

# MAINE STATE LEGISLATURE

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# DOCUMENTS

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# THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING THE SESSION

A. D. 1891.



AUGUSTA:  
BURLEIGH & FLYNT, PRINTERS TO THE STATE.  
1892.

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# Sixty-Fifth Legislature.

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SENATE.

No. 193.

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## STATE OF MAINE.

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

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AN ACT to amend an act establishing a Municipal Court in  
the Town of Waterville.

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

SECTION 1. Chapter two hundred and twenty of the  
2 Private Laws of eighteen hundred and eighty establishing  
3 a municipal court for the town of Waterville is hereby  
4 amended :

First—By striking out the word “town” in section one  
6 and inserting the word ‘city’ in its stead.

Second—By striking out, in section three, all after the  
8 word “constitution” in the third line of said section, and  
9 adding the following: ‘Who shall be a member of the  
10 bar in Kennebec county, who shall reside during his con-

11 tinuance in office in said city of Waterville, and who shall  
12 receive from said city, in monthly payments, an annual  
13 salary of twelve hundred dollars, which shall be in full for  
14 all fees pertaining to his office.

Third—By striking out in the first line of section four  
16 the word “judge” and inserting instead the word ‘court.’

Fourth—By striking out in the first line of section five  
18 the word “judge” and inserting the word ‘court’; by  
19 striking out the word “town” in the third and ninth lines  
20 of said section five and inserting in place thereof the word  
21 ‘city’; by striking out all of said section five after the word  
22 “interested” in the eleventh line of said section and by  
23 adding the following: ‘Said court shall also have original  
24 concurrent jurisdiction with the superior court in and for  
25 the county of Kennebec in all civil actions where the debt  
26 or damages demanded, exclusive of costs, do not exceed  
27 one hundred dollars, and the defendant, or any person  
28 summoned as trustee, reside in the county of Kennebec;  
29 any action, however, in which the debt or damages  
30 demanded exceed twenty dollars, may be removed to the  
31 said superior court, on motion of the defendant, filed at  
32 the return term: Provided, he shall, at the time he files  
33 his motion, also file an affidavit that he believes he has a  
34 good defence to said action, in whole or in part, and in-  
35 tends, in good faith, to make such defence, and shall  
36 therewith deposit with the clerk of said municipal court,  
37 the entry fee in the said superior court and one dollar for  
38 copies of writ, affidavit and motion, to be taxed in his  
39 costs if he prevail; the clerk shall enter said action at the  
40 next term of the said superior court and shall file certified  
41 copies of the writ, affidavit and motion.’

Fifth—By striking out section sixth and inserting the  
43 following section in its stead :

‘Section 6. Said court shall have concurrent jurisdic-  
45 tion with the superior court in the county of Kennebec of  
46 the offences described in chapter one hundred and twenty,  
47 sections one, six, seven, eight and nine of the Revised  
48 Statutes, when the value of the property is not alleged  
49 to exceed fifty dollars ; and also of the offences described  
50 in chapter one hundred and thirty two, section four of the  
51 Revised Statutes ; and also of the offences described in  
52 chapter one hundred and eighteen, section twenty-eight  
53 of the Revised Statutes, and may punish in all such  
54 offences by fine not exceeding fifty dollars, or by impris-  
55 onment for a time not exceeding four months ; also of the  
56 offences described in chapter one hundred and twenty-four,  
57 section six of the Revised Statutes. Said court shall  
58 have exclusive jurisdiction of all offences arising in said  
59 city, which are by any law or statute within the jurisdic-  
60 tion of a trial justice, and concurrent jurisdiction with  
61 trial justices of the county of Kennebec of all such  
62 offences arising in said county outside of said city.’

Sixth—By striking out section seventh and inserting the  
64 following section instead :

‘Section 7. The governor by and with the advice of the  
66 council, shall appoint a clerk of said court, who shall be a  
67 citizen of said Waterville, and who shall hold his office for  
68 the term of four years, who shall be sworn, and who shall  
69 give bond to the treasurer of said city in the sum of one  
70 thousand dollars, to be approved by said judge, and who  
71 shall receive from said city, in monthly payments, an  
72 annual salary of three hundred dollars, which shall be in

73 full for all fees pertaining to his office; *provided, how-*  
74 *ever,* that he shall receive, in addition to said salary, all  
75 fees allowed by law, in matters relating to civil business,  
76 except the trial fee hereinafter mentioned. In case of the  
77 absence of said clerk or vacancy in said office, the judge  
78 of said court may appoint a clerk, who shall be sworn by  
79 said judge, and act during said absence or until the  
80 vacancy is filled. Said clerk shall record the doings of  
81 said court, may administer oaths, and shall have such  
82 powers and perform such duties, as are possessed and  
83 performed by the clerks of the supreme judicial court.  
84 Said clerk shall hear complaints in all criminal matters,  
85 accusations in bastardy, draw all complaints and sign all  
86 warrants, and make and sign all processes of commit-  
87 ment, but the same shall be heard and determined as now  
88 provided by law; but such complaints, accusations,  
89 warrants or processes of commitment drawn and signed  
90 by the judge of said court shall be equally valid. When-  
91 ever said judge shall be absent from the court room, or  
92 when the office of judge shall be vacant, the clerk shall  
93 have and exercise all the powers of the judge, and per-  
94 form all the duties required of said judge by this act,  
95 and shall be empowered to sign and issue all processes  
96 and papers, and to do all acts, as fully and with the same  
97 effect, as the judge could do, were he acting in the  
98 premises. All processes issued by said clerk in criminal  
99 matters shall bear the seal of said court and be signed by  
100 said clerk and have the same authority as if issued and  
101 signed by said judge.

Seventh—By striking out section eight and inserting  
103 the following section instead:

‘Section 8. Said court shall be held on the first Mon-  
105 day of each month, except the month of August, for the  
106 transaction of civil business, and all actions shall be made  
107 returnable at one of the two terms next begun and held  
108 after the commencement of the action; provided, how-  
109 ever, that said court shall be held on every Monday of  
110 each month, except the month of August, for the entry  
111 and trial of actions of forcible entry and detainer, and  
112 judgment, in such actions, may be entered on the day  
113 when the same are heard and determined. Said court  
114 may be adjourned from time to time, but shall be con-  
115 sidered as in constant session for the cognizance of crim-  
116 inal actions. Said court shall be held at such place as  
117 the city of Waterville shall provide; and said city have  
118 power, and it shall be its duty, to raise money to pay the  
119 salaries of said judge and clerk; to purchase blanks, blank-  
120 books, seals, dockets, and all things necessary for the use of  
121 said court; to provide a suitable court-room for said  
122 court, and to furnish the same, in an appropriate manner.  
123 The city marshal of said city, or one of his deputies,  
124 shall be in attendance on said court, when requested so  
125 to do by the judge or clerk, for the purpose of preserv-  
126 ing order, and shall execute all legal orders and pro-  
127 cesses to him directed by the court.

Eighth—By striking out section nine and inserting the  
129 following section instead:

‘Section 9. All writs and processes, issued by said  
131 court, shall be of the usual forms, and all writs, in which  
132 the debt or damages demanded, do not exceed twenty  
133 dollars shall be served as now provided by law in case of  
134 writs issued by trial justices, and all writs, in which the

135 debt or damages demanded, exceed twenty dollars shall  
136 be served in time and manner as now provided by law in  
137 case of writs issued by the supreme judicial court. Said  
138 court is hereby authroized to administer oaths, render  
139 judgments, issue executions, punish for contempt, and  
140 compel attendance as in the supreme judicial court, and  
141 make all such rules, and regulations, not repugnant to  
142 law, as may be necessary and proper for the administra-  
143 tion of justice.'

Ninth—By striking out section ten and inserting the  
145 following section instead :

SECT. 10. All actions may be tried by said court  
147 without the intervention of a jury, subject to the right  
148 of appeal. All actions shall be entered during the first  
149 day of the term at which they are returnable and not  
150 after without special permission. When a defendant,  
151 legally served, does not appear within the first two days  
152 of the term he shall be defaulted, but the court may take  
153 off the default for sufficient cause. All pleas in abate-  
154 ment must be filed within the first two days. The  
155 defendant shall file his pleas within fourteen days after  
156 entry of the action, which shall consist of the general  
157 issue, with a brief statement of special matter of defence,  
158 if any. If the defendant does not file his pleadings as  
159 before provided, he shall be defaulted on the first day  
160 of the next term after entry, unless the court, for good  
161 reason, grants him leave to plead, or otherwise lawfully  
162 dispose of the case. All actions, duly answered to, shall  
163 be in order for trial at the next term after entry. Any  
164 party may appeal from any judgment or sentence of said  
165 court to the superior court for the county of Kennebec



TOWN OF WATERVILLE.

166 in the same manner as from a judgment or sentence of a  
167 trial justice.'

Tenth—By striking out section eleven.

Eleventh—By striking out in section twelve the words  
170 "And executions on judgments rendered therein," in the  
171 fourth line of said section and inserting the words 'which  
172 shall have authority to render judgments and issue  
173 executions to be satisfied in the same manner as though  
174 issuing from the Supreme Judicial Court.'

Twelfth—By striking out section thirteen and inserting  
176 the following section instead :

'Section 13. Costs and fees allowed to parties, wit-  
178 nesses and attorneys, in all actions in said court, in  
179 which the amount of debt or damages claimed in the  
180 plaintiff's declaration do not exceed twenty dollars, shall  
181 be the same allowed in actions before trial justices, ex-  
182 cept that the plaintiff, if he prevail, shall be allowed one  
183 dollar for his writ and the defendant, if he prevail, shall  
184 be allowed one dollar for his pleadings ; but in all actions  
185 in which the debt or damages demanded in the plaintiff's  
186 declaration exceed twenty dollars, the costs and fees  
187 allowed to parties and attorneys shall be the same  
188 allowed in said superior court, except that the defend-  
189 ant, if he prevail, shall be allowed two dollars for his  
190 pleadings ; and witnesses in such cases shall be allowed  
191 for their attendance one dollar per day and travel as in  
192 other cases. The fees, allowed to the judge or clerk of  
193 said court shall be the same as now provided by law for  
194 trial justices, except that they may demand and receive  
195 for every warrant issued one dollar ; for the trial of an  
196 issue civil or criminal, one dollar ; and one dollar for

197 every day occupied in the hearing of any case after the  
198 first day; for the entry of an action, civil or criminal,  
199 fifty cents; and for copies in any action appealed from  
200 said court two dollars. All fines, penalties and costs  
201 paid into said court upon convictions and sentences in  
202 criminal matters, together with all fees allowed to the  
203 judge of said court by law in the transaction of criminal  
204 business shall be paid to said clerk. All fines and penal-  
205 ties, received by said clerk, shall be accounted for and  
206 paid over in the same manner as is required by law of  
207 trial justices, and all fees allowed to said judge or to  
208 said clerk by law in criminal cases and received by said  
209 clerk including the trial fee in all cases, shall be ac-  
210 counted for and paid over by him to the treasurer of said  
211 city of Waterville quarterly; and all other fees received  
212 by him shall be paid to the persons entitled by law to the  
213 same as if received by a trial justice.'

SECT. 2. All existing acts, public and private, incon-  
2 sistent herewith are hereby modified so as to conform to  
3 the provisions of this act.

SECT. 3. Nothing contained in this act shall be con-  
2 strued to interfere with any actions already commenced,  
3 and made returnable before said court, and all said actions  
4 shall be entered in said court at the first term thereof  
5 holden after the approval of this act.

SECT. 4. This act shall take effect when approved.

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## STATE OF MAINE.

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IN SENATE, March 12, 1891.

Reported by Mr. HAINES, from Committee on Legal Affairs, and laid  
on table to be printed under joint rules.

KENDALL M. DUNBAR, *Secretary.*