

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1839.

VOL. 2.

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SMITH & ROBINSON, PRINTERS TO THE STATE.

1839.

NINETEENTH LEGISLATURE.

NO. 15.

HOUSE.

AN ACT TO ABOLISH

THE

COURT OF COMMON PLEAS,

AND ESTABLISH

DISTRICT COURTS.

[SMITH & ROBINSON,.....Printers to the State.]



STATE OF MAINE.

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

AN ACT to abolish the Court of Common Pleas,
and establish District Courts.

SECTION 1. *Be it enacted by the Senate
2 and House of Representatives in Legislature
3 assembled,* That there be, and hereby is estab-
4 lished a District Court, which shall be holden
5 by one Justice; and shall have original and ex-
6 clusive jurisdiction of all civil actions where the
7 debt or damage demanded does not exceed the
8 sum of two hundred dollars, excepting actions
9 of replevin, trespass quare clausum fregit, eject-
10 ment, real actions, and actions against towns;
11 and shall have original and concurrent jurisdic-
12 tion with the Supreme Judicial Court in all
13 actions above excepted, and also of all civil ac-
14 tions in which the debt or damage demanded

15 exceeds the sum of two hundred dollars; and
16 shall also have jurisdiction of all such offences,
17 crimes and misdemeanors, as before the passage
18 of this act were cognizable by the Court of
19 Common Pleas; and shall also have appellate
20 jurisdiction of all civil actions, and of all crimes
21 and offences where an appeal may now, by
22 law, be made to the Court of Common Pleas,
23 from the judgment or sentence of any Justice of
24 the Peace, or any police or municipal Court.
25 And said District Court is hereby fully author-
26 ized to give judgment, award execution, admin-
27 ister necessary oaths and affirmations, and to do,
28 execute, perform and order, whatever by the
29 constitution and laws, it shall be their duty to
30 do, or whatever the Court of Common Pleas,
31 before the passing of this act, were authorized
32 to do, execute or perform.

SEC. 2. *Be it further enacted,* 'That the
2 State be, and hereby is divided into three Dis-
3 tricts, which shall be denominated the West-
4 ern, Middle, and Eastern District. The coun-
5 ties of York, Cumberland, Franklin and Oxford
6 shall constitute the Western District; the coun-
7 ties of Lincoln, Kennebec and Somerset shall

8 constitute the **Middle District**; and the coun-
9 ties of **Waldo, Piscataquis, Penobscot, Han-**
10 **cock and Washington** shall constitute the **East-**
11 **ern District**. There shall be appointed and
12 commissioned, in manner provided by the con-
13 stitution, in and for the **Western and Middle**
14 **Districts**, each, one person, and in and for the
15 **Eastern District**, two persons, to be **Justices of**
16 **the District Court**; and said **Justices**, so ap-
17 pointed and commissioned, shall have power to
18 hold the **District Courts**, within any of the
19 counties of the **District** for which the said **Jus-**
20 **tice** is appointed, at the times and places now
21 established by law for holding the **Court of**
22 **Common Pleas**. And whenever it shall so hap-
23 pen, that no **Justice of said Court** shall attend
24 at the time and place, at which said **Court**, by
25 law, or by previous adjournment, ought to have
26 been held, the **Sheriff of the County**, or in his
27 absence, the **Clerk of the Court** may adjourn
28 the said **Court**, from day to day, or to such time
29 as a **Justice of said District** shall attend; and
30 shall post public notification thereof in writing
31 on the door of the **Court House**. And in case
32 the **Justice or Justices of said Court** shall be

33 interested, or shall be otherwise disqualified to
34 preside in the trial of any action which may be
35 pending in said Court, the same shall be trans-
36 ferred to the Supreme Court.

SEC. 3. *Be it further enacted*, That all
2 writs and processes issuing from the District
3 Court, shall be in the name of the State, and
4 shall bear test of one of the Justices of said
5 Court; and such writs and processes shall be
6 under the seal of said Court, and signed by the
7 Clerk thereof, in the County where the same
8 may be returnable; and shall have force and be
9 obeyed and executed in every County in the
10 State. And all original process shall be sum-
11 mons, *capias* or attachment, and shall be served
12 and returned in the same way and manner as
13 is now provided by law for the service and re-
14 turn of similar processes; and the form of all
15 processes and executions shall be so far altered
16 and changed as to conform to the provisions of
17 this act.

SEC. 4. *Be it further enacted*, That any
2 party aggrieved at the judgment of any District
3 Court in any personal action wherein any issue
4 has been joined, in which the debt or damage

5 demanded shall exceed two hundred dollars,
6 and in any action of replevin, or action of tres-
7 pass quare clausum fregit, ejectment, or real
8 action, or action against a town, may appeal
9 therefrom to the next Supreme Judicial Court
10 to be holden within and for the County where
11 such judgment may be rendered; and the party
12 so appealing, before such appeal be allowed,
13 shall recognize with sufficient surety or sureties
14 to the adverse party, in a reasonable sum, to pro-
15 secute his appeal and to pay all such costs as
16 may arise in any such suit, after such appeal.
17 And when any such appeal in any personal ac-
18 tion, except actions of trespass quare clausum
19 fregit, replevin, ejectment, or real actions, and
20 actions against towns, shall be made by any
21 plaintiff, and he shall not recover more than two
22 hundred dollars debt or damage, he shall not
23 recover any costs after such appeal; but the de-
24 fendant shall recover his costs on such appeal,
25 against the plaintiff, and shall have a separate
26 judgment therefor; and in case such appeal
27 was made by the defendant, and the debt or
28 damages recovered in the District Court, shall

29 not be reduced, the plaintiff shall be entitled to
30 recover double costs on the appeal, unless the
31 Justice before whom the trial, in the District
32 Court was had, shall certify that there was just
33 and reasonable cause for such appeal; and if the
34 appellant shall fail to enter his appeal in the
35 Supreme Judicial Court, the same Court, may
36 upon complaint, render judgment in such action,
37 according to the provisions of this act.

SEC. 5. *Be it further enacted,* That either
2 party aggrieved by any opinion, direction or
3 judgment of said District Court, in any matter
4 of law, may allege exceptions to the same;
5 which exceptions being reduced to writing in a
6 summary mode, and being presented to the
7 Court before the adjournment thereof, if con-
8 formable to the truth of the case, shall be allow-
9 ed and signed by the presiding Justice of said
10 Court, and thereupon all further proceedings
11 shall be stayed; and the party making such ex-
12 ceptions shall enter such action at the Supreme
13 Judicial Court, at the next term thereof for the
14 same County, and shall produce there all the
15 papers, as in case of appeal. And the Supreme

16 Judicial Court shall have cognizance thereof,
17 and consider and determine the same in the same
18 manner as they are authorized to do in respect
19 to actions originally commenced and entered in
20 said Court, and shall render judgment thereon,
21 or may grant a new trial at the bar of said
22 Court, as law and justice may require. And
23 when any party alleging exceptions as aforesaid,
24 shall fail to enter the action at the first succeed-
25 ing term of the Supreme Judicial Court for the
26 same County, and complaint thereof shall be
27 made by the adverse party; or whenever the
28 Court shall determine that any exceptions, so
29 made as aforesaid, are frivolous and intended
30 only for delay, the same Court shall award
31 double costs of that Court against the party
32 making such exceptions, and increase of dama-
33 ges by adding to the same, interest thereon
34 to the time of final judgment.

SEC. 6. *Be it further enacted,* That the Su-
2 preme Judicial Court shall have original and
3 concurrent jurisdiction with the District Court,
4 of all actions of replevin, trespass quare claus-
5 um fregit, of ejectment, or real actions, of all
6 actions against towns, and also of all personal

7 actions where the debt or damage demanded
8 exceed the sum of two hundred dollars, arising
9 within the Counties of this State respectively.
10 And when any personal action, excepting actions
11 of replevin, trespass quare clausum fregit,
12 ejectment, or real action, and actions against
13 towns, shall be commenced in the Supreme Ju-
14 dicial Court, and the plaintiff shall not recover
15 the sum of two hundred dollars debt or damage,
16 he shall recover no costs, unless the presiding
17 Justice, in the trial of said action, shall certify
18 and allow the same.

SEC. 7. *Be it further enacted,* That the
2 District Court shall have power at the term
3 when judgment in any action, of which said
4 Court has final jurisdiction, is rendered, or at
5 any subsequent term, on motion or petition, if
6 said motion or petition be filed within one year
7 from the rendition of such judgment, after giv-
8 ing due notice thereof to the adverse party, to
9 grant a new trial of any such action, for any
10 cause, for which by the common law a new trial
11 may be granted, or when, upon due considera-
12 tion and examination, it shall appear to said
13 Court, that justice has not been done between

14 the parties, upon such terms and conditions as
15 the same Court may deem reasonable: *Provi-*
16 *ded*, That when there has been two verdicts
17 of a Jury in the same action, in favor of the
18 same party, a new trial shall not be granted.
19 And said Court shall have power from time to
20 time, to make and establish all such rules for the
21 entry of actions, filing pleas in abatement, and
22 demurrers to declarations, for the orderly and
23 well conducting of the business thereof, as may
24 be deemed proper, and which shall not be re-
25 pugnant to the laws of this State.

SEC. 8. *Be it further enacted*, That the
2 Grand Jury, now required to attend the Court
3 of Common Pleas in the respective Counties,
4 and one or two traverse Juries, shall be required
5 to attend the District Court, holden within the
6 respective Counties, as the Court may direct,
7 in the same manner, and under the same penal-
8 ties that they are now holden by law to attend
9 the Court of Common Pleas; and shall there-
10 after give their attendance on such days of each
11 term, as shall by the District Court, in each

12 County respectively, be directed; and writs of
13 venire facias shall issue accordingly.

SEC. 9 *Be it further enacted,* That all ac-
2 tions, suits, matters and things which may be
3 pending in the Court of Common Pleas, and all
4 writs, executions, warrants, recognizances, and
5 processes, returnable to, and which would have
6 had day therein, had not this act been passed,
7 shall, after this act shall take effect, be return-
8 able to, have day in, and be fully acted upon,
9 by the District Court, created by this act, in
10 the respective Districts and Counties where the
11 same may be pending or are returnable. And
12 all parties, jurors, witnesses and others who
13 would have been held to appear at the Court
14 of Common Pleas, then next to be holden after
15 this act shall take effect, shall be holden to ap-
16 pear at the next District Court in the respective
17 Counties; and said District Court, in the re-
18 spective Districts, shall have full power and au-
19 thority to grant any execution to carry into effect
20 any judgment rendered in the Court of Com-
21 mon Pleas, in the same manner, as said Court

22 of Common Pleas might, had not this act been
23 passed.

SEC. 10. *Be it further enacted,* That each
2 of the Justices of the District Court, shall, dur-
3 ing his continuance in office, receive a salary of
4 fifteen hundred dollars a year, which annual sum
5 shall be allowed and paid to each of the Justi-
6 ces of said Court, out of the Treasury of the
7 State, in equal quarterly payments.

SEC. 11. *Be it further enacted,* That the
2 respective Clerks of the Courts in the several
3 Counties shall be subject to the duties and lia-
4 bilities now imposed upon them by the Statutes
5 establishing a Court of Common Pleas.

SEC. 12. *Be it further enacted,* That an
2 act passed February fourth, one thousand eight
3 hundred and twenty-two, entitled “An Act to
4 establish a Court of Common Pleas”; also the
5 first, second and third sections of an act passed
6 on the eleventh day of March, one thousand
7 eight hundred and thirty-five, entitled “An Act
8 to alter and amend the several acts and Laws
9 for the administration of justice,” and all other
10 acts and parts of acts inconsistent with the

11 provisions of this Act be, and the same are
12 hereby repealed.

SEC. 13. *Be it further enacted,* That this
2 act shall take effect and be in force from and
3 after the first day of ——— next.

STATE OF MAINE

HOUSE OF REPRESENTATIVES, }
January 30, 1839. }

This Bill having had two several readings, was laid on the table, and 600 copies ordered to be printed for the use of the Legislature.

CHARLES WATERHOUSE, Clerk.