

aforesaid,—and if the lands are redeemed or the incumbrance removed before the levying of the execution, the attachment shall hold the premises discharged from the mortgage or other incumbrance as if these had not existed.

23. Personal property liable to attachment and mortgaged, pledged or subject to any lien, and of which the defendant has the right of redemption, may be attached, held and treated as if unencumbered, if the attaching creditor first tenders or pays the mortgagee, pledgee or holder the full amount unpaid on the demand so secured thereon; and every such mortgagee, pledgee or holder, on demand in writing made on him by and on behalf of any person desiring to attach it, shall render a just account of his claim or lien, and if he unreasonably neglects so to do for six days after such demand, the Sheriff may attach the property as if unencumbered, and such attachment shall have priority over the mortgage, pledge or lien; and if the mortgagee, pledgee or holder demand and receive more than is due him, he shall be liable for the amount of the excess and ten per cent. thereof additional, to be recovered by the attaching creditor in an action for money had and received.

24. When any property attached and redeemed as hereinbefore provided shall be sold, either as hereinafter provided or on execution, the proceeds thereof after deducting the charges of the sale shall be first applied to repay the attaching creditor the amount so paid by him, with lawful interest thereon.

25. Should the plaintiff, after having redeemed the goods so attached, not recover judgment in the suit, he shall nevertheless be entitled to be subrogated to all the rights which the mortgagee, pawnee or holder as aforesaid would have had in case the property had not been attached.

RELEASE OF PROPERTY ON BOND.

26. The defendant may at any time before judgment discharge the property attached, or any part thereof, by giving a bond to the Sheriff in his name of office, with good and sufficient security to be approved of by the Sheriff, in a penalty at least double the value of the property sought to be released, conditioned that such property, or its estimated or appraised value, shall be delivered or paid to the Sheriff to satisfy, within thirty days after recovery thereof, any judgment that may be obtained against the defendant in the suit to the extent to which the property is bound by the attachment.

SALE OF PERSONAL PROPERTY BY CONSENT OR ON APPRAISEMENT.

27. When personal property is attached, if the creditor, or in case of several attachments a majority of the creditors, and the debtor by themselves or attorneys consent in writing, the Sheriff shall sell the property in such manner as may be so agreed upon, and the proceeds of the sale after deducting necessary expenses thereof shall be held by the Sheriff subject to the attachment or attachments, and on the determination of the suit or suits shall be paid to the party or parties who would have been entitled to the property, or the proceeds thereof, if such sale had not been made.

28. When living animals or goods liable to perish or waste, or be greatly reduced in value by keeping, or which cannot be kept without great or disproportionate expense, are attached, and the parties do not consent to a sale thereof and the debtor shall not give a bond as aforesaid, the attached property may, at the request of either party, be examined and appraised as follows:—

29. Upon such request the Sheriff shall give reasonable notice to the parties interested, or their attorneys, of the time and place of appraisement, and shall prepare a schedule of the goods, and at the time and place so fixed three disinterested appraisers shall be appointed, one by the Sheriff, one by the creditor or a majority of the creditors, and one by the debtor, and if the creditor or debtor shall neglect or refuse to appoint, the Sheriff shall appoint an appraiser or appraisers on his or their behalf.

30. The appraisers, who shall be sworn to the faithful discharge of their duties by the Sheriff (who is hereby empowered in such case to administer an oath), shall examine the property, and if in their opinion the property or any part thereof would be liable to perish or waste, or become greatly reduced in value by keeping, or that it cannot be kept without great or disproportionate expense, they shall proceed to appraise the same according to their best skill and judgment at the value thereof in money; and unless the defendant shall give a bond as aforesaid the property shall be sold by the Sheriff at public auction on giving not less than three days public notice, and the proceeds shall be held and disposed of in the manner provided in case of goods sold by consent of parties.

31. In case of the release or discharge of any property from attachment in any of the modes provided by this Act. the Sheriff shall, if a memorandum of attachment shall have been filed with the Registrar of Deeds as aforesaid, forthwith require the Registrar to enter a discharge of such attachment, and the Registrar shall forthwith and without fee enter a minute of the discharge in the margin of the memorandum, and also cancel the entry of the same in the Attachment Book aforesaid.

RIGHTS OF PART-OWNERS OF ATTACHED PROPERTY.

32. When any personal property belonging to two or more persons is attached in any suit against one or more of the part-owners, it shall, upon request of any other of the part-owners, be examined, and the defendant's interest appraised in the manner provided for an appraisement when made at the request of a party to the suit, except that the part-owner who makes the application shall appoint one of the Appraisers instead of the defendant.

33. The property so appraised shall be delivered to the part-owner at whose request it was appraised, upon his giving a Bond to the Sheriff in a penalty of double the amount of the debtor's interest, and with two sufficient sureties, conditioned to restore the property in like good order, or to pay the Sheriff the appraised value of the defendant's share or interest therein, or to satisfy all judgments to the amount of such appraised value, as shall be recovered in the suit or suits in which the property is attached, if demanded within the time during which the property would have been held by the respective attachments.

34. The defendant's part or share of said property shall, to the extent to which the part-owner is obliged to pay, vest in such part-owner, and he may sell the same on reasonable notice to defendant if not redeemed within a reasonable time, and shall account to defendant for the balance of the proceeds of the sale after retaining the amount due him.

35. If the attachment shall be dissolved, the party to whom the defendant's share is delivered shall return the same to the defendant, or to the Sheriff to be by him delivered to the defendant.