

# MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

THIRTY-FOURTH LEGISLATURE

OF THE

STATE OF MAINE,

1855.

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Published by the Secretary of State, agreeably to Resolves of June 28, 1820, February 26, 1840, and March 16, 1842.

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PUBLIC LAWS

OF THE

STATE OF MAINE.

1855.

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issued, the said justice shall issue his notice to the adverse party, to appear and answer to said complaint at his chambers, or at a law term to be next held after the expiration of fourteen days, in the judicial district in which the offense shall be alleged to have been committed. The notice shall be served in the same manner as other summonses. The justices of said law court shall have full power, in open court, and severally at chambers, to make all such orders and decrees as may be needful in the premises, according to the course of chancery proceedings, in order effectually to restrain, prohibit and suppress the unlawful business specified in this section. And if the adverse party shall neglect to appear in answer to the aforesaid summons of the justice of said court, or if the final decree of the court shall be against him, the court shall render judgment against him for all costs, fees and expenses, incurred in the process, and proceedings, and such compensation for the services and expenses of the attorney general as to the court may seem reasonable.

CHAP. 174.

Justices of law court, powers of.

If adverse party neglect to appear, judgment shall be rendered against him.

[Approved March 16, 1855.]

### Chapter 174.

An act additional concerning the supreme judicial court and its jurisdiction.

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

SECT. 1. The supreme judicial court for the purpose of hearing and determining all questions of law and equity, and for the trial of capital offenses, shall consist of four justices to be designated from the members thereof by the governor with the advice and consent of the council, or appointed and commissioned in the manner provided for in the constitution. The chief justice, however, shall always be one of said four justices. Said justices shall hear and determine all questions of law and equity, which may arise in any mode now provided by law, and shall also try all indictments found for crimes, the punishment of which is death. And shall hold the law terms of said court at Augusta, in the county of Kennebec, in and for the Middle District, on the first Tuesday of January, and the second Tuesday of June: At Portland, in the county of Cumberland, in and for the Western District, on the second Tuesday of May: and at Bangor, in the county of Penobscot, in and for the Eastern District, on the second Tuesday of July. And at the said term to be held at Augusta on the first Tuesday of January, any cause, pending in any county in the state, and in readiness for a hearing upon

Justices of law court, number of, and how designated, &c.

—duties of.

Time and place of holding court.

Cases pending in any county in the state may be heard at the January term at Augusta.

**CHAP. 174.** any questions of law or equity, may, by the consent of the parties or their counsel, be entered and heard; but without such consent, no party shall be required to attend at said term: *provided, however,* that it shall be competent for three of said justices to hear all questions which may come before said court as aforesaid, and to determine the same by a majority thereof; and *provided, also,* that it shall be the duty of the chief justice, and he is hereby required, from time to time as the public necessities shall require, to detail from said four justices, one of that number to hold and preside at the terms which by law are held by one judge for the trial of issues in the several counties. And in case of the illness or disability of any of the judges whose duty it is to hold terms for jury trials, the chief justice may designate a second justice of the law court to preside at such term when the law court is not in session.

Questions may be heard and determined by three justices.

Justices of said court shall preside at jury trials when required.

Act repealed.

SECT. 2. The eleventh and fourteenth sections of the act "concerning the supreme judicial court and its jurisdiction, approved April ninth, eighteen hundred and fifty-two," are hereby repealed.

Additional justice of S. J. C.

SECT. 3. There shall be an additional justice of the supreme judicial court, who shall be appointed and commissioned as prescribed in the constitution.

Defense in civil cases, grounds of to be filed with the clerk of the court.

SECT. 4. In all civil cases hereafter entered in said court, when the defendant appears and desires a trial, he shall, at least fourteen days before the commencement of the term next after the entry of the action or service on him, file with the clerk of the court a specification in brief of the nature and grounds of his defense, with a declaration signed by himself or his attorney, that the declarant believes that there is a good defense to all or a part of the plaintiff's claim, and that he intends, in good faith, to make such defense. And no action shall be placed on the trial docket, unless such specification and declaration has been filed, as aforesaid. The court may, in its discretion, in cases of accident or mistake clearly shown, allow such specification and declaration to be filed and an entry made on the trial docket after said time. A separate trial docket shall be made out by the clerk at each term, which shall contain only such cases as are above specified, in their proper order. The court, before proceeding to the trial of causes, or at some early and convenient time in each term, shall dispose of all the cases not on the trial docket, by non-suit, default, continuance or otherwise, as the proper and prompt administration of justice may require. No costs shall be allowed to either party, after the second term after entry in any action, not on the trial docket, as aforesaid, unless the judge presiding, when final judgment is given, shall certify or enter upon record that the delay and continuance or continuances

Trial docket to be made out by clerk.

Cases not on trial docket, how disposed of.

No costs allowed in certain cases.

after such second term were proper and necessary for the due administration of law and justice in that case. And in any case which has been entered on the trial docket as aforesaid, if no issue shall be joined and no actual trial in any mode be had, and judgment be rendered for the plaintiff, the defendant shall be liable for treble costs, unless the judge presiding as aforesaid shall certify or enter upon record that the defendant had reasonable grounds for filing his said specification and declaration, and that the same was not filed for the mere purpose of delay. In case any civil suit marked law, and continued on the dockets of the supreme judicial court, for each county, respectively, when this act shall take effect, shall not have been entered in the law court within the district by the party whose duty it was so to have entered the same, such suit may be entered within the first two days of the next succeeding law term in said district. And in all cases in which a party, whose duty it shall be to enter any civil action in the law court of any district in this state, shall fail to enter the same within the first two days of the term when it may or should be entered, the opposite party may thereafter, during the same term, enter a complaint, briefly setting forth the facts, and the court, on being satisfied of the truth of said complaint, shall order judgment to be rendered in favor of such complainant, as of the preceding term, in the county where such action shall be pending. And if the case shall be on demurrer to the declaration, or on exceptions, the complainant shall recover treble costs from the time such demurrer or exceptions were filed.

SECT. 5. All acts or parts of acts relating to the time and place for holding the terms of said court, by not less than a majority of said court, and all acts and parts of acts inconsistent with this act, are hereby repealed, and such repeal shall not revive any former act.

SECT. 6. This act shall take effect from and after the thirtieth day of April next.

[Approved March 16, 1855.]

CHAP. 175.

Defendant liable to treble costs.

Certain suits may be entered within first two days of law term.

Proceedings in case of neglect.

Certain acts repealed.

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**Chapter 175.**

An act to authorize plantations to raise money for schools.

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

SECT. 1. All plantations organized for election purposes only, are hereby authorized and required in May next, and thereafter,