

# MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

FIFTY-FIFTH LEGISLATURE

OF THE

STATE OF MAINE.

1876.

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PUBLIC LAWS

OF THE

STATE OF MAINE.

1876.

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## CHAP 101.

## Chapter 101.

An act to amend section five of chapter seventy-seven of the Revised Statutes, relating to Equity Powers.

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

Sec. 5, ch. 77, R. S., amended.

Section five of chapter seventy-seven of the revised statutes, is hereby amended by adding thereto the following specification :

Equity powers of S. J. court in certain cases.

' *Tenth.* In suits for the re-delivery of goods or chattels, taken or detained from the owner and secreted or withheld, so that the same cannot be replevied, and in bills in equity by a creditor or creditors, to reach and apply in payment of a debt, any property, right, title or interest, legal or equitable, of a debtor or debtors residing or found within this state, which cannot be come at to be attached on writ, or taken on execution in a suit at law against such debtor or debtors, and which is not exempt by law from such attachment and seizure.'

Approved February 18, 1876.

## Chapter 102.

An act authorizing Assignees of Judgments to bring scire facias.

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

Assignees of judgments may sue out writ of scire facias if estate does not pass by levy.

SECT. 1. When a judgment has been assigned for a valuable consideration, and bona fide, in writing, and a levy of an execution, issued on such judgment has been made, and the estate does not pass by the levy, and the creditor dies after the levy, the assignee may sue out of the office of the clerk issuing such execution, a writ of scire facias, setting forth the facts aforesaid therein, and requiring the debtor to show cause why another execution should not be issued on the same judgment, in the name and for the benefit of the plaintiff in the scire facias; and if the debtor, after being duly summoned, does not show sufficient cause why it should not be done, the levy may be set aside; and the court from which said execution issued, shall have power to order and issue another execution on the same judgment, for the amount of the original debt and interest and costs, in the name and for the benefit of such plaintiff, and against such debtor and his property, in the usual form now established by law, with necessary charges.

Levy may be set aside.

Another execution may issue.

Assignee may bring action of debt.

SECT. 2. And in all cases where a judgment has been thus assigned and is not discharged, the assignee may bring an action of debt on such judgment in his own name; and upon averment

and proof of the facts aforesaid, the court may render judgment and execution thereon in his favor; subject, however, to any legal defence which the debtor might have if the action were instituted by the original creditor.

CHAP. 103.

Approved February 18, 1876.

### Chapter 103.

An act relating to the framing of Issues in Equity cases.

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

SECT. 1. After the pleadings are filed, and before the testimony is taken in any suit in equity, the court sitting in the county where the same is pending may, at the request of either party, frame issues of fact to be tried by a jury; *provided*, that the party desiring such trial give notice thereof to the other party, by inserting such notice, if plaintiff in his replication, and if defendant, in his answer.

Court may frame issues of fact to be tried in equity cases.

Proviso.

SECT. 2. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Inconsistent acts repealed.

SECT. 3. This act shall not apply to any bill in equity now pending.

Act not to apply to cases pending.

Approved February 18, 1876.

### Chapter 104.

An act to amend section sixteen of chapter seventy-one of the Revised Statutes, relating to sales of real estate by license of court.

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

Section sixteen of chapter seventy-one is hereby so amended that it shall read as follows, to wit:

Sec. 16, ch. 71, R. S., amended.

‘SECT. 16. When it appears to the judge of probate having jurisdiction, that any deceased person in his lifetime made a legal contract to convey real estate and was prevented by death from so doing, or that such deceased person, in his lifetime made such a contract to convey an estate upon condition, which in its nature could not be fully performed before the decease of such person, and that in either case the person contracted with or petitioner has performed or is ready to perform the conditions required of him by the terms thereof, he may on the petition of such person,

Judge of probate may authorize executor or administrator to convey estate on contract made by persons before decease.