

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

# ACTS AND RESOLVES

PASSED BY THE

## THIRTY-EIGHTH LEGISLATURE

OF THE

## STATE OF MAINE.

1859.

---

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

---

**AUGUSTA:**  
STEVENS & SAYWARD, PRINTERS TO THE STATE.

---

1859.

---

PUBLIC LAWS

OF THE

STATE OF MAINE.

1859.

---

## CHAP. 113.

## Chapter 113.

An act to amend chapter sixty-four of the revised statutes, concerning embezzlement of property of deceased persons.

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

Ch. 64, sec. 55,  
R. S. amended.

SECT. 1. Section fifty-five of chapter sixty-four of the revised statutes, is amended, so as to read as follows:

Judge may cite persons suspected of embezzlement, examine under oath, require to produce books.

SECT. 55. Upon complaint made to the judge of probate by an executor, administrator, heir, legatee, creditor or other person interested in the estate of a person deceased, against any one suspected of having concealed, embezzled or conveyed away any of the money, goods or effects of the deceased, or of aiding others in so doing, he may cite such suspected person to appear before him to be examined on oath in relation thereto, and may require him to produce for the inspection of the court and parties, all books, papers or other documents within his control relating to the matter under examination.

Ch. 64, sec. 57,  
R. S. amended.

SECT. 2. Section fifty-seven of said chapter, is amended, so as to read as follows:

Penalty for refusing to appear and comply when cited; liable to party injured.

SECT. 57. If any person duly cited as aforesaid, refuses to appear and submit himself to such examination, or to answer all lawful interrogatories, or to produce such books, papers or documents, the judge shall commit him to the jail of the county, there to remain until he submits to the order of the court, or is discharged by the complainant or the supreme judicial court; and he shall also be liable to any injured party in an action in the case, for all the damages, expenses and charges arising from such refusal.

Purchaser of effects may sue.

SECT. 3. The purchaser of any personal effects, or rights of action, sold by an executor or administrator, may sue therefor in his own name subject to the same defense as in the name of the executor or administrator.

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

[Approved April 4, 1859.]

## Chapter 114.

An act relating to attachment of mortgaged personal property.

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

Claimant under mortgage, of personal prop.

SECT. 1. Whenever personal property hereafter attached or seized by an officer on a writ or execution, shall be claimed by any

person by virtue of a mortgage, such claimant shall give to the officer in writing, a notice of his claim and a statement of the amount actually and justly due to him on the mortgage, at least forty-eight hours before he shall commence any action against the officer therefor; and the officer or the creditor may within that time discharge the mortgage, by payment or tender of the amount due thereon, or may restore the property to the debtor or mortgagee.

erty seized, to give officer notice.

Officer or creditor may redeem.

SECT. 2. If any person claiming personal property by virtue of a mortgage, shall omit for the space of ten days after notice of such attachment given to him by the officer, to deliver to him a statement of the amount due on the mortgage as aforesaid, he shall be deemed to have waived his right to hold the property by virtue of such mortgage.

— omitting to give notice ten days, deemed to waive right.

SECT. 3. If any such claimant shall make to the attaching officer a false statement of the amount actually and justly due on the mortgage, as mentioned in the preceding sections, he shall forfeit and pay to the creditor in the writ or execution double the amount of the excess, to be recovered in a special action on the case.

— making false statement, penalty.

SECT. 4. In case of a redemption of a mortgage of personal property in behalf of a creditor attaching such property or seizing the same on execution, and a subsequent sale of the property under attachment or seizure upon execution, the officer selling the same shall first appropriate to the redeeming creditor from the proceeds of sales, the amount paid in redemption of the mortgage, with interest, if there be so much, and the residue, if any there be, shall be appropriated as in other cases of sales of goods attached or seized on execution.

Disposition of proceeds in case of redemption and sale.

SECT. 5. The provisions of this act shall apply to all matters named in the sixty-fourth section of the eighty-first chapter of the revised statutes.

Act applies to ch. 81, sec. 64, R. S.

[Approved April 4, 1859.]

### Chapter 115.

An act authorizing judges of probate to appoint commissioners in certain cases.

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

When one or more claims against the estate of a person deceased or under guardianship, though not insolvent, are deemed by the executor, administrator or guardian, to be exorbitant, unjust or illegal, on application in writing to the judge of probate, and after

Judge may appoint commissioners to determine claims against certain estates, proceedings.