

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

THIRTY-FIFTH LEGISLATURE

OF THE

STATE OF MAINE,

A. D. 1856.

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Published by the Secretary of State, agreeably to Resolves of June 28, 1830, February 26, 1840,  
and March 16, 1842.  
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Augusta:
FULLER & FULLER, PRINTERS TO THE STATE.
1856.

PUBLIC LAWS

OF THE

STATE OF MAINE.

1856.

CHAP. 263. four of the revised statutes, provided no proceedings for a review under this act shall be commenced after one year from the rendition of judgment in the action to be reviewed.

Limitation.

Petitioner required to file bond.

SECT. 2. Before the filing or entry of any petition for such review, the petitioner therein, shall deposit bonds duly executed with the court or clerk by whom the same is to be entered, payable to the original parties in such action, in such sums as said court or clerk shall respectively determine, with such surety or sureties as shall be approved by said court or clerk, conditioned to pay all such costs and damages as may arise, or be sustained by either party to such original judgment in case no review shall be granted, or the sum recovered in damages in the same shall not be reduced upon final judgment on review.

Conditions of bond.

Judgment and execution, when the sum originally recovered, shall be reduced.

SECT. 3. If upon such final judgment the sum originally recovered shall be reduced, judgment shall be rendered and execution issued for the difference with costs, the damages in such judgment not to exceed the amount of the petitioner's claim against his debtor; and said judgment shall be for the sole use and benefit of said petitioner, and shall operate a discharge and satisfaction of his claim against his said debtor to the amount of the sum recovered in damages as aforesaid, and the said petitioner shall have the right to enforce levy and collect the same for his own sole use and benefit; *provided*, that no action shall be reviewed under the provisions of this act, in which judgment has already been obtained.

Proviso.

SECT. 4. This act shall take effect and be in force from and after its approval by the governor.

[Approved April 9, 1856.]

Chapter 263.

An act to amend an act entitled "An act additional for the relief of poor debtors," approved August eleventh, one thousand eight hundred and forty-eight.

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

2d sect. chap. 85, of laws of 1848, repealed.

SECT. 1. The second section of the act aforesaid is hereby stricken out and repealed.

In actions on poor debtor's bond, damages may be assessed by jury or court, in certain cases.

SECT. 2. In all actions commenced, or which shall hereafter be commenced in any 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 the breach of any of the conditions of such bond, the principal therein, if arrested on mesne process or execution, had legally notified the creditor, and if arrested on warrant of distress for taxes, had legally notified the assessors of the town, plantation or parish by whom such warrant was issued, and had been allowed by two justices of the peace and of the quorum of the county where the arrest was made, having jurisdiction and legally competent to act in the matter, to take and had taken in the case or upon the precept upon which he was arrested, before such justices, the oath prescribed in the twenty-eighth section of the one hundred and forty-eighth chapter of the revised statutes of this state, the damages 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 any legal evidence upon that point may be introduced by either party.

Amount of damages.

SECT. 3. In any such action the court before which the same may be tried, may receive evidence to show that no service of the citation provided for by law was made upon the creditor or assessors, notwithstanding such evidence may contradict the record and certificate of the magistrates before whom such oath was taken.

Evidence relating to the service of citation, admissible.

SECT. 4. This act shall in no way affect any action at the time of its passage entered and pending in any court.

Pending actions not affected.

SECT. 5. This act shall take effect and be in force from and after its approval by the governor.

[[Approved April 9, 1856.]

Chapter 264.

An act regulating proceedings in actions of scire facias.

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

SECT. 1. In any suit commenced by writ of scire facias, as provided in section twenty-three of chapter ninety-four of the revised statutes, the debtor may, at any time before judgment, tender in the court where such action is pending, a deed of release of the land originally levied upon by the judgment creditor, and if it appears satisfactorily to said court that the land when levied upon was the property of the debtor, and is at the time of making such tender the property of said debtor,

Tender of deed, in certain actions of scire facias.