

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

FORTY-FOURTH LEGISLATURE

OF THE

STATE OF MAINE.

1865.

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

AUGUSTA:
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1865.

PUBLIC LAWS

OF THE

STATE OF MAINE.

1865.

council; and prepare and submit to the inspection of the governor and council, a code of by-laws which shall be valid when sanctioned by them. CHAP. 333.
By-laws.

Approved February 25, 1865.

Chapter 333.

An act additional to chapter eighty-one of the revised statutes, relating to civil actions.

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

SECT. 1. Any defendant, or any one or more of several defendants whose real estate or interest therein, or whose personal property, is attached on mesne process may have the same released from such attachment by giving the security authorized by this act. Defendants may cause attachment of their property to be released.

SECT. 2. If real estate or any interest therein, is attached, he or they may apply to any justice of the supreme judicial court in term time or vacation by petition in writing briefly setting forth the names of the parties to the suit, the court and county in which the same is returnable or pending, the fact of the attachment, the particular real estate, or interest therein, which he or they desire to have released therefrom, the value of the same, and that the petitioners desire to have the benefit of this act by giving the security herein provided. Petition.

SECT. 3. Such justice shall issue a notice in writing which shall be served on all the persons living in the state who are parties to the suit, and also upon the attorney of the plaintiff, not less than ten days before the time therein appointed for hearing the parties. Notice to be issued.

SECT. 4. If it shall appear upon the hearing that the real estate, or interest therein, described in the petition, is of equal or greater value than the amount of property directed to be attached in the writ, the justice shall direct the party petitioning to give bond to the plaintiff in such sum, and with such sureties, as he may order, with condition that the judgment which the plaintiff may recover in the suit, and his costs on the petition, shall be paid within thirty days after such recovery. If it shall appear that such real estate, or interest therein, is of less value than the amount directed to be attached, the condition of the bond shall be varied so as to require that a sum equal in amount to the value thereof as found by the justice, shall be paid on such judgment, together with the costs on the petition as aforesaid, within thirty days after the recovery thereof. Bond required by justice.

SECT. 5. The petition and proceedings thereon shall be filed in the office of the clerk of the court in which the suit is returnable Petition, &c.

CHAP. 333.

Bond to be filed.

Copy of petition and proceedings, and certificate of clerks being recorded, vacates attachment on real estate.

Attachment of personal property, how vacated.

Attachment of stock or shares in a bank, how vacated.

Attachment under trustee process, how vacated.

or pending, and shall be recorded as part of the case; and the bond required by the justice, when approved by him in writing, shall also be filed in said office for the use of the plaintiff.

SECT. 6. The clerk of the court shall deliver to the party petitioning as aforesaid, an attested copy of the petition and proceedings, with an official certificate attached thereto under the seal of the court, that the bond required therein, has been duly filed in said clerk's office; and said copy and certificate, being recorded in the registry of deeds for the county in which the real estate, or interest therein, described in the petition is situate, shall vacate the attachment thereof.

SECT. 7. When personal property is attached, and actual possession thereof taken by the attaching officer, the same proceedings shall be had as are above authorized, with the additional provision that the officer making the attachment shall also be notified as required by section three, and the attested copy and certificate thereto attached, authorized by section six, when delivered to such officer by the party petitioning, shall vacate the attachment, and the officer shall return the property to such party on demand therefor.

SECT. 8. When stock or shares in a banking or other corporation, are attached, or personal property which by reason of its bulk or other special cause cannot be immediately removed, and such attachment is duly filed with the clerk, cashier or treasurer of such corporation, or with the clerk of the town, as the case may be, under the provisions of chapter eighty-one aforesaid, the proceedings shall be the same as are authorized by the last section, except that the copy and certificate shall be filed with the clerk, cashier or treasurer of the corporation, or with the clerk of the town, as the case may be, with whom the attachment was filed; and when so filed shall vacate such attachment.

SECT. 9. In cases of attachment under the trustee process, any one or more of the principal defendants whose property is thus attached, may have the benefit of this act, and the proceedings shall be the same as provided in sections two, three, four and five, except that the condition of the bond to be given to the plaintiff, shall require the party giving it to pay the amount for which the court shall finally adjudge the trustee or trustees chargeable, if any, on the judgment which the plaintiff may recover, not, however, exceeding the amount of such judgment, together with the plaintiff's costs on the petition, within thirty days after the recovery thereof. The notice required in section three shall also be given to each of the alleged trustees named in the petition, and such trustee may appear before the justice and be heard, if he deems it necessary. And the justice shall require the party petitioning to give bond to each supposed trustee named in the petition, with

such sureties as he may order, and in a sum sufficient to protect him against any judgment which the plaintiff may recover against him, and which he shall have paid, and also sufficient to cover all legal costs of such supposed trustee in the suit, together with the costs allowed him by the justice at the hearing of the petition, if he appears; and such bond shall be approved by the justice and filed in the clerk's office for the benefit of such trustee. And the copy and certificate authorized in section six, when delivered to the trustee or trustees, shall vacate the attachment of all goods, effects and credits of the party petitioning, in the hands or possession of such trustee or trustees.

SECT. 10. The clerk of the court shall be paid two dollars for recording the petition and proceedings, and making the copy thereof and certificate provided by section six; and the register of deeds shall receive seventy-five cents for recording the same. When required to be filed as provided in the last section, the clerk or officer receiving the same shall receive twenty cents for such filing and the necessary certificate thereof; and the party finally prevailing in the suit shall recover the costs of the proceedings herein authorized, to be taxed in the same manner as other costs of court are taxed, and to be certified by the justice hearing the petition, and execution shall issue therefor accordingly.

SECT. 11. This act shall take effect when approved.

Approved February 25, 1865.

Fees of clerk,
\$2.

Fees of register
of deeds, 75
cents.

Fees for filing,
25 cents.

Costs of
prevailing
party, how
taxed.

Chapter 334.

An act to change the place of holding the supreme judicial court in the county of Somerset and to change the shire town of Somerset county.

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

SECT. 1. The several terms of the supreme judicial court which are now required to be holden at Norridgewock, in and for the county of Somerset, shall, after the first day of November, in the present year, be holden at Skowhegan, in said county; and all writs, process of any kind, and all proceedings, shall, after that time, be made returnable accordingly; and all writs, processes, and proceedings commenced prior to that time, and which would otherwise be returnable to the December term of said court at Norridgewock, shall be entered and have day in said court at Skowhegan.

Shire town of
Somerset co.
changed from
Norridgewock
to Skowhegan.
Writs, &c.,
how made
returnable.

SECT. 2. After the expiration of seven years from the passage of this act, the county commissioners of the county of Somerset, or a majority of them, are hereby authorized and empowered to

Court house,
when to be
erected.