

# 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, 1820, February 26, 1840,  
and March 16, 1842.  
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Augusta:  
FULLER & FULLER, PRINTERS TO THE STATE.  
1856.

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PUBLIC LAWS

OF THE

STATE OF MAINE.

1856.

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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.

**CHAP. 265.**

Tender of costs.

and the said debtor shall also, at the time of said tender, pay into court all the taxable costs in said action up to the time when such deed is tendered, then the suit shall be dismissed and the original judgment against said debtor shall be satisfied to the amount at which said real estate was appraised, deducting therefrom the expenses of the levy and the officers fees on the execution.

SECT. 2. This act shall take effect on its approval by the governor.

[Approved April 9, 1856.]

### Chapter 265.

An act to organize and discipline the militia.

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

*Exemptions, enrollments, ununiformed and uniformed or active militia, organization, duties of.*

Exempts.

SECT. 1. There shall be exempted from military duty under the laws of this state, in addition to the persons exempted by the laws of the United States, the judges of the supreme judicial court, judges of any court of record, judges of the probate, municipal and police courts, the clerks of all courts of record, registers of deeds, and registers of probate; all ministers of the gospel regularly ordained according to the usages of their denomination, so long as they sustain that relation in their denomination; the superintendent and other officers and assistants employed in the insane hospital at Augusta, and at the state reform school at Cape Elizabeth; also the officers and guards employed in the state prison at Thomaston; all officers who have held military or naval commissions, and who have been regularly discharged, or have in accordance with military or naval usage, without fault on their part, been discharged, or ceased to act as such; all quakers and shakers, so long as they continue members of such denominations; all members of engine companies, while they continue to do duty in such companies; all mariners, unless they have been discharged, and have done no service on board any vessel for more than three months at the time they shall be warned; all persons unable from bodily infirmity to do military duty; all idiots, lunatics, common drunkards, vagabonds, paupers and persons convicted