

MAINE STATE LEGISLATURE

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NEW DRAFT.

Seventieth Legislature.

HOUSE.

No. 313

STATE OF MAINE.

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

AN ACT to establish a municipal court in the town of
Winthrop.

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

Section 1. A municipal court is hereby established in and
2 for the towns of Winthrop, Monmouth, Wayne and Fayette,
3 in the county of Kennebec, to be denominated the Winthrop
4 Municipal Court; said court shall consist of one judge, who
5 shall reside during his continuance in said office, in said
6 town of Winthrop or Monmouth and who shall be
7 appointed, qualified and hold his office as provided in the
8 constitution, and who shall be, ex-officio, a justice of the
9 peace and of the quorum, and have and exercise a con-

10 current authority and jurisdiction with trial justices over all
11 matters and things by law within their jurisdiction, and such
12 authority and jurisdiction additional thereto is conferred
13 upon him by this act.

Sect. 2. Said court shall have jurisdiction as follows:
2 Exclusive jurisdiction of all such criminal offenses and mis-
3 demeanors committed within said towns of Winthrop, Mon-
4 mouth, Wayne and Fayette as are cognizable by trial
5 justices. Exclusive original jurisdiction of all civil actions
6 wherein the debt or damages demanded do not exceed
7 twenty dollars, and both parties, or any plaintiff, and a
8 person summoned as trustee, resides in either of the towns
9 of Winthrop, Monmouth, Wayne or Fayette, including
10 prosecutions for penalties in which either of said towns are
11 interested, and actions of forcible entry and detainer arising
12 therein; provided, that any civil action, in which the judge
13 is interested, but which otherwise would be within the
14 exclusive jurisdiction of said court, may be brought in and
15 disposed of by the municipal court of the city of Waterville,
16 or the municipal court of the city of Augusta in the same
17 manner and with like effect as other actions therein.

Original jurisdiction concurrent with the superior court,
19 of the offenses committed in Winthrop, Monmouth, Wayne
20 and Fayette described in sections one, six, seven and nine
21 of chapter one hundred and twenty of the Revised Statutes,
22 when the alleged value of the property exceeds twenty
23 dollars, but does not exceed fifty dollars; of the offenses
24 described in section twenty-eight of chapter one hundred
25 and eighteen of the Revised Statutes; of the offenses
26 described in sections one and four of chapter one hundred
27 and twenty-six of the Revised Statutes, when the alleged
28 value of the property fraudulently obtained, mortgaged or
29 sold, or fraudulently removed or concealed, does not exceed

30 fifty dollars, and on conviction may punish for either of said
31 offenses by fine not exceeding one hundred dollars and by
32 imprisonment in the county jail for not more than six
33 months; and also of the offense described in section six of
34 chapter one hundred and twenty-four of the Revised
35 Statutes, and on conviction may punish therefor by fine not
36 exceeding fifty dollars and by imprisonment in the county
37 jail not more than thirty days; and also of the offenses
38 described in section four of chapter one hundred and forty-
39 one of the Revised Statutes, and on conviction may
40 sentence therefor to imprisonment in the county jail not
41 more than sixty days, and of the offenses described in
42 sections seventeen and twenty-two of chapter one hundred
43 and twenty-eight of the Revised Statutes, as amended
44 relating to tramps, and on conviction may punish therefor
45 as therein provided. Original jurisdiction concurrent with
46 the superior court and the municipal court of the city of
47 Waterville and the municipal court of the city of Augusta,
48 of all civil actions in which the debt or damages demanded,
49 exceed twenty dollars, but do not exceed three hundred
50 dollars and the defendant or a party summoned as trustee
51 resides within Kennebec county; provided, however, that
52 any action wherein the debt or damage demanded exceeds
53 twenty dollars, brought in said court, shall be removed by
54 order of the judge into the superior court, on motion of the
55 defendant, filed at the return term, if he files therewith, at
56 the same time an affidavit that he believes he has a good
57 defense to said action, in whole or in part, and in good faith
58 intends to make such defense, and deposits with the judge
59 the fee of the clerk of the court above for entering said
60 action therein; and when such removal has been ordered,
61 the judge shall file in the superior court, at its next term in
62 the county, an attested copy of the writ in such action, and

63 of said motion and affidavit, and order of court thereon, and
64 pay to the clerk of said court the fee for entering the same,
65 for which services he shall be entitled to the same fees
66 allowed for the necessary copies in actions carried up by
67 appeal, to be paid to him by the defendant and recovered by
68 him with his costs, if he prevail in the suit.

Sect. 3. Nothing in the foregoing section shall be con-
2 strued to give said court any authority, exceeding that of
3 trial justices, to hear and determine any civil action in which
4 the title to real estate, according to the pleadings or brief
5 statement filed therein by either party, is in question, but all
6 such actions brought therein shall be removed to the
7 supreme judicial court in the county, or otherwise disposed
8 of as provided in section four of chapter eighty-three of the
9 Revised Statutes.

Sect. 4. Said court shall have authority to administer all
2 necessary oaths of affirmations; to adopt an official seal; to
3 hear and determine civil causes before it, and to render
4 judgment therein, and issue executions, upon the same, such
5 executions, except when otherwise provided by law, to have
6 the same force and be satisfied in the same manner as if
7 issued by the supreme judicial court; to compel the attend-
8 ance of witnesses, and punish persons duly summoned as
9 witnesses, if they refuse or neglect to attend; to make and
10 enforce such rules and regulations not repugnant to law, as
11 may be necessary therein for the prompt administration of
12 justice; and all the provisions of law relating to proceedings
13 and practice in the supreme judicial court, and to the
14 attachment of real or personal estate, the taxation of costs,
15 the rendition of judgments and the issuing, service, satis-
16 faction and return of executions, shall be extended to and
17 apply to said municipal court and to proceedings therein,

18 except so far as such application may be modified by the
19 provisions of this act.

Sect. 5. Writs in civil actions commenced in said court
2 shall be in the usual forms, and in all such writs and all
3 other precepts and processes, civil or criminal, issued by said
4 court, shall bear teste of the judge under seal of said court,
5 and be signed by the judge. All such writs shall be made
6 returnable at one of the next four terms of said court held
7 after seven days, from their date, and service thereof may be
8 made at any time not less than seven days before the return
9 day thereof, except that when any defendant or trustee
10 named in any such writ is a corporation, service upon such
11 corporation must be made at least thirty days before the
12 return day.

Sect. 6. Said court shall be held on the first and third
2 Mondays of each month for the entry, trial and determin-
3 ation of civil actions of all kinds that may lawfully be
4 brought before it, and for the transaction of other civil
5 business, and upon each other Monday for the entry, trial
6 and determination of actions of forcible entry and detainer
7 only, at ten of the clock in the forenoon, at such suitable
8 place as the judge may determine, until the town of
9 Winthrop shall provide a court room, when the court shall
10 be held therein, and all civil processes shall be made return-
11 able accordingly; and it may be adjourned from time to
12 time by the judge, at his discretion, but it shall be con-
13 sidered in constant session for the cognizance of criminal
14 actions. Provided that, if said judge is prevented by any
15 cause from attending at the time said court is to be held for
16 civil business, it may be adjourned from day to day by a
17 constable of Winthrop or a deputy sheriff of the county of
18 Kennebec, without detriment to any action then returnable
19 or pending, until he can attend, when said actions may be

20 entered or disposed of with the same effect as if it were the
21 first day of the term; and it may be so adjourned without
22 day when necessary, in which event, pending actions shall
23 be considered as continued, and actions then returnable may
24 be returned and entered at the next term, with the same
25 effect as if originally made returnable at said term.

Sect. 7. It shall be the duty of said 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 Kennebec, 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 courtroom, or sick-
11 ness of the judge, or when the office of judge shall be
12 vacant, the recorder shall have and exercise all the powers
13 of the judge, and perform all the duties required of said
14 judge by this act, and shall be empowered to sign and issue
15 all processes and papers, and to do all acts as fully and with
16 the same effect as the judge could do were he acting in the
17 premises; and the signature of the recorder, as such, shall be
18 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. 8. Any party may appeal from any judgment or
2 sentence of said court to the superior court, in the same
3 manner as from a judgment or sentence of a trial justice.

Sect. 9. Actions in said court shall be entered on the first
2 day of the term, and not afterwards, except by special per-

3 mission. When a defendant, legally served, fails to enter
4 his appearance, by himself, or his attorney, on the first two
5 days of the return term, he may be defaulted, but if he after-
6 wards appear during the term, the court may for sufficient
7 cause permit the default to be taken off. Pleas and motions
8 in abatement must be filed on the first day of the term to
9 which the action is returnable. The defendant may file his
10 pleadings in bar, which shall be the general issue, with a
11 brief statement of special matters of defense, on the return
12 day of the writ, and must file them on or before the first day
13 of the next term, or he shall be defaulted, unless the court,
14 for good cause, enlarge the time for which it may impose
15 reasonable terms. Actions in which the defendant files his
16 pleadings on the return day, and all actions of forcible entry
17 and detainer seasonably answered to shall be in order for
18 trial at the return term and shall remain so until tried or
19 otherwise disposed of finally, unless continued by consent,
20 or on motion of either party, for good cause, in which latter
21 case the court may impose such terms as it deems reason-
22 able; but all other actions, unless defaulted or otherwise
23 finally disposed of, shall be continued as of course, and be
24 in order for trial at the next term.

Sect. 10. In actions of forcible entry and detainer brought
2 in said court, the defendant's pleading in bar shall be the
3 general issue with a brief statement of any special matters
4 of defense, and must be filed upon the first day of the return
5 term, or the defendant shall be defaulted unless the court
6 enlarge the time, for which it may impose terms. All
7 actions of forcible entry and detainer, and any other action
8 in which either party shall have given written notice to the
9 adverse party five days before the return day that he desires
10 a trial at the first term, shall be in order for trial at the
11 return term, and so remain until tried or otherwise finally

12 disposed of unless continued by consent, or on motion of
13 either party for good cause, in which latter case the court
14 may impose reasonable terms, but all other actions not
15 defaulted or otherwise finally disposed of, shall be continued
16 as of course, and be in order for trial at the next term.

Sect. 11. The costs and fees allowed to parties, attorneys
2 and witnesses in all civil actions in said court, in which the
3 debt or damage demanded does not exceed twenty dollars,
4 including actions of forcible entry and detainer, shall be the
5 same allowed by trial justices in like actions before them,
6 except that the plaintiff, if he prevail, shall be allowed two
7 dollars for his writ, and the defendant, if he prevail, one
8 dollar for his pleadings, but in actions in which the debt or
9 damage demanded exceeds twenty dollars, the costs and
10 fees shall be the same as allowed in the supreme judicial
11 court in like actions, except that the defendant, if he prevail,
12 shall be allowed two dollars for his pleadings, and that wit-
13 nesses shall be allowed one dollar per day, and travel as in
14 other cases.

Sect. 12. The judge of said court may tax and shall be
2 allowed for his services in a civil action the same fees, the
3 trial fee excepted, allowed by law to trial justices, for like
4 services and at the same rates, except that he shall be
5 entitled to fifty cents for entering and recording an action,
6 and twenty-five cents for taxing the costs, and for the trial
7 of an issue in civil cases, two dollars for every day actually
8 employed, said fees to be paid him by the party at whose
9 instance the services were performed, and taxed with the
10 costs of such party if he prevail in the suit. For his services
11 in criminal proceedings he shall be entitled to seventy-five
12 cents for entering complaint, swearing witnesses, filing
13 papers, and certifying costs to the county commissioners,
14 forty cents for taxing the costs and recording judgment,

15 ten cents for each subpoena, twenty-five cents for each
16 mittimus and each recognizance, fifty cents for making and
17 recording each libel of intoxicating liquors, twenty-five
18 cents for each order to destroy or to restore such liquors and
19 two dollars for each day actually employed in the trial of an
20 issue, said fees to be taxed in the bill of costs, and unless
21 paid into court, to be allowed by the county commissioners,
22 and paid by the county treasurer, as provided by law in rela-
23 tion to other criminal expenses.

Sect. 13. The judge shall receive all fines, forfeitures and
2 costs paid into court in criminal proceedings, and may retain
3 from such costs his own fees, but shall pay over all other
4 fees to the persons to whom they were allowed when called
5 for, if called for within one year. All fines and forfeitures
6 received by him, and all fees so received but not seasonably
7 called for, he shall account for and pay over at the time and
8 manner required by law, but no account required by this
9 section shall be deemed sufficient unless verified by oath of
10 the judge.

Sect. 14. It shall be the duty of the town of Winthrop to
2 provide a suitable court room in said Winthrop, conveniently
3 situated and appropriately fitted up and furnished, in which
4 to hold said court, and keep the same in proper condition
5 for use, and also to provide for said court an appropriate
6 seal, and all blanks, blank books, dockets, stationery and
7 other things necessary in the transaction of its business; and
8 said town is hereby authorized to appropriate money there-
9 for.

Sect. 15. Trial justices are hereby restricted from exer-
2 cising any jurisdiction in the towns of Winthrop, Mon-
3 mouth, Wayne and Fayette over any matter or thing, civil
4 or criminal, except such as are within the jurisdiction of

5 justices of the peace and quorum; provided, that said
6 restrictions shall be suspended until the judge of said court
7 shall enter upon the duties of his office. Nothing in this
8 act shall be construed to interfere with actions which have
9 been brought and are pending before trial justices in the
10 towns of Winthrop, Monmouth, Wayne and Fayette at the
11 time when the judge of said court shall enter upon the
12 duties of his office, but all such actions shall be disposed of
13 by such trial justices the same as if this act had not passed.

Sect. 16. All acts and parts of acts, inconsistent with this
2 act, are hereby repealed.

Sect. 17. This act shall take effect when approved.

STATE OF MAINE.

IN HOUSE OF REPRESENTATIVES,

AUGUSTA, March 6, 1901.

Reported by Mr. CARLETON of Winthrop, from Committee on
the Judiciary, and ordered printed under joint rules.

W. S. COTTON, *Clerk.*