

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

PUBLIC ACTS

OF THE

STATE OF MAINE,

PASSED BY THE

FOURTEENTH LEGISLATURE,

At its Session, held in January, 1834.

PUBLISHED AGREEABLY TO THE RESOLVE OF JUNE 28, 1820.

AUGUSTA :

I. BERRY & CO., PRINTERS TO THE STATE.

1834.

during the time for which he may have enlisted into such company, and when by such appointments any such company would be reduced below forty eight effective privates.

be appointed an
engineman in
case &c.

SECT. 55. *Be it further enacted*, That an act entitled "An Act to organize, govern and discipline the militia of this State" passed the twenty first day of March, eighteen hundred and twenty one, and all acts in addition thereto, and all acts inconsistent with the provisions of this act, be, and hereby are repealed: *Provided however*, That the present organization of the Militia shall continue until conformed to the provisions of this act, or the Governor by and with the advice of Council, shall otherwise order. And nothing contained in this act shall be construed to repeal or in any way affect the twenty sixth section of an act, entitled "An Act providing for the government of the State prison, and for the punishment of convicts," passed the twenty fifth day of February, in the year of our Lord, one thousand eight hundred and twenty four.

Former act
repealed.
Chap. 164, vol.
2, p. 687.

Proviso.

Not to repeal
act 25th Feb.
1824.
Chap. 282, vol.
3, p. 110.

[Approved by the Governor, March 8, 1834.]

Chapter 122.

AN ACT to restrain the taking of excessive Usury.

SECT. 1. *Be it enacted by the Senate and House of Representatives, in Legislature assembled*, That the legal rate of interest upon the loan or forbearance of any money, goods, or any kind of merchandize or things in action, shall continue to be six dollars upon one hundred dollars for one year, and at that rate for a greater or less sum, or for a longer or shorter time.

Six per cent.
per annum es-
tablished the le-
gal rate of in-
terest.

SECT. 2. *Be it further enacted*, That if any person or persons, upon any contract hereafter made, shall take, directly or indirectly, for loan of any mo-

neys, wares, merchandize, or any other commodities, above the value of six dollars, for the forbearance of one hundred dollars for a year, and so after that rate for a greater or less sum, or for a longer or shorter time; and if, upon any bond, contract, mortgage and assurance, made for the payment of any money lent, or covenanted to be lent, upon or for usury, whereupon or whereby there shall be reserved or taken, above the rate of six dollars in the hundred as aforesaid, the debtor or defendant may plead this act, and thereby avoid the excess over and above said legal rate,

Debtor may avoid the excess over six per ct. on any contract, loan, bond, or mortgage.

SECT. 3. *Be it further enacted,* That where any person or persons shall be sued on any bond, contract, mortgage or assurance for the payment of any moneys, wares, merchandize, or other commodities, whereby or wherein any sum is given, secured or taken for the forbearing or giving day of payment for a longer or shorter time, then, if the creditor be alive, and the debtor or debtors or any one of two or more debtors shall come into court, where the said cause is to be tried, and shall offer to make oath, and if required by the court, shall actually swear to the same, that there is taken, reserved or secured by such bond, contract or assurance, above the rate of six dollars in the hundred, for the forbearance of the property actually lent or sold, whether it be in money or other things, for one year, and so after that rate for a greater or less sum, or for a longer or shorter time, or that the creditor or creditors have received, more than at the rate of six dollars in the hundred, for the loan or forbearance of the moneys or other things actually lent or sold; all such excess over and above the legal rate which is hereby allowed to be received, shall be void; and the debtor shall be discharged from the payment of such excess, whether arising from moneys, goods, or other things lent, exchanged, bargained, sold, or agreed for as aforesaid unless the creditor or creditors, will

Debtor may make oath that more than six per cent is reserved—

and all such excess shall be void and debtor discharged from payment thereof unless creditor will swear that more than six per cent. is not reserved.

swear that he, she or they have not, directly nor indirectly, wittingly taken or received more than after the rate of six dollars in the hundred, for forbearance or giving day of payment; and by such bond, contract, mortgage or assurance there is not reserved, secured or taken more than after the rate of six per centum, for forbearance or giving day of payment, for the moneys, goods or other things actually lent or sold, any law usage or custom to the contrary notwithstanding:—*Provided* nothing in this act shall extend to letting of cattle or other usages of the like nature in practice among farmers, or maritime contracts among merchants, as bottomry, insurance or course of exchange, as hath heretofore been practised.

Proviso as to letting of cattle, bottomry, insurance, &c.

SECT. 4. *Be it further enacted*, That every person who, for any such loan or forbearance, shall pay or deliver any greater sum or value than is above allowed to be received, or his personal representatives, may recover in an action against the person or persons who shall have taken or received the same and his or their personal representatives, the amount of the money so paid or value delivered, above the rate aforesaid, if such action be brought within one year after such payment or delivery; but this section shall not extend to any bills of exchange or promissory notes, payable to order or bearer, in the hands of an endorsee or holder, who shall have received the same in good faith, and for valuable consideration, and who had not at the time of discounting such bill or note, or paying such consideration for the same, actual notice, that such bill or note had been originally given, for a usurious consideration, or upon a usurious contract.

Person paying more than six per cent. may recover the excess if action is brought within one year—except on bills of exchange or notes when endorsed, bona fide and for a value.

SECT. 5. *Be it further enacted*, That whenever a suit shall be brought, in any case, where more than legal interest shall be reserved and taken, the party so reserving and taking, shall recover no costs, but shall pay to the defendant or defendants

Party taking usurious interest to recover no costs—in certain cases to pay costs to defendant.

his costs, provided such defendant or defendants or any one of two or more of them by his oath or plea, shall reduce the damages, by reason of such usurious interest.

Former acts repealed. Chap. 19, vol. 1, p. 96.

SECT. 6. *Be it further enacted,* That all laws now in force inconsistent with the provisions of this Act, be and they are hereby repealed.

[Approved by the Governor, March 8, 1834.]

Chapter 123.

AN ACT additional to regulate Banks and Banking.

Stereotype check plate to be impressed on all bank bills of five dollars and over after Oct. 1, 1835.

SECT. 1. *Be it enacted by the Senate and House of Representatives, in Legislature assembled,* That from and after the first day of October, in the year of our Lord, eighteen hundred and thirty five—no bills of the denomination of five dollars or over, impressed from Perkins' Stereotype plate, shall be issued, reissued, or paid out, by any Bank in this State, unless they also bear upon the back of them the impress of the Perkins Stereotype Check Plate.

Congreve check on all bills under five dollars.

And that from and after the said first day of October, eighteen hundred and thirty five no bills of a less denomination than five dollars, impressed from Perkins' Stereotype Plate, shall be issued, reissued or paid out by any Bank in this State, unless they bear upon the back of them the impress of the Congreve check.

Part of former act repealed. Chap. 80, p. 83.

SECT. 2. *Be it further enacted,* That the third section of an Act passed the fourth day of March, one thousand eight hundred and thirty three, entitled an Act additional to an Act to regulate Banks and Banking, be and the same is hereby repealed.

[Approved by the Governor, March 8, 1834.]