

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

FIFTY-EIGHTH LEGISLATURE.

HOUSE.

No. 55.

[MAJORITY REPORT.]

STATE OF MAINE.

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

AN ACT to amend chapter forty-five of the revised statutes.

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

SECTION 1. Section one of chapter forty-five of
2 the revised statutes, shall be amended, by striking
3 out the following words: "In the absence of any
4 agreement in writing."

And the following shall be added:

SECT. 2. In any action brought on any contract
2 whatever on which there is directly or indirectly
3 taken or reserved a rate of interest exceeding that
4 established in section one, the defendant may,
5 under the general issue, prove such excessive in-

6 terest, and it shall be deducted from the amount
7 due on such contract; and in any such action, if
8 the damages are reduced, by proof of such exces-
9 sive interest, the plaintiff shall recover no costs,
10 but shall pay costs to the defendant.

SECT. 3. If any person pays such excessive
2 interest in money or other property, such person or
3 his personal representatives, may recover the same
4 of the creditor or his representatives so recovering
5 it, in an action on the case, brought within two
6 years after such payment. But this provision
7 shall not extend to negotiable bills of exchange or
8 promissory notes in the hands of an indorsee or
9 holder who received the same in good faith and for
10 a valuable consideration, without notice of any
11 such excessive interest, nor to any contracts made
12 prior to the approval of this bill, so that said chap-
13 ter, as amended, shall read as follows :

14 *Sect. 1.* The legal rate of interest shall be six
15 per cent. by the year.

16 *Sect. 2.* In any action brought on any contract
17 whatever, on which there is directly or indirectly
18 taken or reserved a rate of interest exceeding that
19 established in section one, the defendant may, under
20 the general issue, prove such excessive interest,
21 and it shall be deducted from the amount due on

22 such contract; and in any such action, if the dama-
23 ges are reduced by proof of such excessive interest,
24 the plaintiff shall recover no costs, but shall pay
25 costs to the defendant.

26 *Sect. 3.* If any person pays any such excessive
27 interest in money or other property, such person
28 or his personal representatives may recover the
29 same of the creditor or his representatives so
30 receiving it, in an action on the case, brought with-
31 in two years after such payment; but this provision
32 shall not extend to negotiable bills of exchange or
33 promissory notes in the hands of an indorsee or
34 holder who received the same in good faith, and
35 for a valuable consideration, without notice of any
36 such excessive interest, nor to any contracts made
37 prior to the approval of this bill.

STATE OF MAINE.

IN HOUSE OF REPRESENTATIVES, }
February 4, 1879. }

Reported from the Committee on the Judiciary, by Mr. SPAULD-
ING, and ordered to be printed.

B. L. STAPLES, *Clerk.*

[MINORITY REPORT.]

STATE OF MAINE.

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

AN ACT fixing the rate of interest.

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

SECTION 1. Legal interest upon the loan or forbearance of any money, goods, merchandise or things in action, is hereby established at the rate of six dollars on a hundred dollars for one year; but this rule shall not apply to letting cattle or other similar contracts in practice among farmers, or to maritime contracts, as bottomry, insurance and course of exchange, in practice among merchants.

SECT. 2. In any action brought on any contract whatever, on which there is directly or indirectly taken or reserved a rate of interest exceeding that established in section one, the defendant may, under the general issue, prove such excessive interest, and

6 it shall be deducted from the amount due on such
7 contract; and in such trial, if the creditor is alive,
8 and any one of the debtors come into court and
9 actually makes oath to such excessive interest, it
10 shall be sufficient proof thereof, unless one of the
11 creditors comes into court and makes oath that he
12 has not, directly or indirectly, wittingly taken or
13 received, and that there is not by such contract
14 reserved more than the legal rate of interest; and
15 in any such action, if the damages are reduced by
16 proof of such excessive interest, by the oath of the
17 party or otherwise, the plaintiff shall recover no
18 cost, but shall pay costs to the defendant.

SECT. 3. If any person pays any such excessive
2 interest on money or other property, he or his per-
3 sonal representatives may recover the same of the
4 creditor or his representatives so receiving it, in an
5 action on the case, brought within one year after
6 the payment; but this provision shall not extend to
7 negotiable bills of exchange, or promissory notes
8 in the hands of an endorser or holder who received
9 the same in good faith and for a valuable consider-
10 ation, without notice of any such excessive interest.

SECT. 4. This act shall not apply to or affect any
2 contract made and in force before this act takes
3 effect.

RATE OF INTEREST.

7

SECT. 5. Chapter "forty-five" of the revised
2 statutes, and all acts and parts of acts inconsistent
3 with this, are hereby repealed.

STATE OF MAINE.

IN HOUSE OF REPRESENTATIVES, }
February 4, 1879. }

Reported from the Committee on the Judiciary, by Mr. BROWN
of Bangor, and ordered printed.

B. L. STAPLES, *Clerk.*