

[43] CHAPTER 23.

VALUATION LAW.

AN ACT amendatory of an act subjecting real and personal estate to execution.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. Officer to select property, how governed; required to take personal property before real estate. That hereafter, when any writ of execution shall issue against the goods, chattels, lands, tenements, and hereditaments of any person, it shall be the duty of the sheriff, constable, or other officer, to levy said writ of execution upon such of the property of said person subject to execution as the sheriff, constable or other officer, may, in his discretion, think most conducive to the interest of both plaintiff and defendant in execution: provided, that where there is personal property it shall be taken in preference to real estate.

SEC. 2. Officer, how to proceed in selecting personal property. It shall be the duty of the sheriff, constable, or other officer, in levying such execution, to take such property under the previous direction as will be nearest and best adapted in price at two-thirds of the appraised value to the satisfaction of such execution.

SEC. 3. Officer, how to proceed where property will not sell at the expiration of the second six months; to retain levy and require bond for re-delivery; levy when and by whom to be renewed, and how often. That when the personal property levied upon shall have been offered for sale at the end of six months from the time at which it was first offered, under the provisions of the act to which this is amendatory, and it shall not be sold for two-thirds of its appraised value, for the want of bidders, and shall have been offered to and not received by the plaintiff in execution at two-thirds of the appraised value thereof, it shall be the duty of the officer holding such execution to retain the levy on said property, and require a bond for delivery thereof at the expiration of another six months, in like manner and to the same effect as for the previous six months; and it shall be the duty of said officer to dispose of said property during and at the expiration of said last six months in the same manner and to the same effect as prescribed and directed for the disposal thereof in the first six months; and it shall be the duty of the several clerks of the district courts, the clerk of the supreme court, and the justices of the peace, in all cases when there is not time enough under the original execution upon which the levy was made to sell and dispose of the property levied upon under the provisions of this act, to renew the same when issued by justices [44] of the peace, and to issue a *venditioni exponas* when issued by the several clerks, as often as the circumstances shall require it.

SEC. 4. Levy to operate as a lien; lien how released. That whenever an execution shall be levied upon any personal or real property, such levy shall attach a lien on said property for the satisfaction of the judgment upon which said execution issued; and nothing shall release such lien but the substitution of other property, agreeably to the provisions of the act to which this is amendatory, or the consent of the judgment creditor.

SEC. 5. This act how to apply. That this act, and the act to which this is amendatory, shall apply to all judgments and executions of justices of the peace, as well as those of the district and supreme courts.

SEC. 6. Repealing clause. That so much of the act to which this is amendatory as shall come in conflict with this act, and so much of an act entitled

“An act to provide for the election of justices of the peace, to prescribe their powers and duties, and to regulate their proceedings,” as shall come in conflict with this act and the act to which this act is amendatory, are hereby repealed.

SEC. 7. Burying grounds not exceeding 4 acres exempt from levy and sale. That in addition to the property now exempt by law from levy and sale upon execution, all public burying grounds, not exceeding four acres, shall be exempt from levy and sale upon any process whatever.

SEC. 8. Real estate mortgaged prior to the passage of the act hereby amended to be sold to the highest bidder; how it may be redeemed within two years, and at what interest. That hereafter, when any real estate may be sold by any decree, or order of any court in chancery, upon any mortgage or deed of trust executed prior to the passage of the laws to which this act is amendatory, the same shall be sold without being valued as required by the provisions of the third section of the act to which this is amendatory to the highest and best bidder, for the best price the same will bring; and the mortgagor or debtor may redeem the said real estate so sold as aforesaid within two years from the date of said sale, by paying to the purchaser, or to the officer selling the same, or to his successor in office, the purchase money, with interest thereon, at the rate of ten per cent. per annum.

SEC. 9. Deeds made by sheriff to be prima facie evidence of what. That all deeds made and executed upon all sales made after the passage of this act, for real estate sold under any execution, order or decree of court, by any sheriff or other officer authorized by law to make the same, shall, in all controversies which may hereafter arise in relation to the title of said real estate, be taken and considered as *prima facie* evidence of the existence of a judgment and execution, authorizing said officer to sell the same, and also of the regularity of said sale.

Approved, 15th February, 1844.

[45] CHAPTER 24.

GRAND AND PETIT JURORS.

AN ACT to amend an act entitled “An act concerning grand and petit jurors,” approved January 4, 1839.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. Jurors, number and qualifications of; to be annually selected. That one hundred and fifty judicious persons, having the qualifications of electors, shall be annually selected in each county, where there are that number of electors, and where there are not, all the electors in such county, to serve as grand and petit jurors the ensuing year.

SEC. 2. Apportionment of, in the different townships and precincts; when and by whom made; notice of apportionment, when, by whom, to whom and how given. That the clerks of the board of commissioners in their respective counties, shall, on the first Monday of April in each year, cause the proportion of jurors to be ascertained from the number of white male inhabitants of the age of twenty-one years in their respective townships or precincts, and shall make a statement in writing of the number of jurors apportioned to each township or precinct, and shall deliver the same to the sheriff; and the sheriff at the time he gives notice of the general annual election, shall insert a clause in the notices to be set up in each township or precinct of his county, giving the judges of the election notice of the number of persons to be returned as jurors from each township or precinct.