

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE,

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1835.

AUGUSTA:
WILLIAM J. CONDON,.....PRINTER.

1835.

FIFTEENTH LEGISLATURE.

NO. 16.

HOUSE.

STATE OF MAINE.

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

AN ADDITIONAL ACT, regulating Judicial
Process and Proceedings.

SECTION 1. *Be it enacted by the Senate and*
2 *House of Representatives, in Legislature as-*
3 *sembled, That no party in any civil action, shall*
4 *be entitled to a Review as a matter of Right;*
5 *but all petitions for Review, shall be addressed*
6 *to the judgment and discretion of the Court,*
7 *upon the facts of the case, as provided in the*
8 *first and second sections of an Act, entitled "An*
9 *Act defining the powers of the Judicial Courts,*

10 in granting Reviews, and for other purposes,"
 11 passed on the fifteenth day of March, in the
 12 year of our Lord, one thousand eight hundred
 13 and twenty one.

SECT. 2. *Be it further enacted,* That no
 2 appeal shall be allowed from the decisions of
 3 the Court of Common Pleas, in any civil action,
 4 on a demand not exceeding one hundred dollars;
 5 but this act shall not be so construed, as to
 6 deprive either party of his right to allege *Ex-*
 7 *ceptions* to the opinion, direction, or judgment
 8 of said Court, in any matter of LAW.

SECT. 3. *Be it further enacted,* That no
 2 continuance shall be granted in any civil suit in
 3 the Court of Common Pleas, or Supreme Ju-
 4 dicial Court, unless the party requesting such
 5 continuance, or his Attorney, shall make and
 6 file in the case an *Affidavit*, stating therein, the
 7 *reasons* for such continuance, and that the same
 8 is not for the purpose of *delay*.

SECT. 4. *Be it further enacted,* That there
 2 shall be but one travel, and three days atten-
 3 dance allowed in taxing bills of cost for the
 4 Plaintiff in all actions, wherein the Defendants
 5 shall be defaulted, except in actions, continued

6 on affidavit, as provided in the third section of
7 this Act, and except also in actions, where the
8 Defendant, or his Attorney, shall appear and
9 answer to the same.

SECT. 5. *Be it further enacted,* That if any
2 Attorney at Law, or other person, shall be
3 guilty of commencing and prosecuting a suit in
4 the Supreme Judicial Court, Court of Common
5 Pleas, or before a Justice of the Peace, in the
6 name of a *fictitious* Plaintiff, for the purpose of
7 increasing the bill of costs, he shall on conviction
8 thereof in the Supreme Judicial Court,
9 forfeit and pay to the use of the County wherein
10 the offence shall have been committed, the sum
11 of fifty dollars, and shall be forever thereafter
12 prohibited from practicing as an Attorney in
13 either of said Courts.

SECT. 6. *Be it further enacted,* That in all
2 civil actions before Justices of the Peace,
3 wherein the Defendant shall be defaulted, the
4 Plaintiff shall not be allowed in his bill of costs
5 any travelling fee, except for such distance as is
6 actually travelled by the Plaintiff or his Attorney
7 for the purpose of attending to said action.

SECT. 7. *Be it further enacted,* That in all
2 actions of assumpsit for the recovery of a sum

3 or sums of money, the defendant shall have a
4 right to come into Court by himself or his At-
5 torney, on the day the writ or other process
6 is made returnable, if the same be returnable
7 before a Justice of the Peace, and if before the
8 Supreme Judicial Court, or Court of Common
9 Pleas, on or before the third day of the first
10 Term, and enter of Record, his consent to be
11 defaulted for a sum certain, exclusive of costs;
12 and if the Plaintiff in such suit, shall refuse to
13 take judgment for the sum so tendered in default
14 in full satisfaction of the demand sued for in his
15 writ or declaration; and shall proceed to trial,
16 and in the final judgment in such action shall
17 fail to recover a greater sum than that tendered
18 by the Defendant, with interest from the time of
19 such tender, he shall not recover any cost which
20 may accrue after such tender; but the Defend-
21 ant shall recover his costs from that time, and a
22 separate Execution shall issue therefor.

SECT. 8. *Be it further enacted,* That no
2 person shall be permitted to hold the office of
3 Sheriff, Clerk of the Judicial Courts, or Regis-
4 ter of Probate in any County in this State, for
5 more than twelve years in succession; and every
6 person, who shall have held either of said offices

7 for the term of twelve years in succession, shall
8 be ineligible for re-appointment for and during
9 the four years, next ensuing the expiration of
10 said twelve years.

SECT. 9. *Be it further enacted*, That this
2 Act shall take effect from and after the first day
3 of June next; and that all Acts and parts of
4 Acts, inconsistent with the provisions of this Act,
5 be, and the same hereby are, repealed from and
6 after the time aforesaid.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
February 10, 1835. }

Mr. LOWELL, of East Machias, laid upon the table, on leave obtained, BILL—AN ADDITIONAL ACT regulating “Judicial Process and Proceedings,” which was once read, and five hundred copies ordered to be printed for the use of the Legislature, and that the same be referred to the Committee on the Judiciary.

[Extract from the Journal of the House.]

Attest,

JAMES L. CHILD, CLERK.

WM. J. CONDON....PRINTER TO THE STATE.