

MAINE STATE LEGISLATURE

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Sixty - Third Legislature.

HOUSE.

No. 54.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND
EIGHTY-SEVEN.

AN ACT to establish the Old Town Municipal Court.

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

SECTION 1. A municipal court is hereby established in
2 and for the towns of Old Town, Milford, Bradley, Alton,
3 Argyle, Greenbush and Greenfield in the county of
4 Penobscot, which shall be called the Old Town Municipal
5 Court and shall be a court of record with a seal. All
6 original processes issuing from said court shall be under
7 the teste of the judge thereof and signed by the judge or
8 recorder thereof, and shall have the seal of said court
9 affixed.

SECT. 2. Said court shall consist of one judge, who
2 shall be an inhabitant of the county of Penobscot and
3 shall be appointed in the manner and for the term provided
4 by the constitution of this State. The said judge shall

5 enter or cause to be entered on the docket of said court
6 all civil and criminal actions, with full minutes of the
7 proceedings in and disposition of the same, which docket
8 shall be at all times open to inspection; and he shall per-
9 form all other duties required of similar tribunals in this
10 State; and copies of the records of said court duly cer-
11 tified by the judge or recorder thereof shall be legal
12 evidence in all courts. The said judge shall not act as
13 attorney or counsel in any action or matter within the
14 jurisdiction of said court.

SECT. 3. The said judge shall appoint in writing a
2 recorder who shall be sworn by said judge and shall keep
3 the records of said court when requested so to do by
4 said judge; and in case of absence from the court-room
5 of said judge, or when the office of judge shall be vacant,
6 the said recorder shall have and exercise all the powers of
7 the judge, and perform all the duties required of said
8 judge by this act, and shall be empowered to sign and
9 issue all papers and processes and to do all acts as fully
10 and with the same effect as the judge could do if he were
11 acting in the premises; and the signature of the recorder
12 as such shall be sufficient evidence of his right to act
13 instead of the judge. Said recorder shall reside in the
14 town of Old Town or Milford, and shall hold his said
15 office of recorder for four years.

SECT. 4. Said court shall have original and exclusive
2 jurisdiction as follows:

I. Of all cases of forcible entry and detainer respecting
4 estates within either of the towns named in section one.

II. Of all such criminal offences and misdemeanors committed in either of said towns as are by law within the jurisdiction of trial justices.

III. Of all offences against the ordinances and by-laws of either of said towns.

Provided, that warrants may be issued by any justice of the peace in either of said towns or any trial justice in said county upon complaint for offences committed in either of said towns, but all such warrants shall be made returnable before said court; and no other municipal or police court, and no trial justice, shall have or take cognizance of any crime or offence committed in either of said towns.

SECT. 5. Said court shall have original jurisdiction concurrent with trial justices in all such matters, civil or criminal, within the county of Penobscot, as are by law within the jurisdiction of trial justices within said county and are not placed within the exclusive jurisdiction of said court by the preceding section.

SECT. 6. Said court shall have original jurisdiction concurrent with the supreme judicial court as follows:

I. Of all civil actions wherein the debt or damages demanded, exclusive of costs, does not exceed one hundred dollars, in which any person summoned as trustee resides within the county of Penobscot or, if a corporation, has an established place of business in said county; or in which, no trustee being named in the writ, any defendant resides in said county, or, if no defendant resides within the limits of this State, any defendant is served with process in said county, or the goods, estate, or effects of any defendant are found within said county and attached on the original writ.

II. Of the assaults and batteries described in section 15 twenty-eight of chapter one hundred and eighteen of the 16 Revised Statutes; of all larcenies described in sections 17 one, six, seven, nine and eleven of chapter one hundred 18 and twenty of the Revised Statutes, when the value of 19 the property is not alleged to exceed thirty dollars; of the 20 offence described in section twenty-one of chapter one hun- 21 dred and twenty-two of the Revised Statutes; of all 22 offences and crimes described in sections one and four of 23 chapter one hundred and twenty-three of the Revised 24 Statutes; of all offences described in section six and in 25 sections twenty-nine to forty-five inclusive of chapter one 26 hundred and twenty-four of the Revised Statutes; of the 27 offence described in section five of chapter one hundred 28 and twenty-five of the Revised Statutes; of all offences 29 described in section one of chapter one hundred and 30 twenty-six of the Revised Statutes when the value of the 31 property or thing alleged to have been fraudently obtained, 32 sold, mortgaged or pledged is not alleged to exceed thirty 33 dollars; and of all offences described in sections two, nine, 34 sixteen, seventeen and twenty-one of chapter one hundred 35 and twenty-seven of the Revised Statutes, when the value 36 of the property destroyed or the injury done is not alleged 37 to exceed thirty dollars; and may punish for either of said 38 crimes or offences by fine not exceeding fifty dollars and 39 by imprisonment not exceeding three months, *provided*, 40 that when the offences described in section twenty-eight 41 of chapter one hundred and eighteen, section twenty-one 42 of chapter one hundred and twenty-two, and sections one 43 and four of chapter one hundred and twenty-three, are of 44 a high and aggravated nature, the judge of said court may

45 cause persons charged with such offences to recognize
46 with sufficient sureties to appear before the supreme
47 judicial court, and in default thereof commit them.

III. Of all other crimes, offences and misdemeanors
49 committed in said county which are by law punishable by
50 fine not exceeding fifty dollars and by imprisonment not
51 exceeding three months and are not within the exclusive
52 jurisdiction of some other municipal or police court.

SECT. 7. Said court shall not have jurisdiction of any
2 civil action wherein the title to real estate, according to
3 the pleading or brief statement filed therein by either
4 party, is in question; and all such actions brought in said
5 court shall be removed to the Supreme Judicial Court or
6 otherwise disposed of as in like cases before a trial justice:
7 *provided*, that nothing herein contained shall prevent said
8 court from proceeding in accordance with the provisions
9 of sections six and seven of chapter ninety-four of the
10 Revised Statutes.

SECT. 8. 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 de-
5 gree of second cousin inclusive, but which would other-
6 wise be within the exclusive jurisdiction of said court,
7 may be brought before and disposed of by any trial jus-
8 tice or any other municipal or police court in said county
9 in the same manner as other actions before said trial jus-
10 tices, or municipal or police courts. In any action in
11 which either of the towns hereinbefore named is a party
12 or is summoned as trustee, said court shall not lose its
13 jurisdiction by reason of the said judge's or recorder's

14 being an inhabitant of or owning property in such town ;
15 but in any such case the action may upon written motion
16 of either party, filed before trial, be removed to the Su-
17 preme Judicial Court.

SECT. 9. A term of said court shall be held for the
2 transaction of civil business on the last Tuesday of each
3 month, beginning at ten o'clock in the forenoon, at such
4 place in the town of Old Town as the judge shall deter-
5 mine ; but said town of Old Town may at any time pro-
6 vide a court-room, in which case the court shall be held
7 therein ; and all civil processes shall be made returnable
8 accordingly. Said court shall also be held on every Tues-
9 day at the usual hour, for the purpose of filing pleas in
10 abatement and the affidavit and plea mentioned in section
11 sixteen of this act, and for the entry and trial of actions
12 of forcible entry and detainer ; and such actions shall be
13 returnable accordingly, and they shall be heard and judg-
14 ment shall be entered therein on the return-day of the
15 writ unless continued for good cause. For the cognizance
16 and trial of criminal actions said court shall be considered
17 as in constant session. In all cases it may be adjourned
18 from time to time by the judge.

SECT. 10. If at any regular or adjourned term of
2 said court to be held for civil business the judge or re-
3 corder is not present at the place for holding said court
4 within two hours after the time for opening said court,
5 then any trial justice or justice of the peace in the county
6 of Penobscot may preside for the purpose of entering and
7 continuing actions and filing papers in said court, and may
8 adjourn said court from time to time not exceeding one
9 week at any one time without detriment to any action re-

10 turnable or pending, and may in his discretion adjourn
 11 said court without day, in which event all actions returned
 12 or pending shall be considered as continued to the next
 13 term. No trial justice or justice of the peace shall be dis-
 14 qualified from presiding for the purpose mentioned in this
 15 section by reason of his being interested in any action re-
 16 turnable before or pending in said court.

SECT. 11. Any party may appeal from any judgment or
 2 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. 12. 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 ;
 4 except that writs wherein the debt or damages demanded
 5 exceed twenty dollars shall be served at least fourteen days
 6 before the sitting of the court at which they are made re-
 7 turnable, and no writ shall be made returnable at a term
 8 of the court to begin more than ninety-three days after
 9 the date of such writ.

SECT. 13. All the provisions of the statutes relating to
 2 attachment of real and personal property and the levy of
 3 executions shall be applicable to actions brought in this
 4 court and executions on judgments rendered therein ; *pro-*
 5 *vided*, that property may be attached in addition to the *ad*
 6 *damnum* sufficient to satisfy the costs of the suit, and the
 7 writs may be framed accordingly. When any action in
 8 which real estate is attached shall be finally disposed of in
 9 said court or shall be removed to the Supreme Judicial
 10 Court by appeal or otherwise, the judge of said municipal
 11 court shall forthwith certify the disposition or removal

12 thereof to the register of deeds of the county of Penob-
13 scot, who may make a minute of the disposition or re-
14 moval upon the record of the attachment in said action.

SECT. 14. All civil actions in said court shall be entered
2 on the first day of the term and not afterward except by
3 special permission; and they shall be in order for trial
4 (except actions of forcible entry and detainer) at the next
5 regular monthly term after the entry if not otherwise dis-
6 posed of. When a defendant legally summoned fails to
7 enter his appearance by himself or his attorney before
8 twelve o'clock noon on the first day of the return-term he
9 shall be defaulted; but if he afterward appear during said
10 term the court may for sufficient cause permit the default
11 to be taken off. Pleas in abatement must be filed on or
12 before the first day of the first regular weekly term held
13 after the return-term of the action. The pleadings shall
14 be the same as in the supreme judicial court, and all pro-
15 visions of law relative to practice and proceedings in civil
16 actions in the supreme judicial court are hereby made
17 applicable and extended to this court, except so far as
18 they are modified by the provisions of this act.

SECT. 15. Actions pending in this court may be referred
2 in the same manner as in the supreme judicial court, and
3 on the report of the referees to said municipal court judg-
4 ment may be rendered in the same manner and with the
5 like effect as in the supreme judicial court.

SECT. 16. If any defendant, his agent or attorney, in
2 any civil action in this court in which the debt or damages
3 demanded or claimed in the writ exceeds twenty dollars,
4 shall, on or before the first day of the second regular
5 weekly term of said court after the entry of said action,

6 file in said court an affidavit that he has a good defence to
 7 said action and intends in good faith to make such defence
 8 and claims a jury trial, and shall at the same time file his
 9 plea and deposit with the judge or recorder of said court
 10 one dollar and sixty cents for copies and entry in the
 11 supreme judicial court, to be taxed in his costs if he pre-
 12 vail, the said action shall at the next regular monthly term
 13 of said municipal court after the entry thereof be removed
 14 into the supreme judicial court for said county, and shall
 15 be entered at the next ensuing term of the supreme judi-
 16 cial court after such removal; and the judge or recorder
 17 of said municipal court shall forthwith cause certified
 18 copies of the writ, return of the officer, plea, and all
 19 other papers in the case to be filed in the clerk's office of
 20 said supreme judicial court.

SECT. 17. Exceptions may be alleged and cases certified
 2 on an agreed statement of facts or upon evidence reported
 3 by the judge in all civil actions as in the supreme judicial
 4 court, and the same shall be entered, heard and deter-
 5 mined at the law term thereof as if the same had originated
 6 in the supreme judicial court for said county of Penob-
 7 scot; and decisions of the law court in all such cases shall
 8 be certified to the judge of said municipal court for final
 9 disposition with the same effect as in cases originating in
 10 said supreme judicial court.

SECT. 18. Said municipal court may render judgment
 2 and issue execution, punish for contempt and compel
 3 attendance, as in the supreme judicial court; make all
 4 such rules and regulations, not repugnant to law, as may
 5 be necessary and proper, for the administration of justice
 6 promptly; and is clothed with all such lawful power as is

7 necessary for the performance of its duties under this act.

SECT. 19. The costs and fees allowed to parties,
2 attorneys and witnesses in all actions in this court in
3 which the debt or damages recovered shall not exceed
4 twenty dollars, and in actions of forcible entry and de-
5 tainer shall be the same as allowed in similar actions before
6 trial justices, except that the plaintiff, if he prevail, shall
7 be allowed one dollar for his writ, and the defendant, if
8 he prevail, shall be allowed one dollar for his pleadings;
9 and in cases where the amount recovered shall exceed
10 twenty dollars, the costs and fees of parties, attorneys
11 and witnesses shall be the same as in the supreme judicial
12 court, except that the defendant, if he prevail, shall be
13 allowed two dollars for his pleadings.

SECT. 20. 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
5 by him, three cents; for the entry of each civil action,
6 fifty cents; for every warrant issued by him, one dollar;
7 for the trial of an issue in civil or criminal cases, one dol-
8 lar for the first day and two dollars for each subsequent
9 day actually employed; and said fees for the trial of an
10 issue in civil actions shall be paid by the plaintiff before
11 proceeding with the trial each day, to be taxed in his costs
12 if he prevail. The fees received by said judge shall be
13 payment in full for his services; *provided*, that the legal
14 voters of the town of Old Town aforesaid may at any
15 time by vote determine to pay him a salary which may be
16 accepted by him instead of said fees and shall not be
17 diminished during his term of office; and if such salary

18 is so accepted by him, he shall pay all fees of office by
19 him received into the treasury of said town of Old Town.
20 When the office of judge is vacant, the recorder shall be
21 entitled to the fees or salary ; in all other cases he shall
22 be paid by the judge.

SECT. 21. Trial justices are hereby restricted from ex-
2 ercising any jurisdiction in the towns named in section
3 one of this act over any matter or thing, civil or criminal,
4 except such as are within the jurisdiction of justices of
5 the peace and quorum, and except as provided in sections
6 four, eight and ten of this act ; *provided*, that until the
7 judge of said court shall enter upon the duties of his of-
8 fice, and whenever the offices of judge and recorder are
9 together vacant, any trial justice shall have and exercise
10 the same jurisdiction as though this municipal court had
11 never been established ; and in such case any civil or
12 criminal action made returnable before a trial justice shall
13 be entered before and finally disposed of by such justice.

SECT. 22. 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
5 shall be disposed of as if this act had not been passed.

SECT. 23. This act shall take effect when approved.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
January 31, 1887. }

Presented by Mr. SCOTT of Clifton, and on his motion ordered printed.

NICHOLAS FESSENDEN, Clerk.