

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

FORTY-SECOND LEGISLATURE

OF THE

STATE OF MAINE.

1863.

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.
1863.

PUBLIC LAWS

OF THE

STATE OF MAINE.

1863.

SECT. 3. The judgment on the writ of review, if for the plaintiff in review, is payment for the redemption of the land levied upon to the amount of the judgment, notwithstanding any conveyance of such land, or any part of the same, and if the judgment for the plaintiff on review is for a larger sum than the amount and interest of the levy, a decree may be made for the balance in favor of the plaintiff in review after the hearing in the proceedings provided in section four and execution in common form issue thereon.

SECT. 4. No strip or waste shall be made upon the lands levied upon before, or during the pendency of any proceedings by virtue of this act, and after final judgment upon the writ of review, the plaintiff in review, in addition to other remedies provided by law, may file within three months, his bill in equity in the supreme judicial court for the redemption of such lands levied upon, and the court shall have power and jurisdiction to hear and determine such cause according to the course of proceedings in equity, and the said bill may be filed before any demand or tender, and the court shall have full power to decree the redemption of the land, notwithstanding the three months mentioned in the second section has elapsed, and may make such other orders and decrees as law and justice may require. The court may apply the same principles and rules in respect to costs, as are provided in section twenty-six, chapter seventy-six of the revised statutes in respect to redemption from levies, and generally in respect to costs shall determine according to the equities of the case.

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

Approved March 24, 1863.

CHAP. 201.
Judgment.

Lands levied upon, no strip or waste upon.
Proceedings after judgment.

Bill in equity filed in S. J. C.

S. J. C., powers of.

—decrees of.
Principles applied.

Chapter 201.

An act in addition to chapter eighty-six of the revised statutes, relative to trustee disclosures.

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

SECT. 1. If by the disclosure of any person summoned as trustee or other evidence introduced, it appears that he is indebted to the principal debtor by note not negotiable, account or claim under which he might be held as trustee, and said note, account or claim has been assigned, pledged or transferred to indemnify the assignee, pledgee or holder against any liability, or to secure the performance of any contract or condition, or the payment of any debt, and that the principal defendant has an existing right to redeem such

Trustee disclosures.

CHAP. 202.

Powers of the court.

Trustee to be held.

Payment made or tendered, proceedings in case of.

Disposition of payment.

Plaintiff, rights of.

note, account or claim, or discharge such lien, the court may order that upon the discharge of such liability or the performance of such contract or condition, or payment of such debt by the plaintiff within such time as the court may order and while the right of redeeming exists, such person summoned as trustee shall be held as such trustee for the full amount due or owing on said note, account or claim aforesaid, and upon it being made to appear to the court that the plaintiff has within the time specified in said order, paid or tendered to said assignee, pledgee or holder, payment of the debt aforesaid, or has indemnified the assignee, pledgee or holder against his said liability, or secured him for the performance of any such contract or condition as aforesaid, to the satisfaction of such assignee, pledgee or holder, in cases in which such liability is to be discharged or such contract or condition is to be performed in some other way than by the payment of money, the court may adjudge the person so summoned as trustee to be trustee for the amount aforesaid.

SECT. 2. The officer demanding of said trustee on execution may first deduct from the amount received the sum thus paid by the plaintiff and interest, and apply any balance towards the satisfaction of the execution in his hands; and upon the rendition of judgment against the trustee the plaintiff shall be subrogated to all the rights of such assignee, pledgee or holder as against the said principal debtor in those cases in which the note, account or claim has been redeemed by the plaintiff in some other way than by the payment of money as before provided, and may have and maintain the same remedies at law and in equity, to enforce and protect said rights in the name of the assignee, pledgee or holder, but at the sole cost and expense of the said plaintiff, that the said assignee, pledgee or holder himself had or might have had by law.

Approved March 24, 1863.

Chapter 202.

An act additional to chapter twenty-two of the revised statutes relating to fences and common fields.

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

Fence viewers, neglect to elect.

Selectmen to act.

In case a town shall neglect to choose fence viewers at its annual town meeting, or having chosen them, the persons so chosen, fail to be legally qualified, it shall be lawful whenever the services of such officers shall be required to apply to the selectmen of the town to act in the capacity of fence viewers, whose acts and deci-