

BY AUTHORITY

AN ACT relative to the Currency, and subjecting Property to Execution

§ 1. Be it enacted by the House of Representatives of Oregon Territory, That in addition to gold and silver, treasury drafts, approved orders on solvent merchants, and good merchantable wheat at the market price, delivered at such places as it is customary for merchants to receive wheat at, shall be a lawful tender for the payment of taxes, and judgments rendered in the courts of Oregon territory, and for the payment of all debts contracted in Oregon territory, where no special contract has been made to the contrary.

§ 2. The personal estate of every individual, company, body politic or corporate, including his, her, or their goods and chattels; also, town or city property or improvements, claimed and owned in virtue of occupancy, secured and allowed by the treaty between the United States and Great Britain, shall be subject to execution, to be taken and sold according to the provisions of this act, excepting that wearing apparel shall not be considered as any part of the estate of any defendant or defendants, in execution; and no land claim, or improvements upon a land claim, held according to the laws of this territory, shall be subject to execution; and no stay upon execution shall be permitted or allowed, except by the consent of the party in whose favor the execution has been issued, for any time other than the time agreed upon by the parties.

§ 3. When, hereafter, any writ of execution may issue against the goods, chattels, and town or city property or improvements, of any defendant or defendants, it shall be the duty of the sheriff or other officer, to levy such execution upon such part of the estate of such defendant or defendants, as he, she, or they, may direct, if there exists no reasonable doubt of such defendant or defendants being the bona fide owners of such property; and if at no such direction shall be given, then, in all cases, the goods and chattels of such defendant shall be first levied upon and sold, unless such defendant voluntarily authorize the sale upon execution of their town or city property or improvements.

§ 4. When an execution shall issue to any sheriff or other officer, against the property of any defendant or defendants, if he, she, or they have families, it shall be lawful for such defendant or defendants to claim, as exempt from execution, the following property, to-wit: one bible, one cow and calf, one horse or yoke of cattle, five sheep, five head of hogs, household and kitchen furniture, not to exceed in value thirty dollars, one stove fixed up in the house, one bed and the necessary bedding therefor for every two in the family, farming utensils not to exceed in value fifty dollars, one month's provision for the support of the family, all mechanics' necessary tools, and all the books of private libraries, not to exceed in value one hundred dollars worth; and it shall be the duty of said officers not to execute any of the above exempt property.

§ 5. Any sheriff or other officer, levying an execution upon the property of any defendant or defendants, shall give at least fifteen days notice of the time and place of such sale, by posting up written notices of the same, at three of the most public places in the county in which such sale may be made.

§ 6. No property of any description whatever, shall be sold on execution, or by virtue of any other process issued by any officer, for less than two-thirds of its value at the time of such sale, after deducting all encumbrances.

§ 7. For the purpose of ascertaining the value of any property levied upon by any officer, by virtue of any execution or order of sale, founded on any judgment, order or decree, it shall be the duty of the officer making such levy, to select two discreet householders, residents of the county where such levy may be made, to value said property. Said officer making such levy, is authorized to administer an oath to said appraisers, to value said property at what the same is worth, clear of all encumbrances; and said appraisers shall make out, under their hands, a written statement of the value of said property, and hand the same to the officer making such levy, whose duty it shall be to append the same to his return.

§ 8. Whenever any property levied upon by virtue of an execution or order of sale, remains unsold on the return day of such

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writ, it shall be the duty of the officer to return the same, with an endorsement of his doings thereon, which return shall constitute a lien upon such property so remaining unsold; the defendant or defendants shall have the right to the possession of such property, by executing and delivering to the officer holding said writ, a bond with good and sufficient security, to the acceptance of said officer, in double the value of said property, conditioned for the delivery of said property at a time and place to be appointed by said officer.

§ 9. If the property of any defendant or defendants, taken and sold on execution by virtue of this act, should fail to sell for a sum sufficient to satisfy the debt, damages and costs, due and accruing upon such execution, the officer shall make return of his doings thereon accordingly; and another writ of execution shall issue, to be credited by endorsement made by this clerk or justice, with the sum or sums previously paid or made on any previous execution; upon which writ of execution, the proper officer shall proceed to levy and sell, in the manner hereinbefore prescribed, making return of his doings thereon as in other cases.

§ 10. That if it shall appear upon the face of any writ of execution, or by endorsement thereon, made by the officer issuing the same, that any one of the persons against whom the same may be issued, is, or are, only security for any one or more of the persons against whom such execution may have been issued, the officer executing the same shall first sell as much of the property of the principal defendant or defendants, named in such execution, as he may be able to find, before he shall sell any of the property of such security or securities, unless such officer may be otherwise directed by such security or securities.

§ 11. When any person or persons, other than the defendant or defendants, by himself, herself, or themselves, his, her, or their agent or attorney, shall file a claim, in writing, with the officer holding such execution, setting forth that such person or persons, is or are the owner or owners of, and have just claim to, any personal property levied upon by such officer, by virtue of such execution, specifying the article or articles, item, or items, of property so alleged to be owned and claimed, it shall be the duty of such officer having levied on such property as aforesaid, forthwith to summon six disinterested householders to determine the question raised by such claim; and the trial of the right of such property shall be held before some justice of the peace of the proper county, in which said property may be found; which justice shall attend upon the summons of the officer executing such execution, and shall preside at such trial, swearing the said householders summoned to try the right to the property aforesaid and witnesses introduced by the parties; and if any person or persons, parties to such proceeding, should consider himself, herself, or themselves, aggrieved by the determination of such trial before such justice, it shall be the duty of such justice, upon the application of such person or persons, to certify to the county court a true transcript of the proceedings had before him in the premises, under such limitation and restrictions as are prescribed in regard to other cases of appeals from judgments of justices of the peace; and furthermore, to take from the person or persons retaining the possession of the property in controversy, a bond, with sufficient security, conditioned for the delivery of the same to whomsoever it may be determined to belong by the judgment of the court on said appeal; and if the claimant should fail to establish his or her right to such property on the trial of such appeal in the county court, and if, in the opinion of the court, the appeal was taken for delay or vexation, it shall be the duty of such court trying the appeal, to assess in favor of such execution plaintiff, six per cent

turn on the amount of such execution, if such amount shall be less than the value of the property claimed; or in case the sum due on such execution shall be more than the property claimed, then six per centum on the value of said property claimed; and in all cases where a trial of the right of property has been had, the decision thereon shall be conclusive between the parties to such trial, so long as the same remains unreversed: *Provided*, That no officer shall be liable to any prosecution for taking any goods in execution, in the possession of the defendant or defendants, unless notified or informed of the ownership therein, previous to his sale of such goods under execution.

§ 12. The clerks of the county courts may, upon request, issue executions directed to the proper officer in any county in this territory, whose duty it shall be to obey and execute the same, and make due return thereof to the officer who issued the same, according to the provisions of this act; and whenever an execution shall be issued, in any county in this territory, or from the supreme court, directed to the sheriff of any other county, it shall be lawful for such sheriff, having received such execution, and discharged all the duties required therein by law, to enclose such execution and forward the same by mail to the clerk of the court who issued the same, and on proof being made by such sheriff, that such execution was mailed a reasonable and sufficient time to reach the office from whence it issued, within the time prescribed by law, such sheriff shall not be liable to any amercement or penalty for the failure of the safe arrival of such execution, any thing in this act to the contrary notwithstanding: *Provided*, That no sheriff shall send by mail any money made on such execution, unless he be especially instructed to do so by the plaintiff or his agent.

§ 13. When any property may be taken on execution by virtue of the provisions of this act, the officer taking the same may release such property by the defendant or defendants entering into bond with sufficient security, in double the amount of the value of such property, conditioned for the delivery of the same at such time and place as may be named in such bond, to such officer, to be sold according to law, which bond shall be by such officer returned into the office from whence the execution, by virtue of which such property may have been taken, issued, and such bond shall be valid in law, and an action may be had thereon whenever the conditions thereof may have been violated, and on recovery being had thereon, the amount due on such execution, shall be assessed in favor of the plaintiff: *Provided*, That property so taken be of sufficient value to satisfy the same, and if not, then the value of the property so taken, together with twelve per centum thereon.

§ 14. No real estate of any testator or intestate, shall be subject to execution upon any judgment against the executor or administrator of such testator or intestate, until the devisees of such testator and the tereutenants of such real estate be first made parties to such judgment, in the following manner, to-wit: Where any judgment shall be obtained against any executor or administrator to be levied of the goods and chattels of the deceased, and execution issued thereon, shall remain unsatisfied in whole or in part, for want of personal estate, and there is real estate in this territory, it shall be lawful for the plaintiff in such judgment, to file in the proper court, where such judgment is obtained, a petition against the executors or administrators and heirs and devisees, if any, of the deceased, setting forth the facts of the judgment, and the want of personal property, and that there is real estate in this territory, describing the same, and setting forth in what county or counties the same is situated, and praying said court to award the proper writ, or writs, of execu-

tion against the same; and the clerk of said court shall, upon filing such petition, notify the persons against whom it is filed of the pendency thereof, requiring them to appear on the first day of the next term of said court, and show cause, if any can, why the proper writ or writs of execution shall not be awarded; which said notice shall be given to residents by summons served by the proper officer, and to non-residents by publishing the same in the nearest newspaper for four weeks successively; and if a summons, it shall be served on residents ten days before the sitting of the court, and be published to non-residents as aforesaid, the court shall, at the first term, award the proper writ or writs of execution, directed to the proper officer of the proper county, unless good cause to the contrary be shown, and the nonage of heirs or devisees shall not, in any case, be good cause to suspend execution.

§ 15. Whenever any property shall be sold on execution by virtue of any of the provisions of this act, and the same will sell for more than will satisfy such execution, the interest and costs accruing thereon, the sheriff or other officer making sale of the same, shall render the overplus to the defendant or defendants, and then, and not till then, shall such officer be discharged thereof upon the records of the court, to which he shall make return of his proceedings concerning such sales.

§ 16. If any estate shall be sold upon execution issued under and in accordance with the provisions of this act, upon any judgment or decree rendered by a court having jurisdiction of the matter in controversy, which may have resulted in such judgment, and such judgment or decree shall be afterwards reversed for error or errors, none of such estate, so sold on execution, shall be restored in consequence of such reversal.

§ 17. When mutual judgments are existing in any county in this territory, it shall be the duty of the officer or officers in whose hands the execution may be, to set off one execution or judgment against the other, so far as the same shall extend; and executions may be certified from one county to another for the purpose of allowing such set-off; and it shall be the duty of the officers, when any such executions shall come to their hands, to allow the same.

§ 18. The innocent purchaser shall be entitled to his suit against the judgment creditor, either in law or equity, for the recovery of the money paid for such estate.

CERTIFICATE.

I, JOHN E. LONG, Secretary of Oregon Territory, do hereby certify that the foregoing act, in relation to "Currency, and subjecting property to Execution," is an accurately printed copy from the original, truly and correctly revised by me, and now on file in my office.
J. E. LONG, Sec'y.

CRIME IN THE OLDEN TIME.—In the course of some remarks recently made in the British House of Commons, by Mr. Crawford, he stated on the authority of Hume's History of England, that "in the reign of Henry VIII. there were confined, as debtors or criminals, at one time, in the jails, 60,000 persons; that 72,000 criminals were executed for theft and robbery alone, in the reign of Henry VIII.; an average of nearly 2,000 a year: that in 1569, in the county of Somerset, 40 persons are stated to have been executed in one year, for robberies, thefts and other felonies, 35 burnt in the hand and 37 whipped. The rapines committed by idle vagrants were intolerable; at least 3,000 or 4,000 persons in every county were living by rapine, assembling in troops, committing spoil in the daytime, and magistrates intimidated from executing their duty. In 1597, an act was passed taking away the benefit of clergy from persons committing robberies in the daytime."

WANTS.

Virtue wants more admiration, Wisdom more supplants, Truth more real friends, and Honesty more practitioners.

The trader wants more profit, or less envy of his more fortunate neighbor.

The Printer wants more subscribers, punctual payment, and less duns.

Religion wants less said about the theory, and more done in the way of practice.

Philosophy wants a residence, and Fidelity an asylum.

Love, Charity, and Banks, want to be in better credit.

Pride wants to be discarded, and Modesty Diffidence introduced.