

MAINE STATE LEGISLATURE

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THE
REVISED STATUTES

OF THE
STATE OF MAINE,

PASSED OCTOBER 22, 1840;

TO WHICH ARE PREFIXED

THE CONSTITUTIONS

OF THE

United States and of the State of Maine,

AND TO WHICH ARE SUBJOINED THE OTHER

PUBLIC LAWS OF 1840 AND 1841,

WITH AN

APPENDIX.

PRINTED AND PUBLISHED IN COMPLIANCE WITH A RESOLVE OF OCTOBER 22, 1840.

Augusta:

PUBLISHED BY WILLIAM R. SMITH & Co., PRINTERS TO THE STATE.

.....
1841.

CHAP. 137. any such execution, shall have his remedy, by writ of audita querela, or otherwise, as in case the execution had been sued out upon a judgment.

execution be wrongfully issued.

CHAPTER 138.

OF REFERENCE OF DISPUTES, BY CONSENT, BEFORE A JUSTICE OF THE PEACE.

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| <p>SECT. 1. What controversies may be submitted.</p> <p>2. Manner and form of submission.</p> <p>3. Submission of all demands.</p> <p>4. Submission of a specific demand.</p> <p>5. No revocation, but by consent.</p> <p>6. Parties may agree upon the time of reporting.</p> <p>7. Report, how returned into court.</p> <p>8. Power of referees.</p> | <p>SECT. 9. Proceedings of court thereon. Recommitment.</p> <p>10. All the referees must hear, but a majority may decide.</p> <p>11. Costs. Compensation of referees.</p> <p>12. Report may be made to any court, by consent.</p> <p>13. Judgment may be reversed, on writ of error, or exceptions.</p> <p>14. A referee may take acknowledgment or administer oaths.</p> |
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What controversies may be submitted.
1821, 78, § 1.
3 Mass. 1.
5 Greenl. 38.
Manner and form of submission.
1821, 78, § 1.
1824, 262, § 1.
4 Mass. 242,
448.
13 Maine, 41.
20 Pick. 480.

SECTION 1. All controversies, which may be the subject of a personal action, may be submitted to one or more referees, in the manner provided in this chapter.

SECT. 2. The parties may appear, personally or by attorney, before any justice of the peace, and there sign and acknowledge an agreement, in substance, as follows:

“Know all men by these presents, that _____ of _____, in the county of _____, and _____ of _____, in the county of _____, have agreed to submit the demand, made by the said _____, against the said _____, which is hereunto annexed,” (and “all other demands between the parties,” as the case may be,) “to the determination of _____; the report of whom, (or the major part of whom,) being made within one year from this day, to the district court for the said county of _____, the judgment thereon shall be final. And, if either of the parties shall neglect to appear before the referees, after proper notice given to them, of the time and place appointed by the referees for hearing the parties, the referees may proceed in his absence.

Dated this _____ day of _____, in the year _____.”

The foregoing agreement, having been subscribed by the parties, shall be acknowledged by them or their attorneys, as their voluntary act, before the said justice, or any other justice.

Submission of all demands.
5 Mass. 334.

SECT. 3. If all demands between the parties are submitted to the decision of the referees, no specific demand need be annexed to the agreement.

Submission of a specific demand.
1821, 78, § 1.
3 Mass. 324,
398.
14 Mass. 43.
9 Greenl. 15.

SECT. 4. If a specific demand only is submitted, the same shall be annexed to the agreement, and signed by the party making it; and such demands shall be stated in such a manner as to be readily understood, and be as certain, in substance, as the case will admit.

SECT. 5. Neither party shall have power to revoke the submission, without the consent of the other.

SECT. 6. When the parties are so disposed; they may agree upon the time when the report shall be made; and, in this particular; vary from the form, stated in the second section, without being confined to one year.

SECT. 7. The report of the referees shall be delivered by one of the referees to the court, to which it is to be returned, according to the agreement; or it shall be sealed up and transmitted to such court, and remain sealed till opened by the clerk.

SECT. 8. The referees, agreed upon according to the provisions of this chapter, shall have the same authority, as those appointed by a rule of said court.

SECT. 9. The court, to which the report shall be made, may accept; reject or recommit the same for further consideration; and the referees shall give notice to the parties of the time and place of a new hearing; and, when the report is accepted, judgment shall be entered thereon, and execution be issued, as in cases of submission by rule of court.

SECT. 10. All the referees must meet and hear the parties; but a majority may make the report, which shall be as valid, as though signed by all of them; provided, that it appear on the face of the return, or by the certificate of the dissenting referee, that all of them attended and heard the parties.

SECT. 11. The referees may allow such costs as they may judge reasonable, or none to either party, unless some special provision be made in the submission upon the subject; but the court may reduce the compensation of the referees, if it should appear reasonable so to do.

SECT. 12. The report may be made to any court held within the time limited in the submission, provided, that the parties or their attorneys shall sign an agreement to that effect, naming the court, which agreement shall be annexed by the referees to their report.

SECT. 13. Either party may bring a writ of error to reverse the said judgment, or file exceptions to any decision of the district court, accepting or rejecting a report, and carry the same to the supreme judicial court, as is provided in sections, eighteen, nineteen and twenty, in chapter, ninety seven; and, on a hearing of the cause, the court shall give such judgment as the district court ought to have rendered.

SECT. 14. Any one of the referees, being a justice of the peace, may take the acknowledgement of the parties to the submission; and any referee may swear witnesses in the cause.

CHAP. 138.

No revocation, but by consent. Parties may agree upon the time of reporting.

Report, how returned into court. 1821, 78, § 2.

Power of referees. 1821, 78, § 4.

Proceedings of court thereon. Recombitment. 1821, 78, § 2. 6 Mass. 70. 14 Mass. 252. 6 Greenl. 21. 8 Greenl. 288.

All the referees must hear, but a majority may decide. 6 Mass. 496. 1 Greenl. 64.

Costs. Compensation of referees.

Report may be made to any court, by consent. 8 Greenl. 165.

Judgment may be reversed on writ of error, or exceptions. 2 Pick. 25, 570, 625.

A referee may take acknowledgment, or administer oaths. 1824, 262, § 1.