

# MAINE STATE LEGISLATURE

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# PUBLIC ACTS

OF THE

# STATE OF MAINE,

PASSED BY THE

# FIFTEENTH LEGISLATURE,

AT ITS SESSION, HELD IN JANUARY, 1835.

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Published agreeably to the Resolve of June 28, 1820.

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AUGUSTA:

WILLIAM J. CONDON.....PRINTER TO THE STATE.

1835.

## Chapter 165.

AN ACT to alter and amend the several Acts and Laws for the administration of Justice.

Supreme Judicial Court and C. C. Pleas to have original and concurrent jurisdiction in civil actions.

SECT. 1. *Be it enacted by the Senate and House of Representatives, in Legislature assembled,* That in all civil actions arising in this State, the Supreme Judicial Court shall have original and concurrent jurisdiction with the Court of Common Pleas.

No appeal allowed from C. C. Pleas. Proviso.

SECT. 2. *Be it further enacted,* That no appeal shall be had from the Court of Common Pleas in a civil action. *Provided,* That nothing in this Act shall be construed to deprive any party of his 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 appearing upon exceptions alleged and reduced to writing in a summary way according to law or 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 to the Supreme Judicial Court in the manner, and subject to the proceedings and limitations prescribed by law, and the Court may order amendments or a repleader on such terms and conditions as justice may require. But no stipulation reserving the right to waive the pleadings or statement of the case made in the Common Pleas shall be allowed, and in all such cases the action shall be dismissed in the Supreme Judicial Court.

No stipulations to waive pleadings allowed.

C. C. Pleas empowered to grant reviews and new trials.

SECT. 3. *Be it further enacted,* That the Court of Common Pleas shall have the same power of granting reviews and new trials in civil actions, as the Supreme Judicial Court now have.

Costs for travel to be taxed according to distance of plaintiff or attorney.

SECT. 4. *Be it further enacted,* That costs for travel shall be taxed, in all cases, according to the distance of the Plaintiff or Attorney, whichever is nearest to the place of trial, and when the suit or

action shall be in the name of an endorsee, such costs for travel shall be taxed according to the distance of the Attorney, payee or endorsee, whichever shall be nearest the place of trial. *Provided,* That at the Supreme Judicial Court and Court of Common Pleas, no costs for travel shall be allowed for the Plaintiff for more than forty miles, and no cost for travel for more than ten miles before any Justice of the Peace, unless in each case the Plaintiff himself shall actually travel a greater distance.

*Proviso.*

SECT. 5. *Be it further enacted,* That in all civil actions, sued or prosecuted in the Supreme Judicial Court or Court of Common Pleas, and answered to there by the defendant, and which shall be defaulted before the jury shall be empannelled and called to try the cause, the Plaintiff shall in no case be allowed to tax in cost more than six days' attendance, and if defaulted after such jury shall be so empannelled and called the cost may be restricted to the same or any greater number of days at the discretion of the Court.

Defaulted actions, no more than six days' to be taxed in.

SECT. 6. *Be it further enacted,* That whenever any defendant in any suit founded on contract express or implied, bond or other speciality, or judgment of Court, shall appear in Court, and there offer and consent in writing, to be defaulted and that judgment shall be rendered against him for a sum by him specified in said writing, the same shall be entered on record, together with the time the same was tendered, and if afterwards the Plaintiff shall proceed to trial and recover no greater sum for his debt or damages and costs up to the time said offer was made, the defendant shall recover his costs of the plaintiff, and the costs so recovered shall be offset against the sum so offered, and judgment shall be rendered, and execution shall issue for the balance for either party, which way soever the same may be. And, if after such offer and consent the plaintiff shall neglect to accept of judgment for the

Defendant may offer in writing to be defaulted for a specified sum.

Defendant may recover costs of plaintiff unless he recovers a greater sum.

Plaintiff liable for costs if he

neglects to accept judgment after such offer and consent.

sum so offered for more than two days, the defendant shall be entitled to recover costs afterwards until the plaintiff shall accept of such offer, or surcease his suit, or shall recover a greater sum, and execution may issue therefor accordingly, or such costs may be offset as herein provided in case of trial and recovery of no greater sum than the judgment tendered.

Questions of law in prosecutions for support of bastard children, how determined.

SECT. 7. *Be it further enacted*, That questions of law arising in prosecutions for the support and maintenance of bastard children may be transferred to and determined by the Supreme Judicial Court, in the same manner and by similar process as questions of law are transferred and determined in civil suits—And the Court shall proceed to render judgment thereon, or may grant a new trial at the bar of said Court, as law and justice may require, and if the party alleging exceptions shall fail to enter such prosecution in said Court, the adverse party may enter his complaint in the same Court, and obtain affirmation of the judgment rendered in the Court of Common Pleas, with double costs. And the bond required by law to be given by the party accused, shall continue and be in force until the final determination of the prosecution.

Bond to be in force till determination of prosecution.

Not to apply to actions pending.

SECT. 8. *Be it further enacted*, That the several provisions of this Act shall not be applied to any actions pending or commenced before this Act shall take effect.

Former Act repealed.

SECT. 9. *Be it further enacted*, That an Act passed on the fourth day of March, one thousand eight hundred and twenty-nine, entitled “an Act additional to an Act to establish a Court of Common Pleas,” and all other Acts or parts of Acts inconsistent with the provisions of this Act be, and the same are hereby repealed, except in relation to actions pending or commenced before this Act shall take effect.

[Approved by the Governor, March 11, 1835.]