

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'

CHAPTER LXI.

An Act concerning Foreign Attachment.

Persons who are liable to be summoned as trustees.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That any person or persons, body politic or corporate, entitled to any personal action, excepting detinue, replevin, actions on the case for slanderous words or malicious prosecution, or actions of trespass for assault and battery against any person or persons, or body politic or corporate; having any goods, effects or credits so intrusted or deposited in the hands of others; that the same cannot be attached by the ordinary process of law, may cause not only the goods and estate of the person, against whom such action lies, to be attached in his own hands and possession, but also all his goods, effects and credits, so intrusted or deposited, to be attached in whose hands or possession soever they may be found, by an original writ to issue under the seal of the Circuit Court of Common Pleas, signed by the Clerk, and attested by the first Justice of the said Court, not a party thereto, in the form prescribed by law. And the officer to whom such writ may be directed, shall serve the same by attaching the goods and estate of the principal of the value required, if so much can be found in his precinct, by reading the said writ to him, or by leaving an attested copy thereof at his last and usual place of abode, if he had been an inhabitant or resident within this State at any time within three years next before the suing out such writ, and by reading the same to each of the trustees, or by leaving an attested copy thereof, at such trustee's usual place of abode; and in case the principal has not been an inhabitant or resident as aforesaid, a service made on the supposed trustee or trustees, in manner aforesaid, shall be deemed a sufficient service; and the goods, effects and credits of the principal, in the hands and possession of his trustee or trustees at the time such writ was served upon him or them, shall stand bound and be held to satisfy such judgment as the plaintiff shall recover against the principal; and when the trustees, named in such writ, do all dwell in one county, such writ shall be

Process to be used by a creditor in such cases.

Mode of serving such process under different circumstances.

Lien on principal's goods, &c. created by service of process.

Writ to be returnable in the county where trustees dwell;

made returnable in the county where all the trustees dwell, but when the trustees do not all dwell in one county such writ may be made returnable in any county in which any of the trustees dwell.

if they dwell in different counties, then in the county where either of them dwell.

SEC. 2. *Be it further enacted,* That in all such cases it shall and may be lawful for the plaintiff or his attorney to insert in the process, which may have been served on one or more trustee or trustees, the name or names of any person or persons, in whose hands or possession he or they may suspect that any goods, effects, rights or credits of the absconding debtor or principal are placed or concealed: *Provided however,* That no such name or names shall be inserted after the said writ or process has been served upon the principal or absconding debtor or debtors.

Plaintiff may insert the names of other trustees at any time before service of the process on the principal.

SEC. 3. *Be it further enacted,* That if the principal shall be absent from the State when such writ shall be served, the Court shall continue the action two terms, that he may have notice, unless the principal after the service of the writ, and before the sitting of the Court shall have come into the State; in which case, it shall be in the discretion of the Court whether to continue the action or not; and when the principal does not appear in his own person, or by attorney, to answer such suit, the trustees, or any of them having goods, effects or credits of the principal in his or their hands or possession, may appear in his behalf, and in his name plead and defend to final judgment and execution.

In case of principal's absence from State at the time of service, action to be continued—unless he return before Court.

Trustee having goods, &c. may appear and plead in behalf of principal.

SEC. 4. *Be it further enacted,* That if any supposed trustee shall come into Court the first term and declare that he had not in his hands or possession, at the time the writ was served on him, any goods, effects or credits of the principal, and shall thereupon submit himself to an examination upon oath, and the said declaration shall appear to the Court to be true; the Court shall award him his legal costs; and if such trustee shall, at the time of service of such writ, dwell in any county, other than that in which the said writ is returnable, the Court shall allow him such further costs, as, with his legal costs, shall, under all the circumstances of the case, be a reasonable compensation to him for his time and expenses in appearing and defending himself against such suit; and every person resident in the county where

If trustee appear at first term and is discharged to recover his legal costs;

and if he live in another county, Court may allow him reasonable compensation, &c.

Trustee not appearing first term liable to costs.

such writ shall be duly returned, who, being summoned as aforesaid, shall neglect to appear and submit to an examination, as to the supposed goods, effects or credits in his or her hands, and having no reasonable cause to the contrary, in the opinion of the Court where the suit shall be, shall be liable for all costs afterwards arising in such suit, to be recovered and paid out of his own goods and estate, in case judgment shall be finally rendered for the plaintiff; and unless such costs shall be duly recovered against the goods, effects or credits of the principal in the hands of a trustee.

Several trustees dwelling in same county, not appearing, shall be joint judgment and execution against them for costs.

And if several persons, resident in such county, being duly summoned as aforesaid, shall neglect to appear as aforesaid, judgment and execution against them jointly, shall be awarded for such costs. And persons resident in other counties than where the writ is returnable, shall not be liable for any costs arising on the original process herein provided.

When plaintiff does not support his action against principal, costs allowed to principal, and trustees who have appeared.

SEC. 5. *Be it further enacted,* That where the plaintiff doth not support his action against the principal, and judgment shall be rendered, that he take nothing by his writ, the Court shall award cost against him, as well in favour of the principal as in favour of such of the persons summoned as trustees severally, who have personally appeared in Court and submitted themselves to an examination, upon oath as aforesaid, and several executions shall issue thereupon accordingly. And where all the supposed trustees, or any one or more of them, come into Court, and are discharged upon examination on oath, as aforesaid, or when the suit shall be discontinued by the plaintiff against them, or against any one or more of them, the plaintiff may notwithstanding proceed against the principal, to trial, judgment and execution: *Provided however,* That where all the supposed trustees shall be discharged, as aforesaid, or where the plaintiff shall discontinue his suit against all of them, or whenever it shall appear from the record, that there is not any trustee in such suit; in all such cases the plaintiff shall not proceed in his suit against the principal, unless there shall have been such service of the original writ upon the principal as would authorize the Court to proceed to render a judgment against him, in an action brought and

When all trustees are discharged plaintiff may still proceed against principal,

provided a service has been made on such principal, &c.

And where all the supposed trustees, or any one or more of them, come into Court, and are discharged upon examination on oath, as aforesaid, or when the suit shall be discontinued by the plaintiff against them, or against any one or more of them, the plaintiff may notwithstanding proceed against the principal, to trial, judgment and execution: *Provided however,* That where all the supposed trustees shall be discharged, as aforesaid, or where the plaintiff shall discontinue his suit against all of them, or whenever it shall appear from the record, that there is not any trustee in such suit; in all such cases the plaintiff shall not proceed in his suit against the principal, unless there shall have been such service of the original writ upon the principal as would authorize the Court to proceed to render a judgment against him, in an action brought and

commenced in the common and ordinary mode of process : but the principal in such case may, if he think proper, come into Court and take upon himself the defence of the said suit: *And provided also,* That costs shall not be awarded in favour of any trustee, against whom the suit shall be discontinued as aforesaid, unless he come into Court the first term, and declare that he had not in his hands or possession, any goods, effects or credits of the principal, at the time of the service of the original writ, and thereupon submit himself to an examination upon oath, and such declaration be adjudged by the Court to be true.

SEC. 6. *Be it further enacted,* That when any supposed trustee shall, at the time of the service of the writ upon him, dwell in any other county than that in which the writ is returnable he shall not be required to appear in person in the original suit, nor in any suit upon a writ of scire facias founded thereon, but such supposed trustee may appear by attorney, and declare whether he had any, and what goods, effects or credits of the principal in his hands or possession, at the time when the writ was served on him, and thereupon offer to submit himself to an examination on oath; and if the plaintiff shall not see fit further to examine such supposed trustee, his declaration, so made by attorney, shall be deemed and taken to be true: and if the plaintiff shall think proper to examine such supposed trustee on oath, the answers of the trustee, upon such examination, may be sworn to before any Judge of the Circuit Court of Common Pleas for the county in which the trustee may dwell, or before any Justice of the Peace; and in all cases, when any supposed trustee shall have appeared in Court and submitted himself to an examination on oath in the manner prescribed by law, his answers, upon such examination, may be sworn to before any Judge of the Circuit Court of Common Pleas for the county in which the trustee may dwell, or before any Justice of the Peace; and such examination, being duly filed in the Court in which the writ is pending, shall in every case, have the same effect, and shall be considered in the same manner, in all respects, as if the same had been sworn to in the Court in which the writ is pending.

but principal may if he think proper appear and answer. Trustee not entitled to costs unless he appear at first term and is discharged by Court.

Trustee dwelling in other counties not bound to appear at Court in person,

but may appear by attorney and declare whether he had any goods, effects, &c. and offer to submit to examination—

and plaintiff may cause him to be examined before a Judge or Justice of the Peace in his own county, at first or afterwards—

such examination filed in Court to be sufficient.

When trustee discloses an assignment of goods, &c.

and the assignment is objected to as fraudulent,

assignee may become a party to the suit voluntarily, or

Court may summon him to appear.

His non-appearance to be entered on record.

And if assignee do not appear at second term on further notice, assignment to be ineffectual—

If assignee appear, validity of assignment shall be tried by Jury.

Original defendant may be witness for either party, in such case.

Either party may appeal.

How execution is to be awarded against principal, and trustee who has not appeared, &c.

SEC. 7. *Be it further enacted,* That whenever any person summoned as trustee of any debtor, shall in his answers, disclose an assignment to another, of the goods, effects or credits of the principal in his hands, and the plaintiff in the suit shall object that the assignment ought not to have any effect to defeat his attachment, and the Court shall think it just or convenient, that the assignee should become a party to the suit, the person so stated to be assignee, may for the purpose of trying the validity and effect of the assignment, become a party to the suit, upon his appearing voluntarily and claiming to be so admitted, or by coming into Court, upon being notified for that purpose, by a summons, which the Court where the action is pending, is authorized to issue, to be served and returned in such time and manner as the Court shall think the circumstances of the case may require; and if such supposed assignee shall not appear at the time and place named in such summons, his non-appearance shall be entered on the record; or the case may be continued to the next term, for further notice to the assignee; at the discretion of the Court; and if the supposed assignee does not appear in person, or by attorney, the assignment shall have no effect to defeat the plaintiff's attachment; and upon such assignee becoming a party to the suit, the validity of the assignment, or its effect on the case, shall be tried by the Court, or by a Jury, as the case may require: in which trial, in addition to the usual evidence in other cases, the original defendant may be admitted as a witness, upon the application of either party; and the Court may award legal costs for and against any of the parties at its discretion; and either party may appeal from any judgment of the Court, as in other cases.

SEC. 8. *Be it further enacted,* That when the plaintiff shall recover judgment against the principal, and there shall be any trustee summoned, who shall not have come into Court and discharged himself upon oath, and against whom the suit shall not be discontinued; the Court shall award execution against the goods, effects and credits of the principal, in the hands and possession of every such trus-

tee, as well as against the body, goods, and estate of the principal; and the execution shall be in the form prescribed by law.

SEC. 9. *Be it further enacted*, That when any execution, issued as aforesaid, shall be returned not fully satisfied, by reason of the trustee not discovering and exposing sufficient goods, effects and credits of the principal, as by reason of the officer's not finding sufficient goods and estate of the principal, to the acceptance of the plaintiff, to satisfy the same, the plaintiff may sue out against the trustees named in such writ of execution, or against any one or more of them, jointly or severally, a writ or writs of scire facias, in due form of law, requiring the defendants in such writs of scire facias named, to show cause why judgment for the sums remaining unsatisfied, should not be rendered against them; and if any one or more of the defendants, in such writs of scire facias named, the same being returned duly served, shall come into Court and declare, that he had not at the time of the service of the original writ upon him, any goods, effects or credits of the principal in his hands, or possession, and thereupon submit to an examination, upon oath; and if, upon such examination the supposed trustee shall appear not to be chargeable, the Court shall render judgment against him, if resident in the county where the original process was returnable, as the case may be, for costs only: and if not resident in such county, then the supposed trustee, so discharged, shall have costs; but if, upon such examination, it shall appear to the Court that the said trustees, or any one or more of them, had goods, effects or credits of the principal in his or their hands, at the time of serving the original writ as aforesaid, other than such as he or they have discovered and exposed to be taken to satisfy the execution on the first judgment, then the Court shall enter up judgment against him or them to the amount of the sums returned unsatisfied upon the said execution, if there shall appear, upon such examination to have been goods, effects or credits to that amount in his or their hands, not discovered and exposed as aforesaid; but if not, then the Court shall enter up judgment against him or them to the amount of the said goods, effects or credits in his or their

When execution is returned unsatisfied, trustee not exposing sufficient goods, &c.

Plaintiff may sue scire facias against trustees.

To be duly served.

Proceedings to be had on such scire facias, when trustee appears.

Proviso—
where trustee
has been exam-
ined on
original pro-
cess, judgment
shall be ren-
dered on that
examination.

hands, not discovered and exposed, as aforesaid: *Provided nevertheless*, That where any trustee has come into Court, upon the original process, and been examined upon oath, as aforesaid; and upon such examinations, it has appeared to the Court, that such trustee had goods, effects or credits of the principal, in his hands, at the time of serving the original writ, such Trustee shall not be again examined upon the scire facias, but judgment shall be rendered upon his examination had as aforesaid.

Proceedings
on scire facias
when defend-
ant is default-
ed, not having
appeared, &c.
on the original
process.

SEC. 10. *Be it further enacted*, That if any trustee, upon whom the writ of scire facias shall be served, shall not appear, but shall be defaulted, he having never been examined upon oath under the original process, he shall be deemed and taken to have had in his hands and possession, at the time of the service of the original writ, goods, effects and credits of the principal, to the amount of the judgment rendered against him, and judgment shall be rendered against the trustee accordingly. And where there shall be more than one defendant, in any such writ of scire facias, the Court may enter up joint or several judgments, according to the circumstances of the case; and upon all judgments rendered upon such writs of scire facias, execution shall issue in common form against the goods and estate, and for want thereof, against the bodies of such person or persons against whom judgment shall be so rendered.

Court may enter
up joint or
several judg-
ments;

and in judg-
ments on scire
facias execu-
tion to issue
in common
form.

Goods, &c. so
taken from
trustee shall
discharge him
from the prin-
cipal as to the
same.

SEC. 11. *Be it further enacted*, That goods, effects and credits of any person so taken as aforesaid, by process of law, out of the hands of his trustee, shall forever acquit and discharge such trustee from and against all suits, damages and demands whatever, to be commenced or claimed by his principal, his executors or administrators of and for the same: and if any trustee shall be sued on account of any thing by him done pursuant to this Act, he may plead the general issue and give this Act in evidence.

Trustee may
plead general
issue in suits
against him.

Punishment of
trustee for wil-
ful false swear-
ing.

SEC. 12. *Be it further enacted*, That any person, summoned as a trustee, as aforesaid, who shall upon his examination, had as aforesaid, knowingly and wilfully, answer falsely, shall upon conviction thereof in the Supreme Judicial Court, be adjudged to be guilty of perjury, and be liable and subject to all the pains, penalties, forfeitures and

disabilities thereto by law incident ; and shall also out of his own proper estate, be liable and subjected to pay to the plaintiff in the action, his executors or administrators, the full amount of such judgment as he, they or any of them may have recovered against the principal, in case the same be unsatisfied ; otherwise, such part thereof as may remain unsatisfied, together with the legal interest thereof, and double costs of suit, to be recovered in a special action on the case.

Liability of such trustee to pay out of his own estate the amount of plaintiff's demand against principal and double costs.

SEC. 13. *Be it further enacted*, That in every case where it shall appear, by the answer of the trustee, that he was, at the time of the service of the summons on him holden or bound to deliver to the principal at a future day, any specific article whatsoever, such trustee shall be and hereby is authorized and permitted on demand made by the officer having any execution in his hands, issued upon any judgment, recovered by virtue of this Act, to deliver to him such specific, article or articles, or so much thereof as may be necessary to satisfy such execution, with the legal fees thereon ; the value of such article or articles, as between the principal and trustee to be estimated and ascertained by the appraisal of three disinterested and discreet men, one to be chosen by the trustee, one by the officer, and one by the principal, if he see cause ; or if he neglect or refuse, then the officer shall appoint two of the said appraisers, who shall all be sworn before a Justice of the Peace in and for the county where such article or articles are to be delivered, faithfully and impartially to appraise the same : and the said Justice and appraisers shall make, on such execution, a certificate of their respective doings : *Provided however*, That in all cases where by the terms of the contract between the principal and trustee, any mode is pointed out for ascertaining the value of such specific articles, the principal and trustee, or either of them, may have their value thus ascertained and estimated : and in either case, the officer shall proceed to sell such articles and conduct in the sale thereof as in other cases of sales of personal property on execution, as is already by law provided ; the overplus monies, after satisfying the execution and his fees, he shall pay over to the principal, if within the precinct of the officer, otherwise

Where by disclosure it appears that trustee is bound to deliver to the principal specific articles, at a future day, he may deliver same to the officer to satisfy the execution in whole or in part.

Value of such articles, how to be ascertained.

Proviso—in case of special agreement as to value.

Officer to sell the same as in other cases.

Where part only is sold trustee may deliver residue to principal.

to the trustee. And in all cases where a part only of such specific articles shall be taken in execution, as aforesaid, the trustee is hereby authorized to deliver the residue to the principal, or make tender thereof within thirty days after such execution shall have been satisfied, in the same manner as by law he might otherwise have delivered the whole.

If trustee die before examination, his executor or administrator may appear voluntarily, or be compelled to appear and answer as in common cases.

SEC. 14. *Be it further enacted*, That whenever any person who shall be summoned as a trustee as aforesaid, shall die before he may have been examined as aforesaid, his executors or administrators may appear; or if the plaintiff think proper, be compelled to appear and make answer to the suit, in the same way and manner executors and administrators are allowed or compellable to appear and answer to suits and actions in other cases. And in case of the death of any trustee, after his examination, and previous to the rendering of final judgment against the principal, the executors and administrators of such deceased trustee shall be liable and answerable to perform whatever such trustee, by his answer, would have been liable to do and perform, in case he had lived.

If trustee die after examination and before final judgment against principal—executor or administrator answerable, &c.

SEC. 15. *Be it further enacted*, That no person shall be considered or adjudged to be a trustee, within the intent and meaning of this Act, by reason, or on account of his having made, given, endorsed, negotiated or accepted any negotiable security whatever.

No persons liable as trustees by having given, endorsed, &c. negotiable securities.

SEC. 16. *Be it further enacted*, That whenever any judgment creditor shall discover goods, effects or credits of his debtor, that are not attachable by the common and ordinary process of law, he shall be entitled to the process provided in this Act; and upon the agent, factor or trustees being summoned in the manner this Act directs, all the money, goods, effects and credits in his hands shall be secured to respond the judgment that may be given thereon, and he shall answer thereunto, at the first term, in case his principal has personal or other sufficient and legal notice of the suit, fourteen days before the Court's sitting: *Provided always*, That upon a judgment creditor's pursuing such remedy to recover his debt, he shall, within seven days after the same process on the supposed agent is served, discharge the body of the debtor (in case he is taken in execution upon the

Judgment creditors may have the benefit of this Act—discharging the principal's body from prison, (if committed) within seven days, by note in writing.

same judgment) by a note or memorandum, in writing, directed and delivered to the officer who has him in custody, stating the reason and occasion of the discharge of the person of the debtor; and such a discharge shall not annul, or in any manner injure the original judgment: but in case the judgment creditor shall not within the seven days discharge the person of the debtor, in manner aforesaid, the process commenced as aforesaid, shall abate, and the debtor shall recover treble costs.

Such discharge not to injure original judgment.

Process to abate, unless discharged within 7 days.

[Approved February 28, 1821.]

—oo—
CHAPTER LXII.

An Act for the Limitation of Actions real and personal, and of Writs of Error.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That after the fifteenth day of March, which will be in the year of our Lord one thousand eight hundred and twenty five, no person shall sue or maintain any writ of right, or make any prescription, title or claim, to any lands, tenements or hereditaments, or to any rents, annuities, or portions issuing therefrom, upon the possession or seizin of his or their ancestor or predecessor, beyond the term of thirty years, next before the test of the same writ.

Limitation of writ of right to 30 years.

SEC. 2 *Be it further enacted,* That after the fifteenth day of March, which will be in the year of our Lord one thousand eight hundred and twenty five, no person shall sue, have or maintain any writ of entry, upon disseizin done to any of his ancestors or predecessors, or any action possessory, upon the possession of any of his ancestors or predecessors, for any lands, tenements or hereditaments, unless the ancestor or predecessor, under whom the demandants shall claim, shall have been seized or possessed of the lands, tenements or hereditaments demanded, within twenty five years next before the test of the same writ or bringing such action.

Ancestral or possessory actions limited to 25 years.

SEC. 3. *Be it further enacted,* That after the fifteenth day of March, which will be in the year of our Lord one thousand eight hundred and twenty five, no person or body cor-

—Of action on demandant's own seizin, 20 years.