

MAINE STATE LEGISLATURE

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EIGHTY-THIRD LEGISLATURE

House Document

No. 5

H. P. 5 House of Representatives, Jan. 13, 1927.

Referred to Committee on Judiciary and 500 copies ordered printed. Sent up for concurrence.

CLYDE R. CHAPMAN, Clerk.

Presented by Mr. Hale of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND TWENTY-SEVEN

AN ACT to Expedite the Trial of Certain Actions at Law.

Be it enacted by the People of the State of Maine, as follows:

Section 1. In any action upon the case brought to recover
2 for services alleged to have been performed by the plaintiff
3 for the defendant or for goods alleged to have been sold
4 and delivered by the plaintiff to the defendant, in which the
5 defendant has appeared, any plaintiff or the treasurer of
6 any plaintiff corporation may at any time during the return
7 term file an affidavit verifying the cause of action and stat-
8 ing that in the belief of the affiant there is no defence
9 thereto; and thereupon the clerk shall issue an order re-
10 quiring the defendant to show cause in writing and on oath
11 why judgment should not be given for the plaintiff. The
12 plaintiff shall immediately give written notice of such order

13 in such manner as is prescribed by rule of court, to the
14 defendant or his attorney of record, and, unless the defend-
15 ant, within seven days after such notice or within such fur-
16 ther time as the court allows, consents to a default and to
17 judgment for the amount demanded, or unless by affidavit
18 setting out specifically and clearly the substantive facts upon
19 which he relies he discloses such facts as the court finds
20 entitle him to defend, the court shall advance said action
21 for speedy trial; but if upon a hearing under such order
22 and notice, the court does not so advance the action it may
23 award the defendant reasonable costs. The court shall re-
24 quire the defendant to disclose specifically and clearly the
25 substantive facts upon which he relies. If, in an action
26 appealed by the defendant from a district or municipal
27 court, the court is satisfied upon an inspection of the decla-
28 ration that the plaintiff seeks to recover solely for his per-
29 sonal labor with or without interest the court shall upon
30 motion advance such action for speedy trial.

Sect. 2. In any action in which a defendant has appeared
2 and answered, such defendant, or if a corporation its treas-
3 urer, may at any time during the return term file an affi-
4 davit stating that in his belief there is no merit in the action;
5 and thereupon the clerk shall issue an order requiring the
6 plaintiff to show cause why he should not become nonsuit.
7 The defendant shall immediately give written notice of such
8 order, in such manner as is prescribed by rule of court, to
9 the plaintiff or his attorney of record, and unless within

10 seven days after such notice or within such further time as
11 the court allows, the plaintiff consents to a nonsuit, or un-
12 less by affidavit setting forth specifically and clearly the
13 substantive facts upon which he relies he discloses such facts
14 as the court finds entitle him to maintain his action, the
15 court shall advance said action for speedy trial.

Sect. 3. Any affidavit filed by any party under the pro-
2 visions of sections one or two hereof may be given in evi-
3 dence against the affiant.