

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

TWENTY-EIGHTH LEGISLATURE

OF THE

STATE OF MAINE,

A. D. 1848.

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

Augusta:

WILLIAM T. JOHNSON, PRINTER TO THE STATE.

1848.

PUBLIC LAWS

OF THE

STATE OF MAINE,

1848.

Chapter 85.

An act additional for the relief of poor debtors.

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

Duty of creditor selecting a justice to take a disclosure.

SECT. 1. Whenever the creditor selects a justice as provided in the forty-sixth section of the one hundred and forty-eighth chapter of the revised statutes, it shall be his duty to procure the attendance of said justice at the time and place appointed in the citation for hearing the disclosure of the debtor.

Actions upon bond given by debtor to obtain his release from arrest on mesne process, &c.

SECT. 2. In all actions commenced or which may hereafter be commenced in the supreme judicial court or district court, upon any bond given by a debtor to obtain his release from arrest on mesne process or on execution or warrant of distress for taxes, if it shall appear, that prior to a breach of any of the conditions of such bond, the principal therein had been allowed by two justices of the peace and of the quorum to take and had taken before such justices the oath prescribed in the twenty-eighth section of said one hundred and forty-eighth chapter, the damage shall be assessed by the jury, if such be the request of either party: but if no such request be made, then by the court. The amount assessed shall be the real and actual damage and no more; and any legal evidence upon that point may be introduced by either party.

—damages, how assessed.

Operation of new judgment.

SECT. 3. In any such action founded upon a bond given, for release from arrest on execution, or on a warrant of distress if the whole amount due upon the execution or warrant of distress be recovered, the new judgment shall operate as a discharge of said execution or warrant of distress; if only a part of said amount be recovered, the new judgment shall operate as a discharge of such part. If the amount of damage be not more than twenty dollars, the costs recovered by the plaintiff shall not exceed a quarter part of the damage, notwithstanding the penal sum of the bond may be more than twenty dollars. If the verdict or judgment be that the creditor has sustained no damage no cost shall be allowed to either party.

Costs.

Damage to be recovered by plaintiff.

SECT. 4. In all such actions commenced before a justice of the peace or municipal judge or town judge, the amount which the plaintiff may recover shall be the real and actual damage, which has been sustained by breach of the conditions of the bond and no more.

Appraisement of disclosed property, not liable to attachment, how made.

SECT. 5. From and after the first day of October next, the appraisement provided for in the twenty-ninth section of said one hundred and forty-eighth chapter, shall be made by the

justices selected to hear the examination of the debtor provided for in the twenty-fourth section of said chapter and their appraisal shall be for the same purpose and shall have the same effect as an appraisal by three persons, as heretofore required by the provisions of the chapter aforesaid.

SECT. 6. Whenever justices of the peace and of the quorum shall be required to approve of the surety or sureties in any bond given as provided in the seventeenth and twentieth sections of said one hundred and forty-eighth chapter, such justices shall be selected in the manner prescribed in the forty-sixth section of said chapter; and in case of disagreement, the same proceedings shall be had as are therein directed, and a majority so selected, shall decide as to the sufficiency of such surety or sureties.

Manner of selecting justices to approve bond to disclose.

SECT. 7. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

SECT. 8. This act shall take effect and be in force from and after its approval by the governor.

[Approved August 11, 1848.]

Chapter 86.

An act in addition to the one hundred and twenty-sixth chapter of the revised statutes.

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

If any owner or occupant of a dam shall erect or raise such dam higher than the limit which may have been determined in any previous complaint for flowage caused by such dam, or shall keep up the same for any time or portion of the year, within which, by such judgment, the same ought not to be kept up, the person so offending, or any one of two or more persons so offending, shall be liable, in an action at common law, to pay any party injured, double the damage caused thereby.

Liability of owner or occupant of dams.

[Approved August 11, 1848.]