

# MAINE STATE LEGISLATURE

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# ACTS AND RESOLVES

PASSED BY THE

## TWENTY-EIGHTH LEGISLATURE

OF THE

# STATE OF MAINE,

A. D. 1848.

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Published by the Secretary of State, agreeably to Resolves of June 28, 1820, February 26, 1840,  
and March 16, 1842.

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**Augusta:**

WILLIAM T. JOHNSON, PRINTER TO THE STATE.

1848.

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PUBLIC LAWS

OF THE

STATE OF MAINE,

1848.

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CHAP. 58. or destroyed, and to proceed in said action in the same manner as if the original writ had been preserved.

When new execution may be issued.

SECT. 2. When it shall be made to appear to the satisfaction of either of the justices of any court in this state, by the affidavit of a creditor, his attorney or otherwise, that any execution issued from the office of the clerk of such court, has been accidentally lost or destroyed, which execution was unsatisfied in whole or in part, it shall be the duty of said justice of said court to direct the clerk thereof, to issue a new execution, for the amount ascertained to be due, in the same manner as if the execution so lost or destroyed had been duly returned, unsatisfied in whole or in part.

[Approved August 8, 1848.]

### Chapter 58.

An act for the regulation of bowling alleys.

*Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:*

Power of mayor and aldermen, selectmen and assessors.

That the mayor and aldermen of the several cities, selectmen of towns, and the assessors of plantations, in this state, are hereby authorized and empowered to impose upon all bowling alleys within their corporate limits, such conditions and restrictions, not inconsistent with the constitution of this state, as in their opinion the public interest may require.

[Approved August 8, 1848.]

### Chapter 59.

An act to authorize certain persons to prosecute and defend suits.

*Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:*

In case of the death of a sheriff, deputy sheriff, coroner or constable, pending an action in favor of or against such officer, the party for whom he acted may prosecute and defend said suit in his own name.

In any action which is now or hereafter may be pending in the supreme judicial court, district court, or before any judge of a municipal court, or any justice of the peace, in favor of or against any sheriff, deputy sheriff, coroner or constable, to enforce any right, or for any act done in virtue of any precept directed to either of said officers, in case of the death of any

such officer, and no administration granted upon his estate, at the expiration of three months thereafter, the party for whose interest the said officer acted, shall have the right to prosecute and defend said suit to final judgment and execution in his own name, by entering his own appearance and giving such security for costs as the court or justice may direct.

CHAP. 60.

[*Approved August 8, 1848.*]

### Chapter 60.

An act relating to certain bankrupt defendants.

*Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:*

In any action where the defendant shall plead and rely upon his certificate of discharge in bankruptcy as a matter of defense, and where the said certificate was obtained after the commencement of the suit, such defendant shall recover no costs against the plaintiff till after the said certificate shall be obtained, pleaded and produced in court.

Costs against plaintiff, when recovered.

[*Approved August 8, 1848.*]

### Chapter 61.

An act giving further remedies to tenants in common.

*Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:*

SECT. 1. Whenever any joint tenant or tenant in common shall take and receive the whole of the rents, profits or income of the joint estate, or more than his share of the same, without the consent of his co-tenant, and shall refuse, within a reasonable time after demand, to deliver and pay to such co-tenant his share of such rents, profits or income, or of the just proceeds of the same, the said co-tenant, so deprived of his share as aforesaid, may have and maintain an action of special assumpsit to recover his said share against the tenant withholding the same.

Co-tenant may maintain an action of special assumpsit to recover his share.

SECT. 2. The like action may, in the same manner, be had and maintained against any two or more co-tenants, jointly,

Two or more co-tenants may join as plaintiffs.