

MAINE STATE LEGISLATURE

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THE
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED APRIL 17, 1857;

TO WHICH ARE PREFIXED

THE CONSTITUTIONS

OF THE

UNITED STATES AND OF THE STATE OF MAINE:

WITH AN

APPENDIX.

PUBLISHED BY AUTHORITY OF THE LEGISLATURE.

BANGOR:
WHEELER & LYNDE.

1857.

CHAP. 82.

poration.
R. S., c. 115,
§ 97.

Power of the
court, &c.
R. S., c. 115,
§ 98.

Costs of a
bankrupt
limited.
1848, c. 60.

Execution,
when issued.
§ Greenl. 207.
R. S., c. 115,
§ 102.

Not after one
year; excep-
tion.
R. S., c. 115,
§ 104.

May be re-
newed, &c.
R. S., c. 115,
§ 105.

When it can-
not be re-
newed, &c.
R. S., c. 115,
§ 106.

Interest on
judgments.
R. S., c. 115,
§ 107.

New execution
may be issued
on proof of
loss.
1848, c. 57, § 2.

forty miles, unless its agent actually travels a greater distance to attend court.

SEC. 110. The power of the court to require payment of costs, or to refuse them as condition of amendment or continuance, is not affected by the provisions of this chapter.

SEC. 111. When a defendant pleads a discharge in bankruptcy, obtained after the commencement of the suit, he can recover no costs before the time when the certificate was produced in court.

EXECUTIONS.

SEC. 112. Executions may be issued on a judgment of the supreme judicial court after twenty-four hours from its rendition, returnable within three months.

SEC. 113. No first execution can be issued after one year from the time of judgment, except in cases provided for by section four; in which the first execution may be issued not less than one, nor more than two years from the time of judgment.

SEC. 114. An alias or pluries execution may be issued within three years after the day of the return of the preceding execution and not afterward.

SEC. 115. When execution is not issued within the times prescribed by the two preceding sections, a writ of scire facias against the debtor may be issued to show cause why execution on the judgment should not be issued, and if no sufficient cause be shown, execution may be issued thereon.

SEC. 116. On executions, issued on judgments or acknowledgments of debt, interest shall be collected from the time of judgment, or payment, and the form of the execution be varied accordingly.

SEC. 117. A justice of the court in which the judgment was rendered, upon proof by affidavit or otherwise of the loss or destruction of an execution unsatisfied in whole or in part, may order a new execution to be issued for what remains unsatisfied.

CHAPTER 83.

JUSTICES OF THE PEACE, THEIR JURISDICTION AND PROCEEDINGS
IN CIVIL ACTIONS.

- SEC. 1. Jurisdictions in civil actions; not to exceed twenty dollars.
2. Title to real estate pleaded, case to be removed to supreme judicial court. Recognizance in such case; if not given, to be tried.
3. Copy, &c., to be produced at appellate court; proceedings, if not entered.
4. Writs, form and service of.
5. Judgments on default, nonsuit or trial.
6. Costs for defendant.
7. Appeal, when and how claimed; effect of.
8. Appeal, recognizance for, when and how given.
9. Appeal, papers to be produced at appellate court; failure to enter, &c., effect of.

- SEC. 10. Subpenas for witnesses, in what case to issue.
11. Adjournment of his court.
 12. If unable to attend, another justice may enter a case, and if he remains unable, try it.
 13. Executions returnable in three months.
 14. Executions may be directed into other counties, in certain cases.
 15. Writs of scire facias, when he may issue.
 16. Writs, &c., when directed into other counties.
 17. Records, how to be kept; on his death may be transcribed into the book of another justice.
 18. Execution issued on the transcribed record.
 19. Removing from the state, must deposit his records with the clerk. Administrators of deceased justice also. Penalty on administrator for neglect. Duty of the clerk in such cases.
 20. Proceedings if his records are not completed. When an execution may be used in place of a copy of the record.
 21. Justice whose commission has expired may certify copies and issue new executions.
 22. Justice not to be of counsel in any case before himself; not to try any case commenced by himself.
 23. Justice may hold courts at his dwellinghouse or office. Justice, plea before, to be the general issue. Justice costs, in action continued at plaintiff's request, limited.

SEC. 1. Every justice of the peace may hold a court in his county, and have original and exclusive jurisdiction of all civil actions, including prosecutions for penalties in which his town is interested, when the debt or damages demanded do not exceed twenty dollars, except those in which the title to real estate, according to the pleadings or brief statement filed in the case by either party, is in question; and except that in those towns in which a municipal or police court is established, his jurisdiction shall be restricted to those cases provided therefor in the act establishing said courts.

Jurisdiction in civil actions, &c.
18 Maine, 23.
27 Maine, 85.
R. S., c. 116,
§ 1, 2.

SEC. 2. When it appears by the pleadings or brief statement in the case, that the title to real estate is in question, it shall be removed, on the request of either party, to the supreme judicial court; and such party shall recognize to the other party in a reasonable sum, with sufficient sureties, to enter the case at the next term of said court; and if he does not so recognize, the justice shall hear and decide the case, as if such request had not been made.

Title to real estate, pleaded, &c.
R. S., c. 116,
§ 3, 4.

SEC. 3. The party so recognizing shall produce at said court a copy of the record, and all such papers as are required to be produced by an appellant; and if he fails so to do, or to enter the action as before provided, he shall, on the complaint of the adverse party, be nonsuited or defaulted, as the case may be; and such judgment shall be rendered as law and justice require.

Copy, &c., to be produced at appellate court, &c.
R. S., c. 116,
§ 5.

SEC. 4. The writ in civil actions commenced before a justice of the peace, shall be a summons, a capias and attachment, or scire facias, of the form prescribed by law, signed by the justice, and duly served not less than seven, nor more than sixty, days before the return day thereof.

Writs, form and service of.
R. S., c. 116,
§ 6, 18.

SEC. 5. If any person duly served with process does not appear and answer thereto, his default shall be recorded, and the

Judgments on default, nonsuit or trial.

CHAP. 83.

R. S., c. 116,
§ 7.

Costs for defendant.

R. S., c. 116,
§ 8.

Appeal, when and how claimed; effect.

R. S., c. 116,
§ 9.

Appeal, recognition for.

R. S., c. 116,
§ 10.

Appeal, papers to be produced, &c.

R. S., c. 116,
§ 11.

Subpœnas for witnesses, &c.

R. S., c. 116,
§ 12.

Adjournment.

17 Maine, 413.
R. S., c. 116,
§ 13.

If unable to attend, another justice may enter a case, and try it.

18 Maine, 23.
31 Maine, 336.
39 Maine, 465.
R. S., c. 116,
§ 14.

Executions returnable, &c.

R. S., c. 115,
§ 103.

Executions may be directed into other counties.

1842, c. 10, § 2.

Writs of scire facias.

charge in the declaration taken to be true; and on such default, and when the action is, on trial, maintained, the justice shall enter judgment for such sum, not exceeding twenty dollars, as he finds due to the plaintiff, with costs, and issue execution.

SEC. 6. If the plaintiff fails to enter and prosecute his action, or if, on trial, he does not maintain his action, the defendant shall recover judgment for his costs to be taxed by the justice; and execution shall issue therefor.

SEC. 7. Any party aggrieved by the judgment of the justice, may appeal to the next supreme judicial court in the same county, and may enter such appeal at any time within twenty-four hours, Sunday not included, after the judgment; and in that case no execution shall issue, and the case shall be entered and determined in the supreme judicial court.

SEC. 8. Before such appeal is allowed, the appellant shall recognize with sufficient surety or sureties to the adverse party, if required by him, in a reasonable sum, with condition to prosecute his appeal with effect, and pay all costs arising after the appeal.

SEC. 9. The appellant shall, at the appellate court, produce a copy of the record, and of all the papers filed in the cause, except depositions or other written evidence or documents, the originals of which shall be produced; and if he fails to produce such papers, and enter and prosecute his action, the court, on complaint of the adverse party, may affirm the former judgment with costs.

SEC. 10. Every justice may issue subpœnas for witnesses in civil actions pending before him, or any other court, or persons authorized to examine witnesses.

SEC. 11. He may adjourn his court by proclamation from time to time as justice requires.

SEC. 12. When a justice of the peace is unable to attend at the time and place appointed by him for the trial of any suit already entered, or at which any writ is returnable before him, any other justice, who can legally try the same suit, may, in either case, continue it once not exceeding thirty days, and note the fact on the back of the writ or his own docket; and if such inability is not removed at the end of the continuance, such suit or writ may be entered before and tried by another justice at the time and place fixed in the continuance, who may render judgment and issue execution accordingly.

SEC. 13. Executions issued by a justice of the peace shall be made returnable in three months from the day they were issued.

SEC. 14. When a debtor removes or is out of the county in which judgment is rendered against him by a justice of the peace, or municipal or police court, such justice or judge may issue execution against him, directed to the proper officers in the county where he is supposed to be; and it shall have the same force as if issued by a justice or court of the latter county.

SEC. 15. Every justice of the peace may issue writs of scire facias against executors or administrators, upon a suggestion of

waste, after judgment against them; against bail in civil actions, and indorsers of writs; and enter judgment and issue execution, as any court might do in like cases.

CHAP. 83.

R. S., c. 116,
§ 16.

SEC. 16. In cases of scire facias against bail, indorsers of writs, executors or administrators, in all trustee processes, or original writs against two or more defendants, before a justice of the peace, or a judge of a municipal or police court, where the defendant or trustee resides out of the county where the proceedings are had, the justice or judge may direct the writ or execution to any proper officer of the county where the defendant or trustee resides, who shall charge fees of travel from the place of his residence to the place of service only, and postage paid by him.

Writs, &c.,
when directed
into other
counties.

R. S., c. 116,
§ 17.
1842, c. 10, § 1.

SEC. 17. Every justice of the peace shall keep a fair record of his proceedings; and if he dies after giving judgment in a cause and before it is satisfied, any other justice of the county may, on complaint of the creditor, issue a summons to the person in whose possession the record of such judgment is, directing him to produce and deliver it to him; and if he contemptuously refuses to produce it, or to be examined respecting it on oath, the justice may commit him to prison, as punishment for the contempt, to be detained until he submits to such examination and produces the record; and when the record is so delivered to him, he shall transcribe it upon his own book of records, and return the original to the person who produced it; and a copy thereof attested by the transcribing justice, or otherwise proved, shall be legal evidence in all cases where an authenticated copy of the original might be received.

Records, how
to be kept, &c.
R. S., c. 116,
§ 19, 20, 21.

SEC. 18. On such transcribed record, the justice may issue execution as if the judgment was rendered by himself, changing the form as the case requires; but no such first execution shall issue after one year from the time the judgment was rendered, unless on scire facias.

Execution
issued on the
transcribed
record.

R. S., c. 116,
§ 22.

SEC. 19. Every justice, who removes from the state, shall first deposit with the clerk of the judicial courts in the county for which he was commissioned, all his official records and papers; and the executor or administrator of a deceased justice shall so deposit all the deceased's official records and papers that come into his hands; and if either neglects to do so, he shall forfeit one hundred dollars. The clerk shall receive and safely keep such records and papers and may grant certified copies thereof, which shall be as good evidence as if certified by the justice.

On removal or
death, records
to be depos-
ited, &c.

Penalty on
administrator
for neglect.
Duty of the
clerk in such
cases.

R. S., c. 116,
§ 23, 24, 25, 26.

SEC. 20. If any justice dies or removes from the state, without recording and signing any judgment by him rendered in an action before him, and his docket, original writ, and papers pertaining thereto, and execution if any issued, are so deposited in the office of the clerk, he shall, on payment of usual fees, make out and certify copies of all the papers in such cause, and all facts appearing in such docket; and such copies shall be legal evidence. But if such records have not been deposited with the clerk, the plaintiff in any action may use, in place of such certified copy, an execution issued on such judgment by the jus-

Proceedings if
records are
not completed,
&c.

R. S., c. 116,
§ 27.
1852, c. 276.

CHAP. 83.

tice, with an affidavit thereon made by the plaintiff or his attorney, that it is not satisfied, or satisfied in part only, as the case may be.

Justice whose
commission
has expired,
&c.

35 Maine, 137.
R. S., c. 116,
§ 28.

Justice not to
be of counsel.
R. S., c. 103,
§ 9.

R. S., c. 116,
§ 15.

Where justice
may hold
courts, &c.

R. S., c. 116,
§ 29, 30.
1842, c. 35.

SEC. 21. Any justice, whose commission expires and is not renewed, may, during two years thereafter, certify copies of judgments rendered by him while in commission, and issue and renew executions thereon, which shall be obeyed by the officer, as if the commission of the justice had not expired.

SEC. 22. No justice shall be of counsel for or give advice to either party, in a suit before him, or be subsequently employed as counsel or attorney in any case tried before him; nor hear or determine any civil action commenced by himself; and every action so commenced shall abate.

SEC. 23. Any justice may try cases at his dwellinghouse, office, or other suitable place, and the writ shall be made returnable accordingly; except where the title to real estate is in question, the defendant shall plead the general issue and need not file any brief statement; and when an action, in which the defendant does not appear, is continued at the request of the plaintiff, only one travel and attendance shall be taxed for him, unless the defendant agrees, in writing, to such continuance.

CHAPTER 84.

LEVY OF EXECUTIONS ON PERSONAL PROPERTY.

- SEC. 1. Execution; what goods may be sold on.
2. Execution; coin and bank notes, how levied on.
3. Execution; goods, in what time sold on.
4. Execution; how advertised.
5. Execution; adjournment of sale, time.
6. Execution; adjournment of sale, place.
7. Indemnity; officer may require.
8. Re-sale, if purchaser refuses to take; officer to account for proceeds, and for damages paid by such purchaser.
9. Return of sale on execution, how made. Penalty for fraud in sale or return.
10. Proceeds of sale, how disposed of.
11. Rents of buildings, how sale is to be made of.
12. Shares in incorporated companies, how sold.
13. Notice of seizure of, how given, if not attached.
14. If attached, mode of procedure.
15. Officers of the corporations to certify the number of shares, &c. Shares sold to be transferred; new certificates to purchaser.
16. Notice of sale, how given.
17. Franchise of corporation, how sold; notice of sale of, how given.
18. Mode of sale. Possession, what and how given to purchaser.
19. Rights and duties of the purchaser.
20. Rights of redemption by the corporation.
21. Proceeds of sales applied in order of attachment.
22. Notice of second attachment to be given to the first attaching officer.
23. Warrant against turnpike corporation for damages. Sale of the franchise thereon may be adjourned. In what county sale may be had.