

MAINE STATE LEGISLATURE

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NEW DRAFT.

Seventieth Legislature.

SENATE.

No. 90

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 Pitts-
field.

*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 town
2 of Pittsfield, in the county of Somerset, a court, to be denom-
3 inated the Municipal Court of Pittsfield.

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 ap-
2 pointed in the manner and for the term provided by the con-
3 stitution, who shall be a member of the bar in Somerset
4 county.

Sect. 4. Said court shall have original and exclusive jurisdiction of all civil actions in which the debt or damages demanded do not exceed twenty dollars, and one of the parties, or a person summoned in good faith and on probable cause as trustee, resides in said town of Pittsfield; and of all cases of forcible entry and detainer arising in said town; and shall have original and exclusive jurisdiction of all offenses committed against the ordinances and by-laws of said town, and all such criminal offenses and misdemeanors committed therein as are cognizable before trial justices; provided that warrants may be issued upon complaints for offenses committed in said town of Pittsfield by any trial justice in the county of Somerset, but all such warrants shall be returnable before said court, and no trial justice shall take cognizance of any crime or offense committed in said town or any civil action, or action of forcible entry and detainer, of which said court has exclusive jurisdiction.

Said court shall have original jurisdiction concurrent with trial justices of all such matters and things civil and criminal within the county of Somerset, as are by law within the jurisdiction of trial justices in said county, and with trial justices in all cases of forcible entry and detainer arising in said county.

Nothing in this act shall be construed to give said court jurisdiction to try any civil action in which the title to real estate according to the pleading of brief statement filed therein by either party is in question; and all such action brought therein shall be removed to the supreme judicial court or otherwise disposed of, as in like cases before a trial justice.

But nothing in this act shall give, or be construed to give said court jurisdiction of any case, civil or criminal, or of forcible entry and detainer where the judge shall be interested or related to either of the parties by consanguinity or

34 affinity within the sixth degree, according to the rules of the
35 civil law, or within the degree of second cousin inclusive.
36 But all such cases, which would otherwise be within the ex-
37 clusive jurisdiction of said court, shall be brought before and
38 disposed of by any trial justice within said county in the same
39 manner, and with like effect as other actions before said
40 trial justices.

Sect. 5. Said court shall have original jurisdiction concur-
2 rent with the supreme judicial court in all personal actions
3 where the debt or damages demanded, exclusive of costs, is
4 over twenty dollars, and not over one hundred dollars, and
5 in all actions of replevin under chapter ninety-six of the Re-
6 vised Statutes, when the sum demanded for the penalty, for-
7 feiture or damages, or the value of the goods or chattels
8 replevied does not exceed one hundred dollars; provided that
9 any defendant or any party summoned as trustee in good
10 faith and on probable cause is a resident of said county of
11 Somerset, but this jurisdiction shall not include proceedings
12 under the divorce laws or complaints under the mill act, so
13 called, or jurisdiction over actions in which the title to real
14 estate according to the pleadings filed in the case by either
15 party is in question, except as provided in chapter ninety-
16 four, section 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 the value of thirty dollars, and of all
4 cases of cheating by false pretences, where the property,
5 money or other thing alleged to have been fraudently ob-
6 tained, shall not exceed in value the sum of thirty dollars,
7 and shall have power to try the same, and in either of said
8 cases, to award sentence upon conviction by fine not exceed-
9 ing fifty dollars, or imprisonment in the county jail with or

10 without labor, for a term not exceeding ninety days. He shall
11 have exclusive jurisdiction of all offenses arising in said
12 town, which are by any law or statute within the jurisdic-
13 tion of a trial justice, and concurrent jurisdiction with trial
14 justices of the county of Somerset, of all such offenses aris-
15 ing in said county, out of said town.

Sect. 7. Said court shall be held on the third Monday of
2 each month at ten o'clock in the forenoon, for the transac-
3 tion of civil business, at such place within said town as the
4 judge shall determine, but the town may at any time provide
5 a court room in which case, the court shall be held therein,
6 and all civil processes shall be made returnable accordingly;
7 provided, however, that said court shall be held on every
8 Monday at the usual hour for the entry and trial of actions
9 of forcible entry and detainer, and such actions shall be re-
10 turnable accordingly, and be heard and determined and judg-
11 ment entered on the return day of the writ, unless continued
12 for good cause.

Said court may be adjourned from time to time by the
14 judge, but it shall be considered in constant session for the
15 cognizance 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 Somerset, duly qual-
8 ified, 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
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
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 sen-
2 tence of said court to the supreme judicial court, in the same
3 manner as from a judgment or sentence of a trial justice.
4 And if any defendant in any action in said court, where the
5 amount claimed in the writ exceeds twenty dollars, or his
6 agent or attorney shall, on the return day of the writ, file in
7 said court, a motion asking that said action be removed to the
8 supreme judicial court, accompanied by his pleadings in said
9 action, and shall at the same time, deposit with the judge the
10 sum of two dollars for copies, to be taxed in his costs if he
11 prevail, the said action shall be removed into the supreme
12 judicial court for said county, and the judge shall forthwith
13 cause certified copies of the writ, officer's return and pleas, to
14 be filed in the clerk's office of said supreme judicial court and
15 said action shall be entered on the docket of the term next
16 preceding said filing, and shall be in order for trial at the next
17 succeeding term.

Sect. 10. Writs and processes issued by said court shall be
2 in the usual form, signed by the judge, and under the seal
3 of said court. They shall be served as like precepts are re-
4 quired to be served when issued by trial justices, except
5 original writs in civil actions, which shall be served not less
6 than seven nor more than sixty days before the sitting of the
7 court at which the same are made returnable.

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

Sect. 12. Said court is hereby authorized to administer oaths, render judgment, issue executions, punish for contempt, and compel attendance, as in the supreme judicial court, and make all such rules and regulations, not repugnant to law, as may be necessary and proper for the administration of justice.

Sect. 13. Actions in said court shall be entered on the first day of the term, and not afterwards, except by special permission. When a defendant, legally served, fails to enter his appearance by himself or his attorney, on the first day of the return term, he shall be defaulted; but if he afterwards appear during the term, the court may, for sufficient cause, permit the default to be taken off. Pleas in abatement must be filed on or before the day of the entry of the action.

The defendant may file his pleadings, which shall be the general issue, with a brief statement of special matters of defense, on the return day of the writ, and must file them on or before the first day of the next term, or he shall be defaulted, unless the court, for good cause, enlarge the time for which it may impose reasonable terms. Actions in which the defendant 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

21 reasonable; but all other actions, unless defaulted or other-
22 wise finally disposed of, shall be continued as of course, and
23 be in order for trial at the next term.

Sect. 14. If at any regular or adjourned term of said court
2 to be held for civil business, the judge or recorder is not
3 present at the place for holding said court within two hours
4 after the time for opening said court, then any trial justice
5 or justice of the peace in the county of Somerset, may pre-
6 side for the purpose of entering and continuing actions, and
7 filing papers in said court, and may adjourn said court from
8 time to time, not exceeding one week at any one time, with-
9 out detriment to any action returnable or pending, and may
10 in 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.

STATE OF MAINE.

IN SENATE, February 28, 1901.

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

KENDALL M. DUNBAR, *Secretary*