

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE,

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1837.

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48

SEVENTEENTH LEGISLATURE.

No. 39.

HOUSE.

STATE OF MAINE.



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

AN ACT enlarging the Jurisdiction of Justices of
the Peace in civil cases.

SECTION 1. *Be it enacted by the Senate
2 and House of Representatives in Legislature
3 assembled, That the eighth section of an Act
4 entitled "An Act describing the powers of Jus-
5 tices of the Peace in civil actions and criminal
6 cases, passed the fifteenth day of March, in the
7 year of our Lord one thousand eight hundred
8 and twenty-one," be, and the same is hereby so
9 far altered and amended, as that the jurisdiction
10 of Justices of the Peace in civil actions as pro-
11 vided, defined and limited by existing laws, shall
12 [be,] and the same is hereby enlarged and*

13 extended to all such civil actions aforesaid,
 14 wherein the debt or damage demanded does
 15 not exceed the sum of **Fifty-Three 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 regard
 19 to the jurisdiction of **Justices of the Peace** in
 20 like actions, where the debt or damage demanded
 21 does not exceed the sum of twenty dollars.
 22 *Provided*, That no more damages than the sum
 23 of fifty-three dollars shall be awarded in any
 24 action originally brought or tried before a **Justice**
 25 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 consid-
 5 ered as any objection against the Justice's
 6 jurisdiction. *Provided*, The *ad damnum* or
 7 damages is not laid or stated to exceed fifty-three
 8 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 is so far altered
 7 and amended as that the action and proceedings,
 8 therein described and authorized to be brought
 9 and had before any Justice of the Peace, when
 10 the amount demanded in damages is not less
 11 than five nor more than twenty dollars, shall and
 12 may be brought in like manner before any such
 13 Justice when the amount demanded in damages
 14 is not less than five nor more than fifty-three
 15 dollars, subject, however, to the same restrictions,
 16 limitations and modes of proceeding as are now
 17 prescribed and provided by existing laws in
 18 relation to the trustee process and proceedings
 19 therein instituted and had before a Justice of
 20 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 actions
 4 of Replevin, passed the fourth day of March,
 5 in the year of our Lord one thousand eight
 6 hundred and twenty-nine, be, and the same is
 7 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 empowered

10 in the manner prescribed and provided by the
 11 laws now in force in this State, to hear, try and
 12 determine any action of Replevin, for the re-
 13 plevying of any goods and chattels not exceeding
 14 the value of fifty-three 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-three dollars,
 5 unless by appeal from a Justice of the Peace,
 6 saving such actions wherein the title to real 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-three 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 Referees,
 15 full costs shall be taxed for the party recovering,
 16 notwithstanding the judgment be under fifty-
 17 three dollars; unless a different adjudication
 18 respecting the costs shall be made by the report
 19 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-three
13 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
11 relative to and concerning it, of any execution
12 issued from the Court of Common Pleas or

13 Supreme Judicial Court, and the rights, liabilities
 14 ties and duties of the parties thereto and of all
 15 others, shall be the same as are the rights, liabilities
 16 bilities and duties of parties and all others to
 17 said execution issuing from said Court of Common
 18 Pleas or Supreme Judicial Court and
 19 levied on the debtor's lands:—*Provided*, That
 20 said Justice Execution shall be returned to him
 21 in all cases on such proceedings, and not to the
 22 office of the Clerk of either of said Courts.

SECT. 8. *Be it further enacted*, That whenever
 2 ever any action shall be entered before any
 3 Justice of the Peace, it shall be competent for
 4 the parties therein to enter into a reference of
 5 the same, or of said and other demands; and
 6 the said Justice shall make out a rule thereon,
 7 and the report made by the referees in pursuance
 8 thereto, shall be returnable to the same Justice,
 9 or in case of his death, removal, or for any cause
 10 which may render such return impracticable,
 11 the same shall be made returnable to the then
 12 next Court of Common Pleas in the same
 13 County where such 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 recov-
 17 ering debts and for preventing unnecessary costs
 18 attending the same," passed the twenty-seventh
 19 day of January, in the year of our Lord one
 20 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
 4 Acts and parts of Acts inconsistent with any of
 5 the provisions of this Act, be, and the same
 6 are hereby repealed from and after said first day
 7 of May 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, }
March 15, 1837. }

Read twice, laid on the table, and 500 copies ordered
to be printed for the use of the Legislature.

(Extract from the Journal.)

Attest: **CHARLES WATERHOUSE, Clerk.**