

MAINE STATE LEGISLATURE

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Sixty-Ninth Legislature.

SENATE.

No. 34.

STATE OF MAINE.

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

AN ACT to establish the Bar Harbor 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 the
2 town of Eden, which shall be called the Bar Harbor Muni-
3 pal Court, and shall be a court of record with a seal. All
4 the original processes, issuing from said court, shall be under
5 the teste of the judge, and signed by the judge and shall
6 have the seal of said court affixed.

Sect. 2. Said court shall consist of one judge, who shall
2 be a member of the bar of this State, and shall be appointed
3 in the manner and for the term provided by the constitution
4 of this State; and he shall be ex-officio a justice of the peace
5 and of the quorum for the State. The said judge shall
6 enter, or cause to be entered, on the docket of said court all

7 civil and criminal actions, with full minutes of the proceed-
8 ings in and disposition of the same, which docket shall be at
9 all times open to inspection; and he shall perform all other
10 duties required of similar tribunals in this State; and copies
11 of the records of said court, duly certified by the judge or
12 recorder thereof, shall be legal evidence in all courts.

Sect. 3. The governor, by and with the consent of the
2 council, may appoint a recorder of said court, who shall hold
3 his said office for the term of four years. Said recorder shall
4 be sworn to the faithful discharge of his duties and shall
5 keep the records of said court when requested so to do by
6 said judge; and in case of absence of said judge from the
7 court room, or when the office of judge shall be vacant, the
8 said recorder shall have and exercise all the powers of the
9 judge by this act, and shall be empowered to sign and issue
10 all papers and processes, in criminal cases, and do all acts
11 relating to criminal proceedings as full and with the same
12 effect as the judge could do if he were acting in the premises;
13 and the signature of the recorder, as such, shall be sufficient
14 evidence of his right to act instead of the judge. But noth-
15 ing in this act shall be construed to give the recorder author-
16 ity to act other than in criminal cases. Said recorder shall
17 receive as compensation for his services the same fees allowed
18 by law to trial justices, in criminal cases, except that he shall
19 receive for receiving a complaint and issuing a warrant one
20 dollar.

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

8 cutions on any such ordinances or by-laws such by-law or
9 ordinance need not be recited in the complaint or process,
10 nor the allegations therein be more particular than in prose-
11 cutions on a public statute. Warrants may be issued by any
12 trial justice in said county upon complaints for offenses
13 committed in said town of Eden, but all such warrants issued
14 by any trial justice in said Eden shall be made returnable
15 before said court, and no trial justice in said Eden shall have
16 or take cognizance of offenses committed within said town
17 of Eden.

Sect. 5. Said court shall have original jurisdiction con-
2 current with trial justices in all such matters civil and crim-
3 inal, within the county of Hancock, as are by law within the
4 jurisdiction of trial justices within said county, and are not
5 placed within the exclusive jurisdiction of said court by the
6 preceding section.

Sect. 6. Said court shall have original jurisdiction con-
2 current with the supreme judicial court as follows: First,
3 of all civil actions wherein the debt or damages demanded,
4 exclusive of costs, does not exceed one hundred dollars, in
5 which any person summoned as trustees resides within the
6 county of Hancock, or, if a corporation has an established
7 place of business in said county of Hancock; or in which if
8 such actions are not commenced by a trustee process, any
9 defendant resides in said county, or, if no defendant resides
10 within the limits of this State, any defendant is served with
11 process in said county, or the goods, estate, or effects of any
12 defendant are found within said county and attached on the
13 original writ; but no proceedings under the laws relating
14 to divorce shall be included within the jurisdiction of said
15 court; second, of the assaults and batteries described in
16 section twenty-eight of chapter one hundred and eighteen
17 of the Revised Statutes; of all larcenies described in sections

18 one, six, seven, nine and eleven of chapter one hundred and
19 twenty of the Revised Statutes, when the value of the prop-
20 erty is not alleged to exceed thirty dollars; of the offense
21 described in section twenty-one of chapter one hundred and
22 twenty-two of the Revised Statutes; of all offenses described
23 in sections one and four of chapter one hundred and twenty-
24 three of the Revised Statutes; of all offense described in
25 section six and in sections twenty-nine to forty-five, inclusive,
26 of chapter one hundred and twenty-four of the Revised
27 Statutes; of the offense described in section five of chapter
28 one hundred and twenty-five of the Revised Statutes; of all
29 offenses 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 fraudulently obtained,
32 sold, mortgaged or pledged, is not alleged to exceed thirty
33 dollars; and of all offenses 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 injury done is not alleged to
37 exceed thirty dollars, and all amendments thereto; and may
38 be punished for either of said crimes or offenses by fine not
39 exceeding fifty dollars, and by imprisonment not exceeding
40 three months, provided, that when the offenses described in
41 section twenty-eight of chapter one hundred and eighteen,
42 section twenty-one of chapter one hundred and twenty-two,
43 and sections one and four of chapter one hundred and
44 twenty-three, are of a high and aggravated nature, the judge
45 of said court may cause persons charged of such offenses,
46 to recognize with sufficient sureties to appear before the
47 supreme judicial court, and in default thereof commit them;
48 third, of all other crimes, offenses and misdemeanors com-
49 mitted in said county which are by law punishable by fine
50 not exceeding fifty dollars, and by imprisonment not exceed-

51 ing three months, and are not within the exclusive jurisdic-
52 tion of some other municipal or police court.

Sect. 7. Said court shall not have jurisdiction of any civil
2 action wherein the title of real estate, according to the plead-
3 ing or brief statement filed therein by either party, is in ques-
4 tion; and all such actions brought in said court shall be
5 removed to the supreme judicial court or otherwise disposed
6 of as in like cases before a trial justice; provided, that noth-
7 ing herein contained, shall prevent said court from proceed-
8 ing in accordance with the provisions of sections six and
9 seven of chapter ninety-four of the Revised Statutes.

Sect. 8. Any action, civil or criminal, in which the judge
2 of said court is interested or related to either of the parties
3 by consanguinity or affinity, within the sixth degree accord-
4 ing to the rules of civil law, or within the degree of second
5 cousin inclusive, but which would otherwise be within the
6 exclusive jurisdiction of said court, may be brought before
7 and disposed of by any trial justice or any other municipal
8 or police court in said county, in the same manner as other
9 actions before trial justices or municipal or police courts.
10 If any action wherein said judge is so interested in either
11 party, is made returnable before this court, the parties
12 thereto, by themselves or their attorneys, may in writing
13 consent that said judge shall hear and dispose of the same;
14 or such actions shall be disposed of as follows: Civil actions
15 wherein the debt or damages demanded, exclusive of costs,
16 exceed twenty dollars shall, upon motion be removed to the
17 supreme judicial court for said county; and all other civil
18 actions and all criminal actions, shall be removed and entered
19 before any such trial justice within said county as may be
20 agreed upon, in writing, by the parties entering an appear-
21 ance in such action, or if no trial justice is agreed upon,
22 before any municipal or police court in said county, and such

23 trial justice, or municipal or police court shall have and take
24 cognizance of such action and dispose of the same, as orig-
25 inally returnable before such justice or court; provided, that
26 nothing in this section contained shall prevent any civil
27 action wherein the title to real estate is in question, from
28 being disposed of in accordance with the provisions of the
29 preceding section. In any action in which either of the
30 towns in said county is a party, or is summoned as trustee,
31 this court shall not lose its jurisdiction by reason of the said
32 judge or recorder being an inhabitant of or owning property
33 in such town; but in any other case the action may, upon
34 written motion of either party, filed before trial, be removed
35 to the supreme judicial court.

Sect. 9. A term of said court shall be held for the trans-
2 action of civil business on the first Wednesday of each month,
3 beginning at ten o'clock in the forenoon. For the cognizance
4 and trial of criminal actions said court shall be considered
5 in constant session. In all cases it may be adjourned from
6 time to time by the judge; and in civil actions said judge
7 shall have power for cause shown, upon application of either
8 party, or his attorney, to adjourn the hearing to any place
9 within his jurisdiction. Said court shall be held at such
10 place as the town of Eden shall provide; and said town shall
11 have power and it shall be its duty to raise money to provide
12 a proper place for said court and suitably furnish the same.
13 All other expenses of the court, including blank books of
14 record, dockets and blanks necessary for the use of said court
15 shall be paid from the treasury of the county of Hancock.

Sect. 10. If at any regular or adjourned term of said court to
2 be held for civil business, the judge or recorder is not present
3 at the place for holding said court within two hours after
4 the time for opening said court, then any trial justice or
5 justice of the peace in the county of Hancock, may preside

6 for the purpose of entering and continuing actions and filing
7 papers in said court, and may adjourn said court from time
8 to time, not exceeding one week at any one time without
9 detriment to any action returnable or pending, and may in
10 his discretion, adjourn said court without day, in which
11 event all actions returned or pending, shall be considered as
12 continued to the next term. No trial justice or justice of
13 the peace shall be disqualified from presiding for the purpose
14 mentioned in this section, by reason of his being interested
15 in any action returnable 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 the
3 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 are
3 required to be served when issued by trial 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; pro-
5 vided, that property may be attached in addition to the
6 ad 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 court
10 by appeal or otherwise, the judge of said municipal court
11 shall forthwith certify the disposition or removal thereof to
12 the register of deeds of the county of Hancock, who shall
13 make a minute of the disposition or removal upon the record
14 of the attachment in said action.

Sect. 14. All civil actions in said court shall be entered on
2 the first day of the term and not afterwards, except by

3 special permission; and they shall be in order for trial,
4 except actions of forcible entry and 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 be
9 defaulted; but if he afterwards appear during said term the
10 court may for sufficient cause, permit the default to be taken
11 off. The pleading shall be the same as in the supreme judi-
12 cial court, and all provisions of law relative to practice and
13 proceedings in civil actions in the supreme judicial court,
14 are hereby made applicable and extended to this court,
15 except so far as they are modified by the provisions of this
16 act.

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

Sect. 16. If any defendant, his agent or attorney, in any
2 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 of
5 said court after the entry of said action, file in said court an
6 affidavit that he has a good defence to said action, and intends
7 in good faith to make such defence and claims a jury trial,
8 and shall at the same time deposit with the judge or recorder
9 of said court, two dollars and sixty cents for copies and
10 entry in the supreme judicial court, to be taxed in his costs
11 if he prevail, the said action shall at the next regular monthly
12 term of said municipal court, after the entry thereof be
13 removed into the supreme judicial court for said county,
14 and shall be entered at the next ensuing term of the supreme

15 judicial court after such removal, and the judge or recorder
16 of said municipal court shall forthwith cause certified copies
17 of the writ, return of the officer, and all other papers in the
18 case to be filed in the office of the clerk of said supreme judi-
19 cial court.

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

Sect. 18. Said municipal court may render judgment and
2 issue execution, punish for contempt and compel attendance,
3 as in the supreme judicial court; make all such rules and
4 regulations, not repugnant to law, as may be necessary and
5 proper for the prompt administration of justice and is clothed
6 with all such lawful power as is necessary for the perform-
7 ance of its duties under this act.

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

13 the costs to be taxed for attendance, shall be two dollars and
14 fifty cents for the first term, and one dollar for each subse-
15 quent term. In all actions wherein the debt or damages
16 demanded exceeds twenty dollars, costs for travel may include
17 costs for constructive travel for not exceeding forty miles, as
18 in the supreme judicial court. In every action the judge may
19 at his discretion, disallow any costs for travel and attendance
20 after the second term.

Sect. 20. The judge of said court shall receive as com-
2 pension, a salary of five hundred dollars a year to be paid
3 quarterly from the treasury of the county of Hancock, and in
4 addition thereto he shall receive the court fees in all civil
5 cases, which shall be for every blank writ signed by him four
6 cents, for entry of each civil action, sixty cents; all other
7 fees not herein specified shall be the same as allowed by law
8 to trial justices and clerks of the supreme judicial court, for
9 similar services. All costs in criminal cases shall be taxed
10 the same and paid into court in the same manner as in trial
11 justice courts, except that every warrant issued by said judge
12 shall be taxed at one dollar.

Sect. 21. Said judge shall render to the county treasurer,
2 semi-annually, on the second Tuesdays of April and October,
3 a true statement in writing signed and sworn to by him, of all
4 sums of money received or which he is entitled to receive by
5 virtue of his said office, including all sums of money received
6 by his recorder by virtue of his said office, for the six months
7 ending on the last days of March and September of each year,
8 and to pay to said treasurer all money due said county; and
9 on the second Tuesdays of April and October, he shall pro-
10 duce and exhibit his criminal dockets to the court of county
11 commissioners of said county for their examination.

Sect. 22. Trial justices in said Eden are hereby prohibited
2 from exercising any jurisdiction in the town of Eden over

3 any matter or thing, civil or criminal, except such as are within
4 the jurisdiction of justices of the peace and quorum, and ex-
5 cept as provided in sections 4, 8 and 10 of this act, provided,
6 that until the judge of said court shall enter upon the duties
7 of his office, and whenever the office of judge is vacant, any
8 trial justice shall have and exercise the same jurisdiction as
9 though this municipal court had never been established; as
10 in such case any civil or criminal action made returnable
11 before a trial justice, shall be entered before and finally dis-
12 posed of by such justice.

Sect. 23. Nothing contained in this act shall be construed
2 to interfere with such actions returnable before a trial jus-
3 tice or a municipal or police court, as shall be commenced
4 before this act takes effect, and all said actions shall be dis-
5 posed of as if this act had not been passed.

Sect. 24. Nothing in this act shall be so constructed as to
2 prohibit any municipal court in said county of Hancock from
3 taking cognizance of all matters and things civil or criminal,
4 arising within said town of Eden as fully as though this act
5 had not been passed, as the jurisdiction of any existing muni-
6 cipal court in said county of Hancock shall be in no way
7 impaired or limited by this act.

Sect. 25. This act shall take effect when approved.

STATE OF MAINE.

IN SENATE, February 9, 1899.

Reported by Mr. HAMLIN from Committee on Judiciary, and laid on table to be printed under joint rules.

KENDALL M. DUNBAR, *Secretary*.