

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. 27.

HOUSE.

STATE OF MAINE.

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

AN ACT to alter and amend the several Acts and
Laws for the Administration of Justice.

SECTION 1. *Be it enacted by the Senate and
2 House of Representatives, in Legislature as-
3 sembled,* That in all civil actions arising in this
4 State, the Supreme Judicial Court shall have
5 original and concurrent jurisdiction with the
6 Court of Common Pleas.

SECT. 2. *Be it further enacted,* That no ap-
2 peal shall be had from the Court of Common
3 Pleas in a civil action. *Provided,* That nothing
4 in this act shall be construed to deprive any

5 party of his writ of error, for any error appearing
6 of record in any action, or to prevent any party
7 aggrieved by the opinion or judgment of said
8 Court of Common Pleas appearing upon ex-
9 ceptions alleged and reduced to writing, in a
10 summary way, according to law, or rendered up-
11 on an issue in law or case stated by the parties
12 (where it is not agreed that the judgment of said
13 Court shall be final,) from appealing to the Su-
14 preme Judicial Court in the manner, and subject
15 to the proceedings and limitations prescribed by
16 law, and the Court may order amendments or
17 a repleader on such terms and conditions as
18 justice may require. But no stipulation reserv-
19 ing the right to waive the pleadings or statement
20 of the case made in the Common Pleas shall be
21 allowed, and in all such cases the action shall be
22 dismissed in the Supreme Judicial Court.

SECT. 3. *Be it further enacted,* That the
2 Court of Common Pleas shall have the same
3 power of granting reviews and new trials in civil
4 actions, as the Supreme Judicial Court now
5 have.

SECT. 4. *Be it further enacted,* That costs
2 for travel shall be taxed in all cases, according

3 to the distance of the Plaintiff or Attorney,
 4 whichever is nearest to the place of trial,
 5 and when the suit or action shall be in the name
 6 of an endorsee, such costs for travel shall be
 7 taxed according to the distance of the Attorney,
 8 payee or endorsee, whichever shall be nearest
 9 the place of trial. *Provided, That at the Su-*
 10 *preme Judicial Court and Court of Common*
 11 *Pleas, no costs for travel shall be allowed for*
 12 *the Plaintiff for more than forty miles, and no*
 13 *costs for travel for more than ten miles before*
 14 *any Justice of the Peace, unless in each case,*
 15 *the Plaintiff himself shall actually travel a great-*
 16 *er distance.*

SECT. 5. *Be it further enacted, That in all*
 2 *civil actions, sued or prosecuted in the Supreme*
 3 *Judicial Court or Court of Common Pleas, and*
 4 *answered to there by the Defendant, and which*
 5 *shall be defaulted before the jury shall be empan-*
 6 *nelled and called to try the cause, the Plaintiff*
 7 *shall in no case be allowed to tax in costs more*
 8 *than six days attendance, and if defaulted after*
 9 *such jury shall be so empannelled and called, the*
 10 *costs may be restricted to the same or any great-*
 11 *er number of days, at the discretion of the Court.*

SECT. 6. *Be it further enacted,* That
2 whenever any defendant in any suit founded on
3 contract, express or implied, bond or other spe-
4 ciality, or judgment of Court, shall appear in
5 Court, and there offer and consent in writing to
6 be defaulted and that judgment shall be render-
7 ed against him for a sum by him specified in
8 said writing, the same shall be entered on record,
9 together with the time the same was tendered,
10 and if afterwards the Plaintiff shall proceed to
11 trial and recover no greater sum for his debt or
12 damages and costs up to the time said offer was
13 made, the defendant shall recover his costs of
14 the plaintiff, and the costs so recovered shall be
15 offset against the sum so offered, and judgment
16 shall be rendered, and execution shall issue for
17 the balance for either party, which way soever
18 the same may be. And, if after such offer and
19 consent, the Plaintiff shall neglect to accept of
20 judgment for the sum so offered for more than
21 two days, the defendant shall be entitled to re-
22 cover costs afterwards until the Plaintiff shall
23 accept of such offer, or surcease his suit, and
24 execution may issue therefor accordingly.

SECT. 7. *Be it further enacted,* That
2 questions of law arising in prosecutions for the
3 support and maintenance of bastard children may
4 be transferred to and determined by the Su-
5 preme Judicial Court, in the same manner and
6 by similar process as questions of law are trans-
7 ferred and determined in civil suits.

SECT. 8. *Be it further enacted,* That an
2 Act passed on the fourth day of March, one
3 thousand eight hundred and twenty nine, enti-
4 tled "An Act additional to an Act to establish
5 a Court of Common Pleas," and all other Acts
6 or parts of Acts inconsistent with the provisions
7 of this Act be, and the same are hereby repealed.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
February 20, 1835. }

Mr. HOLMES from the Committee on the Judiciary, reported the foregoing Bill, which was read twice and ordered to lie on the table till Wednesday next, at 10 o'clock, and that 1000 copies be printed for the use of the Legislature.

(Extract from Journal.)

Attest,

JAMES L. CHILD, CLERK.