

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

DOCUMENTS

PRINTED BY ORDER OF

THE LEGISLATURE,

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1834.

FOURTEENTH LEGISLATURE.

NO. 39.

HOUSE.

STATE OF MAINE.

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

[NEW DRAFT.]

AN ACT enlarging the jurisdiction of **Justices of the Peace** in civil cases.

SECT. 1. *Be it enacted by the Senate and House of Representatives in Legislature assembled,* That the **Eighth Section** of an Act entitled “**An Act** describing the powers of **Justices of the Peace** in civil actions and criminal cases, passed the fifteenth day of **March** in the year of our **Lord** one thousand eight hundred and twenty-one,” be and the same is hereby so far altered and amended as that the jurisdiction of **Justices of the Peace** in civil actions as provided, defined and limited by

12 existing laws, shall, and the same hereby is
 13 enlarged and extended to all such civil actions
 14 aforesaid, wherein the debt or damage demand-
 15 ed does not exceed the sum of **Fifty Dollars**—
 16 subject however to the like exceptions, limita-
 17 tions, restrictions and modes of proceeding as
 18 are now by law provided and prescribed in re-
 19 gard to the jurisdiction of **Justices of the Peace**
 20 in like actions where the debt or damage de-
 21 manded does not exceed the sum of twenty
 22 dollars. *Provided*, That no more damages than
 23 the sum of **Fifty Dollars** shall be awarded in
 24 any action originally brought or tried before a
 25 **Justice of the Peace**.

SECT. 2. *Be it further enacted*, That the
 2 amount of the sum or several sums specified,
 3 expressed or supposed to be demanded by the
 4 **Plaintiff** in his declaration shall not be consider-
 5 ed as any objection against the **Justice's** juris-
 6 diction. *Provided* the *ad damnum* or damages
 7 is not laid or stated to exceed **Fifty Dollars**.

SECT. 3. *Be it further enacted*, That the
 2 first section of an **Act**, entitled an **Additional**
 3 **Act**, concerning foreign attachment, passed the
 4 twenty-fourth day of **February**, in the year of

5 our Lord, one thousand eight hundred and
 6 twenty-four, be and the same hereby is so far
 7 altered and amended as that the action and pro-
 8 ceedings, therein described and authorized to be
 9 brought and had before any Justice of the Peace
 10 when the amount demanded in damages is not
 11 less than five nor more than twenty dollars,
 12 shall and may be brought in like manner before
 13 any such Justice, when the amount demanded
 14 in damages is not less than five nor more than
 15 fifty dollars—subject however to the same re-
 16 strictions, limitations and modes of proceeding
 17 as are now prescribed and provided by existing
 18 laws in relation to the trustee process and pro-
 19 ceedings therein instituted and had before a Jus-
 20 tice of the Peace.

SECT. 4. *Be it further enacted*, That the
 2 Act, entitled an Act, defining the powers and
 3 duties of Justices of the Peace respecting ac-
 4 tions of Replevin, passed the fourth day of
 5 March, in the year of our Lord, one thousand
 6 eight hundred and twenty-nine, be and the same
 7 is hereby so far altered and amended, that each
 8 and every Justice of the Peace in his County
 9 shall and he hereby is authorized and empower-

10 ed in the manner prescribed and provided by
 11 the laws now in force in this State, to hear, try
 12 and determine any action of **R**eplevin, for the
 13 **R**eplevying of any goods and chattles not ex-
 14 ceeding the value of fifty dollars.

SECT. 5. *Be it further enacted,* That no
 2 actions shall be sustained in any Court of Com-
 3 mon Pleas within this State where the damages
 4 demanded does not exceed fifty dollars, unless
 5 by appeal from a Justice of the Peace, saving
 6 such actions wherein the title to **R**eal Estate
 7 may be concerned. And if upon any action
 8 originally brought before the Court of Common
 9 Pleas judgment shall be recovered for no more
 10 than fifty dollars, debt or damage, in all such
 11 cases the Plaintiff shall be entitled to recover
 12 only one-eighth as much cost as debt so recov-
 13 ered. *Provided always,* That where judgment
 14 shall be rendered upon the report of **R**eferees
 15 full costs shall be taxed for the party recovering,
 16 notwithstanding the judgment be under fifty
 17 dollars; unless a different adjudication respecting
 18 the costs shall be made by the report itself.

SECT. 6. *Be it further enacted,* That when-
 2 ever an appeal shall be claimed from the judg-

3 ment of a Justice of the Peace in any civil
 4 action, it shall be the duty of such Justice to
 5 stay the issuing of an execution thereon for the
 6 space of four days, and it shall be the duty of
 7 the party appealing to appear before said Justice
 8 within that time, and enter into a recognizance
 9 with sufficient sureties to prosecute said appeal
 10 in like manner as is now established by law :
 11 and said Justice may require said appellant to
 12 recognize in any sum not exceeding fifty dollars.

SECT. 7. *Be it further enacted,* That when
 2 any Justice of the Peace shall issue his execu-
 3 tion for any sum exceeding twenty dollars debt
 4 or damage, he shall so vary said execution as to
 5 make it run against the lands of the debtor; and
 6 when any creditor shall cause the same to be
 7 levied on the debtor's lands, there shall be had
 8 all the proceedings relative to and concerning
 9 said levy, which it is now provided by law shall
 10 be had in the levy, and all other proceedings re-
 11 lative to or concerning it, of any execution issued
 12 from the Court of Common Pleas or Supreme
 13 Judicial Court, and the rights, liabilities and du-
 14 ties of the parties thereto and of all others shall
 15 be the same as are the rights, liabilities and du-

16 ties of parties and all others to said execution
17 issuing from said Court of Common Pleas or
18 Supreme Judicial Court and levied on the debt-
19 or's lands : *Provided*, That said Justice exe-
20 cution shall be returned to him in all cases on
21 such proceedings, and not to the office of the
22 Clerk of either of said Courts.

SECT. 8. *Be it further enacted*, That when-
2 ever any action shall be entered before any Jus-
3 tice of the Peace, it shall be competent for the
4 parties therein to enter into a reference of the
5 same, or of said action and other demands ; and
6 the said Justice shall make out a rule there-
7 on, and the report made by the referees in pur-
8 suance thereto, shall be returnable to the same
9 Justice, or in case of his death, removal, or for
10 any cause which may render such return imprac-
11 ticable, the same shall be made returnable to the
12 then next Court of Common Pleas in the same
13 County where said action was commenced ; and
14 in either case, the same doings shall be had
15 thereon as is now by law provided by virtue of
16 the " Act for providing a speedy method of re-
17 covering debts and for preventing unnecessary
18 costs attending the same," passed the twenty

19 seventh day of Jannury in the year of our Lord
20 one thousand eight hundred and twenty-one.

SECT. 9. *Be it further enacted,* That this
2 Act shall have force and take effect from and
3 after the first day of May next, and that all acts
4 and parts of acts inconsistent with any of the
5 provisions of this act, be and the same are here-
6 by repealed from and after said first day of May
7 next.

SECT. 10. *Be it further enacted,* That the
2 provisions of this act shall not be construed to
3 relate to any suit or action actually commenced
4 prior to said first day of May next, although the
5 return day of the writ or process may be on a
6 day subsequent to said first day of May next.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
February 25, 1834. }

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

[Extract from the Journal.]

Attest, ASAPH R. NICHOLS, *Clerk.*