

# MAINE STATE LEGISLATURE

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**PUBLIC ACTS**

OF THE

**STATE OF MAINE,**

PASSED BY THE

**THIRD LEGISLATURE,**

AT ITS SESSION, HELD IN JANUARY, 1823.

PUBLISHED AGREEABLY TO THE RESOLVE OF JUNE 20, 1820.

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**PORTLAND:**

BY TODD AND SMITH.....PRINTERS TO THE STATE:

1823.

September.

on the fourth Tuesday of September, annually, instead of the times heretofore designated by law. And all matters and things now pending in, or returnable to said Court, as heretofore holden, shall be returned to, have day in, and be heard at the term of said Court, which shall be holden on said third Tuesday of April next.

[*This Act passed January 31, 1823.*]

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### CHAPTER CCXIX.

AN ACT in addition to an Act, entitled "An Act establishing a Supreme Judicial Court within this State," and making further provision in the Judicial department.

Law terms when  
and where.

SECT. 1. *Be it enacted by the Senate and House of Representatives, in Legislature assembled,* That from and after the first day of April next, the Supreme Judicial Court shall be annually holden at York, in and for the county of York, on the last Tuesday of April; at Portland, in and for the county of Cumberland, on the first Tuesday of May; at Wiscasset, in and for the county of Lincoln, on the third Tuesday of May; at Augusta, in and for the county of Kennebec, on the second Tuesday next after the third Tuesday of May; at Norridgewock, in and for the county of Somerset, on the third Tuesday next after the third Tuesday of May; at Bangor, in and for the county of Penobscot, on the fourth Tuesday next after the third Tuesday of May; at Castine, in and for the county of Hancock, on the fifth Tuesday next after the third Tuesday of May; at Machias, in and for the county of Washington, on the sixth Tuesday next after the third Tuesday of May; and at Paris, in and for the county of Oxford, on the fourth Tuesday of August, by all the Justices of said Supreme Judicial Court; but any two of them may constitute a quorum for holding said Court, and discharging all the duties thereof, at any of the times and places aforesaid.

SECT. 2. *Be it further enacted*, That from and after the passing of this act, the Supreme Judicial Court shall be holden annually at Alfred, in and for the county of York, and at Wiscasset, in and for the county of Lincoln, on the third Tuesday of September; at Augusta, in and for the county of Kennebec, on the first Tuesday of October; at Castine, in and for the county of Hancock, on the fourth Tuesday of October; and at Portland, in and for the county of Cumberland, on the first Tuesday of November, by any one or more of the Justices of said Supreme Judicial Court: *Provided*, That the Tuesday of the month, on which any of said Courts are appointed to be holden, may, in all judicial proceedings, from time to time, be expressed and designated by such Tuesday of the month, as will be the Tuesday, on which the said Court is to be holden, pursuant to the foregoing arrangements.

Jury terms  
when and where

SECT. 3. *Be it further enacted*, That all writs, recognizances, warrants, complaints, process, and every other matter that should, after the passing of this act, be returned to, or entered at the Supreme Judicial Court, at the times heretofore appointed; and all parties and persons that may be required to attend after that time, at the aforesaid times; and all actions, matters and suits, that may be pending in the same Court, on the day of passing this act, shall be returned to, entered, appear and attend, have day, be tried and determined at said Court, at the respective times established by the first section of this act, according to the true intent and meaning thereof.

Return of pro-  
cess, &c.

SECT. 4. *Be it further enacted*, That whenever the said Court shall be holden by any one of the Justices thereof, it shall be lawful for any person thinking himself aggrieved by any opinion, direction, or judgment of said Justice, in any action or process, of a civil or criminal nature, to allege exceptions to the same, at the term of said Court when such opinion, direction or judgment shall be pronounced; and such exceptions, being reduced to writing in a summary mode, and presented to the Court, before the adjournment thereof without day, and being found conform-

Exceptions may  
be filed to any  
opinion, &c. of  
one Judge.

able to the truth of the case, shall be allowed and signed by the Justice holding said Court, and who tried such cause ; and thereupon all such action or process, in and upon which judgment shall not have been rendered at the time of allowing such exceptions, shall be continued to the next term of said Court to be holden in the same county, pursuant to the first section of this Act : subject to the provision hereinafter contained : And such action or process wherein exceptions shall be alleged to the final judgment of the Court thereon, shall likewise be continued in the same manner, and execution thereon shall be stayed, but without prejudice to any attachment made on the original writ, in any civil action : *Provided however,* That no trial by jury shall be delayed or prevented by the making or filing of any exceptions to the opinion or judgment of the Court upon any dilatory plea, or upon any question of law arising during the trial ; and whenever it shall appear to the Court that the exceptions, made in or after the trial of any cause, are frivolous, immaterial or intended for delay, judgment may be entered and execution awarded or stayed, on such conditions, as the Court may deem reasonable, notwithstanding the allowance of such exceptions : and the Court to which any action may be continued upon exceptions filed and allowed as aforesaid, or on a report of the Justice presiding in the trial of such cause, shall have cognizance thereof, and do therein what to law and justice appertain ; and may at their discretion, allow lawful interest on the damages given in any such action, from the time the verdict was returned, to the time of rendering judgment.

Proceedings  
thereon.

Exceptions  
when to be over-  
ruled.

Trials, civil and  
criminal when  
to be had.

SECT. 5. *Be it further enacted,* That all indictments which have been, or may be found for any capital offence, and all motions and petitions for new trials or reviews, and all appeals from judgments or decrees of Judges of Probate, except such as require the intervention of a jury, and all questions of divorce and alimony, questions of law on statements of facts agreed by the parties, or on special verdicts ; and all

issues of law shall be heard, tried and determined exclusively in the Courts, which are to be holden pursuant to the first or sixth section hereof by two or more of the Justices of said Court; and all other actions, processes, matters and things, civil and criminal, whereof the Supreme Judicial Court hath heretofore had cognizance, may be heard, tried and determined, subject to the provisions aforesaid, at the Court which may be holden pursuant to the second section of this act; and at such Court judgments may be entered in those actions, which may have been continued for advisement from a preceding term, holden pursuant to the first section.

SECT. 6. *Be it further enacted,* That whenever two or more of the Justices aforesaid shall attend at any Court, holden by virtue of the second section hereof, the said Justices so attending and holding said Court, shall have cognizance of all matters and things whatsoever, whereof they may have cognizance at any Court to be holden by virtue of the first section of this act.

Law terms, powers, &c. same as at other terms.

SECT. 7. *Be it further enacted,* That whenever, at any Court to be holden pursuant to the first section hereof, not more than one of said Justices shall attend on the day appointed for holding said Court, the Justice so attending, may open Court and proceed to the transaction of such business as any one Justice of said Court is authorized to do and perform, at a Court, holden in virtue of the second section hereof, until the arrival of one or more of the other Justices to enter on the hearing and decision of those causes, issues, matters and things cognizable only by two or more of said Justices. And whenever such causes, issues, matters and things shall have been heard and determined upon, any one Justice of said Court may continue to hold the same Court for the trial of all other causes, matters and things cognizable by one Justice of said Court, pursuant to said second section.

When only one Justice attends, how, &c.

SECT. 8. *Be it further enacted,* That it shall be the duty of the Justices of said Court, from time to time to make such arrangements for holding said Court,

Arrangements for holding terms, how, &c.

Courts may in certain cases be adjourned by Clerk or Sheriff.

pursuant to the second section aforesaid, as will enable, as far as may be, any Justice holding the same in any county, to transact all the business, which may be pending before said Court: And whenever by reason of sickness, accident, or any unforeseen cause, the Justice, who shall have been assigned to hold such Court in any county, shall be prevented from attending at the time and place by law appointed for holding such Court, the Sheriff or the Clerk of said Court in such county, may adjourn such Court from day to day, posting up notice thereof on the door of the Court House; and, in case of necessity, may adjourn said Court without day; and by such adjournment all the business pending in said Court, shall be considered as continued to the next term.

Repealing clause.

SECT. 9. *Be it further enacted*, That the fifth and seventh sections of the act, to which this [is] additional, and also so much of the first section of the same act as requires two of the Justices of said Court, at least, in all cases to constitute a quorum for the transaction of business, be, and the same are hereby repealed.

[*This Act passed February 3, 1823.*]

## CHAPTER CCXX.

AN ACT respecting Deeds, Bonds, Contracts and Agreements.

Deeds, bonds, contracts, &c. made by agents, to be considered as acts of principal in certain cases.

*BE it enacted by the Senate and House of Representatives, in Legislature assembled*, That all Deeds, Bonds, Contracts and Agreements, purporting to be made and executed by any Agent, Attorney or Committee, for and in behalf of any other person or corporation, shall be considered as the deed, bond, contract or agreement of the principal or constituent, and not of the agent, attorney or committee, notwithstanding the same may have been signed, sealed and acknowledged in the name of the agent, attorney or committee: *Provided*, It appear by said deed, bond, contract or agreement, to have been the intention of