

MAINE STATE LEGISLATURE

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Sixty-Sixth Legislature.

SENATE.

No. 117.

STATE OF MAINE.

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

AN ACT in relation to suits at law and in equity in the
Supreme Judicial Court and Superior Courts.

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

SECTION 1. When, in an action at law in the supreme
2 judicial court, it appears that the rights of the parties can
3 be better determined and enforced by a judgment and
4 decree in equity, the court may, upon reasonable terms,
5 strike out the pleadings at law, and require the parties to
6 plead in equity in the same cause, and may hear and
7 determine the cause in equity.

SECT. 2. When in any equity proceeding in the
2 supreme judicial court, it appears that the remedy at law
3 is plain, adequate and complete and that the rights of the
4 parties can be fully determined and enforced by a judg-

5 ment and execution at law, the court may upon reasonable
6 terms strike out the pleadings in equity, and require the
7 parties to plead at law in the same cause and may hear and
8 determine the cause at law.

SECT. 3. When in an action at law commenced in
2 either of the superior courts and pending in the supreme
3 judicial court, sitting as a law court, it appears that the
4 rights of the parties can be better determined and
5 enforced by a judgment and decree in equity, the
6 supreme judicial court may, upon reasonable terms,
7 strike out the pleadings at law, and require the parties
8 to plead in equity in the same cause; and thereupon the
9 action shall be transferred to the docket of the supreme
10 judicial court for the same county, and be heard and
11 determined in equity in that court.

SECT. 4. Any defendant may plead in defense to any
2 action at law in the supreme judicial court, any matter
3 which would be ground for relief in equity, and shall
4 receive such relief as he would be entitled to receive in
5 equity, against the claims of the plaintiff; such matter of
6 defense shall be pleaded in the form of a brief statement
7 under the general issue. And, by counter brief state-
8 ment, any plaintiff may plead any matter which would be
9 ground for relief in equity against any defense set up by
10 any defendant in an action at law in said court, and shall
11 receive such relief as he would be entitled to receive in
12 equity against such claim of the defendant.

SECT. 5. In actions at law in the superior courts,
2 equitable defences and equitable replies to matters of
3 defence, may be pleaded by filing a brief statement thereof
4 supported by affidavit that the matters so pleaded are true

5 in fact. Thereupon the action shall be transferred to the
6 docket of the supreme judicial court for the same county,
7 and be heard and determined in that court.

SECT. 6. Whenever in such action any matter which
2 would be ground for relief in equity is so pleaded by any
3 party, the supreme judicial court may make such decrees
4 and restraining orders, as may be necessary to protect and
5 preserve such equitable rights, and may issue injunctions,
6 according to the usual practice of courts of equity.

SECT. 7. No attachments shall be affected by proceed-
2 ings under this act. Either party to a cause may, upon
3 petition, obtain from the court an order for the attachment
4 of property of a party to the suit to secure any judgment
5 which may be obtained, to be made on such precept as the
6 court may order and to be recorded as in case of other
7 attachments.

SECT. 8. In all proceedings in the supreme judicial
2 court, under the preceding sections, when there appears to
3 be any conflict or variance between the principles of law
4 and those of equity, as to the same subject matter, the
5 rules and principles of equity shall prevail. At the hear-
6 ing of all equity causes, oral testimony shall be received as
7 in trials at common law.

SECT. 9. A party to any action in the supreme judicial
2 court or superior courts, may file in the clerk's office of
3 the court in the county where such action is pending,
4 any document which he may deem material to the issue,
5 and give to the adverse party notice of such filing and
6 that he desires the execution of said document to be
7 admitted.

Unless the adverse party shall within seven days after
9 such notice, unless the time is enlarged by the court or a

10 justice thereof, file in said clerk's office, a denial of the
11 genuineness of the execution of said document, he shall
12 be held to have admitted the same.

SECT. 10. Where books, papers, or written instruments
2 material to the issue in any action at law pending in the
3 supreme judicial court or in the superior courts, are in the
4 possession of the opposite party, and access thereto
5 refused, the court upon motion, notice and hearing, may
6 require their production for inspection.

SECT. 11. No justice of the supreme judicial court
2 shall sit in the law court upon the hearing of any cause
3 tried before him, or in which any of his rulings are the
4 subject of review, nor take any part in the decision
5 thereof.

STATE OF MAINE.

IN SENATE, March 3, 1893.

Reported by Mr. SEIDERS, from Committee on the Judiciary, and
laid on table to be printed under joint rules.

KENDALL M. DUNBAR, *Secretary*.