

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1857.

PART SECOND.

AUGUSTA:
STEVENS & BLAINE, PRINTERS TO THE STATE.
1857.

THIRTY-SIXTH LEGISLATURE

HOUSE.]

[No. 40.]

STATE OF MAINE.

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

AN ACT additional concerning the Supreme Judicial
Court and judicial proceedings.

*Be it enacted by the Senate and House of Representatives
in Legislature assembled, as follows :*

SECTION 1. The Governor with the advice and
2 consent of the Council shall designate four justices
3 of the Supreme Judicial Court, one of whom shall be
4 the Chief Justice, whose duty it shall be to hear and
5 determine all questions of law and equity, and try all
6 indictments found for crimes the punishment of which
7 is death. Three of said Justices shall constitute a
8 quorum, but no case shall be determined as aforesaid
9 without the concurrence of three, except in cases in
10 which one of the justices designated as aforesaid by
11 reason of interest, or otherwise, is incompetent to sit ;
12 and on trial of indictments for capital crimes, three

13 must concur in any ruling or instruction. It shall be
14 the duty of said justices, from time to time, as the
15 public necessities may require, severally to hold and
16 preside at, the terms which by law are held by one
17 judge for the trial of issues in the several counties.
18 They shall hold the law terms of said Court, at Port-
19 land for the Western District, on the second Tuesday
20 of May ; at Augusta for the Middle District, on the
21 second Tuesday of June ; at Bangor for the Eastern
22 District, on the second Tuesday of July, of each year.

SECT. 2. Whenever a party, whose duty it shall
2 be to enter any civil action in the law court in any
3 district, shall fail to enter the same within the first
4 two days of the term in which the entry thereof should
5 be made, the opposite party may thereafterwards, dur-
6 ing the same term, enter a complaint, briefly setting
7 forth the facts, and the Court, on being satisfied of
8 the truth of said complaint, may order judgment to
9 be rendered in favor of such complainant, as in other
10 cases decided by the law court ; and if the case is on
11 exceptions, the complainant shall recover treble costs
12 from the time they were filed.

SECT. 3. Whenever a demurrer shall be filed and

2 joined, the presiding justice shall rule thereon, and
3 the ruling shall be final unless the party aggrieved
4 shall except to such ruling. The party demurring
5 shall not, after the demurrer is joined, withdraw the
6 same without leave of Court and the consent of the
7 opposite party. If the law court shall deem any such
8 exceptions frivolous, they shall impose treble costs on
9 the party demurring from the time of the filing of
10 such demurrer.

SECT. 4. All acts and parts of acts inconsistent
2 with this act, are hereby repealed ; and this act shall
3 be in force from and after its approval by the Gov-
4 ernor.

AMENDMENT OFFERED BY MR. DRUMMOND OF
WATERVILLE.

Amend the Bill by adding thereto the following :

“SECT. 5. In all civil cases hereafter entered in said court,
2 when the defendant appears, he shall, at least fourteen days be-
3 fore the next succeeding term, file with the clerk of the court
4 a specification of the nature and grounds of his defence, with a
5 declaration signed by himself, or his attorney, that the declar-

AMENDMENT.

ant believes that there is a good defence to all or a part of the plaintiff's claim, and that he intends to make such defence. The clerk shall mark for trial on the docket, only cases in which specifications shall have been filed as aforesaid, and the Court shall dispose of all other cases, as justice may require. But the Court may in its discretion allow such specification and declaration to be filed and the case entered on the trial docket after such time, and also may allow amendments to specifications under the rules regulating amendments of writs and declarations. In all cases which shall be marked for trial, as aforesaid, if no issue shall be joined, or no actual trial had in any mode, and judgment be rendered for the plaintiff, the defendant shall be liable for treble costs, unless the presiding judge shall certify or enter upon record, that the defendant had reasonable grounds for filing his said specifications and declaration, and that the same was not filed for the mere purpose of delay. Plaintiff may demur to said specifications of defence, and the demurrer shall be disposed of as in other cases.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, {
April 2d, 1857. }

ORDERED, That 350 copies of the foregoing Bill, with the amendment proposed by Mr. Drummond of Waterville, be printed for the use of the Legislature.

GEO. W. WILCOX, *Clerk*