

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE,

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1834.

FOURTEENTH LEGISLATURE.

NO. 17.

HOUSE.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED
AND THIRTY-FOUR.

An ACT for enlarging the Jurisdiction of Justices
of the Peace.

SECT. 1. *Be it enacted by the Senate and*
2 House of Representatives in Legislature as-
3 scmbled, That every Justice of the Peace and
4 of the Quorum, who is a freeholder within his
5 county respectively, shall have in addition to his
6 present judicial powers, original and exclusive
7 jurisdiction in all actions upon simple contract
8 or assumpsit, wherein the debt or damage in
9 the writ is not laid and stated to exceed the
*10 sum of one hundred dollars : *Provided always,**

11 That in case any such action shall be brought
 12 to the Court of Common Pleas, unless by agree-
 13 ment of both parties certified and endorsed on
 14 the writ, and the plaintiff shall recover in that
 15 court less than one hundred dollars, he shall be
 16 allowed no greater costs, than by law would be
 17 taxable for him, had said action been originally
 18 brought before such Justice.

SECT. 2. *Be it further enacted,* That if
 2 either party be aggrieved by the judgment of any
 3 such Justice, such party may at any time with-
 4 in six days from the time when such judgment
 5 shall be rendered, appeal therefrom to the next
 6 Court of Common Pleas within the same county:
 7 *Provided,* such party shall recognize in a rea-
 8 sonable sum not exceeding seventy-five dollars,
 9 with such surety or sureties, as the said Justice
 10 may deem sufficient, to prosecute said appeal
 11 with effect, and to pay all costs taxable by law,
 12 arising previous and subsequent to such appeal ;
 13 and in case the appellee shall ultimately prevail,
 14 the court appealed to shall cause a default to be
 15 noted of record on such recognizance, and render
 16 up two judgments, one against the appellant, for
 17 such sum in damages as shall by said court ap-
 18 pear to be just and legal, and one against said

19 appellant and his sureties, jointly, for such lawful
 20 costs as have arisen or accrued from and subse-
 21 quent to the allowance of such appeal: *Provi-*
 22 *ded however*, That if the parties, after the entry
 23 of the action and before or after the rendition of
 24 judgment therein, will waive the right of appeal,
 25 they may refer the action, or that and all other
 26 demands, and take out a rule from the Justice
 27 before whom said action was entered, in man-
 28 ner as is provided for, in taking out a rule from
 29 the Court of Common Pleas, and in all cases
 30 the Justices shall render up final judgment, in
 31 conformity to the report of the referees, and issue
 32 execution thereon, with such additional costs as
 33 are allowed by law, and the said Justices shall
 34 also have the same discretionary powers as are
 35 given and exercised by the courts of Common
 36 Pleas, to recommit any report to referees for re-
 37 version or a further hearing, but in no case shall
 38 there be more than one recommitment, unless to
 39 correct some informality in the report.

SECT. 3. *Be it further enacted*, That the
 2 provisions of law and rules which direct and go-
 3 vern, and are applicable to the process and pro-
 4 ceedings in the courts of Common Pleas, with
 5 respect to foreign attachments, shall be adopted

6 and pursued by the several Justices under this
7 Act.

SECT. 4. *Be it further enacted*, That all ac-
2 tions commenced under the provisions of this
3 Act, shall be brought in the county where one
4 of the parties dwells or has his home ; and all
5 writs and other legal processes issued by any
6 Justice as aforesaid, shall substantially be the
7 same in form ; shall extend into every county in
8 the State, and be served in the same manner
9 and to the same extent and effect, as is provided
10 for by law, for the service of all writs and pro-
11 cesses issuing from and returnable to the Court
12 of Common Pleas within this State.

SECT. 5. *Be it further enacted*, That the
2 fees of the Justices aforesaid and of witnesses
3 shall be the same as are taxable by law in other
4 Justice Courts, and all other fees shall be the
5 same as are provided for in the Courts of Com-
6 mon Pleas ; but referees shall severally be al-
7 lowed the same fees for travel and services by
8 the day, as are allowed by law to Jurors and no
9 more : *Provided however*, For special reasons
10 which may be given, said Justices are hereby
11 authorized to allow such additional sum as may
12 be deemed just and proper : and *Provided also*,

13 That any Justice aforesaid, shall in each case
14 before the issuing of execution, make out under
15 his hand and annex thereto, a copy of the judg-
16 ment rendered, for which he shall tax and in-
17 clude in the bill of costs, ten cents.

SECT. 6. *Be it further enacted*, That when-
2 ever the Justice who signed the writ or sum-
3 mons shall for any cause, fail to be present at
4 the time and place appointed for the entry or
5 trial of any action; any other Justice who has
6 jurisdiction of said action, may then and there
7 take cognizance of the same, and proceed there-
8 on to final judgment and execution, in the same
9 manner, the Justice to whom the writ was made
10 returnable, might by law, have entered and
11 tried the same.

SECT. 7. *Be it further enacted*, That every
2 Justice of the Peace as aforesaid, shall on or be-
3 fore the first day of January, annually, file all
4 the papers in each case decided by him, and de-
5 posit the same in the Clerk's office of the Courts
6 of Common Pleas of the same County wherein
7 such Justice resides, which papers, including
8 the original writ, copy of judgment, and all exe-
9 cutions, duly numbered and arranged by said
10 Justice, the Clerk aforesaid shall carefully keep

11 in a convenient and suitable place fitted up for
 12 the purpose at the expense of the same County.
 13 And if any such Justice shall fail so to deposit
 14 said papers, within the time specified, he shall
 15 forfeit and pay a sum not less than Five Dollars
 16 nor more than Fifty Dollars, for each offence,
 17 recoverable by action of debt to the use of the
 18 prosecutor, or by presentment of the Grand
 19 Jury, to the use of the County. And in case
 20 any such Justice shall before a judgment by him
 21 rendered is fully satisfied, either die, remove from
 22 the County, or be otherwise unable to act in his
 23 official capacity, the Clerk of the Courts of
 24 Common Pleas for the time being, shall have
 25 power to renew such Justice Execution and
 26 certify any copies demanded, the lawful fees for
 27 which shall be exclusively appropriated to the
 28 use and benefit of such Clerk.

SECT. 8. *Be it further enacted,* That any
 2 Execution may be issued upon any judgment
 3 of any Justice of the Peace, at any time within
 4 two years from and after the rendition of any
 5 judgment and from and after the return day of
 6 the preceding Execution. And the Justice and
 7 Clerk of the Court issuing any Execution as

8 aforesaid, shall include therein interest from the
9 day of rendering said judgment to the time of
10 issuing said Execution.

SECT. 9. *Be it further enacted*, That this
2 Act shall take effect and go into operation from
3 and after the first day of July
4 next. And all Acts and parts of Acts incon-
5 sistent with the provisions of this Act, shall after
6 that time be repealed.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
February 6, 1834. }

ORDERED, That four hundred copies be printed for the use of
the Legislature.

[Extract from the Journal.]

Attest, ASAPH R. NICHOLS, *Clerk.*