

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

FORTY-EIGHTH LEGISLATURE

OF THE

STATE OF MAINE.

1869.

Published by the Secretary of State, agreeably to Resolves of June 28, 1820,
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1869.

PUBLIC LAWS

OF THE

STATE OF MAINE.

1869.

have been made,' so that as amended the first period of said section shall read :

'Sect. 43. The real estate of deceased persons may be taken for payment of his debts by an execution issued on a judgment recovered against his executor or administrator, and levied on, sold and redeemed, as if taken in his life-time, unless the estate of such deceased person shall have been represented insolvent, and a commission of insolvency issued thereon before such levy shall have been made.'

Execution may be levied against estate of deceased persons unless commission of insolvency has issued thereon.

SECT. 2. In all cases a commission of insolvency, issued by the probate court on the estate of deceased persons before levy or satisfaction of execution, shall vacate attachments.

A commission of insolvency on estate of deceased person vacates attachments.

SECT. 3. All acts and parts of acts inconsistent with this act are hereby repealed.

Approved March 2, 1869.

Chapter 38.

An act relating to school district taxes assessed and collected without authority of law.

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

All the provisions of section ninety-eight of the sixth chapter of the revised statutes, and any and all other statutes relating to the same subject, shall apply to the case of taxes assessed by or for school districts, so far as the same are applicable; *provided* that the school district and not the town shall be liable in the case herein specified.

R. S., chap. 3, sect. 98, relating to school taxes assessed without authority, to apply to school districts.

Approved March 3, 1869.

Chapter 39.

An act providing for reviews in criminal cases.

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

SECT. 1. The supreme judicial court held by one justice, may grant reviews in criminal as well as civil cases, upon the discovery of new and important evidence, and when in the opinion of said court there is reasonable doubt of the guilt of any person convicted and sentenced in any judicial tribunal, provided a petition therefor is presented within six years after such conviction and sentence.

Reviews in criminal cases may be granted within six years, upon discovery of new evidence where there is doubt of the guilt of prisoner.

SECT. 2. Such petition may be presented in any county, and notice be there ordered returnable in the county where such person

The petition may be presented in any county.

CHAP. 39.

Notice thereof to be given state attorney.

The court may order a change of venue if a new trial is granted.

If upon new trial the prisoner shall be acquitted the former conviction shall be null; if convicted he shall be sentenced anew; if the jury shall not agree he shall be returned to prison and serve out former sentence.

In review of capital cases the chief justice shall preside at trial if requested by accused.

The testimony of deceased witness in former trial may be used by either party.

was convicted. Such reasonable notice shall be given to the state attorney for said county, or to the attorney general, or both, as the court orders.

SECT. 3. Whenever a review is granted in a criminal case, if in the opinion of the court there may be difficulty in obtaining a jury of ability and impartiality in the county where the case was previously tried, by reason of prejudice, the formation or expression of opinion in relation to the guilt or innocence of the accused, or for any other reason, the court may order a change of venue to such other county as the court may deem best; and when a change of venue is so ordered, the case shall be transferred to such other county and shall be there entered and tried in the same manner as if the offence charged had been committed in said county, but the expense incurred by such county shall be refunded by the county from which the case is transferred.

SECT. 4. On the trial of any such review the court shall have power to issue any process necessary to bring such convicted person into court for trial, and if the jury shall by their verdict acquit the prisoner, such verdict shall render null and void the former conviction and sentence, and the accused shall be discharged from custody; but if the jury shall convict the prisoner, upon final judgment, sentence shall be awarded anew according to the requirements of the law and with due regard to any penalty or partial punishment suffered by the convict under the former sentence; and if the jury shall fail to agree upon the first trial, or such further trial or trials as the court shall order, the convict shall be returned to prison to serve out or suffer the sentence awarded under the former conviction.

SECT. 5. Whenever a review is granted in any case where the offence charged is punishable with death, it shall be the duty of the chief justice to preside at the trial, if thereto requested by the accused or his counsel fourteen days prior to the time appointed for said trial.

SECT. 6. Whenever it shall appear on the trial of any review in a criminal case that any witness who testified in the former trial has deceased, the testimony of such deceased witness, given at the former trial, may be proved by either party, and shall be competent evidence.

SECT. 7. This act shall take effect when approved.

Approved March 3, 1869.