

MAINE STATE LEGISLATURE

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PUBLIC ACTS

OF THE

STATE OF MAINE,

PASSED BY THE

NINTH LEGISLATURE,

AT ITS

SESSION HELD IN JANUARY, 1829.

Published agreeably to the Resolve of the 20th June, 1820.

Portland:

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1829.

CHAPTER CCCCXLIV.

Chap. 493.

AN ACT additional to " An Act to establish a Court of Common Pleas."

Appeals regulated.

Appellant to recognize.

Costs to be recovered in case.

Right to writ of error.

SECT. 1. *Be it enacted by the Senate and House of Representatives, in Legislature assembled,* That any party aggrieved at the judgment of the Court of Common Pleas, in any personal action, wherein the debt or damage demanded shall exceed one hundred dollars, and in which an issue has been joined, and in any action of replevin or trespass *quare clausum fregit*, or real action, may appeal therefrom to the next Supreme Judicial Court, to be holden within and for the county where such judgment may be rendered, and the party so appealing, before the allowance of such appeal, shall recognize with sufficient surety or sureties, to the adverse party, in a reasonable sum, to prosecute his appeal, and to pay all such costs as may arise in such suit after such appeal: and when any such appeal, in any personal action, except actions of trespass, *quare clausum fregit*, and replevin shall be made by any plaintiff, and he shall not recover more than one hundred dollars as damages, he shall not recover any costs after such appeal, but the defendant shall recover his costs after such appeal, and shall have a separate judgment therefor. And in case such appeal be made by the defendant, and the damages recovered in the Court of Common Pleas shall not be reduced, the plaintiff shall recover his costs after such appeal, and an additional sum equal to twenty five per cent. on the amount of such cost. And if the appellant shall fail to enter his appeal in the Supreme Judicial Court, said Court may, upon complaint, render judgment in such action, according to the provisions of this Act.

SECT. 2. *Be it further enacted,* That nothing in this Act shall be construed to deprive any party of his right to a writ of error for any error appearing of record in any action, or to prevent any party aggrieved by the opinion or judgment of said Court

of Common Pleas, rendered upon an issue in law, or case stated by the parties, where it is not agreed that the judgment of said Court shall be final, from appealing therefrom to the Supreme Judicial Court, nor the party prevailing in such cases, from recovering his costs: *Provided*, That no stipulation, except in actions of replevin, or trespass *quare clausum fregit*, and real actions, reserving the right to waive the pleadings, or statement of the case made in the Court of Common Pleas, shall be allowed: but the Supreme Judicial Court may order amendments, or a repleader, upon such terms and conditions as law and justice may require.

Proviso. In case of
replevin or
quare clausum fregit
actions the costs
shall be paid

SECT. 3. *Be it further enacted*, That from and after the second day of April next, the Supreme Judicial Court shall have original and concurrent jurisdiction with the Court of Common Pleas, in all actions of assumpsit, debt, trespass, or case, where the damages demanded shall exceed the sum of three hundred dollars; and in all such actions, commenced in the Supreme Judicial Court, if the plaintiff shall fail to recover so much as one hundred dollars as damages, he shall not recover any costs: *Provided however*, That this provision, as to costs, shall not apply to actions between town and town.

S. J. C. to have concurrent jurisdiction with C. P. in actions where damages demanded exceed \$300.

Proviso as to towns.

SECT. 4. *Be it further enacted*, That the fourth section of "An Act additional to an Act regulating judicial process and proceedings," passed the eighth day of March, one thousand eight hundred and twenty six, be, and hereby is repealed: And that this Act shall take effect from and after the second day of April next, and shall not be construed to affect any actions pending, and before that day entered in any Court of Common Pleas.

4th Sect. of Act Chap. 847 repealed.

This Act not to effect any actions pending April 2, 1829.

[Approved by the Governor, March 4, 1829.]