

MAINE STATE LEGISLATURE

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PUBLIC ACTS

OF THE

STATE OF MAINE,

PASSED BY THE

FOURTH LEGISLATURE,

AT ITS SESSION, HELD IN JANUARY, 1824.

PUBLISHED AGREEABLY TO THE RESOLVE OF THE 28TH JUNE, 1820.



PORTLAND:

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1824.

CHAPTER CCLXXV.

AN additional ACT concerning foreign attachment.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That in all cases where an action is authorized to be brought before the Court of Common Pleas under the act of this State, passed February 28, 1821, entitled an act concerning foreign attachment, which actions are described in the first section of said act, such action may be brought before any Justice of the Peace, when the amount demanded in damages is not less than five, nor more than twenty dollars, and provided the plaintiff and the supposed Trustee both reside in the same county, where the Justice has jurisdiction. And the officer to whom such writ may be directed, shall serve the same, in the same manner as other writs of attachment issued from Justices, are served, and the writ shall be returnable in like manner to said Justice: and the effect of such service shall be the same as described in said first section of the act aforesaid, to hold the goods, effects, and credits in the hands of such Trustee, to answer whatever judgment may be recovered by said Plaintiff.

Trustee actions may be brought before Justices of the Peace, when a debt is from 5 to 20 dolls. if plaintiff and trustee reside in the same county.

Manner and effect of service

SECT. 2. *Be it further enacted,* That if any supposed Trustee shall appear on the day summoned thereto, 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 said Justice to be true, said Justice shall award him his legal costs; and, in case any person duly summoned as aforesaid, shall neglect to appear and submit himself to examination as aforesaid, he shall be liable for all costs arising afterwards in said suit, to be paid out of his own goods and property, in case judgment shall be finally rendered for the Plaintiff, and unless such costs shall be recovered against the goods, effects or credits of a Trustee,

Proceedings on return of writ.

SECT. 3. *Be it further enacted,* That where the Plaintiff does not support his action, against the principal, and judgment shall be rendered, that he take nothing by his writ, the Justice shall award costs against him, as well in favor of the principal as in favor of such of the persons summoned as Trustees severally, who have appeared and submitted to examination as aforesaid; and several executions shall issue thereupon accordingly. And where all the supposed Trustees, or any one or more of them appear and are discharged upon examination as aforesaid, or where the suit shall be discontinued by the Plaintiff against any one or more of them, the Plaintiff may, notwithstanding, proceed against the principal to trial, judgment and execution.

Costs how awarded when plaintiff does not support his action.

When trustees are discharged plaintiff may proceed against principal.

SECT. 4. *Be it further enacted,* That when the Plaintiff shall recover judgment against a principal, and there shall be any Trustee summoned who shall not have appeared and discharged himself upon oath, and against whom the suit shall not be discontinued; the Justice shall award execution against the goods, effects and credits of the principal in the hands and possession of every such Trustee, as well as against the body, goods, and chattels of the principal; and the execution shall be in the form prescribed by law, excepting so far as may be inconsistent with the provisions of this act, and the general jurisdiction of Justices of the Peace.

Execution how awarded when trustee defaulted.

SECT. 5. *Be it further enacted,* That such further proceedings shall and may be had in the process of foreign attachment, authorized by this act, before Justices of the Peace, as are provided in like process before the Court of Common Pleas, in the ninth, tenth, eleventh, twelfth, thirteenth, fifteenth, and sixteenth sections of the act to which this act is additional, so far as provisions in said act, can be applied to the process authorized by this act. And the several forms of mesne process and execution prescribed by law in the first mentioned act, shall be adopted to carry into effect the provisions of this act, *mutatis mutandis*, according to the nature of the case.

Forms and mode of proceedings in this process.

[*This Act passed February 24, 1824.*]