

MAINE STATE LEGISLATURE

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SEVENTY-FIFTH LEGISLATURE

SENATE

NO. 2

In Senate, January 12, 1911.

Tabled to be printed.

W. C. HANSON, Secretary.

STATE OF MAINE

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

AN ACT to abolish the Dover Municipal Court and the Milo
Municipal Court and to establish the Piscataquis Municipal
Court.

Be it enacted by the People of the State of Maine, as follows:

Section 1. The Dover Municipal Court is hereby abol-
2 ished.

Sect. 2. The Milo Municipal Court is hereby abolished.

Sect. 3. A Municipal Court is hereby established in
2 and for the County of Piscataquis which shall be called
3 the Piscataquis Municipal Court and shall be a court of
4 record with a seal. All original processes issuing from
5 said court shall be under the teste of the judge, or, if the
6 office of judge is vacant, of the recorder thereof, and signed
7 by the judge, or recorder thereof, and shall have the seal
8 of said court affixed.

Sect. 4. Said court shall consist of one judge who shall be an inhabitant of the county of Piscataquis and shall be appointed in the manner and for the term provided by the constitution of this state. The said judge shall enter, or cause to be entered on the docket of said court all civil and criminal actions with full minutes of the proceedings in and disposition of the same, which docket shall be at all times open to inspection, and he shall perform all other duties required of similar tribunals in this state; and copies of the records of said court duly certified by the judge, or recorder thereof shall be legal evidence in all courts. The said judge shall not act as attorney or counsel in any action or matter within the exclusive jurisdiction of said court.

Sect. 5. A recorder may be appointed in the manner provided by Article five of section eight, of the constitution, who shall keep the records of said court when requested so to do by said judge; and in case of absence from the court room of said judge, or when the office of judge shall be vacant, the said recorder shall have and exercise all the powers of the judge and perform all the duties required of said judge by this act, and shall be empowered to sign and issue all papers and processes, and do all acts as fully and with the same effect as the judge could do if he were acting in the premises; and the signature of the recorder as such shall be sufficient evidence of his right to act instead of the judge. Said recorder shall reside in the

14 County of Piscataquis aforesaid and shall hold his said office
15 of recorder for four years.

Sect. 6. Said court shall have original and exclusive
2 jurisdiction as follows: First, of all cases of forcible en-
3 try and detainer respecting estates within the county of
4 Piscataquis aforesaid; second, of all such criminal offenses
5 and misdemeanors committed in said county of Piscataquis
6 as are by law within the jurisdiction of trial justices; third,
7 of all offenses against the ordinances and bylaws of any of
8 the towns in said Piscataquis County; provided, that war-
9 rants may be issued by any trial justice in said county up-
10 on complaint for offenses committed in said County of Pis-
11 cataquis, but all such warrants shall be made returnable
12 before said court and no other municipal or police court,
13 and no trial justice, shall have or take cognizance of any
14 crime or offense committed in said county of Piscataquis;
15 provided, further, that warrants issued by any trial justice
16 in said county upon complaint for crimes or offenses com-
17 mitted in any town or unorganized place in said county, shall
18 be made returnable before said court.

Sect. 7. Trial justices in and for the county of Piscata-
2 quis shall not have the right to issue writs in civil processes
3 or determine any causes in civil actions in the county of
4 Piscataquis, and their rights and jurisdiction in criminal
5 matters are limited in accordance with the preceding sec-
6 tion excepting that they may act within the provisions of
7 Section Ten and Eleven hereinafter.

Sect. 8. Said court shall have original jurisdiction con-
2 current with the supreme judicial court as follows: First,
3 of all civil actions wherein the debt or damage demanded,
4 exclusive of costs, does not exceed two hundred dollars, in
5 which any person, summoned as trustee resides within the
6 county of Piscataquis, or, if a corporation, has an estab-
7 lished place of business in said county, or in which no trus-
8 tee being named in the writ, any defendant resides in said
9 county, or if no defendant resides within the limits of this
10 state, any defendant is served with process in said county,
11 or the goods, estate or effects of any defendant are found
12 within said county and attached on the original writ; sec-
13 ond, of the assaults and batteries described in section twen-
14 ty-eight of chapter one hundred and nineteen of the revised
15 statutes; of all larcenies described in sections one, six, sev-
16 en, nine and eleven of chapter one hundred and twenty one
17 of the revised statutes; when the value of the property is
18 not alleged to exceed thirty dollars, of the offense described
19 in section twenty-one of chapter one hundred and twenty-
20 three of the revised statutes; of all offenses and crimes
21 described in sections one and four of chapter one hundred
22 twenty-four of the revised statutes; of all offenses
23 described in section six and in sections thirty-four to fifty-
24 three inclusive, of chapter one hundred and twenty-five of
25 the revised statutes; of the offense described in section five
26 of chapter one hundred and twenty-six of the revised stat-
27 utes; of all offenses described in section one of chapter one

28 hundred and twenty-seven of the revised statutes, when the
29 value of the property or thing alleged to have been fraud-
30 ulently obtained, sold, mortgaged, or pledged, is not al-
31 leged to exceed thirty dollars; and of all offenses described
32 in sections two, nine, nineteen, twenty-one and twenty-six
33 of chapter one hundred and twenty-eight of the revised
34 statutes, when the value of the property destroyed or the
35 injury done, is not alleged to exceed thirty dollars; and
36 may punish for either of said crimes or offenses by a fine
37 not exceeding fifty dollars, and by imprisonment not ex-
38 ceeding three months, provided, that when the offenses de-
39 scribed in section twenty-eight of chapter one hundred and
40 nineteen, section twenty-one of chapter one hundred and
41 twenty-three, and sections one and four of chapter one
42 hundred and twenty-four, are of a high and aggravated
43 nature, the judge of said court may cause persons charged
44 with such offenses to recognize with sufficient sureties to
45 appear before the supreme judicial court and in default
46 thereof commit them; third, of all other crimes, offenses
47 and misdemeanors committed in said county which are by
48 law punishable by a fine not exceeding fifty dollars, and
49 by imprisonment not exceeding three months, and are not
50 within the exclusive jurisdiction of some other municipal or
51 police court.

Sect. 9. Said court shall not have jurisdiction of any
2 civil action wherein the title to real estate according to the
3 pleading or brief statement filed therein by either party, is

4 in question; and all such actions brought in said court shall
5 be removed to the supreme judicial court, or otherwise dis-
6 posed of as in like cases before a trial justice; provided,
7 that nothing herein contained shall prevent said court from
8 proceeding in accordance with the provisions of sections
9 six and seven of chapter ninety-six of the revised statutes.

Sect. 10. Any action, civil or criminal, in which the
2 judge of said court is interested or related to either of the
3 parties by consanguinity or affinity, within the sixth degree
4 according to the rules of the civil law, or within the degree
5 of second cousins, but which would otherwise be within
6 the exclusive jurisdiction of said court, may be brought be-
7 fore and disposed of by any trial justice or any other mu-
8 nicipal or police court in said county, in the same manner
9 as other actions before said trial justices, or municipal or
10 police courts. If any action wherein said judge is so in-
11 terested or related to either party, is made returnable be-
12 fore this court, the parties thereto, by themselves or their
13 attorney, may in writing consent that said judge shall hear
14 and dispose of the same; or the recorder thereof, if dis-
15 interested, or with the written consent of the parties, if in-
16 terested, may hear and dispose of the same in the judge's
17 stead, or such actions shall be disposed of as follows: civil
18 actions, wherein the debt or damages demanded, exclusive
19 of costs exceed twenty dollars, shall upon motion, be re-
20 moved to the supreme judicial court, and all other civil ac-
21 tions, and all criminal actions, shall be removed and entered

22 before any such trial justice within said county as may be
23 agreed upon, in writing, by the parties entering an appear-
24 ance in such action, or if no trial justice is agreed upon,
25 before any municipal or police court in said county, and
26 such trial justice, or municipal or police court shall have
27 and take cognizance of such action and dispose of the same,
28 as if originally returnable before such justice or court; pro-
29 vided, that nothing in this section contained shall prevent
30 any civil action wherein the title to real estate is in ques-
31 tion from being disposed of in accordance with the pro-
32 visions of the preceding section. In any action in which
33 any of the towns in the county is a party or is summoned
34 as trustee, this court shall not lose its jurisdiction by reason
35 of the said judge or recorder being an inhabitant of or own-
36 ing property in such town; but in any such case the action
37 may, upon written motion of either party, filed before trial,
38 be removed to the supreme judicial court.

Sect. 11. The terms of said court shall be held for the
2 transaction of civil business, as follows, to wit: In Milo
3 on the second Tuesday of every month; in Dover on the
4 third Tuesday of every month; in Guilford on the fourth
5 Tuesday of every month; at such places in said towns of
6 Milo, Dover and Guilford as the judge shall determine; but
7 said towns may at any time provide a court room in which
8 case the court shall be held therein and all civil processes
9 shall be made returnable accordingly. Said court shall also
10 be held in said Dover on every Monday at the usual hour for

11 the purpose of filing pleas in abatement and the affidavit
12 mentioned in section sixteen of this act; and for the entry
13 and trial of cases of forcible entry and detainer, and such
14 actions shall be returnable accordingly, and they shall be
15 heard and judgment shall be entered therein on the return
16 day of the writ, unless continued for good cause. For the
17 cognizance and trial of criminal actions said court shall be
18 considered as in constant session. In all cases it may be
19 adjourned from time to time by the judge.

Sect. 12. If at any regular or adjourned term of said
2 court to be held for civil business, the judge or recorder is
3 not present at the place of holding said court, within two
4 hours after the time of opening said court, then any trial
5 justice or justice of the peace in the county of Piscataquis,
6 may preside for the purpose of entering and continuing ac-
7 tions and filing papers in said court, and may adjourn said
8 court from time to time, not exceeding one week at any one
9 time, without detriment to any action returnable or pend-
10 ing, and may, in his discretion, adjourn said court without
11 day, in which event all actions returned or pending shall
12 be considered as continued to the next term. No trial justice
13 or justice of the peace shall be disqualified from presiding
14 for the purpose mentioned in this section by reason of his
15 being interested in any action returnable before or pending
16 in said court.

Sect. 13. Any party may appeal from any judgment
2 or sentence of said court to the supreme judicial court, in

3 the same manner as from a judgment or sentence of a trial
4 justice.

Sect. 14. Writs and processes issued by said court shall
2 be in the usual forms and shall be served as like precepts
3 are required to be served when issued by trial justices.

Sect. 15. All the provisions of the statutes relating to
2 attachment of real and personal property and the levy of
3 execution shall be applicable to actions brought in this court,
4 and executions on judgments rendered therein; provided
5 that property may be attached in addition to the ad damnum,
6 sufficient to satisfy the costs of the suit, and the writs may
7 be framed accordingly. When any action in which real
8 estate is attached shall be finally disposed of in said court,
9 or shall be removed to the supreme judicial court, by ap-
10 peal or otherwise, the judge of said municipal court shall
11 forthwith certify the disposition or removal thereof to the
12 register of deeds of the county of Piscataquis, who may
13 make a minute of the disposition or removal upon the record
14 of attachment in said action.

Sect. 16. All civil actions in said court shall be en-
2 tered on the first day of the term and not afterward, ex-
3 cept by special permission; and they shall be in order for
4 trial, except actions of forcible entry and detainer at the
5 next regular monthly term after the entry if not otherwise
6 disposed of. When a defendant legally summoned fails to
7 enter his appearance by himself or his attorney before twelve
8 o'clock, noon, on the first day of the return term, he shall

9 be defaulted; but if he afterward appear during said term
10 the court may for sufficient cause permit the default to be
11 taken off. Pleas in abatement must be filed on or before
12 the Monday next succeeding the date of the entry of the
13 action. The pleading shall be the same as in the supreme
14 judicial court and all provisions of law relative to practice
15 and proceedings in civil actions in the supreme judicial court,
16 are hereby made applicable and extended to this court ex-
17 cept so far as they are modified by the provisions of this
18 act.

Sect. 17. Actions pending in this court may be referred
2 in the same manner as in the supreme judicial court, and on
3 the report of the referee to said municipal court judgment
4 may be rendered in the same manner and with like effect
5 as in the supreme judicial court.

Sect. 18. If any defendant is agent or attorney in any
2 civil action in this court in which the debt or damages de-
3 manded or claimed in the writ exceeds twenty dollars, shall,
4 on or before the Monday succeeding the date of entry of
5 said action file in said court an affidavit that he has a good
6 defense to said action, and intends in good faith to make
7 such defense and claims a jury trial, and shall at the same
8 time deposit with the judge or recorder of said court, one
9 dollars and sixty cents, for copies and entry in the supreme
10 judicial court, to be taxed in his costs if he prevail, the said
11 action shall at the next regular monthly term of said mu-
12 nicipal court, after the entry thereof be removed into the

13 supreme judicial court for said county, and shall be en-
14 tered at the next ensuing term of the supreme judicial court
15 after such removal; and the judge or recorder of said mu-
16 nicipal court shall forthwith cause certified copies of the
17 writ, return of the officer, and all other papers in the case
18 to be filed in the clerk's office of said supreme judicial court.

Sect. 19. Exceptions may be alleged and cases certi-
2 fied on an agreed statement of facts, or upon evidence re-
3 ported by the judge in all civil actions as in the supreme
4 judicial court, and the same shall be entered, heard and de-
5 termined at the law term thereof as if the same had origin-
6 ated in the supreme judicial court for said county of Pis-
7 cataquis; and decisions of the law court in all such cases
8 shall be certified to the judge of said municipal court for
9 final disposition with the same effect as in cases originating
10 in said supreme judicial court.

Sect. 20. Said municipal court may render judgment
2 and issue execution, punish for contempt and compel at-
3 tendance, as in the supreme judicial court; make all such
4 rules and regulations not repugnant to law, as may be neces-
5 sary and proper for the administration of justice promptly;
6 and is clothed with all such lawful power as is necessary
7 for the performance of its duties under this act.

Sect. 21. The costs and fees allowed to parties, attor-
2 neys and witnesses, in all actions in this court, in which
3 the debt or damages recovered shall not exceed twenty dol-
4 lars, and in actions of forcible entry and detainer, shall be

5 the same as allowed in similar actions before trial justices,
6 except that the plaintiff if he prevail, shall be allowed two
7 dollars for his writ, and the defendant if he prevail, shall
8 be allowed one dollar for his pleadings; and in cases where
9 the amount recovered shall exceed twenty dollars the costs
10 and fees of parties, attorneys and witnesses shall be the same
11 as in the supreme judicial court, except that the defendant,
12 if he prevail, shall be allowed two dollars for his pleadings.

Sect. 22. The judge of said court may demand and
2 receive the same fees allowed by law to trial justices and
3 clerks of the supreme judicial court for similar services,
4 except that he shall receive for every blank writ signed by
5 him three cents; for the entry of each civil action, fifty
6 cents; for every warrant issued by him, one dollar; for
7 the trial of an issue in civil or criminal cases, one dollar
8 for the first day and two dollars for each subsequent day
9 actually employed; and said fees for the trial of an issue
10 in civil actions shall be paid by the plaintiff before pro-
11 ceeding with the trial each day, to be taxed in his costs,
12 if he prevail. An accurate account of the fees so received
13 by said judge shall be by him laid before the county com-
14 missioners of Piscataquis County, and he shall pay the
15 same into the county treasury of said county quarterly on
16 or before the first days of January, April, July and October
17 of each year. The judge of said court shall receive a salary
18 of one thousand dollars per year in addition to his actual
19 travelling expenses, to be taxed as a part of the costs to

20 be paid him in quarterly payments from the county treasury
21 of Piscataquis County, which shall be in full for his ser-
22 vices as such judge. See 1905 Chap. 293, Sec. 16.

Sect. 23. Nothing contained in this act shall be con-
2 strued to interfere with such actions returnable before a
3 trial justice or a municipal or police court as shall be com-
4 menced before this act takes effect, and all said actions shall
5 be disposed of as if this act had not been passed.

Sect. 24. For the purpose only of closing the business
2 pending in the Dover Municipal court and the Milo Mu-
3 nicipal court at the time of the approval of this act, the en-
4 tire jurisdiction thereof, civil and criminal, shall be con-
5 ferred upon the Piscataquis municipal court, which court
6 shall issue all executions or other processes necessary to
7 carry into effect any judgment, order or decree of the Dov-
8 er municipal court or of the Milo municipal court. All
9 complaints, civil suits, recognizances, appeals in civil or
10 criminal cases, and all other processes, civil or criminal,
11 pending in said Dover municipal court, or in said Milo mu-
12 nicipal court, shall be transferred forthwith to the Piscat-
13 quis municipal court, to be entered on the docket thereof,
14 and be heard and disposed of as if originally entered in
15 said Dover municipal court or said Milo municipal court;
16 and all writs, petitions, warrants, and all processes what-
17 ever, returnable to said Dover municipal court or to said
18 Milo municipal court, shall be returnable to and be entered
19 on the docket of said Piscataquis municipal court, and shall

20 be heard and disposed of in said Piscataquis municipal court
21 as if originally entered therein. The judgments, decisions,
22 orders and decrees of the supreme judicial court, at any
23 law term, made in cases originating in said Dover municipal
24 court or in said Milo municipal court shall be certified to
25 the recorder of the Piscataquis municipal court. All rec-
26 ords of the Dover municipal court and of the Milo municipal
27 court, and the custody of the same, shall be transferred to
28 the recorder of the Piscataquis municipal court, to whose
29 attestation of the same, or their contents, full faith shall
30 be given. See 1899 Chap. 11, Sec. 13.

Sect. 25. It shall be the duty of the county commis-
2 sioners of the county of Piscataquis to furnish and provide
3 at the expense of the county all books, blanks, and all nec-
4 essary stationery and supplies required for the ue of the
5 Piscataquis municipal court in the transaction of the civil
6 and criminal business of said court, including proper books
7 for the record of all cases arising in said court.

Sect. 26. All acts or parts of acts conflicting with sec-
2 tion twenty-five of this act are hereby repealed.