

MAINE STATE LEGISLATURE

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Charles F. Rice
DOCUMENTS

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THE LEGISLATURE,

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1840.

AUGUSTA:

WM. R. SMITH & CO., PRINTERS TO THE STATE.

1840.

TWENTIETH LEGISLATURE.

NO. 31.

SENATE.

A N A C T

RELATING TO

SHERIFFS' BONDS.

[Wm. R. SMITH & Co.....Printers to the State.]



STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED
AND FORTY.

AN ACT for a more speedy remedy on Sheriffs'
bonds.

SECT. 1. *Be it enacted by the Senate and
2 House of Representatives in Legislature
3 assembled,* That any person or persons or cor-
4 porations, having suffered, or who shall suffer
5 loss or damage by reason of the default, mis-
6 feasance or nonfeasance of any Sheriff or either
7 of his deputies of any County in this State,
8 and having, or who shall hereafter ascertain the
9 amount of such loss or damage by a suit and
10 judgment thereon against such Sheriff, may have
11 and maintain on such Sheriff's bond in the name
12 of the Treasurer of the State for the time being,
13 an action of debt, and judgment shall be ren-
14 dered thereon against such Sheriff and his

15 sureties in the name of the party having before
16 recovered judgment for loss or damage as afore-
17 said for the amount of the original judgment
18 against such Sheriff and interest thereon from
19 the time of such original judgment, and costs of
20 suit; and a copy of such bond certified by the
21 Secretary of State shall on the trial of such
22 action be received as evidence of the existence
23 and validity of the original bond; and such suit
24 shall not abate by reason of the death, resigna-
25 tion or removal of said Treasurer, but in either
26 event the same may be prosecuted to final judg-
27 ment and execution the same as though he were
28 still in office.

SECT. 2. *Be it further enacted,* That the
2 pendency of a former suit, or the recovery of a
3 former judgment or judgments on said bond,
4 shall not be pleaded in abatement or bar, and
5 the only bar to any such suit or suits on said
6 bond as provided in the foregoing section shall
7 be the record proof of a former judgment,
8 judgments or recoveries on said bond to the
9 amount of the penal sum mentioned in such
10 bond exclusive of the costs.

SECT. 3. *Be it further enacted,* That
2 whenever a suit shall be instituted on such bond,
3 the party, for whose benefit it shall be brought,
4 shall before the writ be served, endorse thereon
5 either by himself, themselves, his or their agent
6 or attorney, the name or names of the party
7 together with his or their place of residence and
8 addition, and in case the action shall not be main-
9 tained, execution shall issue against such party
10 so endorsed on said writ for the defendant's
11 costs and not against the nominal plaintiff.

SECT. 4. *Be it further enacted,* That any
2 executor or administrator of such Shēriff or
3 either of his deputies, may be joined in any suit
4 on such bond or cited in, in case of their decease
5 during the pendency of such suit and judgment
6 shall be rendered thereon and execution issued
7 against the goods, effects and credits of the
8 deceased in the hands and possession of such
9 executor or administrator and against the others,
10 survivors, as now provided by law. And such
11 suit shall be maintained as aforesaid against said
12 executor or administrator, notwithstanding the
13 period may not have elapsed, during which as

14 now provided by law, no action can be main-
15 tained against them, but said execution shall not
16 be enforced against said executors or adminis-
17 trators until such period shall have elapsed.

SECT. 5. *Be it further enacted,* That any
2 suit on said bond as aforesaid may be brought
3 in the same County where the judgment for loss
4 or damage as aforesaid has been or may be
5 recovered against such Sheriff as provided in
6 the first section of this Act.

SECT. 6. *Be it further enacted,* That in
2 case such Sheriff or his sureties in any action on
3 his bond as aforesaid, shall plead in bar a former
4 judgment, judgments or recoveries as provided
5 in the second section of this Act, the party for
6 whose benefit the said action may be prosecuted,
7 may contest the validity of any such judgments
8 or recoveries on the ground of collusion or fraud
9 in obtaining the same; and the said party may
10 also show that said Sheriff has been secured or
11 paid for any or all such judgments or recoveries
12 by any of his deputy or deputies for whose
13 default such judgment or judgments was recov-
14 ered against him, in which case said judgment,

15 judgments or recoveries shall be no bar or defence
16 to said action so far as the same may be dis-
17 proved or shown that said Sheriff has been
18 secured or paid as aforesaid.

SECT. 7. *Be it further enacted,* That all
2 Acts and parts of Acts inconsistent with the
3 provisions of this Act be, and the same are
4 hereby repealed.

STATE OF MAINE.

IN SENATE, March 5, 1840.

This Bill was read the second time, and

ORDERED, That 300 copies of the same be printed for the use
of the Legislature.

[Extract from the Journal.]

Attest: WILLIAM TRAFTON, *Secretary.*