

# MAINE STATE LEGISLATURE

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# **PUBLIC ACTS**

OF THE

## **STATE OF MAINE,**

PASSED BY THE

**ELEVENTH LEGISLATURE,**

AT ITS SESSION, HELD IN JANUARY, 1831.

—◆—  
PUBLISHED AGREEABLY TO THE RESOLVE OF 28TH JUNE, 1820.  
—◆—

**Portland.**

TODD AND HOLDEN.....PRINTERS TO THE STATE.

1831.

## CHAPTER DVII.

AN ACT, additional to an Act, establishing and regulating the Fees of the several Officers, and other persons therein mentioned.

**SECT. 1.** *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That from and after the passing of this Act, the fees for the entry of an action or complaint, entering up and recording the judgment, whether on a verdict, demurrer, nonsuit, default or statement of facts and taxing costs, in the Court of Common Pleas, shall be eighty cents; and in the Supreme Judicial Court, one dollar and fifty-five cents, instead of the fees heretofore by law established, to be paid to the Clerks of said Courts; and no Clerk shall be required to pay any part thereof into the Treasury of any County, except under the provisions of the second section of an Act passed the twenty-seventh day of June, in the year of our Lord one thousand eight hundred and twenty, entitled an Act, providing for the appointment of Clerks of the Courts, in the several Counties, and requiring them to render an account of all monies received.

Fees for entry of action.

Clerk to account under second section of Act of June 27, 1820.

Fees of Constable for service of venires.

Acts repealed.

**SECT. 2.** *Be it further enacted,* That hereafter the fees of Constables for the service, travel, and return of each venire, shall be one dollar and fifty cents, to be paid out of the County Treasury.

**SECT. 3.** *Be it further enacted,* That all Acts and parts of Acts inconsistent with the provisions of this Act be, and the same are hereby repealed.

[Approved by the Governor, March 25, 1831.]

## CHAPTER DVIII.

AN ADDITIONAL "ACT respecting the attachment of property on mesne process."

**SECT. 1.** *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That whenever any personal property shall

be attached on mesne process, on one or more writs, and the respective parties shall express their consent in writing, that the same may be sold at any time before judgment, it shall be the duty of the attaching officer to cause the same to be sold in manner provided by law, for the sale of similar property on execution; and the money produced by such sale, deducting all lawful charges, shall be held and retained by such officer, and shall stand bound to respond the judgment or judgments, to be rendered upon such writ or writs, in the same manner, as if the said goods had remained specifically in the hands of such officer, and had been sold on execution.

Property attached on mesne process may be sold, with consent of parties, as on execution.

SECT. 2. *Be it further enacted,* That in all cases, where the same estate, whether real or personal, has been attached on mesne process in two or more suits, which now are, or may be hereafter commenced, the plaintiff or plaintiffs in any suit, after that in which the first attachment shall have been made, may petition the Court whereunto the writ shall be returnable, at any time during the pendency of such suit, for leave to defend against such first suit, in like manner as the party therein sued could or might have done.

Subsequent attaching creditor may petition to be admitted to defend suit of prior attaching creditor.

SECT. 3. *Be it further enacted,* That the party so petitioning to defend such previous suit, shall set forth in his petition the facts upon which he relies, and shall make oath that all facts by him stated in his petition are true, or are by him believed to be so, and it shall be in the discretion of the Court to grant the prayer of such petitioner or not, as to the Court may seem just and proper.

To make oath to truth of facts stated in petition.

SECT. 4. *Be it further enacted,* That if the Court shall admit such petitioner to defend as prayed for, the petitioner shall give bond, or enter into recognizance with good and sufficient surety, in such manner as the Court shall order, to pay to the plaintiff in such previous action, all such costs and damages as the Court shall ad-

Petitioner to give bond or recognize with surety, if admitted to defend.

judge and decree to have been occasioned to the plaintiff by such defence, and it shall be entered on the record of the Court that such petitioner is admitted to defend; and in case a recognizance shall have been entered into, and if the petitioner shall fail in the defence of such action, the Court shall award execution on such recognizance in favor of the plaintiff therein and against the petitioner, and shall proceed to render judgment in the original suit between the parties thereto, as though such defence had not been made.

Judgment if petitioner fail.

If petitioner prevail, to have costs.

SECT. 5. *Be it further enacted,* That if the petitioner shall prevail in defending against such previous action, either by verdict of jury, or by the confession of the plaintiff, or by the plaintiff's neglecting to prosecute his action, the Court shall render judgment thereon, and shall award execution to the petitioner, for his reasonable costs; and such judgment shall be rendered for costs, if any, to the party sued in such action, as the Court may direct.

Attachment void, if made to delay or defraud creditors.

SECT 6. *Be it further enacted,* That if it shall appear by the verdict of the jury or otherwise, that the plaintiff made his attachment with intent to defraud or delay other creditors of the defendant, or that there was collusion between the plaintiff and defendant for the purpose of defrauding or delaying such other creditors in the collection of their debts, such attachment shall be wholly void.

Property attached on mesne process may be sold in certain cases.

SECT 7. *Be it further enacted,* That when any property attached on mesne process as aforesaid, shall be claimed by any person or persons not being party to such process, and such person or persons shall omit for the space of ten days after notice given him or them therefor by the attaching creditor, to bring his or their action of replevin for the property so attached, the officer making such attachment, may at the request of the plaintiff or plaintiffs in such process on the responsibility of such plaintiff or plaintiffs, sell the same at public auction, in the same manner

as is provided for the sale of property on execution, unless the defendant shall also claim the same property in his own right and by virtue thereof forbid the sale aforesaid; but no such sale by the officer shall impair in any degree the right of the person or persons so claiming such property, to maintain his or their action of trespass against the officer for the taking thereof.

[Approved by the Governor, March 25, 1831.]

## CHAPTER DIX.

AN ACT regulating cost in Criminal Prosecutions.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That no fees in continued criminal prosecutions after the first term, shall hereafter be allowed to witnesses on the part of the State, until the third day of the term of the Court of Common Pleas and Supreme Judicial Court, holden in any County of this State, except in the Counties of Hancock and Oxford, and until the second day of the term of said Courts, in said Counties of Hancock and Oxford.

Fees of witnesses regulated in criminal prosecutions.

SECT. 2. *Be it further enacted,* That it shall hereafter be the duty of the Attorney General and the several County Attorneys, at the term of said Courts, when criminal prosecutions are continued, to cause such witnesses to be recognized to appear on the third day of the term of said Courts, holden in any County of this State, except in said Counties of Hancock and Oxford; and on the second day of the term of said Courts holden in said last mentioned Counties: *Provided, however,* That said Courts may order the appearance of such witnesses at an earlier day of the term of said Courts, at their discretion, in which case said witnesses shall be entitled to their fees.

Times at which witnesses shall recognize for their appearance in criminal cases.

Courts may order appearance at earlier day.