

MAINE STATE LEGISLATURE

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EIGHTY-THIRD LEGISLATURE

House Document

No. 81

H. P. 366

House of Representatives, Feb. 9, 1927.

Referred to Committee on Judiciary and 500 copies ordered printed. Sent up for concurrence.

CLYDE R. CHAPMAN, Clerk.

Presented by Mr. Rounds of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND TWENTY-SEVEN

AN ACT Relating to Scire Facias against Bail, Sureties in
Criminal Recognizances and Trustees.

Be it enacted by the People of the State of Maine, as follows:

Section eighty-eight of chapter eighty-six of the revised
2 statutes of Maine is hereby amended by adding thereto the
3 following sentence: 'And no action of debt against sureties
4 and recognizances in criminal cases shall be brought unless
5 within one year after default of principal'; so that said sec-
6 tion, as amended, shall read as follows:

'Sect. 88. No scire facias shall be served on bail unless
2 within one year after judgment was rendered against the
3 principal; nor on sureties in recognizances in criminal cases
4 unless within one year after default of the principal; nor

5 against any person adjudged trustee, unless within one year
6 from the expiration of the first execution against the prin-
7 cipal and his goods, effects and credits in the hands of the
8 trustee. And no action of debt against sureties and recogni-
9 zances in criminal cases shall be brought unless within one
10 year after default of principal.'

STATEMENT

The Supreme Court of Maine in *State vs. Gregory P. Cassidy*, 125 Maine, page 217, in an opinion dated March 15, 1926, holds that the provisions of Sec. 88 of Ch. 86 of the R. S. of Maine do not bar an action of debt upon a recognizance for appearance to prosecute an appeal upon the conviction in the municipal court. In this case the principal did not appear, and the defendant was defaulted at the return term. The default of the principal was entered on the docket at the April term, 1924, but neither principal nor surety appeared at the return term. The writ in the action was sued out August 14, 1924. The sole point set up in defense is, that the action of debt was not seasonably begun. In support of this contention counsel cited R. S. Ch. 86, Sec. 88. The court says: "It is settled that, in this State, debt as well as scire facias lies upon a criminal recognizance."