

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

THIRTY-FIRST LEGISLATURE

OF THE

STATE OF MAINE,

A. D. 1852.

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Published by the Secretary of State, agreeably to resolves of June 28, 1820, February  
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1852.

PUBLIC LAWS

OF THE

STATE OF MAINE.

1852.

Chapter 246.

An act concerning the supreme judicial court and its jurisdiction.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

District court abolished.

Jurisdiction of, transferred to supreme court.

SECT. 1. The act establishing the district courts and their jurisdiction, and all acts additional thereto, are hereby repealed, and the entire jurisdiction, civil, criminal and appellate, of said district court, and all powers incident thereto, are hereby transferred to and conferred upon the supreme judicial court, which court shall henceforth exercise the same in the same manner as heretofore authorized by law to be exercised by said district court, or as the supreme judicial court are authorized to exercise the same in similar cases; and shall grant any execution or other process necessary to carry into effect any judgment, order, or decree of said district court, as fully as said district court might have done, had not this act been passed.

Records transferred.

SECT. 2. The records of the district court and the custody of the same, in each county, is transferred to the several clerks of the supreme judicial court for such county, to whose attestation of the same, or of their contents, full faith shall be given.

Matters pending in, &c., to be entered on docket of supreme court.

SECT. 3. All indictments and informations, all civil suits and all other processes, civil or criminal, pending in the district court, shall be and hereby are transferred to the supreme judicial courts of the several counties in which they are pending, and shall be entered on the docket of the same at the first term next after the passage of this act, and shall have day therein; and all writs, petitions, warrants and recognizances, appeals in civil and criminal cases, and all processes whatsoever, returnable to, or which by law should have been entered at the term of said district court next after the passage of this act, shall be returnable to and be entered on the docket of the said supreme judicial court, at the term of the same holden next after the term in which, if this act had not been passed, they would have been entered, and shall have day in said supreme court. And all parties, jurors, witnesses, and others who would have been held to appear at the term of the district court next to be holden after this act shall take effect, shall be holden to appear at the term of the supreme judicial court next holden after said term of the district court.

Parties, jurors, &c., of, to appear at next term of supreme court.

Judicial districts.

SECT. 4. The state is hereby divided into three judicial districts, which shall be denominated the western, middle, and eastern districts.

The western district shall be composed of the counties of York, Cumberland, Oxford and Franklin. CHAP. 246.
Western dist.

The middle district shall be composed of the counties of Lincoln, Kennebec, Somerset and Waldo. Middle dist.

The eastern district shall be composed of the counties of Piscataquis, Penobscot, Hancock, Washington and Aroostook. Eastern dist.

SECT. 5. There shall hereafter be three additional justices of the supreme judicial court, making the number seven instead of four, as now prescribed by law, who shall be appointed and commissioned as prescribed in the constitution. Additional justices.

SECT. 6. The supreme judicial court shall be annually holden by at least a majority thereof, for the purpose of hearing and determining all questions of law or equity, which may arise in any mode, in the several places and on the several days, as follows : Law terms, when and where holden.

In and for the western district, at Portland, on the second Tuesday of May. Western dist.

In and for the middle district, at Augusta, on the second Tuesday of June. Middle dist.

In and for the eastern district, at Bangor, on the second Tuesday of July. Eastern dist.

SECT. 7. The several clerks of the supreme judicial courts for the counties of Cumberland, Kennebec and Penobscot, for the time being, shall also be the several clerks of the western, middle, and eastern districts respectively, and they shall severally keep a docket for each district, upon which shall be entered all cases at law or in equity pending in any county in the district, and removed to and entered at the law term in the order of counties, as follows : Clerks, duties of.

Franklin, Oxford, York, and Cumberland, in the western district. Order of entries.

Waldo, Somerset, Lincoln, and Kennebec, in the middle district.

Aroostook, Washington, Piscataquis, Hancock, and Penobscot, in the eastern district.

SECT. 8. All motions for new trial upon evidence as reported by the presiding justice, all questions of law arising on reports of evidence, exceptions, agreed statements of facts, cases in equity, and all cases, civil or criminal, where a question of law is raised for the determination of the supreme judicial court, sitting as a court of law or equity, shall be respectively marked law on the docket of the county where they are so pending, and shall be continued on the same until the determination of Cases to be marked law and how disposed of.

CHAP. 246.

the questions so arising, shall be respectively certified by the clerk of the district to the clerk of the county where they are pending, except as is provided in the tenth section of this act.

Judgments,
&c., at law
term, how pro-
ceeded with.

SECT. 9. The judgments, orders, or decrees of the court at the law term, shall, if made in term time, be entered by the district clerk on his docket, or if pronounced at any term held for the trial of causes by a jury in any county, the same shall be certified, by the clerk of such county, to the clerk of the district in which the same is pending, who shall enter such judgment, order or decree, on his docket, and shall certify the same to the clerk of the county where the same is pending, and such further proceedings shall there be had, and such judgment shall be entered up, as the order or decree of the court shall require.

Cases marked
"law," failure
to enter, pro-
ceedings in.

SECT. 10. In case said suits civil, criminal, or in equity, and thus marked law and continued on the dockets of the supreme judicial court, for each county, respectively, shall not have been entered at the next succeeding law term within the district, by the party whose duty it was so to have entered them, then upon motion and proof thereof, the presiding justice, at the next, or the second succeeding term after the law term, in which they should have been entered, shall enter up such decree, or render such judgment by nonsuit, default or judgment on the verdict, or other mode, as to law and justice shall appertain.

Justices pro-
hibited from
sitting in cer-
tain cases.

SECT. 11. No justice shall take any part whatsoever, in the hearing, deciding, or determining, any question of law or in equity, in which exceptions have been taken to his orders, rulings, decisions, or decrees, or in which any ruling or decision of his in matter of law may be over-ruled or reversed.

Jury trials,
duties of jus-
tice.

SECT. 12. The justice presiding at terms holden for jury trials, shall hear and determine all causes whatsoever, without the intervention of a jury, when both parties shall have so agreed, and entered such agreement on the docket, and he shall direct what judgment shall be entered up in all causes so by him decided.

Appeals from
Probate court
and petitions
for review.

SECT. 13. All appeals from the decrees of the judge of probate, except such as by law are tried by a jury, which shall be tried as heretofore, and all petitions for review, may be heard and determined by the presiding justice, at any term held for the trial of jury causes, subject to exceptions to any matter of law by him so decided and determined.

SECT. 14. All causes in equity shall be heard and deter-

mined at any term, held for the trial of jury causes, by the justice then presiding, upon such depositions or testimony of witnesses produced and sworn in court, written, or other proof, as may be produced and legally admissible, and when requested, he shall report the facts proved, and the questions of law therein arising, and his decision of the same, and his decree upon the premises; and the party dissatisfied therewith may remove the same by exceptions or report to the law term of said court for their decision, by whom the decree may be affirmed, or reversed in whole or in part, or a new hearing granted, or such other order or decree made in the premises, as the law shall require.

Cases in equity.

SECT. 15. The court for the trial of jury causes, and for such other matters as are by law cognizable by one justice thereof, shall hereafter be held in every year in the times and places, as follows:

Jury cases, &c., when and where held.

In and for the county of York, at Alfred, on the first Tuesdays of January, April, and September.

York.

In and for the county of Cumberland, at Portland, on the third Tuesdays of January and April, and second Tuesday of October, for the transaction only of the civil business of said court.

Cumberland.

In and for the county of Oxford, at Paris, on the second Tuesdays of March, August, and November.

Oxford.

In and for the county of Franklin, at Farmington, on the third Tuesdays of January, April, and October.

Franklin.

In and for the county of Somerset, on the first Tuesdays of January, April, and October, at Norridgewock.

Somerset.

In and for the county of Kennebec, at Augusta, on the fourth Tuesday of January, the third Tuesday of April, and the fourth Tuesday of October, for the transaction only of the civil business of said court.

Kennebec.

In and for the county of Lincoln, at Wiscasset, on the fourth Tuesday of January, on the first Tuesday of May, and on the first Tuesday of October, for the transaction only of the civil business of said court.

Lincoln.

In and for the county of Waldo, at Belfast, on the first Tuesdays of January, May, and October.

Waldo.

In and for the county of Penobscot, at Bangor, on the first Tuesdays of January, April, and October, for the transaction only of the civil business of said court.

Penobscot.

In and for the county of Washington, at Machias, on the first Tuesdays of January, April, and October.

Washington.

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Hancock.

In and for the county of Hancock, at Ellsworth, on the fourth Tuesdays of January, April, and October.

Aroostook.

In and for the county of Aroostook, at Houlton, on the second Tuesday of March, and third Tuesday of September.

Piscataquis.

In and for the county of Piscataquis, at Dover, on the last Tuesday of February, and the second Tuesday of September.

Criminal causes, when and where held.

SECT. 16. The court for the transaction of all the criminal business thereof, shall be holden in the several counties by one justice, in the times and places as follows :

Cumberland.

In and for the county of Cumberland, at Portland, on the first Tuesday of March, on the last Tuesday of July, and on the last Tuesday of November.

Kennebec.

In and for the county of Kennebec, at Augusta, on the first Tuesdays of March, August, and December.

Lincoln.

In and for the county of Lincoln, at Wiscasset, on the first Tuesday of March, on the second Tuesday of August, and last Tuesday of November.

Penobscot.

In and for the county of Penobscot, at Bangor, on the last Tuesday of February, the first Tuesday of June, and the last Tuesday of November.

Civil and criminal business of certain counties, when transacted.

The civil business of said court in the several counties of Cumberland, Kennebec, Lincoln, and Penobscot, shall be transacted at the three annual terms as provided in section fifteenth of this act, and the criminal business thereof shall be transacted exclusively at the three annual terms established for the transaction of criminal business ; and all continuances of civil or criminal cases shall, without any special order therefor, be had to the next term of the said court to be held for the transaction of business of the same description.

Grand jurors, term of service.

SECT. 17. The grand jurors who shall be returned to serve at the supreme judicial court, shall serve at every term thereof throughout the year, except that the grand jurors in those counties where there are terms for the trial of criminal causes, shall be required only to serve throughout the year at the terms established by law for the transaction of criminal business.

Venires for grand jurors, when issued.

SECT. 18. Venires for grand jurors shall be issued forty days at least before the second Monday of September, annually.

Venire facias for jurors, &c.

SECT. 19. The clerks of the several courts shall in due season before every term holden for the trial of causes by a jury in their respective counties, or at such other times as the court shall order, issue writs of venire facias for jurors, and shall therein require the attendance of jurors on the first day of the term, or on such day as the court shall order.

SECT. 20. When a capital trial is to be had in any county, it shall not be necessary that more than three justices shall be present, to whose rulings or decisions in matter of law exceptions may be taken.

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Capital trials may be had before three justices.

SECT. 21. In all cases specified in section eighth of this act, the parties may, if they shall have so agreed and entered such agreement on the docket, transmit to the court in vacation, their respective arguments in writing, and it shall be lawful for the court to pronounce their decision at any term in any county, and judgment may be entered in such action in the county where the cause is pending, by special order of court, as of the preceding term.

Arguments may be made in writing in certain cases.

SECT. 22. The purpose of this act being to repeal the act establishing the district courts, and all acts additional thereto, and to transfer to and confer upon the supreme judicial court all the powers and jurisdiction of said district court, this act shall, in all respects, be so construed as may best effectuate that purpose.

Purposes of this act.

SECT. 23. All writs, exceptions, bills in equity, libels, recognizances, appeals, and all processes whatsoever, returnable to, or which by law should have been entered at the next term of the supreme judicial court as established by law, before the passage of this act, shall be returnable to and entered on the docket of said supreme judicial court at the term for the trial of jury causes holden next after the time in which if this act had not been passed, they would have been entered and shall have day therein, but in those counties in which there are separate terms for the transaction of civil and criminal business, the entries shall be made on the docket of the court held for the transaction of business of the same description.

Writs, processes, &c., returnable to supreme court prior to the passage of this act, how disposed of.

SECT. 24. All appeals from any judgment of the district court for the county of Aroostook, and all causes removed in any mode whatsoever from the county of Aroostook, and which, but for this act would have been entered at the next term of the supreme judicial court held in the county of Washington as established by law before the passage of this act, shall be entered on the docket of the supreme judicial court to be holden in and for the county of Aroostook, next after the passage of this act, and shall have day therein; and all actions or suits, civil or criminal, removed by appeal or exceptions, or any other mode whatsoever from the county of Aroostook, and now pending in the county of Washington, shall be removed to the county of Aroostook and entered at the term of the supreme

District court, Aroostook co., appeals from, &c.

CHAP. 247. judicial court to be holden as aforesaid, in and for said county of Aroostook, on the docket of the same, and shall have day therein.

Justices, ap-
pointment and
services of.

SECT. 25. In appointing justices, and in filling all vacancies which may occur, the appointments shall be so made that at least two justices shall reside in each judicial district, that the several judges of the said supreme court, shall interchange with each other under the direction of the chief justice, in holding said courts, so that their several services shall be divided to each county throughout the state, as nearly equal as may be.

Acts repealed.

SECT. 26. All acts or parts of acts relating to the terms appointed for the holding of courts in the different counties, and all acts and parts of acts, so far as the same may be inconsistent with this act, are hereby repealed.

SECT. 27. This act shall take effect and be in force from and after April thirtieth, eighteen hundred fifty-two.

[Approved April 9, 1852.]

Chapter 247.

An act concerning railroads.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows :

Railroads, as-
signment of
charter, &c.,
prohibited,
without au-
thority of the
legislature.

SECT. 1. It is hereby declared that no railroad company has or shall have the right to assign its charter, or any of its privileges, immunities or franchises, without the express authority of the legislature therefor; nor shall any railroad company, without such express authority, lease its road or any portion thereof, or grant the use and enjoyment thereof or any portion of the same, to any other person or corporation, or in any way grant the use, possession, or control of the same to any other party or corporation, or in any way place the control and management of the said road in the hands of any other officers or parties than those contemplated by the charter; and any such lease, contract, agreement, assignment or transfer heretofore or hereafter made is hereby declared to be null and of no effect; and it shall be the duty of the attorney general, on suggestion or request of any person complaining of a violation of the provisions of this act, by any such corporation, to file an information, in the nature of a quo warranto, against said corporation, before the supreme judicial court, and said court is

Lease, assign-
ment, &c.,
declared void.

Duty of attor-
ney general.