

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE.

1862.

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1862.

FORTY-FIRST LEGISLATURE.

SENATE.

No. 27.

STATE OF MAINE.

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

AN ACT to establish a court of common pleas.

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

SECTION 1. There shall be, and hereby is established
2 a court of common pleas, which shall consist of a
3 chief justice and two associate justices; each of whom
4 shall be an inhabitant of this state, of sobriety of man-
5 ners and learned in the law, appointed and com-
6 missioned as prescribed in the constitution; and as
7 vacancies occur, they shall be filled in the manner
8 provided by the constitution, so that there shall always
9 be one chief justice, and two other justices of the said
10 court.

SECT. 2. The justices of the said court shall establish a seal for the said court; and all writs and processes issuing from the said court, shall be in the name of the State of Maine, shall be in the form now in use, shall bear the teste of one of the justices of said court, shall be under the seal of said court, and signed by the clerk thereof in the county where the writ or process may be returnable; and shall have force and be obeyed and executed throughout the state.

SECT. 3. Each of the justices of said court shall receive an annual salary of eighteen hundred dollars, which shall be paid to them out of the treasury of the state, in equal quarterly payments.

SECT. 4. The several clerks for the time being of the supreme judicial court, in the several counties, shall also be the clerks of the court of common pleas for said counties, and shall perform all the duties of clerks of said court of common pleas, and shall be entitled to receive for their services the same fees and compensation which now are, or hereafter may be allowed by law to the clerks of the supreme judicial court for similar services.

SECT. 5. The said court of common please shall have original and exclusive jurisdiction of all civil actions, in which the debt or damage demanded does

4 not exceed two hundred dollars, and of actions of re-
5 plevin where the value of the property does not exceed
6 two hundred dollars; excepting actions in which
7 municipal or police courts, or trial justices have orig-
8 inal jurisdiction, real actions and actions between
9 towns, actions of replevin where the value of the
10 property exceeds two hundred dollars, and actions
11 where the title to real estate is in controversy. And
12 shall have original and concurrent jurisdiction with
13 the supreme judicial court in all actions in which the
14 debt or damage demanded exceeds two hundred dol-
15 lars, and in real actions, actions of replevin where the
16 value of the property exceeds two hundred dollars,
17 actions where the title to real estate is in controversy,
18 petition for partition, complaints for flowage, and com-
19 plaints under the act for the maintenance of bastard
20 children. But in any suit or proceeding in which the
21 supreme judicial court has concurrent jurisdiction with
22 said court of common pleas, such suit or proceeding
23 shall, at the request of the defendant made by motion
24 in writing at the return term, be transferred to the
25 supreme judicial court and there be tried in the same
26 manner as if originally commenced in that court.

SECT. 6. The said court of common pleas shall have
2 original and exclusive jurisdiction of all offences,

3 crimes and misdemeanors, except murder, rape, bur-
4 glary and arson, and those cognizable by municipal or
5 police courts or trial justices.

SECT. 7. The said court of common pleas shall also
2 have appellate jurisdiction of all civil actions, and o
3 all crimes and offences, where an appeal may by law
4 be made from the judgment or sentence of a trial jus-
5 tice, municipal or police court.

SECT. 8. The said court of common pleas is hereby
2 fully authorized to administer all necessary oaths,
3 render judgment, and award execution; make all such
4 rules and regulations not repugnant to law, as may be
5 necessary and proper for conducting the business of
6 the court and administering justice promptly and with-
7 out delay; and is hereby clothed with all the power
8 necessary for the performance of the duties imposed
9 upon it by the laws of the state.

SECT. 9. Whenever it shall so happen that no jus-
2 tice of said court shall attend at the time and place,
3 at which said court by law, or by adjournment, ought
4 to be held, the sheriff of the county may by oral proc-
5 lamation, adjourn the said court from day to day, until
6 a justice shall attend.

SECT. 10. If in any action originally commenced in
2 said court of common pleas, the plaintiff shall not re-

3 cover more than twenty dollars debt or damage, he
4 shall not be entitled to recover, for costs, more than
5 one-quarter of the amount of the debt or damage so
6 recovered; *provided, however*, that in actions between
7 towns, and in real actions, actions of replevin, where
8 the value of the property exceeds twenty dollars, and
9 actions where the title to real estate is in controversy,
10 full costs may be taxed for the prevailing party.

SECT. 11. There shall be no appeal from any judg-
2 ment of the court of common pleas upon the verdict of
3 a jury.

SECT. 12. The said court of common pleas, at any
2 time before rendering judgment, may set aside the
3 verdict, and grant a new trial of any action, for any
4 cause, for which by law a new trial may be granted,
5 or when in the opinion of the court, justice has not
6 been done between the parties, on such terms and
7 conditions as the court may think proper to impose.
8 And said court may grant a review in any action in
9 which judgment was recovered in said court in the
10 same manner as the supreme judicial court is author-
11 ized by law to do.

SECT. 13. Any party aggrieved by any opinion,
2 direction or judgment, of said court of common pleas
3 in any matter of law, may allege exceptions thereto;

4 which being reduced to writing in a summary mode
5 and presented to the court before the adjournment
6 thereof without day, and being found conformable to
7 the truth, shall be allowed and signed by the presid-
8 ing judge ; but no trial before a jury shall be pre-
9 vented or delayed by the alleging or allowance of such
10 exceptions, but said trial shall proceed until a verdict
11 is rendered.

SECT. 14. The party excepting shall, within such
2 time as the court shall order, recognize with sufficient
3 surety or sureties, to the adverse party, in such sum
4 as the court shall order, to prosecute his exceptions
5 with effect, and pay all intervening costs.

SECT. 15. The party alleging the exceptions shall
2 enter the action in the supreme judicial court at the
3 next law term thereof holden within and for the dis-
4 trict embracing the county in which said action is
5 pending, and produce all the papers in the cause ; and
6 said supreme judicial court shall have cognizance of
7 the cause, and decide the questions of law raised
8 therein, and render judgment, or grant a new trial at
9 the bar of said court, or of the court of common pleas
10 at the discretion of said court, and cause such other
11 proceedings to be had as to law and justice shall ap-
12 pertain.

SECT. 16. If the party alleging the exceptions shall
2 fail to duly enter the action, and to produce the papers
3 required by law, the supreme judicial court shall, upon
4 complaint of the adverse party, affirm the former judg-
5 ment, and increase the damages, if any, by adding
6 legal interest thereon, and award double costs against
7 the excepting party.

SECT. 17. Any person convicted of an offence in
2 the court of common pleas, thinking himself aggrieved
3 by any opinion, direction or judgment of the court in
4 any matter of law, may allege exceptions thereto, in
5 the manner provided in section thirteen ; and the
6 person alleging exceptions shall recognize with surety
7 or sureties, as the court shall direct, to produce the
8 necessary papers, and prosecute his exceptions before
9 the supreme judicial court, and abide the sentence and
10 order of said court, or, if the cause should be remand-
11 ed, of the court of common pleas ; and the supreme
12 judicial court shall have cognizance thereof, and may
13 overrule said exceptions or sustain the same, and grant
14 a new trial at the bar of said court or at the bar of the
15 court of common pleas, or remand the cause to the
16 court of common pleas for further proceeding, as jus-
17 tice, in the opinion of the court, may require. If he
18 shall fail to enter and prosecute his exceptions, the

19 court may, upon complaint filed by the attorney gen-
20 eral, briefly reciting the facts, and upon his producing
21 a copy of the exceptions, overrule the same, and re-
22 mand the case to the court of common pleas for sen-
23 tence, and the recognizance shall be forfeited.

SECT. 18. Final judgments in the court of common
2 pleas, either in civil actions, or in criminal cases, may
3 be re-examined upon a writ of error, and reversed or
4 affirmed in the supreme judicial court held within the
5 county where such judgment was rendered ; and when
6 the judgment in any civil action shall be reversed, the
7 supreme judicial court shall render such judgment as
8 the court of common pleas should have rendered, or
9 such judgment as shall be in accordance with the
10 course of the common law. And in all civil suits,
11 either party, and in all criminal causes, the defendant,
12 may except to any ruling of any judge of said supreme
13 judicial court in the trial of any writ of error, and
14 may prosecute his exceptions in the manner provided
15 in section fifteen.

SECT. 19. No stipulation or agreement, reserving
2 the right to waive the pleadings or statement of the
3 case in the court of common pleas, and plead anew in
4 the supreme judicial court, shall be allowed.

SECT. 20. Grand and traverse jurors shall be drawn

2 and returned in the manner provided by law, to serve
3 at the terms of said court of common pleas ; and the
4 grand jurors so returned shall serve at every term of
5 said court throughout the year.

SECT. 21. The several county attorneys shall be re-
2 quired to attend the several terms of the court of com-
3 mon pleas in their respective counties, and act for the
4 state and for such county in all cases in which the
5 state or the county may be a party.

SECT. 22. All indictments shall be found and re-
2 turned by the grand jurors attending the court of com-
3 mon pleas ; and whenever an indictment shall be there
4 found and returned for the crime of murder, rape, bur-
5 glary or arson, if the person accused be not in custody,
6 process shall be forthwith issued from the court of com-
7 mon pleas to arrest him, but the party charged shall
8 not be arraigned nor tried in that court ; but the orig-
9 inal indictment shall be transmitted to the supreme
10 judicial court at the next term thereof, holden in and
11 for the county where said indictment was found, to be
12 there heard, tried and determined, as if the said in-
13 dictment had been found and returned in said supreme
14 judicial court.

SECT. 23. The presiding justice shall hear and de-

2 termine all causes whatsoever, without the intervention
3 of a jury, when both parties shall have so agreed, and
4 entered such agreement on the docket, with right of
5 exception in all cases.

SECT. 24. The court of common pleas shall be held
2 annually, by one of the justices thereof at the places
3 and times hereinafter mentioned, that is to say,

4 At Alfred, within and for the county of York on the
5 second Tuesday of May and at Saco in said county on
6 the first Tuesday of January.

7 At Portland, within and for the county of Cumber-
8 land, on the first Tuesdays of March and September.

9 At Paris, within and for the county of Oxford, on
10 the second Tuesdays of February and August.

11 At Farmington, within and for the county of Frank-
12 lin, on the first Tuesday of April and first Tuesday of
13 December.

14 At Auburn, within and for the county of Androscog-
15 gin, on the first Tuesdays of April and October.

16 At Bath, within and for the county of Sagadahoc,
17 on the second Tuesdays of April and November.

18 At Norridgewock, within and for the county of
19 Somerset, on the second Tuesday of March and third
20 Tuesday of December.

21 At Augusta, within and for the county of Kenne-
22 bec, on the third Tuesdays of January and August.

23 At Wiscasset, within and for the county of Lincoln,
24 on the first Tuesdays of March and October.

25 At Rockland, within and for the county of Knox,
26 on the first Tuesday of January and the second Tues-
27 day of September.

28 At Belfast, within and for the county of Waldo,
29 on the fourth Tuesdays of April and October.

30 At Bangor, within and for the county of Penobscot,
31 on the first Tuesdays of January and October and the
32 third Tuesday of June, but the last named term shall
33 have no criminal jurisdiction.

34 At Machias, within and for the county of Washing-
35 ton, on the first Tuesday of January and fourth Tues-
36 day of April.

37 At Ellsworth, within and for the county of Han-
38 cock, on the third Tuesdays of April and November.

39 At Houlton, within and for the county of Aroostook,
40 on the first Tuesdays of January and August.

41 At Dover, within and for the county of Piscataquis,
42 on the first Tuesdays of May and November.

SECT. 25. All fees and costs in said court, shall be
2 the same as now allowed by law in the supreme
3 judicial court.

SECT. 26. This act shall take effect and be in force
2 from and after the thirty-first day of August next;
3 and all acts and parts of acts inconsistent with the
4 provisions of this act, be, and the same are hereby re-
5 pealed, from and after said thirty-first day of August;
6 *provided, however,* that the repeal of said acts and parts
7 of acts shall not in any way affect any suits, petitions,
8 proceedings, or prosecutions pending when this act
9 shall take effect.