforesaid, shall operate as a lien upon the estate of the person or persons against whom such judgment may have been rendered, situate in the county in which the same may have been so filed as aforesaid, recorded and entered in the same manner and to the same legal extent that the same would have done had such judgment been originally rendered in the district court of such county: which lien shall operate from the day of filing, recording and entering such copy as aforesaid. But no execution shall ever issue upon such attested copy, although the record thereof shall have the same force and effect in every other point of view, as any other record of such court might or could have.

To be record-
ed.

Contracts]
over thirty
dollars to be
in writing

SEC. 7. No contract for the sale of any goods, wares or merchandize, for the price of thirty dollars or upwards, shall be allowed to be good, except the buyer shall accept part of the goods so sold, and actually receive the same, or give something in earnest to bind the bargain, or in part payment, or that some note or memorandum in writing of the said bargain, be made and signed by the parties to be charged by such contract, or their agents thereunto lawfully authorized.

Contracts for
sale of per-
sonal property
to be in writ-
ing.

SEC. 8. That from and after the passage of this act, no bill of sale or other conveyance of personal property, where the vendor shall retain the actual possession of the property so conveyed, shall be good and valid in law to pass any right to such prop-

erty against existing creditors or subsequent purchasers, without notice, unless the bill of sale or other instrument of writing conveying the same be acknowledged before some justice of the peace for the county where the same is executed and recorded, within ten days, in the office of the recorder of deeds for the county where the holder of the property resides.

SEC. 9. *And be it enacted*, That the recorders of ^{And recorded.} deeds in the several counties in this territory be and they are hereby required to record all such conveyances of personal property in a separate book to be kept by them for this purpose; and for the recording of any such conveyances of personal property, the recorders shall receive the same fees for every one hundred words as they are entitled to receive for recording other deeds.

Approved January 16, 1840.

[Chap. 55.]

AN ACT to amend "An act relative to mechanics' liens, and for other purposes," approved December seventeenth, in the year eighteen hundred and thirty-eight.

SECTION 1. *Be it enacted by the Council and House of* ^{Summons to} *Representatives of the Territory of Iowa*, That upon filing ^{issue.} the bill or petition or account provided for in the act to which this is amendatory, the clerk of the district court of the proper county, or justice of the peace, shall issue a summons against the debtor in the usual form, with an endorsement signed by said clerk, justice, or plaintiff, or his attorney, stating the nature of the action.

SEC. 2. That said writ shall be served in like man- ^{How served.} ner as a summons in an ordinary suit upon the person therein named, if to be found in the county, if not to be found, then by fixing a copy of the writ and endorsement upon some conspicuous place upon the building or other property to which the lien attaches.

SEC. 3. That upon return of service and failure of ^{Defendant} the defendant to appear, the court or justice of the ^{may plead.} peace shall render judgment according to the justice and equity of the case; but if the defendant shall appear, he may plead and make defence, as in personal actions for the recovery of debts.

SEC. 4. This act to be in force from and after its passage.

Approved January 16, 1840.