

MAINE STATE LEGISLATURE

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Seventieth Legislature.

SENATE.

No. 91

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND ONE.

AN ACT to establish a municipal court in the town of Fairfield.

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

Section 1. There is hereby established in and for the town
2 of Fairfield, in the county of Somerset, a court, to be denom-
3 inated the municipal court of Fairfield.

Sect. 2. Said court shall be a court of record, and have a
2 seal, to be affixed to all original processes issuing therefrom.

Sect. 3. Said court shall consist of one judge, to be
2 appointed in the manner and for the term provided by the
3 constitution, who shall be a member of the bar in Somerset
4 county, and who shall reside during his continuance in office
5 in said town of Fairfield.

Sect. 4. Said court shall have concurrent jurisdiction with
2 supreme judicial court in the county of Somerset of the

3 offenses described in chapter one hundred and twenty, sec-
4 tions one, six, seven, eight and nine of the Revised Statutes,
5 when the value of the property is not alleged to exceed fifty
6 dollars; and also of the offenses described in chapter one
7 hundred and thirty-two, section four of the Revised Statutes;
8 and also of the offenses described in chapter one hundred and
9 eighteen, section twenty-eight of the Revised Statutes, and
10 may punish in all such offenses by fine not exceeding fifty
11 dollars or by imprisonment for a time not exceeding four
12 months; also of the offenses described in chapter one hun-
13 dred and twenty-four, section six of the Revised Statutes.
14 Said court shall have exclusive jurisdiction of all offenses
15 arising in said town of Fairfield, which are by any law or
16 statute within the jurisdiction of a trial justice, and concur-
17 rent jurisdiction with trial justices of the county of Somer-
18 set of all such offenses arising in said county outside of said
19 town of Fairfield.

Sect. 5. Said court shall have original and exclusive juris-
2 diction of all offenses against the ordinances and laws of the
3 town of Fairfield, and in all civil actions wherein the amount
4 claimed in damages shall not exceed twenty dollars, in which
5 one of the parties interested, or the attorney of the plaintiff
6 who made the writ, or person or persons summoned as
7 trustees in such action, shall be inhabitants or residents of
8 Fairfield, and in all cases of forcible entry and detainer aris-
9 ing in said town, excepting all actions in which said judge
10 may be interested; provided that any action, civil or crim-
11 inal, in which the judge may be interested or related to either
12 of the parties by consanguinity or affinity within the sixth
13 degree, according to the rules of civil law, or within the de-
14 gree of second cousin, inclusive, but which would otherwise
15 be within the jurisdiction of said court, may be brought be-

16 fore and disposed of by any trial justice within said county,
17 in the same manner, and with like effect, as other actions
18 before said trial justices. Said court shall have original con-
19 current jurisdiction with the supreme judicial court, in all
20 civil actions where the debt or damages demanded, exclusive
21 of costs, do not exceed one hundred dollars, and any defend-
22 ant, or any person or corporation summoned as trustee is
23 a resident of said town of Fairfield, and also in all actions
24 of replevin under chapter ninety-six of the Revised Statutes,
25 when the value of the goods or chattels replevied does not
26 exceed one hundred dollars; but this jurisdiction shall not
27 include proceedings under the divorce laws or complaints
28 under the mill act, so called, nor jurisdictions over actions
29 in which the title to real estate according to the pleadings
30 filed in the case by either party is in question except as pro-
31 vided in chapter ninety-four, sections six and seven of the
32 Revised Statutes.

Sect. 6. Said court shall be held on the first Wednesday of
2 each month, at ten o'clock in the forenoon, for the transaction
3 of civil business at such place within said town as the judge
4 shall determine; but the Fairfield Village Corporation shall
5 forthwith provide a court room, in which case the court shall
6 be held therein, and all civil processes shall be made return-
7 able accordingly; and it may be adjourned from time to time
8 by the judge, at his direction, but it shall be considered in
9 constant session for the cognizance of criminal actions.

Sect. 7. All writs and processes, issued by said court,
2 shall be of the usual forms, and all writs in which the debt
3 or damages demanded do not exceed twenty dollars, shall
4 be served as now provided by law in case of writs issued by
5 trial justices, and all writs in which the debt or damages de-
6 manded exceed twenty dollars, shall be served in time and
7 manner as now provided by law in case of writs issued by the

8 supreme judicial court. Said court is hereby authorized to
9 administer oaths, render judgments, issue executions, punish
10 for contempt, and compel attendance as in the supreme judi-
11 cial court, and make all such rules and regulations, not repug-
12 nant to law, as may be necessary and proper for the admin-
13 istration of justice.

Sect. 8. It shall be the duty of the judge of said court to
2 make and keep the records thereof, or cause the same to be
3 made and kept, and to perform all other duties required of
4 similar tribunals in this state; and copies of said records,
5 duly certified, shall be legal evidence in all courts. The judge
6 may appoint in writing a recorder, who shall be a trial justice
7 for the county of Somerset, duly qualified, who shall be
8 sworn by said judge, who shall keep the records of said court
9 when requested so to do by the judge; and in case of absence
10 from the court room, or sickness of the judge, or when the
11 office of judge shall be vacant, the recorder shall have and
12 exercise all the powers of the judge, and perform all the
13 duties required of said judge by this act, and shall be em-
14 powered to sign and issue all processes and papers, and to
15 do all acts as fully and with the same effect as the judge
16 could do were he acting in the premises; and the signature
17 of the recorder, as such, shall be sufficient evidence of his
18 right to act instead of the judge. When the office of judge is
19 vacant, the recorder shall be entitled to the fees, in all other
20 cases he shall be paid by the judge, and shall hold his said
21 office at the discretion of said judge.

Sect. 9. All actions may be tried by said court without the
2 intervention of a jury, subject to the right of appeal. All
3 actions shall be entered during the first day of the term at
4 which they are returnable and not after without special per-
5 mission. When a defendant, legally served, does not appear
6 within the first two days of the term he shall be defaulted,

7 but the court may take off the default for sufficient cause. All
8 pleas in abatement must be filed within the first two days. The
9 defendant must file his pleas within fourteen days after entry
10 of action, which shall consist of the general issue, with a
11 brief statement of special matter of defense, if any, if the
12 defendant does not file his pleadings as before provided, he
13 shall be defaulted on the first day of the next term after entry,
14 unless the court, for good reason, grants him leave to plead
15 or otherwise lawfully dispose of the case. All actions duly
16 answered to shall be in order for trial at the next term
17 after entry. Any party may appeal from the judgment or
18 sentence of said court to the supreme judicial court, in the
19 same manner as from a judgment or sentence of a trial jus-
20 tice. And if any defendant in any action in said court, where
21 the amount claimed in the writ exceeds twenty dollars, or
22 his agent or attorney shall, on the return day of the writ, file
23 in said court, a motion asking that said action be removed
24 to the supreme judicial court, accompanied by his pleadings
25 in said action, and shall at the same time deposit with the
26 judge the sum of two dollars for copies, to be taxed in his
27 costs if he prevail, the said action shall be removed into the
28 supreme judicial court for said county, and the judge shall
29 forthwith cause certified copies of the writ, officer's return
30 and pleas, to be filed in the clerk's office of said supreme
31 judicial court and said action shall be entered on the docket
32 of the term next preceding said filing, and shall be in order
33 for trial at the next succeeding term.

Sect. 10. If at any regular or adjourned term of said court
2 to be held for civil business, the judge or recorder is not pres-
3 ent at the place for holding said court within two hours after
4 the time for opening said court, then any trial justice or jus-
5 tice of the peace in the county of Somerset, may preside for
6 the purpose of entering and continuing actions, and filing

7 papers in said court, and may adjourn said court from time
8 to time, not exceeding one week at any one time, without
9 detriment to any action returnable or pending, and may in
10 his discretion, adjourn said court without day, in which event
11 all actions returned or pending, shall be considered as con-
12 tinued to the next term. No trial justice or justice of the
13 peace shall be disqualified from presiding for the purpose
14 mentioned in this section, by reason of his being interested in
15 any action returnable before or pending in said court.

Sect. 11. Said court shall be held on every Wednesday
2 of each month for the entry and trial of actions of forcible
3 entry and detainer, and judgment, in such actions, may be en-
4 tered on the day when the same are heard and determined.

Sect. 12. All the provisions of the statutes of the state rela-
2 tive to attachment of real estate and personal property and
3 the levy of executions, shall be applicable to actions brought
4 in this court, which shall have authority to render judgments
5 and issue executions to be satisfied in the same manner as
6 though issuing from the supreme judicial court; provided,
7 that property may be attached in addition to the ad damnum
8 sufficient to satisfy the costs of suit.

Sect. 13. Costs and fees allowed to parties, attorneys and
2 witnesses in all actions in said court, in which the amount of
3 debt or damages claimed in the plaintiff's declaration do not
4 exceed twenty dollars, shall be the same allowed in actions
5 before trial justices, except that the plaintiff, if he prevail,
6 shall be allowed two dollars for his writ; and the defendant,
7 if he prevail, two dollars for his pleadings. In actions where
8 the amount recovered by the plaintiff, exclusive of costs, ex-
9 ceed twenty dollars, or property, the value of which exceeds
10 that sum, or the amount claimed, or the value of the property
11 recovered exceeds twenty dollars, where the defendant pre-
12 vails, the costs of the parties, trustees and witnesses shall be

13 the same as in the supreme judicial court, except that the
14 costs to be taxed for attendance shall be two dollars and fifty
15 cents for each term, for as many terms as may be allowed
16 by the court; and the witness in such cases shall be
17 allowed for their attendance one dollar per day and travel
18 as in other cases; and the defendant, if he prevail, shall be
19 allowed two dollars for his pleadings.

Sect. 14. The judge of said court shall receive the same
2 fees allowed by law to trial justices and clerks of the su-
3 preme judicial court for similar services, except that he shall
4 receive for every blank writ signed by him, five cents; for the
5 entry of an action, civil or criminal, fifty cents; for every war-
6 rant issued, one dollar; for the trial of an issue in civil or
7 criminal cases, two dollars, for every day actually employed;
8 and for copies in any action appealed from said court, two
9 dollars.

Sect. 15. All fines, penalties and costs paid into said court
2 upon convictions and sentences in criminal matters, together
3 with all fees allowed to the judge of said court by law in the
4 transaction of criminal business, shall be paid to said judge.
5 All fines and penalties received by said judge shall be ac-
6 counted for and paid over in the same manner as is required
7 by law of trial justices; and all fees received by him shall
8 be paid to the persons entitled by law to the same as if re-
9 ceived by a trial justice.

Sect. 16. Trial justices are hereby restricted from exer-
2 cising any jurisdiction in the town of Fairfield over any mat-
3 ter or thing, civil or criminal, except such as are within the
4 jurisdiction of justices of the peace and of the quorum; pro-
5 vided, that said restrictions shall be suspended until the
6 judge of said court shall enter upon the duties of his office.

Sect. 17. Nothing in this act shall be construed to interfere
2 with actions already commenced before trial justices in the

3 town of Fairfield, but all such actions shall be disposed of
4 by such trial justices the same as if this act had not passed.

Sect. 18. Nothing in this act shall be construed as giving
2 the judge of said court jurisdiction as disclosure commis-
3 sioner, nor shall said judge act as disclosure commissioner
4 in any manner or form.

Sect. 19. This act shall take effect when approved.

STATE OF MAINE.

IN SENATE, February 28, 1901.

Reported by Mr. WHITE from Committee on the Judiciary, and laid
on table to be printed under joint rules.

KENDALL M. DUNBAR, *Secretary*.