

# MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE,

OF THE

STATE OF MAINE,

DURING ITS SESSION

**A. D. 1838.**

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# EIGHTEENTH LEGISLATURE.

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No. 21.

HOUSE.

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## STATE OF MAINE.

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

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

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SECT. 1. *Be it enacted by the Senate and House  
2 of Representatives in Legislature assembled, That  
3 the eighth section of An Act entitled "An Act de-  
4 scribing the powers of Justices of the Peace in civil  
5 actions and criminal cases, passed the fifteenth day  
6 of March, in the year of our Lord one thousand  
7 eight hundred and twenty-one," be and the same is  
8 hereby so far altered and amended, as that the ju-  
9 risdiction of Justices of the Peace, in civil actions,  
10 as provided, defined and limited by existing laws,  
11 shall be, and the same is hereby enlarged and ex-  
12 tended to all such civil actions aforesaid, wherein  
13 the debt or damage demanded does not exceed the  
14 sum of One Hundred Dollars, subject, however, to the  
15 like exceptions, limitations, restrictions and modes*

16 of proceeding as are now by law provided and pre-  
 17 scribed in regard to the jurisdiction of Justices of  
 18 the Peace, in like actions, where the debt or dam-  
 19 age demanded does not exceed the sum of Twenty  
 20 Dollars : *Provided*, That no more damages than  
 21 the sum of One Hundred Dollars shall be awarded  
 22 in any action originally brought or tried before a  
 23 Justice of the Peace.

SEC. 2. *Be it further enacted*, That the amount  
 2 of the sum or several sums specified, expressed or  
 3 supposed to be demanded by the plaintiff in his de-  
 4 claration, shall not be considered as any objection  
 5 against the Justice's jurisdiction : *Provided*, The  
 6 *ad damnum*, or damages, is not laid or stated to  
 7 exceed One Hundred Dollars.

SEC. 3. *Be it further enacted*, That the first sec-  
 2 tion of an act entitled "An Additional Act concern-  
 3 ing foreign attachments," passed the 24th day of  
 4 February, in the year of our Lord one thousand  
 5 eight hundred and twenty-four, be and the same is  
 6 so far altered and amended, as that the action and  
 7 proceedings therein described and authorized to be  
 8 brought and had before any Justice of the Peace,  
 9 when the amount demanded in damages is not less  
 10 than five nor more than twenty dollars, shall and  
 11 may be brought in like manner before any such  
 12 Justice, when the amount demanded in damages is  
 13 not less than five nor more than one hundred dol-

14 lars, subject, however, to the same restrictions,  
 15 limitations, and modes of proceeding as are now  
 16 prescribed and provided by existing laws in rela-  
 17 tion to the trustee process and proceedings therein  
 18 instituted and had before a Justice of the Peace.

SEC. 4. *Be it further enacted,* That the act entitled  
 2 “An Act defining the powers and duties of Justi-  
 3 ces of the Peace, respecting actions of replevin,”  
 4 passed the fourth day of March, in the year of our  
 5 Lord one thousand eight hundred and twenty-nine,  
 6 be and the same is hereby so far altered and amend-  
 7 ed, that each and every Justice of the Peace, in  
 8 his county, shall, and he hereby is authorized and  
 9 empowered, in the manner prescribed and provided  
 10 by the laws now in force in this State, to hear, try  
 11 and determine any action of replevin, for the re-  
 12 plevying of any goods and chattels not exceeding  
 13 the value of one hundred dollars.

SEC. 5. *Be it further enacted,* That no action shall  
 2 be sustained in any Court of Common Pleas with-  
 3 in this State, where the damages demanded do not  
 4 exceed one hundred dollars, unless by appeal from  
 5 a Justice of the Peace, saving such actions where-  
 6 in the title to real estate may be concerned. And  
 7 if, upon any action originally brought before the  
 8 Court of Common Pleas, judgment shall be re-  
 9 covered for no more than one hundred dollars,  
 10 debt or damage, in all such cases the plaintiff shall

11 be entitled to recover only one twenty-fifth as much  
 12 cost as debt so recovered: *Provided always*, That  
 13 where judgment shall be rendered upon the report  
 14 of referees, full costs shall be taxed for the party  
 15 recovering, notwithstanding the judgment be under  
 16 one hundred dollars, unless a different adjudica-  
 17 tion respecting the costs shall be made by the re-  
 18 port itself.

SEC. 6. *Be it further enacted*, That whenever an  
 2 appeal shall be claimed from the judgment of a  
 3 Justice of the Peace in any civil action, it shall be  
 4 the duty of such Justice to stay the issuing of an  
 5 execution thereon, for the space of four days, and  
 6 it shall be the duty of the party appealing to ap-  
 7 pear before said Justice within that time, and en-  
 8 ter into a recognizance, with sufficient sureties, to  
 9 prosecute said appeal in like manner as is now es-  
 10 tablished by law, and said Justice may require  
 11 said appellant to recognize in any sum not exceed-  
 12 ing fifty dollars.

SEC. 7. *Be it further enacted*, That when any Jus-  
 2 tice of the Peace shall issue his execution for any  
 3 sum exceeding twenty dollars, debt or damage, he  
 4 shall so vary said execution as to make it run  
 5 against the lands of the debtor; and when any  
 6 creditor shall cause the same to be levied on the  
 7 debtor's lands, there shall be had all the proceed-  
 8 ings relative to and concerning said levy which it

9 is now provided by law shall be had in the levy,  
10 and all other proceedings relative to and concern-  
11 ing it, of any execution issued from the Court of  
12 Common Pleas or Supreme Judicial Court, and  
13 the rights, liabilities and duties of the parties there-  
14 to, and of all others, shall be the same as are the  
15 rights, liabilities and duties of parties and all others  
16 to said execution issuing from said Court of Com-  
17 mon Pleas or Supreme Judicial Court and levied  
18 on the debtor's lands: *Provided*, That said Jus-  
19 tice execution shall be returned to him in all cases  
20 on such proceedings, and not to the office of the  
21 Clerk of either of said Courts.

SEC. 8. *Be it further enacted*, That whenever  
2 any action shall be entered before any Justice of  
3 the Peace, it shall be competent for the parties  
4 therein to enter into a reference of the same, or of  
5 said and other demands; and the said Justice shall  
6 make out a rule thereon, and the report made by the  
7 referees in pursuance thereto shall be returnable to  
8 the same Justice, or in case of his death, removal,  
9 or for any cause which may render such return im-  
10 practicable, the same shall be made returnable to  
11 the then next Court of Common Pleas in the same  
12 County where said action was commenced; and in  
13 either case, the same doings shall be had thereon  
14 as are now by law provided, by virtue of the "Act  
15 for providing a speedy method of recovering debts

16 and for preventing unnecessary costs attending the  
17 same," passed the twenty-seventh day of January,  
18 in the year of our Lord one thousand eight hun-  
19 dred and twenty-one.

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

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





# STATE OF MAINE.

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HOUSE OF REPRESENTATIVES, }  
March 1, 1838. }

The foregoing Bill was read twice, laid on the table, and  
300 copies ordered to be printed for the use of the Legislature.

[Extract from Journal.]

GEO. C. GETCHELL, Clerk.