

# MAINE STATE LEGISLATURE

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# L A W S

OF THE

## STATE OF MAINE;

TO WHICH ARE PREFIXED

THE

CONSTITUTION OF THE U. STATES

AND OF SAID STATE,

IN TWO VOLUMES,

WITH AN APPENDIX.

.....  
VOL. I.  
.....

Published according to a resolve of the State, passed  
March 8, 1821.

BRUNSWICK.

Printed by J. Griffin, for the State.

.....  
1821.

**ERRATA:**

**The following leaf is  
inserted because one or more pages  
in this chapter have errors  
noticed and corrected here.**

VOLUME THE FIRST.

Page.  
 40 L. 12 of the page for 'preceding' read 'presiding'  
 54 Sec. 4 L. 14 of Sec. for 'time' read 'term'  
 55 7 2 for 'a' read 'or'  
 55 7 9 before the word 'said' insert 'the'  
 56 9 3 for 'the' read 'her'  
 57 1 6 for 'to' read 'in'  
 58 1 5 for 'and' after the word 'house'  
 read 'or'  
 61 in the title of the act, ch. vi. insert 'the' before the  
 word 'crimes'  
 62 Sec. 2 L. 9 of S. before the word 'offender' insert 'such'  
 69 16 8 for 'Treasurer' read 'Treasury'  
 73 1 15 after the word 'for' insert 'the'  
 77 13 6 for 'to' read 'of'  
 78 first line of the page, dele the word 'by'  
 80 L. 2 of the p. after the word 'willingly' insert 'aid or'  
 80 17 for 'counterfeited' read 'counterfeit'  
 82 1 after the word 'in' insert 'all'  
 82 Sec. 7 L. 4 of Sec. after the word 'devised' dele 'or'  
 and insert '  
 83 Sec. 7 L. last of S. for 'aggravations' read 'aggravation'  
 84 10 6 for 'and' read 'or'  
 90 1st L. of p. for 'Commissioner' read 'Commissioners'  
 90 L. 20 before the word 'Commissioner' insert 'said'  
 97 6 for 'assumst' read 'assumpsit'  
 97 14 for 'cover' read 'covin'  
 98 at the end of the act for 'January' read 'February'  
 99 L. 17 of p. after the word 'year' dele ' ; ' & insert ' , and '  
 100 15 at the end of the line insert 'the'  
 105 at the end of the Act for '1820' read '1821'  
 108 L. 14 of page, for 'nuisances' read 'nuisance'  
 108 20 after the word 'each' insert 'one'  
 111 25 after the word 'fail' insert 'of'  
 113 11 for 'on' read 'or'  
 144 last for 'performance' read 'performing'  
 145 Sec. 2 L. 9 of Sec. after the word 'of' insert 'the'  
 147 7 6 before the word 'release' for 'to'  
 read 'a'  
 150 Sec. 6 L. 2 of Sec. for 'in' read 'is'  
 151 in the title, before the word 'Lands' insert 'reserved'  
 153 1st line of the p. for 'whenever' read 'wherever'  
 155 last before the word 'Court' for 'a' read 'any'  
 156 Sec. 4 L. 26 of Sec. for 'notification' read 'notifications'  
 159 9 8 for 'purpose' read 'purposes'  
 167 14 5 for 'votes' read 'vote'  
 193 4 10 dele 'such'  
 199 17 1 for 'when' read 'where'  
 202 22 6 after the word 'near, dele 'to'  
 202 23 10 for 'be' read 'he'  
 203 24 16 for 'of' read 'in'  
 203 25 16 for 'meeting' read 'meetings'  
 205 L. 18 of p. before the word 'estate' insert 'other'  
 210 2 before the word 'tenement' insert 'other'  
 215 4 before the word 'guardians' insert 'guard-  
 dian or'  
 226 Sec. 73 L. 6 of Sec. dele 'a'  
 229 3 last for 'agreeably' read 'agreeable'  
 230 7 19 for 'agreeably' read 'agreeable'  
 231 8 6 for 'resided' read 'reside'  
 242 2 5 for 'sentence' read 'sentences'  
 245 7 3 after the word 'herein' insert 'be-  
 fore'  
 247 L. 7 of the act, ch. 56, after the word 'otherwise' in-  
 sert 'interested'  
 247 11 for 'statement' read 'statements'  
 247 Sec. 1 L. 2 of Sec. for 'whenever' read 'wherever'  
 248 3 1 for 'whenever' read 'wherever'  
 248 3 14 for 'Justice' read 'Justices'

Page.  
 252 L. 3 of p. for 'where' read 'wherein'  
 257 5 after the word 'have' insert 'his or'  
 265 Sec. 39 L. 3 of Sec. for 'when' read 'where'  
 271 L. 1 and 3 of p. for 'affect' read 'effect'  
 271 Sec. 6 L. 2 of Sec. before the word 'execution'  
 insert 'the'  
 278 19 4 for 'on' read 'in'  
 280 L. 2 of p. for 'have' read 'had'  
 281 22 for 'of' read 'on'  
 283 13 for 'lies' read 'lays'  
 283 last before the word 'defendant' insert 'the'  
 284 Sec. 32 L. 2 of Sec. for 'a' read 'any'  
 288 5 18 for 'whenever' read 'wherever'  
 291 9 4 for 'as' read 'or'  
 292 L. 4 of p. for 'examinations' read 'examination'  
 293 Sec. 13 L. 5 of Sec. after the word 'article' in-  
 sert 'or articles'  
 297 7 5 for 'and' read 'or'  
 301 L. 8 of p. for 'he' read 'be'  
 309 24 between the words 'the' and 'day' should  
 be a '  
 310 20 for 'debt' read 'debtor'  
 311 2 for 'with' read 'and of'  
 312 7 for 'summon' read 'summons'  
 312 9 between the words 'our' and 'Court'  
 should be a '  
 318 31 for 'writ' read 'writ a'  
 328 Sec. 8 L. 4 of Sec. for 'grieved' read 'aggrieved'  
 353 L. 14 of p. at the end of the line insert 'the'  
 361 Sec. 1 L. 18 of Sec. for 'cause' read 'case'  
 370 3 10 for 'to' read 'of'  
 371 2 7 dele 'to'  
 373 L. 15 of p. before the word 'require' insert 'to'  
 376 Sec. 1 L. 10 of Sec. dele 'the' before the word  
 'payment'  
 378 at the end of the act, for '17' read '20'  
 378 in the title, for 'selection' read 'selecting'  
 379 Sec. 4 L. 5 of Sec. before the word 'divide' in-  
 sert 'shall'  
 394 1 9 for 'part' read 'parts'  
 395 1 8 for 'acceptances' read 'accep-  
 tance'  
 404 1 34 before the word 'authorized'  
 insert 'hereby'  
 407 7 4 dele 'the'  
 414 last word of the 1st act on the page, for 'therein'  
 read 'thereon'  
 423 Sec. 3 L. 15 of Sec. after the word 'assignments'  
 insert 'thereof, and also of the assignments'  
 424 Sec. 6 L. 13 of S. after the word 'papers' insert 'as'  
 425 L. 7 of p. before the word 'action' insert 'an'  
 428 22 for 'twelve' read 'twenty'  
 431 8 for 'fifteen' read 'fifty'  
 432 first line of the page should be put after the third  
 432 L. 5 of the p. dele 'entering'  
 432 between the 28th and 29th lines of the p. insert  
 'Every blank writ of attachment, with a sum-  
 mons thereon, fifteen cents'  
 432 L. 37 of p. for 'judgment' read 'jurymen'  
 435 9 for 'appear' read 'appears'  
 435 10 for 'make' read 'makes'  
 435 18 for 'taking' read 'taxing'  
 444 Sec. 1 L. 6 of Sec. before the word 'records' in-  
 sert 'the'  
 445 1 9 for 'within' read 'of'  
 445 1 19 after the word 'escape' insert  
 'sickness'  
 455 11 1 after the word 'of' insert 'the'

plead general issue and give special matter in evidence.

of any penal law, on behalf of any informer, or on behalf of the State and any informer, it shall be lawful for such defendants to plead the general issue, and give any special matter in evidence to the Jury, which shall be as available to him or them, as if he or they had sufficiently pleaded the same matter in bar, or discharge of such information, suit or action.

No person to be executed but by warrant from Supreme Executive, &c.

SEC. 47. *Be it further enacted,* That no person upon whom sentence or judgment of death shall be passed or given by the Justices of the Supreme Judicial Court, shall be executed in pursuance of such judgment, before the whole record of such proceedings or case be certified by the Clerk of the same Court, under the seal thereof to the Supreme Executive Authority of this State, nor until a warrant shall be issued by the said Supreme Executive Authority, under the great seal of this State, with a copy of the record thereunto annexed, directed to the Sheriff of the county wherein the trial of the person so convicted as aforesaid, was had, commanding the same Sheriff to cause execution to be done upon the person so convicted as aforesaid, in all things according to the judgment against him. And the Sheriff to whom such warrant shall be directed is hereby authorized and required to execute the same in due form of law.

[Approved March 19, 1821.]

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## CHAPTER LX.

An Act respecting the Attachment of Property on Mesne Process, and directing the issuing, extending, and serving of Executions.

Attachment to hold for 30 days after judgment.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That all goods and estate attached upon mesne process for the security of the debt or damages sued for, shall be held for the space of thirty days after final judgment, to be taken in execution; and if the creditor shall not take them in execution within thirty days after judgment, the attachment shall be void. And the share or shares, or interest of any person in any turnpike, bridge, canal or other company which heretofore has been, or hereafter may be incorporated, with all the

Attachment of shares in companies to bind the same and

rights and privileges appertaining to such shares, may be attached on mesne process, and taken on execution; and the attachment of such shares or interest on mesne process shall hold the same, and also all dividends growing due after such attachment, to respond the final judgment which may be rendered thereon, until the expiration of thirty days after the rendition of such judgment. And when any such shares or interest shall be attached on mesne process, or taken on execution without such previous attachment, an attested copy or copies of such writ of attachment or execution, shall, by the officer holding the same be left with the Clerk, Treasurer or Cashier of such company. And all rights in equity of redeeming lands mortgaged, reversions or the remainders, shall be liable to attachment upon mesne process and to be taken by execution upon judgment recovered for the payment of the just debts of the mortgager or owner; and when any right in equity of redeeming real estate which is mortgaged, shall be attached on mesne process, and pending the attachment such mortgaged real estate shall be redeemed by the mortgager; the attaching creditor shall have the same lien on such estate as though the attachment had been of the fee, and execution may be levied thereon accordingly.

growing dividends.

When attached or taken on execution copies to be left with Clerk, &c.

Rights in equity liable to attachment and execution.

In case of redemption attaching creditor to have lien on the fee of the estate.

SEC. 2. *Be it further enacted,* That the franchise and all the rights, privileges and immunities of any turnpike, bridge, canal or other company incorporated by law with power to receive toll so far as relates to the right of demanding and receiving toll, as well as all other corporate property, either real or personal, shall be liable to attachment on mesne process; and when such attachment shall be made or other service of a mesne process shall be made on any of the corporations aforesaid, the officer serving the same shall leave an attested copy of said process, and his return thereon with the Clerk, Treasurer, or some one of the directors of said corporation, thirty days at least before the day of the sitting of the Court to which the same may be returnable.

Franchises of turnpikes, &c. may be attached.

Copy to be left with Clerk, &c. 30 days before Court.

SEC. 3. *Be it further enacted,* That the party obtaining judgment in a civil action, in any Court of Judicature within this State, shall be entitled to have his execution thereon

Execution may issue 24 hours after

judgment, if  
no appeal.

at any time after the expiration of twenty-four hours after judgment rendered, and within one year next after the entering up of such judgment: *Provided*, That there be no appeal granted. And execution issuing from the Circuit Court of Common Pleas, shall be made returnable within three months, unless the Circuit Court of Common Pleas shall sit within that time, and in that case it shall be made returnable to the next Court; and those issuing from the Supreme Judicial Court, shall be made returnable at the end of six months, unless the Supreme Judicial Court shall sit in the said county within that time, and in that case it shall be returnable to the same; and those issuing from a Justice of the Peace shall be made returnable within sixty days from the day of issuing them; and when such executions shall be returned without any satisfaction made, or satisfied only in part, the Clerk of the Court from whence, or Justice from whom such execution issued, shall, upon application of the creditor, make out an alias or pluries execution for the whole, or the remainder, as the case, may be, till the judgment shall be fully satisfied: but if the party shall neglect for the space of one year next after obtaining judgment, to take out his execution, or shall not within one year next after his execution shall be returned not satisfied, take out his alias or pluries, he shall sue out his writ of scire facias against the adverse party, to show cause, if any he hath, why execution ought not to be done; and upon his not showing sufficient cause, the Court shall award execution, for what remaineth, with additional costs; or the creditor may bring his action of debt on the judgment.

Executions  
when returnable.

Not to issue after a year without a scire facias,

or may have action of debt on the judgment.

Officers to offset executions,

Provided parties are in the same capacity,

and that attor-

SEC. 4. *Be it further enacted*, That whenever it shall happen that any sheriff, coroner or other officer authorized by law to serve executions, shall at the same time have several executions wherein the creditor in one execution is debtor in the other, any such officer is hereby empowered and directed to cause one execution to answer and satisfy the other, so far as the same will extend: *Provided always*, That this Act shall not be construed to extend to any judgments or executions wherein the creditor in one execution is not in the same capacity and trust, debtor in the other: *And provided also*, That nothing in this Act shall be construed

ed to affect or discharge the lien which any attorney has or may have upon any judgments or executions for his fees and disbursements, or to affect the rights of any person to whom or for whose benefit the same judgments or executions, or the original cause of action thereof may have been assigned, bona fide, and without fraud.

ney's lien for costs, and assignees rights shall not be impaired.

SEC. 5. *Be it further enacted,* That when any goods or chattels shall be taken to satisfy an execution issuing upon a judgment obtained, such goods or chattels shall be safely kept, by the officer, at the expense of the debtor, for the space of four days next after they are so taken; and if within that time, the owner shall not redeem the same by otherwise satisfying the execution, such goods and chattels shall be sold at public vendue to the highest bidder, having first been advertised by the posting up notifications of the time and place of sale, forty eight hours before the expiration of the four days in the town or place where the sale is to be; and the money arising upon such sale shall be applied to the paying charges and the satisfying the execution, and the officer shall return the overplus, (if any there be) to the debtor. And the officer who is possessed of the execution shall make return of the same with his doings therein, particularly describing the goods taken and sold, and the sum for which each article was struck off; and if any officer shall be guilty of any fraud in the sale or in the return, he shall be liable to the debtor to pay him five times the sum defrauded, to be recovered by action of the case.

Goods seized on execution to be kept 4 days before sale—

to be advertised 48 hours before sale—

officer to make particular return—

penalty for fraud therein.

SEC. 6. *Be it further enacted,* That an attested copy or copies of execution left with the Clerk, Treasurer or Cashier of any turnpike, bridge, canal or other corporation, and an advertisement of the time and place of sale being once published within said thirty days after judgment, shall be deemed a taking such shares or interests in execution, pursuant to the attachment on the original writ; and so many of said shares, or so much of said interest may be sold on said execution at public vendue to the highest bidder as shall be sufficient to satisfy the same, and the charges of the sale, after notice shall have been given of the time and place of sale in manner as hereinafter provided; and in case the officer

Leaving copy of execution with certain officers of corporations to be a taking on execution.

Shares, &c. to be sold at auction, after notice.

Copy of return



to be left with  
officer of cor-  
poration.

making the sale, or the purchaser or purchasers of any such shares or interest do cause an attested copy or copies of such execution, and the officer's return thereon to be left with such Clerk, Treasurer or Cashier, within fourteen days after the sale is completed, and pay for the recording of the same, such purchaser or purchasers shall be thereby entitled to such shares and interest, with all the privileges appertaining thereto, and the income and dividends which may have accrued or been made on the same subsequent to the attachment thereof on mesne process; and it shall be the duty of the proper officer or officers of such corporation, to issue to the purchaser or purchasers under such execution, such certificates as by the bye-laws and regulations of such corporation are the evidences of the shares or interest of a proprietor in such corporation.

Certificates of  
shares to be  
given to pur-  
chaser.

Mode of noti-  
fying sale of  
shares.

SEC. 7. *Be it further enacted,* That in making sale of any such shares or interest, the officer holding the execution shall give notice in writing of the time and place of sale to the judgment debtor, by leaving the same at his last and usual place of abode, if within the county in which the said officer dwells, and public notice of the said time and place of sale, by posting up notifications thereof in one or more public places in the town or plantation where such sale is to be made, and also in one or more public places in the two adjoining towns, thirty days at least before the time of sale, and further shall cause an advertisement expressing the time and place of sale, and against whom such execution shall have issued on which such shares or interests have been taken, to be published three weeks successively before the day of sale, in some public newspaper printed in the county where the sale is to be made, if any such be therein printed, and in case no such paper is therein printed, then such advertisement shall be published in some public newspaper in the nearest county wherein a newspaper shall be published; and in case the judgment debtor has at no time resided, or does not then dwell in such county, the posting up such notifications, and publishing such advertisements in manner aforesaid shall be deemed sufficient notice of such sale; and in case the shares or interest so notified for sale, shall not for want of purchasers, be disposed of at the time ap-

pointed for sale, the officer shall adjourn the sale for a time not exceeding three days, and from time to time, until the sale shall be completed; and the surplus monies (if any there be) arising from such sale, beyond satisfying the contents of the execution and necessary intervening charges, the officer shall pay the debtor, or deposit the same with the treasurer or cashier of the corporation, for the benefit of the debtor and subject to his order.

Vendue may be adjourned for 3 days.

Surplus how to be disposed of.

SEC. 8. *Be it further enacted*, That whenever an officer, having a writ of attachment or execution against any person interested in any such company, shall exhibit to the Clerk or Cashier thereof, such writ or execution, and request a certificate from him of the number of shares or amount of interest owned by the debtor in such company, it shall be the duty of such Clerk or Cashier to give the said officer a certificate of the number of shares or amount of interest holden and owned by the debtor in such company, and therein express the numbers or other marks by which such shares or interest are distinguished; and in case such Clerk or Cashier shall refuse to make and deliver to the officer such certificate, or shall wilfully make and deliver a false certificate thereof, such Clerk or Cashier shall be liable to pay to the creditor the full contents of such execution, and the contents of the judgment which may be recovered by the plaintiff in such writ of attachment, and the same may be recovered by the judgment creditor in an action of debt, in any Court proper to try the same.

Clerk or cashier on request of officer, to give him certificate of shares owned by the debtor.

Penalty for neglect, &c.

SEC. 9. *Be it further enacted*, That whenever any judgment has been, or may hereafter be recovered in any Court of Law against any turnpike, bridge, canal or other company incorporated by law, with power to receive toll, the franchise of such corporation, with all the privileges and immunities thereof, so far as relates to the right of demanding and receiving toll, as well as all other corporate property, whether real or personal, shall be liable to the satisfaction and payment of such judgment, and may be taken and sold on execution at public vendue; the officer first giving notice of the time and place of sale, by posting up a notification thereof in any town or plantation, in which the Clerk, Treasurer or any of the Directors of said corporation

Franchise of corporation after notice, may be sold on execution.

Mode of giving notice.

## ATTACHMENT OF PROPERTY.

may dwell, thirty days at least before the time of sale, and also by causing an advertisement, expressing the name of the creditor, the amount of said execution, and the time and place of sale, to be inserted three weeks successively in some public newspaper, published in any county in which either of the aforesaid officers of said corporation may dwell (if any such newspaper shall be there printed) the last publication to be at least four days before the day of sale.

Mode and effect of such sale.

Officer may give possession to purchaser.

Corporation may redeem within 3 months—

on what terms.

SEC. 10. *Be it further enacted,* That in the sale of such franchise any person who will pay and satisfy said execution and all legal fees and expenses thereon, in consideration of being entitled to receive, to his own use, for the shortest period of time, all such toll as the said corporation may by law be entitled to demand and receive, shall be considered as the highest bidder, and the same shall be struck off to him accordingly; and the officer's return on said execution shall transfer to the purchaser all the privileges and immunities which by law belonged and appertained to said corporation, so far as relates to the right of demanding and receiving toll; and the said officer shall immediately after such sale, be authorized and empowered to deliver to said purchaser, possession of all the toll houses and gates belonging to said corporation, in whatever county the same be situated; and the said purchaser shall thereupon be entitled to demand and receive to his own use, all the toll which may accrue, within the time limited by the term of his purchase, in the same manner, and under the same regulations, as the said corporation was before authorized to demand and receive the same: *Provided however,* That the said corporation shall in all other respects, retain the same powers, be bound to the discharge of the same duties, and liable to the same penalties and forfeitures as before belonged to and were required of them by law; and *provided also,* That if the said corporation shall, at any time within three months from the time of such sale, pay over or tender to said purchaser such sums of money as he may have paid in satisfaction of said execution with twelve per cent. interest thereon, in addition to the toll which he may have received, then the said franchise, and all the rights, privileges and immunities thereof, shall revert to said corporation, and shall in

all respects belong and appertain to them, as if the same had not been sold as aforesaid.

SEC. 11. *Be it further enacted,* That whenever any damages have been, or may hereafter be assessed to any person or body politic, either by the report of a committee, or the verdict of a Jury, for any injury sustained in his or their property, by the doing of any of the corporations aforesaid, and the said damages shall remain unpaid for the space of thirty days after the final acceptance of such report or verdict, such person or body politic, upon petition to any Court, by which such report or verdict was accepted, shall be entitled to a warrant of distress against said corporation, for the damages so assessed and the interest thereon, together with his or their reasonable costs; and the officers to whom such warrant of distress may be delivered, may proceed to execute the same in the same manner as is herein before provided for the levying and satisfaction of executions.

Warrant of distress may be issued against corporation for damages assessed by committee or Jury—

SEC. 12. *Be it further enacted,* That the officer who may levy any execution or warrant of distress by virtue of the ninth, tenth, eleventh and thirteenth sections of this Act, shall be authorized to adjourn the vendue from time to time, not exceeding ten days at any one time, until the sale shall be completed.

to be served as executions.

In certain cases vendue may be adjourned 10 days.

SEC. 13. *Be it further enacted,* That the lands, tenements or hereditaments of any bank already incorporated or which may hereafter be incorporated by law, may be taken in execution, and sold at public vendue to the highest bidder; and in every such case, the officer who shall levy such execution shall be empowered to execute to the purchaser a good deed or deeds of any such lands, tenements or hereditaments, having first given notice of the time and place of sale at least fourteen days previous thereto, in two or more public places, in the town or place where such lands or tenements lie, as also in two adjacent towns; and all deeds and conveyances of any such lands, tenements or hereditaments duly executed as aforesaid, shall be good and effectual in law to transfer to the purchaser, his heirs and assigns forever all the right, title and interest therein, which belonged to said corporation; any law, usage or custom to the contrary notwithstanding.

Real estate of banks may be sold on execution after notice, &c.

Officer may give deed.

Mode of notice.

Real estate mortgaged to banks may be sold in same manner.

SEC. 14. *Be it further enacted,* That all the right, title, claim and interest of any bank now incorporated, or which may be hereafter incorporated by law, in any lands, tenements or hereditaments, which has been or shall be mortgaged for security of any debt due or assigned to such bank, shall be liable to be seized on any writ of execution issued on any judgment rendered, or which may hereafter be rendered by any Court of law within this State, and sold at public auction, in the same manner as is prescribed for the sale and conveyance of the real estates of such banks in this Act.

The debt secured by such mortgage shall pass by the officer's deed of the estate.

SEC. 15. *Be it further enacted,* That any debt secured by such mortgage, and due to such bank at the time of the sale of such mortgage, shall pass by the deed of conveyance executed by the officer who shall serve such writ of execution, and be completely, and to all intents and purposes transferred to, and vested in such purchaser; and such purchaser, or his legal representatives may in his own name maintain any action proper to recover such debt, or to obtain possession of such lands, tenements or hereditaments, which might have been maintained in the name of such bank, had no such sale been had; and the copy of such mortgage deed duly certified by the Register of Deeds for the county or district where such lands are situated, and where such mortgage deed shall be recorded, shall be considered prima facie evidence of such mortgage deed, and of the note or other obligation on which such mortgage is founded, and that the same were remaining due and unsatisfied at the time of the trial of such action; and it shall be the duty of the Cashier or Clerk of such bank, on reasonable request, to furnish such officer, who shall serve such execution, or the judgment creditor, with a certified copy of such note or other obligation, together with a copy of all the endorsements thereon, and a statement of all such payments as shall have been made thereon by such debtor; and whenever such debtor shall have paid to such purchaser the amount due on such note or obligation, he shall be forever discharged from such note or obligation.

Cashier or Clerk to give purchaser a copy of the note, bond, &c. and sum due on it.

After notice to bank of such

SEC. 16. *Be it further enacted,* That no gift, sale, transfer, conveyance or endorsement of such note or mortgage,

made by such bank, after notice to such bank and such debtor of the seizure thereof, on execution by such officer for the purpose of sale under this Act, shall have any validity, force or effect against such purchaser under such sale at auction, but the same shall be adjudged null and void, except only between such bank and such person to whom such bank shall make such gift, sale, transfer, conveyance or endorsement, their heirs, executors, administrators and assigns.

seizure, &c. no sale or transfer to be valid, except, &c.

Sec. 17. *Be it further enacted;* That all rights in equity of redeeming real estate mortgaged, shall be liable to be taken in execution upon judgment for the payment of the just debts of the mortgager or owner, and the officer having such execution is hereby authorized to make sale of the same at public vendue, and to make, execute, acknowledge and deliver to the highest bidder good and sufficient deed or deeds of any estate so sold, in manner as is hereinafter expressed. And the officer shall give notice in writing, of the time and place of sale to the debtor in person, or by leaving the same at his last and usual place of abode, and public notice of the said time and place of sale, by posting up notifications thereof in two or more public places in the town or plantation in which such mortgaged estate is situated, and also in one or more public places in two adjoining towns, thirty days at least before the time of sale; and further shall cause an advertisement of the time and place of sale to be published three weeks successively before the day of sale in some public newspaper printed in the county in which such real estate lies, if any such newspaper shall be there printed, and the notifications aforesaid, being given or posted up within the space of thirty days after judgment given, whereon such execution shall issue, the attachment shall hold the equity, attached as aforesaid, until the levy of such execution can be completed in manner hereinafter described. And in case the estate notified for sale as aforesaid, shall not be disposed of at the time and place appointed, the officer shall adjourn the vendue, not exceeding three days, and so from time to time until the sale shall be completed. And the surplus monies (if any there shall be) arising from such sale, beyond satisfying the debt, costs and necessary intervening charges, the officer shall return to the debtor.

Equities of redemption may be sold on execution.

Mode of giving notice.

Attachment to hold until sale.

Auction may be adjourned 3 days.

Disposal of surplus.

Deeds of officers to be effectual to pass the right.

SEC. 18. *Be it further enacted,* That all deeds made and executed as aforesaid, shall be as effectual, to all intents and purposes, to convey the debtor's right in equity aforesaid, to the purchaser, his heirs and assigns, as if the same had been made and executed by such debtor or debtors: *Provided,* That every such debtor shall have liberty to redeem the right in equity so sold, within one year next after the time of executing the deed or deeds thereof, in manner aforesaid, by paying the sum which may by such sale have been satisfied on such execution, with the interest thereof, deducting the rents and profits the purchaser or any under him may have received over and above the repairs and betterments made by the purchaser or any under him.

Debtor may redeem within one year, paying, &c.

Possessory titles to real estate may be attached and sold on execution.

SEC. 19. *Be it further enacted,* That the estate, right, title or interest of any person, owned, holden or claimed in virtue of a possession, or improvement as expressed in "An Act for the settlement of certain equitable claims arising on real actions," shall be liable to be taken by attachment, on mesne process, and by execution. And when any such right, title, interest or estate shall be seized and sold upon execution, such notice shall be given, and such proceedings had, in every respect, as are required by law, in the sale of an equity of redemption; and the debtor, whose right, title, interest or estate, is so taken and sold, shall have the right of redeeming the same, within such time, and in such manner, as is provided in cases of sales of equity of redemption.

Redeemable in same manner as equities of redemption.

Surplus in officer's hands to be applied towards paying other executions in his hands.

SEC. 20. *Be it further enacted,* That whenever an officer shall have in his hands any money arising from the sale of the shares or interest aforesaid, or from the sale of any equity of redemption, or personal property, more than sufficient to satisfy the execution or executions on which such shares or interests, equity of redemption, or personal property were taken and sold, such officer shall apply the same surplus money, or such part thereof as may be necessary to the payment of any other execution which he may have in his hands, unsatisfied against the same debtor, or which may be delivered to him before he shall have paid over such surplus money, any thing in this or any other law of this State to the contrary notwithstanding: *Provided however,* That if such share or interest, equity of redemption, or per-

Or if such surplus be attach-

sonal property, shall, before such sale, have been attached on mesne process, other than that on which such execution shall have issued, or shall have been taken on some other execution, and the said officer is duly notified thereof, he shall hold such surplus monies, subject to such attachment or execution, and shall apply the same to the payment of the execution which may issue on the judgment that may be rendered on such mesne process, and delivered to him within thirty days after the rendition of such judgment, or to the payment of the execution by which such shares or interest, equity of redemption, or personal property had been taken according to the priority in regard to time, of such attachment or taking in execution.

SEC. 21. *Be it further enacted*, That whenever any Sheriff, or Deputy Sheriff shall make sale of any share or interest in an incorporated company, of any right in equity to redeem mortgaged real estate, or of any personal property, which shall before such sale, have been attached on mesne process, or taken on execution by a Coroner, and such Sheriff, or Deputy Sheriff is duly notified thereof in writing, he shall hold the monies in his hands, arising from such sale, subject to such attachment or execution, in the same manner as if he were authorized to serve the execution which shall have issued, or may issue on such mesne process, or on which said share or interest, equity of redemption, or personal property, may have been taken by said Coroner.

SEC. 22. *Be it further enacted*, That said Sheriff or Deputy Sheriff, after being notified in writing by said Coroner, of the execution in his the said Coroner's hands, on which said share or interest, equity of redemption, or personal property, shall have been taken, or which issued on the mesne process whereon said share or interest, equity of redemption, or personal property had been attached, of the time of such attachment on mesne process, or taking on execution, and of the whole amount, including fees due on said execution, shall pay over to the said Coroner the amount due on said execution, or so much thereof as shall remain in his hands, after satisfying all executions, in his own hands on which said share or interest, equity of redemption, or personal property had been taken, or which issued on mesne

ed before sale, or taken on another execution, same to be held subject thereto.

If second attachment or seizure be made before sale, by a Coroner, Sheriff on notice thereof must hold surplus for him.

Sheriff, on notice to pay over such surplus to Coroner, &c.



process whereon said share or interest, equity of redemption, or personal property have been attached prior to the time of the attachment on mesne process, or taking on execution as aforesaid, by said Coroner.

In similar cases, coroner to hold and pay over surplus to a sheriff.

SEC. 23. *Be it further enacted*, That whenever any Coroner shall make sale of such share or interest, equity of redemption, or personal property, which shall, before such sale, have been attached on mesne process or taken on execution by a Sheriff or Deputy Sheriff, such Coroner shall be subject to the same duties and requirements, in relation to such Sheriff or Deputy Sheriff, as by the twenty first and twenty second sections of this Act, a Sheriff is, in like case subject to, in relation to a Coroner.

In similar cases, constable to hold and then pay over surplus to sheriff or coroner.

SEC. 24. *Be it further enacted*, that whenever any Constable shall make sale of any such share or interest, equity of redemption, or personal property, which shall before such sale have been attached on mesne process, or taken on execution by a Sheriff or Deputy Sheriff, or by a Coroner, such Constable shall be subject to the same duties and requirements in relation to such Sheriff or Deputy Sheriff, or Coroner as by the twenty first and twenty second sections of this Act, a Sheriff is, in like case subject to, in relation to a Coroner.

Shares held in companies to be attached & sold in no other manner than this Act provides.

SEC. 25. *Be it further enacted*, That the shares and interests held by any person or persons in any such company as aforesaid, may be attached on mesne process and taken and sold on execution, in the manner provided by this Act, and no other, any thing in the Act incorporating such company to the contrary notwithstanding.

In what counties certain proceedings may be had.

SEC. 26. *Be it further enacted*, That all proceedings under the authority of the second, ninth, tenth, eleventh and twelfth sections of this Act, may be had in any county in which either the creditor, or the President, either of the Directors, the Treasurer, or Clerk of said corporation may reside or dwell.

Mode of levying executions on real estate, in common cases.

SEC. 27. *Be it further enacted*, That when any person shall obtain judgment in any Court within this State, for any sum of money, and the person or persons against whom the judgment is, does not satisfy such judgment, and the creditor can find no personal estate to his acceptance,

wherewith to satisfy his execution, and shall think proper to levy his execution upon the debtor's real estate, then the officer to whom the execution is directed and delivered, shall cause three disinterested and discreet men, being freeholders in the county, one to be chosen by the creditor or creditors, one by the debtor or debtors, whose land is to be taken, if they see cause, and a third by the officer; and in case the debtor or debtors shall neglect or refuse to choose as aforesaid, after being duly notified by the officer, if the debtor be living in the county in which such land lies, the officer shall appoint one for such debtor or debtors, to be sworn before one of the Justices of the Peace of the same county, faithfully and impartially to appraise such real estate as shall be shown to them, who shall appraise the same, to satisfy the same execution with all fees, and shall set out such estate by metes and bounds, and the officer shall deliver possession and seizin thereof to the creditor or creditors, his or their attorney. And when the real estate of the debtor or debtors shall be held in joint tenancy, in coparcenary or tenancy in common with the real estate of other persons, then the said officer may extend execution of such debtor or debtors' real estate held as aforesaid, or part thereof, describing the same with as much precision as the nature and situation thereof will admit of, and give the creditor or creditors, his or their attorney, seizin and possession of such debtor or debtors' real estate held as aforesaid, or part thereof, to hold in common with the said other persons; which execution being returned with the doings thereon into the Clerk's office, and before such return into the Clerk's office or afterwards, and within three months, the same shall be recorded in the Registry of Deeds in the county where the land lies, shall make as good title to such creditor or creditors, his or their heirs and assigns, as the debtor had therein; saving always to widows their dower in all lands taken from their husbands by execution.

Levy to be recorded in 3 months in Registry of Deeds, and effect thereof.

SEC. 28. *Be it further enacted,* That when it so happens that the real estate extended upon cannot be divided and set out by metes and bounds as before prescribed, or by the description before mentioned, then execution shall be extended upon the rents of such real estate, and the officer

Execution may in certain cases be extended on rents and profits;

Tenant to at-  
torn.

shall give seizin thereof to the creditor or creditors, his or their attorney; and also in case of extending execution on rents as aforesaid, shall cause the person in possession and improvement, to attorn and become tenant to such creditor or creditors, and to pay the rent to him or them accordingly; and upon refusal thereof, to turn the person so refusing out of possession and give seizin and possession of the same to the creditor to hold and enjoy the same until it shall be redeemed, as by this Act is provided: *Provided always*, That in such case it shall and may be lawful for any debtor or debtors, his or their executors, administrators or assigns, at any time before the debt with interest is fully satisfied, to tender and pay to the creditor or the tenant in possession under him, the full remainder of his debt, interest and charges, to be liquidated by three Justices of the Peace, and to recover the possession of the same in manner provided in this Act.

Right of re-  
demption.

Mode of levy-  
ing executions  
on saw mills,  
grist mills, &c.

SEC. 29. *Be it further enacted*, That whenever a creditor or in execution, shall think proper to extend and levy the same on any saw mill, grist mill, or other mill, factory, mill privilege, or other real estate, which cannot be divided without prejudice to, or spoiling the whole, and where the whole of such saw mill, grist mill, or other mill, factory, or mill privilege, or other real estate, is not necessary for the satisfying of such execution, the same may be extended and levied in manner before prescribed, upon the same, or upon any undivided part thereof, which shall be sufficient to satisfy such execution; and in case the estate is so situated that the same cannot be set off by metes and bounds, the return upon the execution shall describe the whole estate, with as much precision as the nature of the case will admit; which execution being returned and recorded, in manner before prescribed, shall vest in such creditor in execution, as good and valid a title thereto as the debtor had therein, when the same was attached on mesne process, or taken in execution.

Debtor may  
redeem real  
estate taken  
on execution  
within one  
year, paying,  
&c.

SEC. 30. *Be it further enacted*, That when any tenement or lands in part or in whole, shall be taken in execution for debt, it shall and may be lawful to and for the execution debtor, his heirs or assigns, executors or administrators,

within the space of one year next following the extending execution thereon, to tender the creditor or those claiming under him, the debt for which the same tenement was taken, with interest from the time of the extending the execution, and the reasonable and necessary charges and disbursements laid out and expended thereon in repairing or bettering the same; over and above what the rents, profits and improvements thereof shall fall short of reimbursing such charges and interest, to be accounted for by the execution creditor, or those claiming under him, which disbursements, expenses, rents, profits and improvements may be settled by any three Justices of the Peace in the county where the land lies, at the charge and expense of the debtor, one to be chosen by the debtor, and the other by the creditor; if he shall see cause to choose one, otherwise they may be both chosen by the debtor, and the third by the two Justices so chosen by the parties, or one of them as above directed, and which third shall be chosen before the other two proceed to a consideration of the business; and if the creditor or the tenant in possession as aforesaid, upon having a tender made of the sum certified under the hands of the said Justices chosen as aforesaid, or either two of them, to be due to him upon the execution, shall refuse to execute a good and lawful deed of release to the debtor or his heirs, (in case of his decease) of the land or tenements so taken in his execution, the debtor or his heirs, executors or administrators who shall make such tender, may bring his action of ejectment against the creditor or the person claiming under him; and, upon lodging in Court the money tendered, shall recover the title and possession of the land as fully as the debtor held the same before the extending the execution upon it, together with his costs of suit: *Provided nevertheless*, That if the creditor, or the tenant in possession under him as aforesaid, shall, before the bringing the action, have offered the debtor or his heirs, executors or administrators, to make and execute such deed of release, and shall plead the same with disclaimer to the premises; then and in such case, upon the plaintiff's producing in Court the money so tendered, judgment shall be given for the plaintiff to recover possession of the lands so taken in execution, and defendant shall recover his cost.

Mode of settling amount of rents, profits, disbursements, &c.

Creditor on receiving payment to execute release to debtor of the estate,

or be removed from the possession by judgment of Court.

Executions against manufacturing corporations, if not satisfied,

SEC. 31. *Be it further enacted*, That whenever any action shall be commenced against any manufacturing corporation that may hereafter be created or whenever any execution may issue against such corporation on any judgment rendered in any civil action and the said corporation shall not, before the day on which the said execution is returnable after demand thereof made upon the President, Treasurer or Clerk of such corporation by the officer to whom the writ or execution against such corporation has been committed to be served, show to the same officer sufficient personal estate to satisfy any judgment that may be rendered upon such writ, or to satisfy and pay the creditor the sums due upon such execution, then, upon such neglect and default, upon the issuing of an alias execution, the officer to whom such execution may be committed for service, may serve and levy the same writ and execution upon the body or bodies, and real and personal estate or estates of any member or members of such corporation; or upon the body or bodies, and upon the estate real and personal of any person or persons, who were members of said corporation at the time when the debt or debts accrued, upon which such writs or executions may have issued.

may be renewed and satisfied by taking the bodies of any of the members of the corporation.

Attachments of property not dissolved by death of either party,

SEC. 32. *Be it further enacted*, That when any goods or estate are attached upon a writ or process which shall be pending, or may hereafter be pending in the Supreme Judicial Court or Circuit Court of Common Pleas, the same shall not be released or discharged by reason of the death of either party, but be held good to respond the judgment to be given on such suit or process in the same manner as by law they would have been if such deceased person had been living: *Provided always*, That where any estate attached as aforesaid, shall, by the executor or executors, or administrator or administrators of the same, be represented as insolvent, and a commission of insolvency shall thereupon issue; in all such cases attachments made as aforesaid shall have no force or efficacy after the death of the original defendant or defendants in the action.

except in cases of a representation of insolvency.

Executions in the name and for the use of

SEC. 33. *Be it further enacted*, That upon any judgment in any Court of law in this State, in the name or for the use and benefit of this State, for any sum of money, a writ of ex-

execution in common form shall issue, and be directed to the proper officer, and the lands of such judgment debtor may be taken on such execution and sold at public vendue to the highest bidder. And in every such case, the officer who shall levy such execution, may and shall execute to the purchaser a good deed of any lands so by him sold. And every such officer, before he shall proceed to sell any lands in manner above described, shall give notice in writing of the time and place of sale to the debtor in person, or by leaving the same at his last and usual place of abode, if he be an inhabitant of this State, twenty days before such sale, and shall also give public notice of the time and place of sale by posting up notifications in two or more public places in the town, plantation or township, within which such land may lie, thirty days at least before the time of sale, and shall likewise cause an advertisement of the time and place of sale to be published three weeks successively, in the newspaper employed by the State to publish the laws, and in a newspaper printed in the county where such land may lie, if any such there be, the last publication to be not less than six days before the time of sale. And the officer may, if he deem it necessary, adjourn such vendue not exceeding ten days at any one time, until the sale of such estate shall be completed: *Provided however,* That the judgment debtor shall have the same right to redeem the same, in the same time and manner, as judgment debtors in execution have to redeem real estate set off on execution.

the State how  
to be served.

SEC. 34. *Be it further enacted,* That when hay in a barn, sheep, horses or neat cattle are attached on mesne process at the suit of a bona fide creditor, and are suffered by the officer making such attachment, to remain in the possession of the debtor, on security given for the safe keeping or delivery thereof to such officer, the same shall not by reason of such possession of the debtor, be subject to a second attachment, to the prejudice of the first attachment.

Attachment of  
certain arti-  
cles, though left  
in defendant's  
possession, still  
continued  
valid.

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