

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

FORTY-SEVENTH LEGISLATURE

OF THE

STATE OF MAINE.

1868.

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PUBLIC LAWS

OF THE

STATE OF MAINE.

1868.

Chapter 156.**CHAP. 156.**

An act additional to chapter eighty-one of the revised statutes in relation to maintaining cross-actions against persons not residents of this state.

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

SECT. 1. When an action is brought by a person who is not an inhabitant of this state, or who cannot be found therein to be served with process, he shall be held to answer to any action brought against him here by the defendant in the first action, if the demands in the two cases are of such a nature that the judgment or execution in the one case can be set off against the judgment or execution in the other.

Cross-actions and set off. R. S., chap. 81, sect. 68, amended.

SECT. 2. If there are several defendants in the original action, each of them may bring such cross-action against the original plaintiff, and may be allowed to set off his judgment against that which may be recovered against himself and his co-defendants in like manner as if the latter judgment was against himself alone.

Same where several defendants. R. S., chap. 81, sect. 69, amended.

SECT. 3. The writ in such cross-action may be served on the person who appears as the attorney of the plaintiff in the original suit, and such service shall be as valid and effectual as if made on the party himself within this state.

Writ in such actions, how returned. R. S., chap. 81, sect. 70, amended.

SECT. 4. The court in which the actions, or either of them, are pending, may order continuances as they think proper or necessary to enable the absent party to defend the action brought against him, and also to enable either party to set off his judgment or execution against that which is recovered against him, but the actions shall not be unreasonably delayed by the neglect or default of either party.

When continuances may be ordered.

Approved February 17, 1868.

Chapter 157.

An act to provide for the continuance of actions against parties filing petitions in bankruptcy.

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

SECT. 1. In all actions pending in any court, or before any justice of the peace, for recovery of any debt provable in bankruptcy, or of a character such as would be discharged by bankrupt's certificate, when it shall appear that the defendant, or any one of the defendants, has filed his petition in bankruptcy, either before or after the commencement of the suit, the action shall be continued until the proceedings in bankruptcy are closed, unless the plaintiff

Actions against petitions in bankruptcy to be continued until final proceedings in bankruptcy.

CHAP. 158. shall thereupon strike such bankrupt defendant's name from the suit, which he may do without costs; *provided however*, such defendant shall use due diligence in the prosecution of his bankrupt proceedings, and if he fail to do so after one term's notice in writing from plaintiff, the court may, in their discretion, refuse a further delay.

Proviso.

SECT. 2. This act shall take effect when approved.

Approved February 17, 1868.

Chapter 158.

An act to amend section fifty-five of chapter eighty-six of the revised statutes in relation to trustee process.

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

R. S., chap. 86, sect. 55, amended.

The first specification of section fifty-five, chapter eighty-six of the revised statutes is hereby amended by adding after the word "him" in the second line the following words, 'when either is payable on time and is not overdue,' so that the specification as amended shall read:

Cases in which a person shall not be adjudged trustee.

'*First*—By reason of any negotiable bill, draft, note, or other security drawn, accepted, made, or indorsed by him when either is payable on time and is not overdue, except in the cases provided in the sixty-third section.'

Approved February 17, 1868.

Chapter 159.

An act to amend section twenty of chapter seventy-seven of the revised statutes.

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

R. S., chap. 77, sect 20, amended.

Section twenty of chapter seventy-seven of the revised statutes, is hereby amended, by inserting, after the word "reception," in the second line of said section, the words 'which shall be regarded as the day of the rendition of judgment,' so that said section, as amended, shall read as follows:

Clerk of courts to enter judgments on certificates, &c.

'**SECT. 20.** The clerk of a county, by virtue of a certificate, provided for in this chapter, stating the day of its reception, which shall be regarded as the day of the rendition of judgment, shall enter judgment as of the preceding term, and execution may issue