

MAINE STATE LEGISLATURE

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L A W S

OF THE

STATE OF MAINE;

TO WHICH ARE PREFIXED

THE

CONSTITUTION OF THE U. STATES

AND OF SAID STATE,

IN TWO VOLUMES,

WITH AN APPENDIX.

.....
VOL. I.
.....

Published according to a resolve of the State, passed
March 8, 1821.

BRUNSWICK.

Printed by J. Griffin, for the State.

.....
1821.

ERRATA:

**The following leaf is
inserted because one or more pages
in this chapter have errors
noticed and corrected here.**

VOLUME THE FIRST.

Page.

40 L. 12 of the page for 'preceding' read 'presiding'
 54 Sec. 4 L. 14 of Sec. for 'time' read 'term'
 55 7 2 for 'a' read 'or'
 55 7 9 before the word 'said' insert 'the'
 56 9 3 for 'the' read 'her'
 57 1 6 for 'to' read 'in'
 58 1 5 for 'and' after the word 'house'
 read 'or'
 61 in the title of the act, ch. vi. insert 'the' before the word 'crimes'
 62 Sec. 2 L. 9 of S. before the word 'offender' insert 'such'
 69 16 8 for 'Treasurer' read 'Treasury'
 73 1 15 after the word 'for' insert 'the'
 77 13 6 for 'to' read 'of'
 78 first line of the page, dele the word 'by'
 80 L. 2 of the p. after the word 'willingly' insert 'aid or'
 80 17 for 'counterfeited' read 'counterfeit'
 82 1 after the word 'in' insert 'all'
 82 Sec. 7 L. 4 of Sec. after the word 'devised' dele 'or' and insert '
 83 Sec. 2 L. last of S. for 'aggravations' read 'aggravation'
 84 10 6 for 'and' read 'or'
 90 1st L. of p. for 'Commissioner' read 'Commissioners'
 90 L. 20 before the word 'Commissioner' insert 'said'
 97 6 for 'assumst' read 'assumpsit'
 97 14 for 'cover' read 'covein'
 98 at the end of the act for 'January' read 'February'
 99 L. 17 of p. after the word 'year' dele 'i' & insert 'and'
 100 15 at the end of the line insert 'the'
 105 at the end of the Act for '1820' read '1821'
 108 L. 14 of page, for 'nuisances' read 'nuisance'
 108 20 after the word 'each' insert 'one'
 111 25 after the word 'fail' insert 'of'
 113 11 for 'on' read 'or'
 144 last for 'performance' read 'performing'
 145 Sec. 2 L. 9 of Sec. after the word 'of' insert 'the'
 147 7 6 before the word 'release' for 'to' read 'a'
 150 Sec. 6 L. 2 of Sec. for 'in' read 'is'
 151 in the title, before the word 'Lands' insert 'reserved'
 153 1st line of the p. for 'whenever' read 'wherever'
 155 last before the word 'Court' for 'a' read 'any'
 156 Sec. 4 L. 26 of Sec. for 'notification' read 'notifications'
 159 9 8 for 'purpose' read 'purposes'
 167 14 5 for 'votes' read 'vote'
 193 4 10 dele 'such'
 199 17 1 for 'when' read 'where'
 202 22 6 after the word 'near, dele 'to'
 202 23 10 for 'be' read 'he'
 203 24 16 for 'of' read 'in'
 203 25 16 for 'meeting' read 'meetings'
 205 L. 18 of p. before the word 'estate' insert 'other'
 210 2 before the word 'tenement' insert 'other'
 215 4 before the word 'guardians' insert 'guardian or'
 226 Sec. 73 L. 6 of Sec. dele 'a'
 229 3 last for 'agreeably' read 'agreeable'
 230 7 19 for 'agreeably' read 'agreeable'
 231 8 6 for 'resided' read 'reside'
 242 2 5 for 'sentence' read 'sentences'
 245 7 3 after the word 'herein' insert 'before'
 247 L. 7 of the act, ch. 56, after the word 'otherwise' insert 'interested'
 247 11 for 'statement' read 'statements'
 247 Sec. 1 L. 2 of Sec. for 'whenever' read 'wherever'
 248 3 1 for 'whenever' read 'wherever'
 248 3 14 for 'Justice' read 'Justices'

Page.

252 L. 3 of p. for 'where' read 'wherein'
 257 5 after the word 'have' insert 'his or'
 265 Sec. 39 L. 3 of Sec. for 'when' read 'where'
 271 L. 1 and 3 of p. for 'affect' read 'effect'
 271 Sec. 6 L. 2 of Sec. before the word 'execution' insert 'the'
 278 19 4 for 'on' read 'in'
 280 L. 2 of p. for 'have' read 'had'
 281 22 for 'of' read 'on'
 283 13 for 'lies' read 'lays'
 283 last before the word 'defendant' insert 'the'
 284 Sec. 32 L. 2 of Sec. for 'a' read 'any'
 288 5 18 for 'whenever' read 'wherever'
 291 9 4 for 'as' read 'or'
 292 L. 4 of p. for 'examinations' read 'examination'
 293 Sec. 13 L. 5 of Sec. after the word 'article' insert 'or articles'
 297 7 5 for 'and' read 'or'
 301 L. 8 of p. for 'he' read 'be'
 309 24 between the words 'the' and 'day' should be a '
 310 20 for 'debt' read 'debtor'
 311 2 for 'with' read 'and of'
 312 7 for 'summon' read 'summons'
 312 9 between the words 'our' and 'Court' should be a '
 318 31 for 'writs' read 'writ a'
 328 Sec. 8 L. 4 of Sec. for 'grieved' read 'aggrieved'
 353 L. 14 of p. at the end of the line insert 'the'
 361 Sec. 1 L. 18 of Sec. for 'cause' read 'case'
 370 3 10 for 'to' read 'of'
 371 2 7 dele 'to'
 373 L. 15 of p. before the word 'require' insert 'to'
 376 Sec. 1 L. 10 of Sec. dele 'the' before the word 'payment'
 378 at the end of the act, for '17' read '20'
 378 in the title, for 'selection' read 'selecting'
 379 Sec. 4 L. 5 of Sec. before the word 'divide' insert 'shall'
 394 1 9 for 'part' read 'parts'
 395 1 8 for 'acceptances' read 'acceptance'
 404 1 34 before the word 'authorized' insert 'hereby'
 407 7 4 dele 'the'
 414 last word of the 1st act on the page, for 'therein' read 'thereon'
 423 Sec. 3 L. 15 of Sec. after the word 'assignments' insert 'thereof, and also of the assignments'
 424 Sec. 6 L. 13 of S. after the word 'papers' insert 'as'
 425 L. 7 of p. before the word 'action' insert 'an'
 428 22 for 'twelve' read 'twenty'
 431 8 for 'fifteen' read 'fifty'
 432 first line of the page should be put after the third
 432 L. 5 of the p. dele 'entering'
 432 between the 28th and 29th lines of the p. insert 'Every blank writ of attachment, with a summons thereon, fifteen cents'
 432 L. 37 of p. for 'judgment' read 'jurymen'
 435 9 for 'appear' read 'appears'
 435 10 for 'make' read 'makes'
 435 18 for 'taking' read 'taxing'
 444 Sec. 1 L. 6 of Sec. before the word 'records' insert 'the'
 445 1 9 for 'within' read 'of'
 445 1 19 after the word 'escape' insert 'sickness'
 455 11 1 after the word 'of' insert 'the'

land, on the first Tuesday of May, and on the third Tuesday next following the third Tuesday of October in each year. And the Circuit Court of Common Pleas shall be holden at Portland, within and for the county of Cumberland, on the first Tuesday of March, the third Tuesday of June, and the second Tuesday of December, in each year. And all acts and parts of acts fixing the times of holding either of said Courts in said county, shall be, and they are hereby repealed.

Circuit Court
Common
Pleas.

[Approved March 21, 1821.]

CHAPTER LVI.

An Act in addition to "an Act establishing a Supreme Judicial Court within this State."

BE it enacted by the Senate and House of Representatives in Legislature assembled, That in all actions, petitions, and civil suits pending before the Supreme Judicial Court, where in any two of the Judges of said Court, have been of counsel for either party, or are otherwise interested in such actions, petitions or civil suits, one of the Justices of said Court, who has not been counsel or otherwise as aforesaid, shall have full power and authority to hear, adjudge, and determine said actions, petitions, and civil suits with or without the intervention of a Jury, as the parties may by their pleadings, or agreed statement of facts, render necessary according to law; any thing in the Act, to which this is an addition, to the contrary notwithstanding.

In certain
cases, one
Judge to have
full power to
hear and de-
cide causes.

[Approved March 8, 1821.]

CHAPTER LVII.

An Act defining the powers of the Judicial Courts in granting Reviews and for other purposes.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That whenever there shall have been any legal cause for any Judicial Court before judgment, to set aside any verdict, but nevertheless judg-

In cases when
there have
been good
cause to set
aside a verdict,
a review may
be granted,

on petition to
Supreme Ju-
dicial Court,

and after due
notice,

on such con-
ditions as may
be deemed
proper.

When by reason
of accident,
mistake, &c.
judgment has
been rendered,
ed,

S. J. Court
may grant a
review.

Court may
grant reviews
in all civil ac-
tions, when
they think it
reasonable.

In case of
judgments
rendered in
C. C. Com-
mon Pleas or
before Justice
under certain
circumstan-
ces.

Supreme Ju-
dicial Court
may grant re-
view of the
cause, on pe-
tition of party
injured ;

provided ap-
plication be
made within
3 years.

When review
is granted, a
writ of re-

ment shall have been rendered on such verdict, the party aggrieved by such judgment may petition the Justices of the Court, at any of their terms, for a review of such cause ; and the said Justices on due notice to the adverse party, and full consideration of such petition, are hereby empowered (if they see fit) to grant a review of the said cause on such terms and conditions as to them may seem just and reasonable between the said parties.

SEC. 2. *Be it further enacted*, That whenever by reason of any accident, mistake, or any unforeseen cause, judgment shall have been rendered on discontinuance, nonsuit, nil dicit, non sum informatus, report of referees, or default, or suits may have been discontinued without judgment, to the hindrance or subversion of justice, the said Justices, on petition as aforesaid, are further empowered to grant a review of the action. And the said Justices shall be, and they are hereby vested with discretionary power, to grant reviews in all civil actions, in manner as aforesaid, whenever they shall judge it to be reasonable, without being limited to particular cases.

SEC. 3. *Be it further enacted*, That whenever, by reason of any of the causes mentioned in the last enacting clause, any judgment in the Circuit Court of Common Pleas, or before any Justice of the Peace, may have been rendered in manner as in the same clause is mentioned ; or any appeal may have been prevented or lost to the hindrance or subversion of justice as aforesaid ; and the party aggrieved shall produce in, and file with the Clerk of the Supreme Judicial Court a copy of record of the cause duly attested, and shall petition the Justices of the same Court for a review of the cause, in manner as aforesaid, the said Justices may grant a review of the said cause in manner aforesaid to be heard and determined in the said Supreme Judicial Court ; *Provided*, That application be made to the Justice of the said Court within three years after the rendition of the judgment complained of, and only one review shall ever be granted in any action by virtue of this Act.

SEC. 4. *Be it further enacted*, That whenever a review is granted by virtue of this Act, a writ of review shall be sued out and prosecuted to final judgment and execution. And

the party bringing such action of review, shall produce in Court attested copies of the writ, judgment and all papers used and filed in the former trial, and each party shall have the liberty to offer any further evidence; and the whole cause shall be tried in the same manner as if no judgment had been given thereon: and the former judgment may be reversed in whole or in part, or greater damages or less, or no damages may be given, as the merits of the cause upon law and the evidence shall appear to require.

view to be sued out and prosecuted: Proceedings in such action.

Former judgment may be reversed in whole or part, &c.

SEC. 5. *Be it further enacted*, That the Justices aforesaid to whom any petition shall be preferred in manner aforesaid, are further empowered to stay execution in the cause on such conditions as are before mentioned; and whenever the same Justices shall adjudge that the petitioner shall take nothing by his petition, they are also empowered to award the respondent his costs, and execution may be sued out accordingly.

Court, on granting a review may stay execution, on condition, &c

May grant costs to respondent.

SEC. 6. *Be it further enacted*, That whenever by reason of any accident, mistake or unforeseen cause, an appeal in a civil action or complaint may not be entered at the Supreme Judicial Court at the proper term of said Court for entering the same, the Justices of the same Court be, and they are hereby empowered, on the petition of the party, at their discretion, to order such appeal or complaint, to be entered at any other term of said Court, within the county where the judgment appealed from shall have been rendered; and to proceed to try the appeal or affirm the former judgment, with additional damages and costs, in the same manner as they might have done if the said appeal or complaint had been entered at the proper term for entering the same; and the said Justices are hereby vested with all the discretionary power respecting such appeals or complaints with which they are vested, in the cases of petitions for review mentioned in this Act; *Provided*, That no petition for entry of such appeal or complaint shall be sustained, unless such petition shall be exhibited to the Court within one year after the term at which such appeal or complaint ought to have been entered. *And provided also*, That no goods or estate attached, or bail given upon the original writ shall be affected by any thing done by force of this section; but the same

When by accident or mistake, &c. an appeal or complaint was not entered at the proper term, S. J. Court may order the entry at any other term,

and try the cause.

S. J. Court to have same discretionary powers as in granting reviews.

Proviso—petition must be presented within one year after the proper term. Bail and property attached not to be affected by such proceedings.

shall remain discharged, notwithstanding the entry of any such appeal or complaint as aforesaid.

Power of C. C. Pleas as to appeals from Justices' complaints, defaults, and judgments by mistake, &c.

SEC. 7. *Be it further enacted*, That every Circuit Court of Common Pleas within this State be, and they are hereby vested with the same powers respecting appeals made from judgments rendered by Justices of the Peace, and complaints for not entering the same; and also respecting all actions and suits before Justices of the Peace wherein the damage laid does not exceed twenty dollars, and wherein the defendant has been defaulted for want of actual notice of the suit, or by some other accident or mistake, with which the Justices of the Supreme Judicial Court are by this Act vested, respecting appeals from judgments rendered by Circuit Courts of Common Pleas, and complaints for not entering the same, and respecting the granting reviews in the certain other actions or suits before mentioned, wherein the defendant has been defaulted, or lost his law.

When a person, whose claim against an insolvent estate has been rejected by commissioners, and who by mistake, &c. has omitted or may omit to give notice of his intention to sue at common law,

SEC. 8. *Be it further enacted*, That in all cases in which any person shall have presented any claim for allowance to any Board of Commissioners which may have been appointed by any Judge of Probate, to receive and examine the claims against the estate of any deceased person, which may have been represented insolvent, and such claim shall have been rejected by such commissioners, and a return of their doings made to the Judge of Probate, and the claimant, who has or may prefer such claim for allowance has by accident, mistake or otherwise, omitted to give notice, or shall hereafter omit to give notice at the Probate Office, within twenty days after the making of such return of the commissioners, that it is his or her intention to have such claim determined at common law, the Supreme Judicial Court, at any session thereof, holden in any county, upon such claimant's presenting a petition for relief, and making it to appear that he or she has reasonable grounds for expecting to support his or her claim, and that he or she has not lost his or right to institute a suit against the executor or administrator of such estate, and have such claim determined at common law, by his or her negligence, is hereby authorized and empowered after due notice to the adverse party, to grant such claimant a right to institute a suit for the recov-

the Supreme Judicial Court on petition may grant a right to institute a suit, &c.

ery of such claim against the executor or administrator of such insolvent estate, at the next Circuit Court of Common Pleas, to be holden in the county in which such executor or administrator dwells; and the same proceedings shall be had in such suit, as are by law provided in suits instituted by claimants for the recovery of claims against insolvent estates, which have been rejected by the commissioners appointed to receive and examine the claims against such estates: *Provided however*, That no such petition shall be sustained unless the same shall be presented within two years from the return of the report of such commissioners to the Judge of Probate and that the distribution of any insolvent estate which may have been made previously to the presenting of such petition and notice thereof to the executor or administrator of such estate, shall not be disturbed by the judgment which may be recovered in any such suit; nor shall the right to institute any such suit be granted to any claimant after four years shall have elapsed, from the time of granting administration on such estate.

Proceedings to be thereupon had, in such case,

Proviso—
Such application must be made within two years, &c.

Any previous distribution of estate, not to be disturbed, by after judgment.
No such relief to be granted after the lapse of 4 years from grant of administration.

SEC. 9. *Be it further enacted*, That in all such cases where any married man shall have absented himself from this State abandoning his wife, and not making sufficient provision for her support or maintenance, the Justices of the Supreme Judicial Court are hereby authorized at any of the terms of the said Court, upon the application of any such wife, to empower and enable her during the absence of her husband from this State, and no longer, in her own name, to make and execute any contract either under seal or otherwise, and by deed to sell and convey any estate real or personal, of which at the time of such sale, she shall be seized or possessed in her own right; and to commence, prosecute and defend any suit in law or equity to final judgment and execution, in the same manner as if she was sole and unmarried; or the said Justices may grant to any such wife any or all the powers above described according as they shall judge the circumstances of such wife shall require.

Sup. J. Court may license a married woman, whose husband has abandoned her, to sell any of her real or personal estate during his absence;

and to prosecute and defend actions as a feme sole, &c.

SEC. 10. *Be it further enacted*, That if any such husband should return into this State while any contract made by his wife, pursuant to the powers aforesaid should remain un-

If husband return while contracts of his wife are in force, he to be liable thereon,

No suit where the wife is a party, in such case, to abate by his return.

discharged, the same remedy shall lie against such husband, as if the contract had been made by her before the marriage; and no suit pending, where his wife shall be a party, pursuant to the said powers, shall abate by his return into this State.

Court to give notice, &c. before granting such powers to wife,

as in cases of libel for divorce.

SEC. 11. *Be it further enacted*, That when application shall be made by any wife for any or all of the powers aforesaid the Justices of the said Court, shall previous to their granting any of the powers aforesaid, cause such public notice of the said application to be given as by law they are directed in case of any libel filed by any married woman for a divorce.

[Approved March 15, 1821.]

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CHAPTER LVIII.

An Act extending the powers of the Justices of the Supreme Judicial Court, in certain cases.

Persons acquitted on trial in Sup. Jud. Court, on ground of Insanity, &c. may be committed to prison until restored to reason, &c.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled*, That whenever any person who may have been arrested and in custody, or in prison, to answer for any crime or crimes, offence or offences, before the Supreme Judicial Court, shall be acquitted thereof by the Jury of trials; or shall not be indicted by the Grand Jury, by reason of the insanity or mental derangement of such person, and the discharge, or going at large of such person shall be deemed by the same Court to be dangerous to the safety of the citizens, or to the peace of the State, the said Court be, and hereby is authorized and empowered to commit such person to prison, there to be detained till he or she be restored to his or her right mind, or otherwise delivered by due course of law. And every person so committed shall be kept at his or her own expense, if he or she have estate sufficient for that purpose; otherwise at the charge of the person or town, upon whom his or her maintenance would have been legally chargeable, if he or she had not been committed as aforesaid.

At whose expense.

If no indictment is found by Grand Jury,

SEC. 2. *Be it further enacted*, That whenever the Grand Jury, upon any inquiry which they may hereafter make as