

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. 266. And if any officer, non-commissioned officer or private shall be wounded, or otherwise disabled when on such duty, he shall receive from the state just and reasonable relief.

Art. 17, chap. 16, R. S., continued in force.

SECT. 125. The rules and articles for governing troops and militia in actual service, established by the seventeenth article of the sixteenth chapter of the revised statutes, shall be continued and remain in force.

Inconsistent acts repealed.

SECT. 126. All acts and parts of acts, inconsistent with the provisions of this act, are hereby repealed.

SECT. 127. This act shall take effect from and after its approval by the governor.

[Approved April 9, 1856.]

Chapter 266.

An act additional in relation to witnesses.

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

Persons interested in the event of suits, &c., not excluded from being witnesses.

SECT. 1. No person shall be excused or excluded from being a witness in any civil suit or proceeding at law or in equity, by reason of his interest in the event of the same as party or otherwise, except as is hereinafter provided; but such interest may be shown for the purpose of affecting his credibility.

Parties not witnesses where the cause of action implies a criminal offense.

SECT. 2. Parties shall not be witnesses in suits where the cause of action implies an offense against the criminal law on the part of the defendant, unless the defendant shall offer himself as a witness, in which case the plaintiff may also be a witness, and in case the defendant in such suit shall offer himself as a witness, he shall be held to waive his privilege of not testifying where his testimony might render him liable to prosecution for a criminal offense.

The law relating to the execution of certain instruments, not affected.

SECT. 3. Nothing herein shall in any manner affect the law relating to the attestation of the execution of last wills and testaments, or of any other instrument which by law are required to be attested.

The taking of deposition of party residing without the state, provided for.

SECT. 4. When any party to a suit resides without the state, or is absent from the state, during the pendency of the suit, and the opposite party desires his testimony, a commission under the rules of court may issue to take his deposition; and it shall

be the duty of such non-resident or absent party upon such notice to him or his attorney of record in the suit, of the time and place appointed for the taking his deposition as the court shall order, to appear and give his deposition. If such party shall refuse or unreasonably delay giving his testimony as above provided, he may be nonsuited or defaulted by order of the court, unless his attorney will admit the affidavit of the party desiring his testimony, of what the absent party would say if present, to be used as testimony in the case.

Such party refusing to depose, may be non-suited or defaulted.

SECT. 5. When one of the several plaintiffs or defendants is used as a witness by the opposite party, testimony may be introduced to contradict or discredit him by his co-plaintiffs or co-defendants in the same manner as if he were not a party to the suit.

Proceedings, when one of several plaintiffs or defendants is used as a witness.

SECT. 6. The provisions of this act shall not be applied to any cases, where, at the time of taking testimony, or the time of trial, the party prosecuting or the party defending or any one of them, shall be an executor or an administrator, or made a party as an heir of a deceased party.

Cases in which the provisions of this act do not apply.

SECT. 7. The rules of evidence in special proceedings of a civil nature such as before referees, auditors, county commissioners, courts of probate shall be the same as herein provided for civil actions.

Special proceedings to which the provisions of this act apply.

[Approved April 9, 1856.]

Chapter 267.

An act for completing the records of deceased clerks of the judicial courts.

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

It shall be the duty of the clerks of the judicial courts in their respective counties, under the direction of the judge or judges of the court, to complete the unfinished records of former clerks, deceased, where, from the docket entries or papers on file it sufficiently appears what judgment was rendered; and such record being completed and approved by the court, shall, for all purposes whatever, be deemed a valid record of the proceedings therein set forth.

Clerks of the judicial courts to complete unfinished records of former clerks, deceased.

[Approved April 9, 1856.]