

MAINE STATE LEGISLATURE

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SEVENTY-NINTH LEGISLATURE

HOUSE

NO. 70

House of Representatives, Jan. 31, 1919.

Referred to Committee on Judiciary and 1000 copies ordered printed. Sent up for concurrence.

CLYDE R. CHAPMAN, Clerk.

Presented by Mr. Chaplin of Bridgton.

STATE OF MAINE

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

AN ACT to establish the Northern Cumberland Municipal
Court.

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

Section 1. There shall be and hereby is established a municipal court in and for the towns of Bridgton, Harrison, Otisfield, Casco, Naples and Sebago, in the County of Cumberland and State of Maine, said towns constituting a municipal district to be denominated as the "Northern Cumberland Municipal Court," which shall be a court of record and have a seal; to consist of one judge, who shall be an attorney at law in good standing, who shall be appointed in accordance with the constitution of the state, and said judge shall be a

10 resident of said municipal district at the time of his appoint-
11 ment and during his continuance in office.

Sect. 2. A recorder shall be appointed by the governor,
2 with the consent of the council, and upon the recommendation
3 of the judge for the term of four years, who shall keep the
4 records of the court when requested so to do by the judge ;
5 and in case of absence from the court room of said judge, or
6 when the office of judge is vacant, the said recorder shall have
7 and exercise all of the powers of the judge and perform all
8 duties required of the judge by this act, and shall be empow-
9 ered to sign and issue all papers and processes, and to do all
10 acts as fully and with the same effect as the judge could do if
11 he were acting in the premises ; and the signature of the re-
12 corder shall be sufficient evidence of his right to act instead of
13 the judge. He shall be ex-officio a justice of the peace
14 throughout the state.

Sect. 3. Said court shall have original jurisdiction con-
2 current with trial justices in all such civil and criminal mat-
3 ters within the county of Cumberland as are by law within
4 the jurisdiction of trial justices within said county including
5 the right to renew executions issued by trial justices in the
6 same way and manner as trial justices ; and warrants issued
7 by any trial justice within said county may be returned before
8 said court ; and shall have original jurisdiction concurrent
9 with the superior courts of Cumberland county and the other
10 municipal courts of said county, of all other crimes, offences
11 and misdemeanors committed in said county, which are by

12 law punishable by fine not exceeding fifty dollars and by im-
13 prisonment not exceeding three months, and where the prop-
14 erty in question or injury done is not alleged to exceed fifty
15 dollars in value.

Sect. 4. Said court shall have concurrent jurisdiction with
2 the superior court of Cumberland county in all personal
3 actions where the debt or damage demanded, exclusive of
4 costs, is over twenty dollars, and not over three hundred
5 dollars, and in all actions of replevin under chapter one hun-
6 dred and one of the Revised Statutes, when the sum de-
7 manded for the penalty, forfeiture or damages, or the value
8 of the goods or chattels replevined does not exceed three
9 hundred dollars; in which any person summoned as trustee
10 resides within said municipal district, or if a corporation, has
11 an established place of business in said district; or, in which
12 any action not commenced by trustee process, any defendant
13 resides in said district, or if no defendant resides within the
14 limits of this state, any defendant is served with process in
15 said district, or the goods, estates or effects of any defend-
16 ant are found within said district and are attached on the
17 original writ; but this jurisdiction shall not include pro-
18 ceedings under the divorce laws or complaints under the mill
19 act, so called, nor jurisdiction over actions in which the title
20 to real estate, according to the pleadings filed in the case by
21 either party, is in question.

In any case in which either of the towns of said municipal
2 district is a party, or is summoned as trustee, this court shall

3 not lose jurisdiction by reason of residence or ownership of
4 property in such towns by the judge, but in such case the ac-
5 tion may, upon written motion of either party filed at the re-
6 turn term, be removed to the superior court.

Sect. 5. Any party may appeal from any judgment or sen-
2 tence of said court to the superior court of Cumberland
3 county in the same manner as from a judgment or sentence
4 of a trial justice.

If any defendant, his agent or attorney in any action in
2 said court, in which the debt or damages claimed in the writ
3 exceeds twenty dollars, shall appear at the first term and on
4 or before the first day of the second term, file in said court
5 an affidavit that he has a good defense to said action and
6 intends in good faith to make such defense and claims a jury
7 trial, the said action shall be removed into and entered at the
8 next term of the superior court for said county. And the
9 judge or recorder of said municipal court on payment to him
10 of the entry fee in said superior court by the plaintiff, shall
11 forthwith cause the original writ and all other papers in the
12 case to be filed in the clerk's office of said superior court.

Actions pending in this court may be referred to one referee
2 in the same manner as in said superior court, whose fees and
3 necessary expenses shall be paid by the county on presenta-
4 tion of proper certificates of this court fixing the amount,
5 and on report of the referee to this court, judgment may be
6 rendered in the same manner and with like effect as in said
7 superior court.

Exceptions may be alleged and cases certified on an agreed
2 statement of facts, or upon evidence reported by the judge,
3 in all civil actions, as in the superior court of Cumberland
4 county and the same shall be entered, heard and determined
5 at a law term of the supreme judicial court, as if the same
6 had originated in the superior court for the county of Cum-
7 berland; and decisions of the law court in such cases shall be
8 certified to the judge of said municipal court for final disposi-
9 tion, with the same effect as in cases originating in said su-
10 perior court.

Sect. 6. Said court shall have authority to administer all
2 necessary oaths or affirmations; to adopt an official seal; to
3 hear and determine civil causes before it, and to render
4 judgment therein and issue executions upon the same, such
5 executions except when otherwise provided by law to have
6 the same force and be satisfied in the same manner as if
7 issued by the superior court of Cumberland county; to com-
8 pel attendance of witnesses and punish persons duly sum-
9 moned as witnesses if they refuse or neglect to attend; to
10 make and enforce such rules and regulations not repugnant
11 to law as may be necessary therein for the prompt adminis-
12 tration of justice; and all the provisions of law relating to
13 proceeding and practice in the superior court of Cumberland
14 county, and to the attachment of real and personal estate,
15 the taxation of costs, the rendition of judgments and issuing,
16 service, satisfaction and return of executions, shall be ex-
17 tended to and apply to said municipal court and to proceed-

18 ings therein except so far as such application may be modified
19 by the provisions of this act.

Sect. 7. Writs and processes issued by such court shall
2 be in the usual forms and shall be made returnable at any one
3 of the next terms of said court held not later than sixty-five
4 days after the date of said writs, and service thereon may
5 be made at any time not less than seven days before the re-
6 turn day thereof, except that when any defendant or trustee
7 is a corporation, service upon said corporation shall be made
8 at least fourteen days before the return date.

Said court shall be holden on the first Wednesday of each
2 month at such place in Bridgton as said town shall provide, at
3 ten o'clock in the forenoon, for the transaction of civil
4 business and all processes before it shall be made returnable
5 accordingly; provided however, that for actions of forcible
6 entry and detainer said court shall be considered in constant
7 session.

For the cognizance and trial of criminal actions said court
2 shall be considered in constant session, and said judge or
3 recorder shall give hearings in such criminal session in such
4 suitable place and places as shall be deemed by said judge or
5 recorder most practicable, having due regard to the conven-
6 ience of the parties and expense of hearing; and the neces-
7 sary expense of the judge or recorder incurred in such hear-
8 ing shall be paid, in addition to his regular salary, from the
9 county treasury. In all cases it may be adjourned from time
10 to time by the judge.

Sect. 8. If at any regular or adjourned term of said court
2 to be held for civil business neither the judge nor recorder
3 is present at the place used for holding said court, then any
4 trial justice, or justice of the peace, may preside for the
5 purpose of entering and continuing actions and filing papers
6 in said court, and may adjourn from time to time, without
7 detriment to any action returnable and pending, and may, in
8 his discretion adjourn said court without day, in which event
9 all actions returned or pending, shall be considered as con-
10 tinued to the next term. The trial justice or justice of the
11 peace who continues said court as aforesaid shall note on the
12 docket thereof the fact that the judge or recorder were absent
13 and the time to which said court stands adjourned, and shall
14 sign the same, and need not keep any other record thereof.
15 No trial justice or justices of the peace shall be disqualified
16 from presiding for the purpose mentioned in this section by
17 reason of his being interested in any action returnable before
18 or pending in said court.

Sect. 9. It shall be the duty of the judge of said court
2 to keep the records thereof, or cause the same to be so made
3 and kept, and to perform all other duties required of similar
4 tribunals in this state, and copies of said records duly certi-
5 fied by said judge or recorder shall be legal evidence in all
6 courts.

Sect. 10. Actions in said court shall be entered on the first
2 day of the term, and not afterwards, save by the permission
3 of the other party, or special permission of the judge. When

4 a defendant legally served, fails to enter his appearance, by
5 himself or his attorney during the first day of the return
6 term, he shall be defaulted; but the judge may in his discre-
7 tion, on motion of either party, strike off said default within
8 twenty-four hours thereafter, upon such terms as he deems
9 reasonable; and execution may issue after twenty-four hours
10 from the time of said default and shall be made returnable
11 in three months from the day when it issued.

Pleas and motions in abatement must be filed on the first
2 day of the term to which the action is returnable.

The defendant may file his pleadings in bar, which shall
2 be the general issue with a brief statement of special matters
3 of defense if he have any at any time after the writ is entered,
4 and must file them before he can ask that a day be set for
5 trial. If at any term the plaintiff files a motion asking that
6 the defendant be ordered to file his pleadings, the judge shall
7 order the defendant to file them accordingly, and shall notify
8 the defendant thereof in such manner as he deems proper.
9 If the defendant in such cases does not file his pleadings on
10 or before the first day of the next term he shall be defaulted,
11 unless the court for good cause enlarge the time for which it
12 may impose reasonable terms.

Actions of forcible entry and detainer seasonably answered
2 to shall be in order for trial at the return day, and shall
3 remain so until tried or otherwise disposed of finally, unless
4 continued by consent, or on motion of either party for good

5 cause shown, in which latter case the court may impose such
6 terms as it deems reasonable.

Actions in which one party has given to the other five
2 days written notice that a trial will be demanded at the return
3 term, on proving such notice, shall be in order for trial at
4 such term, but all other actions except actions of forcible
5 entry and detainer shall be continued as of course to the
6 next term.

Actions shall be assigned for trial as follows: During term
2 time at any term either party may ask the court to assign the
3 action for trial during term time at the next or some other
4 term. The party asking the earlier assignment shall have it
5 granted. The court shall assign the case for trial as asked,
6 unless there is some good reason for the contrary, and shall
7 notify the other party of the time set for trial in such man-
8 ner as he deems proper.

Trials shall not be assigned for the first day of any term
2 save by consent of both parties. Any party may appear on
3 the first day of a term, and by motion show cause for con-
4 tinuance, which the judge may grant or refuse with or with-
5 out terms.

To serve the best interests of the parties, trials may be
2 had at any time in or out of term time, and at any place to be
3 provided by the parties thereto within said district, by the
4 consent of the parties thereto, or on motion by either party
5 and hearing granted by the court, or by order of the court.

Sect. 11. In actions of forcible entry and detainer brought

2 in said court, the defendant's pleadings shall be general issue
3 with a brief statement of any special matters of defense, and
4 must be filed upon the first day of the return term, or the
5 defendant shall be defaulted unless the court enlarge the
6 time, for which it may impose terms.

Sect. 12. The costs and fees allowed to parties, attorneys
2 and witnesses in all civil actions in said court in which the
3 debt or damage recovered does not exceed twenty dollars,
4 including actions of forcible entry and detainer, shall be the
5 same allowed by trial justices in actions before them, except
6 that the plaintiff, if he prevail shall be allowed two dollars
7 for his writ, and the defendant, if he prevails, one dollar for
8 his pleadings but in actions in which the debt or damage
9 recovered exceeds twenty dollars the costs and fees shall
10 be the same as allowed in the superior court in like actions,
11 except that witnesses shall be allowed one dollar per day and
12 travel as in other cases.

Sect. 13. The judge of said court shall tax and shall be
2 allowed for his services in a civil action wherein the debt or
3 damages demanded does not exceed twenty dollars, the
4 same fees allowed by law to trial justices for like services
5 and at the same rates, and when the debt or damage de-
6 manded exceeds twenty dollars he may tax and shall be
7 allowed the same fees that the law allows to clerks of the
8 superior courts for like services; except that he shall receive
9 for each blank writ by him signed four cents, and for the
10 entry of each civil action fifty cents. All said fees are to

11 be paid him by the party at whose instance the services are
12 performed, and taxed with the costs of said party if he pre-
13 vail in the suit, and shall be accounted for and paid over to
14 the treasurer of Cumberland county. For his services in
15 criminal proceedings he shall be entitled to the same fees
16 allowed by law to trial justices for like services.

Sect. 14. The judge shall receive all fines, forfeitures and
2 costs paid into court in criminal proceedings, and shall pay
3 over all fees to the persons to whom they are allowed when
4 called for, if called for within one year. All fines and for-
5 feitures received by him, and all fees so received, but not
6 seasonably called for, and all other fees and costs he shall
7 account for and pay over at the time and in the manner
8 required by law to the treasurer of Cumberland county, but
9 no account required by this section shall be deemed sufficient
10 unless verified by oath of the judge.

Sect. 15. The town of Bridgton shall have power and it
2 shall be its duty to provide a suitable court room in said
3 Bridgton, keep the same in good condition and properly fur-
4 nished. All expenses of said court, including an appro-
5 priate seal, blank books of record, dockets, blanks and sta-
6 tionery, and all other things necessary for the use of said
7 court, shall be paid by the treasury of the county of Cum-
8 berland.

Sect. 16. The judge of said court shall receive the salary
2 of six hundred dollars per year, to be paid in equal quarterly
3 payments from the county treasury of Cumberland county,

4 which shall be in full for his services as such judge, except
5 as herein before provided.

The recorder shall receive a salary of one hundred dollars
2 per year, payable in the same manner as that of the judge.

Sect. 17. Trial justices in said town of Bridgton are
2 hereby prohibited from exercising any jurisdiction in said
3 town over any matters, civil or criminal, except such as are
4 within the jurisdiction of justices of the peace, provided
5 that until such judge and recorder of said court shall enter
6 upon the duties of their office, any trial justice shall have
7 and exercise the same jurisdiction as though this said muni-
8 cipal court had never been established; and all actions
9 entered and pending before any trial justice at the time said
10 judge and recorder of said court enter upon the duties of
11 their office as aforesaid, shall finally be disposed of by said
12 trial justices; and nothing in this act shall be construed to
13 interfere with such actions returnable before a trial justice
14 as shall be commenced before this act takes effect.

Sect. 18. Nothing in this act shall be construed to limit or
2 affect the territorial jurisdiction, in civil or criminal matters,
3 of the other municipal courts in said county of Cumberland,
4 as is established by their respective acts; but the jurisdiction
5 of said Northern Cumberland Municipal Court over any
6 portion of the County of Cumberland now within the ter-
7 ritorial jurisdiction of other municipal courts within said
8 county shall be concurrent with said other municipal courts.