

MAINE STATE LEGISLATURE

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Sixty-Fourth Legislature.

HOUSE.

No. 242.

STATE OF MAINE.

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

AN ACT to establish the Dover 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 Dover and Foxcroft in the county
3 of Piscataquis, which shall be called the Dover municipal
4 court, and shall be a court of record with a seal. All
5 original processes issuing from said court shall be under
6 the tests of the judge, or, if the office of judge is vacant,
7 of the recorder 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 Piscataquis, and
3 shall be appointed in the manner and for the term
4 provided by the constitution of this State. The said
5 judge shall enter, or cause to be entered on the docket of

6 said court all civil and criminal actions, with full minutes
7 of the proceedings in and dispositions of the same, which
8 docket shall be at all times open to inspection ; and he shall
9 perform all other duties required of similar tribunals in
10 this State ; and copies of the records of said court, duly
11 certified 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 exclusive jurisdiction of said court.

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

SECT. 4. Said court shall have original and exclusive
2 jurisdiction as follows : First, of all cases of forcible entry
3 and detainer respecting estates within either of the towns
4 named in section one ; second, of all such criminal
5 offenses and misdemeanors committed in either of said
6 towns as are by law within the jurisdiction of trial jus-
7 tices ; third, of all offenses against the ordinances and

DOVER MUNICIPAL COURT.

8 by-laws of either of said towns; provided, that warrants
9 may be issued by any trial justice in said county, upon
10 complaint for offenses committed in either of said towns,
11 but all such warrants shall be made returnable before
12 said court, and no other municipal or police court, and
13 no trial justice shall have or take cognizance of any crime
14 or offense committed in either of said towns.

SECT. 5. Said court shall have original jurisdiction
2 concurrent with trial justices in all such matters, civil or
3 criminal, within the county of Piscataquis, though neither
4 party resides in the town where said court may be held, as
5 are by law within the jurisdiction of trial justices within
6 said county, and are not placed within the exclusive
7 jurisdiction of said court by the preceding section.

SECT. 6. Said court shall have original jurisdiction
2 concurrent with the supreme judicial court, as follows:
3 first, of all civil actions wherein the debt or damages
4 demanded, exclusive of costs, does not exceed fifty dollars,
5 in which any person summoned as trustee resides within
6 the county of Piscataquis, or if a corporation has an estab-
7 lished place of business in said county; or in which, no
8 trustee being named in the writ, any defendant resides in
9 said county, or, if no defendant resides within the limits
10 of this State, any defendant is served with process in said
11 county, or the goods, estate or effects of any defendant
12 are found within said county and attached on the original
13 writ; second, of the assaults and batteries described in
14 section twenty-eight of chapter one hundred and eighteen
15 of the Revised Statutes; of all larcenies described in
16 sections one, six, seven, nine and eleven of chapter one
17 hundred and twenty of the Revised Statutes, when the

18 value of the property is not alleged to exceed thirty
19 dollars, of the offense described in section twenty-one of
20 chapter one hundred and twenty-two of the Revised Stat-
21 utes; of all offenses and crimes described in sections one
22 and four of chapter one hundred and twenty-three of the
23 Revised Statutes; of all offenses described in section six
24 and in sections twenty-nine to forty-five, inclusive, of
25 chapter one hundred and twenty-four of the Revised
26 Statutes; of the offense described in section five of chapter
27 one hundred and twenty-five of the Revised Statutes; of
28 all offenses described in section one of chapter one hun-
29 dred and twenty-six of the Revised Statutes, when the
30 value of the property or thing alleged to have been fraud-
31 ulently obtained, sold, mortgaged or pledged, is not
32 alleged to exceed thirty dollars; and of all offenses
33 described in sections two, nine, sixteen, seventeen and
34 twenty-one of chapter one hundred and twenty-seven of
35 the Revised Statutes, when the value of the property
36 destroyed or the injury done is not alleged to exceed thirty
37 dollars; and may punish for either of said crimes or
38 offenses by fine not exceeding fifty dollars, and by impris-
39 onment not exceeding three months, provided, that when
40 the offenses described in section twenty-eight of chapter
41 one hundred and eighteen, section twenty-one of chapter
42 one hundred and twenty-two, and sections one and four
43 of chapter one hundred and twenty-three, are of a high
44 and aggravated nature, the judge of said court may cause
45 persons charged with such offenses to recognize with
46 sufficient sureties to appear before the supreme judicial
47 court, and in default thereof commit them; third, of all
48 other crimes, offenses and misdemeanors committed in

49 said county, which are by law punishable by fine not
50 exceeding fifty dollars, and by imprisonment not exceed-
51 ing three months, and are not within the exclusive juris-
52 diction 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
3 the parties by consanguinity or affinity, within the sixth
4 degree, according to the rules of the civil law, or within
5 the degree of second cousin, inclusive, but which would
6 otherwise be within the exclusive jurisdiction of said court,
7 may be brought before and disposed of by any trial justice
8 or any other municipal or police court in said county, in
9 the same manner as other actions before said trial justices
10 or municipal or police courts. If any action wherein said
11 judge is so interested or related to either party, is made
12 returnable before this court, the parties thereto, by them-
13 selves or their attorneys, may in writing consent that said
14 judge shall hear and dispose of the same; or the recorder
15 thereof, if disinterested, or with the written consent of the
16 parties, if interested, may hear and dispose of the same
17 in the judge's stead; or such actions shall be disposed of

18 as follows, to wit: Civil actions, wherein the debt or
19 damages demanded, exclusive of costs, exceed twenty
20 dollars, shall, upon motion, be removed to the supreme
21 judicial court for said county; and all other civil actions,
22 and all criminal actions, shall be removed and entered be-
23 fore any such trial justice within said county as may be
24 agreed upon, in writing, by the parties entering an ap-
25 pearance in such action, or if no trial justice is agreed
26 upon, before any municipal or police court in said county,
27 and such trial justice, or municipal or police court shall
28 have and take cognizance of such action and dispose of
29 the same, as if originally returnable before such justice or
30 court; provided, that nothing in this section contained
31 shall prevent any civil action wherein the title to real
32 estate is in question, from being disposed of in accordance
33 with the provisions of the preceding section. In any
34 action in which either of the towns hereinbefore named is
35 a party, or is summoned as trustee, this court shall not
36 lose its jurisdiction by reason of the said judge's or re-
37 corder's being an inhabitant of or owning property in such
38 town; but in any such case the action may, upon written
39 motion of either party, filed before trial, be removed to
40 the supreme judicial court.

SECT. 9. A term of said court shall be held for the
2 transaction of civil business on the third Tuesday of each
3 month, beginning at ten o'clock in the forenoon, at such
4 place in the town of Dover as the judge shall determine;
5 but said town of Dover may, at any time, provide a
6 court room, in which case the court shall be held therein,
7 and all civil processes shall be made returnable accord-
8 ingly. Said court shall also be held on every Tuesday

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

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

SECT. 11. Any party may appeal from any judgment
2 or sentence of said court, to the supreme judicial court
3 in the same manner as from a judgment or sentence of a
4 trial justice.

SECT. 12. Writs and processes issued by said court
2 shall be in the usual forms, and shall be served as like
3 precepts are required to be served when issued by trial
4 justice.

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;
5 *provided*, that property may be attached in addition to
6 the addamnum, sufficient to satisfy the costs of the suit,
7 and the writs may be framed accordingly. When any
8 action in which real estate is attached shall be finally dis-
9 posed of in said court, or shall be removed to the supreme
10 judicial court by appeal or otherwise, the judge of said
11 municipal court shall forthwith certify the disposition or
12 removal thereof to the register of deeds of the county of
13 Piscataquis, who may make a minute of the disposition or
14 removal upon the record of the attachment in said action.

SECT. 14. All civil actions in said court shall be en-
2 tered on the first day of the term and not afterward,
3 except by special permission, and they shall be in order
4 for trial, except actions of forcible entry and detainer, at
5 the next regular monthly term after the entry, if not
6 otherwise disposed of. When a defendant legally sum-
7 moned fails to enter his appearance by himself or his
8 attorney before twelve o'clock noon on the first day of the
9 return term, he shall be defaulted; but if he afterward
10 appears during said term, the court may, for sufficient
11 cause, permit the default to be taken off. Pleas in abate-
12 ment must be filed on or before the first day of the first
13 regularly weekly term held after the entry of the action.

14 The pleadings shall be the same as in the supreme judicial
15 court, and all provisions of law relative to practice and
16 proceedings in civil actions in the supreme judicial court
17 are hereby made applicable and extended to this court,
18 except so far as they are modified by the provisions of
19 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 referee to said municipal court,
4 judgment may be rendered in the same manner and with
5 the 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 damage
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,
8 file in said court an affidavit that he has a good defence to
9 said action, and intends in good faith to make such de-
10 fence and claims a jury trial, and shall at the same time
11 deposit with the judge or recorder of said court one
12 dollar and sixty cents for copies and entry in the supreme
13 judicial court, to be taxed in his costs if he prevail, the
14 said action shall at the next regular monthly term of said
15 municipal court, after the entry thereof be removed into
16 the supreme judicial court for said county, and shall be
17 entered at the next ensuing term of the supreme judicial
18 court after such removal, and the judge or recorder of
19 said municipal court shall forthwith cause certified copies
20 of the writ, return of the officer, and all other papers in
21 the case to be filed in the clerk's office of said supreme
22 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 determined
5 at the law term thereof as if the same had originated in
6 the supreme judicial court for said county of Piscataquis ;
7 and decisions of the law court in all such cases shall be
8 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 powers 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
5 detainer, shall be the same as allowed in similar action
6 before trial justices, except that the plaintiff, if he prevail,
7 shall be allowed two dollars for his writ, and the defend-
8 ant if he prevail, shall be allowed one dollar for his
9 pleadings ; and in cases where the amount recovered shall
10 exceed twenty dollars, the costs and fees of parties,
11 attorneys and witnesses shall be the same as in the
12 supreme judicial court, except that the defendant if he
13 prevail, shall be 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
8 dollar 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
12 costs if he prevail. The fees received by said judge shall
13 be payment in full for his services. When the office of
14 judge is vacant, the recorder shall be entitled to the same
15 fees; in all other cases he shall be paid by the judge.

SECT. 21. Trial justices are hereby restricted from
2 exercising 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 the
5 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
8 office, 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 be
13 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

4 commenced 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, }
February 23, 1889. }

Tabled, pending third reading, and ordered printed on motion of Mr.
PEAKS of Dover.

NICHOLAS FESSENDEN, *Clerk.*