

# MAINE STATE LEGISLATURE

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NEW DRAFT.

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# Sixty-Sixth Legislature.

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HOUSE.

No. 374.

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## STATE OF MAINE.

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

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AN ACT to establish the Western Hancock Municipal Court.

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*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 the county of Hancock, which shall be called the Western  
3 Hancock Municipal Court, and shall be a court of record  
4 with a seal.

All the original processes, issuing from said court, shall  
6 be under the teste of the judge, and signed by the judge,  
7 and shall have the seal of said court affixed.

SECT. 2. Said court shall consist of one judge, who  
2 shall be an inhabitant of the county of Hancock, and a  
3 person learned in the law, and shall be appointed in the

4 manner and for the term provided by the constitution of  
5 this State. The said judge shall enter, or cause to be  
6 entered on the docket of said court all civil and criminal  
7 actions, with full minutes of the proceedings in and dis-  
8 position of the same, which docket shall be at all times  
9 open to inspection; and he shall perform all other duties  
10 required of similar tribunals in this State; and copies of  
11 the records of said court, duly certified by the judge or  
12 recorder thereof, shall be legal evidence in all courts.  
13 The said judge shall not act as attorney or counsel in any  
14 action or matter within the exclusive jurisdiction of said  
15 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. Said recorder shall reside in the  
5 county of Hancock and shall hold his office of recorder  
6 for four years unless sooner removed by the judge of said  
7 court, for cause.

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

Warrants may be issued by any trial justice in said  
9 county upon complaints for offenses committed in either  
10 of the towns of Bucksport, Verona, Orland, Penobscot,  
11 Castine, Dedham, Bluehill, Brooksville, Brooklin, Sedg-  
12 wick, Deer Isle, Isle au Haut and Swan's Island plantation

13 in said county, but all such warrants shall be made  
14 returnable before said court, and no trial justice shall have  
15 or take cognizance of offenses committed in either of said  
16 towns.

SECT. 5. Said court shall have original jurisdiction  
2 concurrent with trial justices in all such matters civil and  
3 criminal, within the County of Hancock, as are by law  
4 within the jurisdiction of trial justices within said county,  
5 and are not placed within the exclusive jurisdiction of said  
6 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 one hun-  
5 dred dollars, in which any person summoned as trustee  
6 resides within the County of Hancock, or, if a corpora-  
7 tion has an established place of business in said County  
8 of Hancock; or in which if such actions are not com-  
9 menced by a trustee process, any defendant resides in  
10 said county, or, if no defendant resides within the limits  
11 of this State, any defendant is served with process in said  
12 county or the goods estate or effects of any defendant are  
13 found within said county and attached on the original  
14 writ; but no proceedings under the laws relating to  
15 divorce shall be included within the jurisdiction of said  
16 court; second, of the assaults and batteries described in  
17 section twenty-eight of chapter one hundred and eighteen  
18 of the Revised Statutes; of all larcenies described in  
19 section one, six, seven, nine, and eleven of chapter one  
20 hundred and twenty of the Revised Statutes, when the  
21 value of the property is not alleged to exceed thirty

22 dollars ; of the offence described in section twenty-one of  
23 chapter one hundred and twenty-two of the Revised Stat-  
24 utes ; of all offences and crimes described in sections one and  
25 four of chapter one hundred and twenty-three of the Revised  
26 Statutes of all offences described in section six and in sec-  
27 tions twenty-nine to forty-five, inclusive, of chapter one  
28 hundred and twenty-four of the Revised Statutes ;  
29 of the offence described in section five of chapter  
30 one hundred and twenty-five of the Revised Statutes ;  
31 of all offences described in section one of chapter one  
32 hundred and twenty-six of the Revised Statutes, when the  
33 value of the property or thing alleged to have been fraud-  
34 ulently obtained, sold, mortgaged or pledged, is not  
35 alleged to exceed thirty dollars ; and of all offences  
36 described in sections two, nine, sixteen, seventeen and  
37 twenty-one of chapter one hundred and twenty-seven of  
38 the Revised Statutes, when the value of the property de-  
39 stroyed or injury done is not alleged to exceed thirty dol-  
40 lars ; and all amendments thereto ; and may be punished  
41 for either of said crimes or offenses by fine not exceeding  
42 fifty dollars, and by imprisonment not exceeding three  
43 months, *provided*, that when the offences described in  
44 section twenty-eight of chapter one hundred and eighteen,  
45 section twenty-one of chapter one hundred and twenty-  
46 two, and sections one and four of chapter one hundred  
47 and twenty-three, are of a high and aggravated nature,  
48 the judge of said court may cause persons charged of  
49 such offences, to recognize with sufficient sureties to  
50 appear before the supreme judicial court, and in default  
51 thereof commit them ; third, of all other crimes, offences  
52 and misdemeanors committed in said county, which are

53 by law punishable by fine not exceeding fifty dollars, and  
54 by imprisonment not exceeding three months, and are  
55 not within the exclusive jurisdiction of some other mu-  
56 nicipal or police court.

SECT. 7. Said court shall not have jurisdiction of any  
2 civil action wherein the title of 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  
5 said court shall be removed to the supreme judicial court  
6 or otherwise disposed of as in like cases before a trial  
7 justice; provided, that nothing herein contained, shall  
8 prevent said court from proceeding in accordance with  
9 the provisions of sections six and seven of chapter ninety-  
10 four of the 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 civil law, or within the  
5 degree 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  
8 justice or any other municipal or police court in said  
9 county, in the same manner as other actions before trial  
10 justices, or municipal or police courts. If any action  
11 wherein said judge is so interested in either party, is  
12 made returnable before this court, the parties thereto, by  
13 themselves or their attorneys, may in writing consent  
14 that said judge shall hear and dispose of the same; or  
15 such actions shall be disposed of as follows, to wit; civil  
16 actions wherein the debt or damages demanded, exclusive  
17 of costs, exceed twenty dollars shall, upon motion be

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

SECT. 9. A term of said court shall be held for the  
2 transaction of civil business as follows : On the second  
3 Tuesday of each of the months of January, March, July  
4 and September in the town of Bluehill. On the second  
5 Tuesday of each of the months of February, May, June,  
6 and August, November and December in the town of  
7 Bucksport. On the fourth Tuesday of each of the months  
8 of May, July, September and November in the town of  
9 Deer Isle. On the fourth Tuesday of the months of June  
10 and August in the town of Castine. Beginning at ten  
11 o'clock in the forenoon at such place in either of the towns

12 named in this section, as the judge shall determine. For  
13 the cognizance and trial of criminal actions said court shall  
14 be considered in constant session. In all cases it may be  
15 adjourned from 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 Hancock, 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  
12 returned or pending, shall be considered as continued to  
13 the next term. No trial justice or justice of the peace  
14 shall be disqualified from presiding for the purpose men-  
15 tioned in this section, by reason of his being interested  
16 in any 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 in  
3 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 justices.

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 *ad damnum*, 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 Hancock, who shall 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 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 detainer, at the next reg-  
5 ular term after the entry if not otherwise disposed of.  
6 When a defendant legally summoned, fails to enter his  
7 appearance by himself or by his attorney before twelve  
8 o'clock noon on the first day of the return term, he shall  
9 be defaulted ; but if he afterwards appear during said  
10 term the court may for sufficient cause, permit the default  
11 to be taken off. The pleading shall be the same as in the  
12 supreme judicial court, and all provisions of law relative  
13 to practice and proceedings in civil actions in the supreme  
14 judicial court, are hereby made applicable and extended  
15 to this court, except so far as they are modified by the  
16 provisions of this act.

SECT. 15. Actions pending in this court may be  
2 referred in the same manner as in the supreme judicial  
3 court, and on report of the referee to said municipal  
4 court, judgment may be rendered in the same manner and  
5 with 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 his writ exceeds twenty dollars,  
4 shall on or before the first day of the second regular term  
5 of said court after the entry of said action, file in said  
6 court an affidavit that he has a good defence to said action,  
7 and intends in good faith to make such defence and claims  
8 a jury trial, and shall at the same time deposit with the  
9 judge or recorder of said court, two dollars and sixty cents  
10 for copies and entry in the supreme judicial court, to be  
11 taxed in his costs if he prevail, the said action shall at the  
12 next regular monthly term of said municipal court, after  
13 the entry thereof be removed into the supreme judicial  
14 court for said county, and shall be entered at the next  
15 ensuing term of the supreme judicial court after such  
16 removal, and the judge or recorder of said municipal  
17 court shall forthwith cause certified copies of the writ,  
18 return of the officer, and all other papers in the case to  
19 be filed in the office of the clerk of said supreme judicial  
20 court.

SECT. 17. Exceptions may be alleged and cases cer-  
2 tified on an agreed statement of facts, or upon evidence  
3 reported by the judge in all civil actions as in the supreme  
4 judicial court, and the same shall be entered, heard and  
5 determined at the law term thereof as if the same had  
6 originated in the supreme judicial court for said County  
7 of Hancock; and decisions of the law court in all such  
8 cases, shall be certified to the judge of said municipal  
9 court for final disposition with the same effect as in cases  
10 originating in 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 prompt administration of  
6 justice 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, attor-  
2 neys and witnesses in all actions in this court, in which  
3 the debt or damages demanded shall not exceed twenty  
4 dollars, and in actions of forcible entry and detainer, shall  
5 be the same as allowed in similar actions before trial jus-  
6 tices, except that the plaintiff, if he prevail, shall be  
7 allowed two dollars for his writ, and the defendant, if he  
8 prevail, shall be allowed one dollar for his pleadings; and  
9 in cases wherein the amount demanded shall exceed twenty  
10 dollars, the costs and fees of parties, attorneys and witnesses  
11 shall be the same as in the supreme judicial court, except  
12 that the defendant if he prevail shall be allowed two  
13 dollars for his pleadings, and that the costs to be taxed  
14 for attendance, shall be two dollars and fifty cents for the  
15 first term, and one dollar for each subsequent term. In  
16 all actions wherein the debt or damages demanded  
17 exceeds twenty dollars, costs for travel may include costs  
18 for constructive travel for not exceeding forty miles, as  
19 in the supreme judicial court. In every action the judge  
20 may at his discretion disallow any costs for travel and  
21 attendance after the second term.

SECT. 20. The judge of said court shall receive the  
2 same fees allowed by law to trial justices and clerks of  
3 the supreme judicial court for similar services, except

4 that he shall receive for every blank writ signed by him,  
5 five cents; for entry of each civil action, sixty cents;  
6 for every warrant issued by him, one dollar; for the trial  
7 of an issue in civil or criminal cases, three dollars for  
8 each day employed, together with ten cents a mile travel  
9 to and from the place where said trial shall be held; and  
10 said fees for the trial of an issue in civil actions shall be  
11 paid by the plaintiff before proceeding with the trial each  
12 day, to be taxed in his costs if he prevail. The fees  
13 received by said judge shall be payment in full for his  
14 services.

SECT. 21. Trial justices are hereby restricted from  
2 exercising any jurisdiction in the towns named in section  
3 four 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 section  
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 office of judge is vacant, any  
9 trial justice shall have and exercise the same jurisdiction  
10 as though this municipal court had never been established;  
11 as in such case any civil or criminal action made return-  
12 able before a trial justice, shall be entered before and  
13 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 a 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.

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HOUSE OF REPRESENTATIVES, }  
March 21, 1893. }

Reported by Mr. HAMLIN of Ellsworth, from Cumberland County  
Delegation, and ordered printed under joint rules.

W. S. COTTON, *Clerk.*