

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

Sixty-Ninth Legislature.

HOUSE.

No. 48.

STATE OF MAINE.

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

AN ACT to establish a Municipal Court in the town of
Newport.

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

Section 1. There is hereby established in and for the
2 town of Newport, in the county of Penobscot, a court, to be
3 denominated the municipal court of Newport.

Sect. 2. Said court shall be a court of record, and have a
2 seal, to be affixed to all original processes issuing therefrom.

Sect. 3. Said court shall consist of one judge, to be
2 appointed in the manner and for the term provided by the
3 Constitution, who shall be a member of the bar in Penobscot
4 county, and who shall reside during his continuance in office
5 in said town of Newport.

Sect. 4. Said judge shall have concurrent jurisdiction
2 with trial justices in all matters, civil or criminal, within the

3 county of Penobscot, and with trial justices in all cases of
4 forcible entry and detainer arising in said county. Nothing
5 in this act shall be construed to give said court jurisdiction
6 in any civil action in which the title to real estate, according
7 to the pleading or brief statement filed therein by either
8 party, is in question; and all such actions brought therein
9 shall be removed to the supreme judicial court, or otherwise
10 disposed of, as in like cases before a trial justice.

Sect. 5. Said judge shall have original and exclusive juris-
2 diction of all offences against the ordinances and laws of
3 the town of Newport, and in all civil actions wherein the
4 amount claimed in damages shall not exceed twenty dollars,
5 in which one of the parties interested, or the attorney of the
6 plaintiff who made the writ, or person, or persons summoned
7 as trustees in such action, shall be inhabitants or be residents
8 of Newport, and in all cases of forcible entry and detainer
9 arising in said town, excepting all actions in which said
10 judge may be interested; provided, that any action, civil or
11 criminal, in which the judge is interested or related to either
12 of the parties by consanguinity or affinity within the sixth
13 degree, according to the rules of the civil law, or within the
14 degree of second cousin, inclusive, but which would other-
15 wise be within the exclusive jurisdiction of said court, may
16 be brought before and disposed of by any trial justice within
17 said county, in the same manner, and with like effect, as
18 other actions before said trial justices. Said court shall have
19 concurrent jurisdiction with the supreme judicial court, in
20 all personal actions where the debt or damage demanded,
21 exclusive of costs, is over twenty dollars and not over one
22 hundred dollars, and in all actions of replevin under chap-
23 ter ninety-six of the Revised Statutes, when the sum de-
24 manded for the penalty, forfeiture or damages, or the value
25 of the goods or chattels replevied does not exceed one

26 hundred dollars; but this jurisdiction shall not include pro-
27 ceedings under the divorce laws or complaints under the
28 mill act, so called, nor jurisdiction over actions in which the
29 title to real estate according to the pleadings filed in the case
30 by either party is in question except as provided in chapter
31 ninety-four, sections six and seven of the Revised Statutes.

Sect. 6. Said judge shall have jurisdiction in all cases of
2 simple larceny and where the property alleged to have been
3 stolen shall not exceed in value the sum of twenty dollars,
4 and of all cases of cheating by false pretences, where the
5 property, money or other thing alleged to have been fraudu-
6 lently obtained shall not exceed in value the sum of twenty
7 dollars, and shall have power to try the same, and in either
8 of said cases, to award sentence upon conviction by fine not
9 exceeding twenty dollars, or imprisonment in the county jail,
10 with or without labor for a term not exceeding ninety days.
11 He shall have exclusive jurisdiction of all offences arising
12 in said town, which are by any law or statute within the
13 jurisdiction of a trial justice, and concurrent jurisdiction
14 with trial justices of the county of Penobscot, of all such
15 offences arising in said county, out of said town.

Sect. 7. Said court shall be held on the third Wednesday
2 of each month, at ten o'clock in the forenoon, except the
3 month of August, for the transaction of civil business at
4 such place within said town as the judge shall determine;
5 but the town may at any time provide a court room, in which
6 case the court shall be held therein, and all civil processes
7 shall be made returnable accordingly; and it may be
8 adjourned from time to time by the judge, at his discretion,
9 but it shall be considered in constant session for the cogniz-
10 ance of criminal actions.

Sect. 8. It shall be the duty of the judge of said court to
2 make and keep the records thereof, or cause the same to be

3 made and kept, and to perform all other duties required of
4 similar tribunals in this State; and copies of said records
5 duly certified by said judge, shall be legal evidence in all
6 courts. The judge may appoint in writing a recorder, who
7 shall be a trial justice for the county of Penobscot, duly
8 qualified, who shall be sworn by said judge, who shall keep
9 the records of said court when requested so to do by the
10 judge; and in case of absence from the court room, or sick-
11 ness of the judge, or when the office of judge shall be vacant,
12 the recorder shall have and exercise all the powers of the
13 judge, and perform all the duties required of said judge by
14 this act, and shall be empowered to sign and issue all
15 processes and papers, and to do all acts as fully and with the
16 same effect as the judge could do were he acting in the
17 premises; and the signature of the recorder, as such, shall
18 be sufficient evidence of his right to act instead of the judge.
19 When the office of judge is vacant, the recorder shall be
20 entitled to the fees; in all other cases he shall be paid by the
21 judge, and shall hold his said office at the discretion of said
22 judge.

Sect. 9. Any party may appeal from any judgment or
2 sentence of said court to the supreme judicial court, in the
3 same manner as from a judgment or sentence of a trial jus-
4 tice. And if any defendant in any action in said court,
5 where the amount claimed in the writ exceeds twenty dollars,
6 or his agent or attorney shall, on the return day of the writ,
7 file in said court, a motion asking that said action be removed
8 to the supreme judicial court, accompanied by his pleadings
9 in said action, and shall at the same time deposit with the
10 judge, the sum of two dollars for copies, to be taxed in his
11 costs if he prevail, the said action shall be removed into the
12 supreme judicial court for said county, and the judge shall
13 forthwith cause certified copies of the writ, officer's return

14 and pleas, to be filed in the clerk's office of said supreme
15 judicial court and said action shall be entered on the docket
16 of the term next preceding said filing, and shall be in order
17 for trial at the next succeeding term.

Sect. 10. Writs and processes issued by said court shall be
2 in the usual forms, and shall be served as like precepts are
3 required to be served when issued by trial justices.

Sect. 11. All the provisions of the statutes of the State
2 relative to attachments of real and personal property and the
3 levy of executions shall be applicable to actions brought in
4 this court, and executions on judgments rendered therein;
5 provided, that property may be attached in addition to the
6 ad damnum sufficient to satisfy the costs of suit.

Sect. 12. Said court is hereby authorized to administer
2 oaths, render judgment, issue executions, punish for con-
3 tempt, and compel attendance, as in the supreme judicial
4 court, and make all such rules and regulations, not repug-
5 nant to law, as may be necessary and proper for the adminis-
6 tration of justice.

Sect. 13. Actions in said court shall be entered on the
2 first day of the term, and not afterwards, except by special
3 permission. When a defendant, legally served, fails to enter
4 his appearance by himself or his attorney, on the first day of
5 the return term, he shall be defaulted; but if he afterwards
6 appear during the term, the court may, for sufficient cause,
7 permit the default to be taken off. Pleas in abatement must
8 be filed on or before the day of the entry of the action. The
9 defendant may file his pleadings, which shall be the general
10 issue, with a brief statement of special matters of defense, on
11 the return day of the writ, and must file them on or before
12 the first day of the next term, or he shall be defaulted, unless
13 the court, for good cause, enlarge the time, for which it may
14 impose reasonable terms. Actions in which the defendant

15 files his pleadings on the return day, and all actions of forcible entry and detainer seasonably answered to, shall be in order for trial at the return term, and shall remain so until tried or otherwise disposed of, unless continued by consent or on motion of either party for good cause, in which latter case the court may impose such terms as it deems reasonable; but all other actions, unless defaulted or otherwise finally disposed of, shall be continued as of course, and be in order for trial at the next term.

Sect. 14. If at any regular or adjourned term of said court to be held for civil business, the judge or recorder is not present at the place for holding said court within two hours after the time for opening said court, then any trial justice or justice of the peace in the county of Penobscot, may preside for the purpose of entering and continuing actions, and filing papers in said court, and may adjourn said court from time to time, not exceeding one week at any one time, without detriment to any action returnable or pending, and may in his discretion, adjourn said court without day, in which event all actions returned or pending, shall be considered as continued to the next term. No trial justice or justice of the peace shall be disqualified from presiding for the purpose mentioned in this section, by reason of his being interested in any action returnable before or pending in said court.

Sect. 15. The costs and fees allowed to parties, attorneys and witnesses in said court shall be the same as allowed by trial justices in actions before them, except that the plaintiff, if he prevail, shall be allowed two dollars for his writ; and the defendant, if he prevail, two dollars for his pleadings. In actions where the amount recovered by the plaintiff, exclusive of costs, exceed twenty dollars, or property, the value of which exceeds that sum, or the amount claimed, or

9 the value of the property recovered exceeds twenty dollars,
10 where the defendant prevails, the costs of the parties, trus-
11 tees and witnesses shall be the same as in the supreme judi-
12 cial court, except the costs to be taxed for attendance shall
13 be two dollars and fifty cents for each term, for as many
14 terms as may be allowed by the court.

Sect. 16. The judge of said court may demand and receive
2 the same fees allowed by law to trial justices and clerks of
3 the supreme judicial court for similar services, except that
4 he shall receive for every blank writ signed by him, four
5 cents; for the entry of each civil action, fifty cents; for every
6 warrant issued by him, one dollar; for the trial of an issue
7 in civil or criminal cases, two dollars for every day actually
8 employed; and said fees for the trial of an issue in civil
9 actions shall be paid by the plaintiff before proceeding with
10 the trial each day, to be taxed in his costs, if he prevail; and
11 the fees so received by said judge shall be payment in full
12 for his services.

Sect. 17. Trial justices are hereby restricted from exercis-
2 ing any jurisdiction in the town of Newport over any mat-
3 ter or thing, civil or criminal, except such as are within the
4 jurisdiction of justices of the peace and of the quorum;
5 provided, that said restrictions shall be suspended until the
6 judge of said court shall enter upon the duties of his office.

Sect. 18. Nothing in this act shall be construed to interfere
2 with actions already commenced before trial justices in the
3 town of Newport, but all such actions shall be disposed of
4 by such trial justices, the same as if this act had not passed.

Sect. 19. This act shall take effect when approved.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES,
Augusta, February 3, 1899.

Reported by Mr. SANBORN of Newport, from Committee on Legal
Affairs, and ordered printed under joint rules.

W. S. COTTON, *Clerk.*