

MAINE STATE LEGISLATURE

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NEW DRAFT.

Seventieth Legislature.

SENATE.

No. 144

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
Pittsfield.

*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 Pittsfield, in the county of Somerset, a court, to
3 be denominated the Municipal Court of Pittsfield.

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

Sect. 3. Said court shall consist of one judge, to be ap-
2 pointed in the manner and for the term provided by the

3 constitution, who shall be a member of the bar in Somers-
4 set county.

Sect. 4. Said court shall have original and exclusive
2 jurisdiction of all civil actions in which the debt or dam-
3 ages demanded do not exceed twenty dollars, and one of
4 the parties, or a person summoned in good faith and on
5 probable cause as trustee, resides in said town of Pittsfield ;
6 and of all cases of forcible entry and detainer arising in
7 said town ; and shall have original and exclusive jurisdic-
8 tion of all offenses committed against the ordinances and
9 by-laws of said town, and all such criminal offenses and
10 misdemeanors committed therein as are cognizable before
11 trial justices ; provided that warrants may be issued upon
12 complaints for offenses committed in said town of Pitts-
13 field by any trial justice in the county of Somerset, but
14 all such warrants shall be returnable before said court, and
15 no trial justice shall take cognizance of any crime or of-
16 fense committed in said town or any civil action, or action
17 of forcible entry or detainer, of which said court has ex-
18 clusive jurisdiction.

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

Nothing in this act shall be construed to give said court
26 jurisdiction to try any civil action in which the title to real
27 estate according to the pleading of brief statement filed
28 therein by either party is in question ; and all such actions
29 brought therein shall be removed to the supreme judicial

30 court or otherwise disposed of, as in like cases before a
31 trial justice.

But nothing in this act shall give, or be construed to give
33 said court jurisdiction of any case, civil or criminal, or of
34 forcible entry and detainer where the judge shall be inter-
35 ested or related to either of the parties by consanguinity
36 or affinity within the sixth degree, according to the rules
37 of the civil law, or within the degree of second cousin in-
38 clusive. But all such cases, which would be otherwise
39 within the exclusive jurisdiction of said court, shall be
40 brought before and disposed of by any trial justice with-
41 in said county in the same manner, and with like effect as
42 other actions before said trial justices.

Sect. 5. Said court shall have original jurisdiction con-
2 current with the supreme judicial court in all personal
3 actions where the debt or damages demanded, exclusive of
4 costs, is over twenty dollars, and not over one hundred
5 dollars, and in all actions of replevin under chapter ninety-
6 six of the Revised Statutes, when the sum demanded for
7 the penalty, forfeiture or damages, or the value of the
8 goods or chattels replevied does not exceed one hundred
9 dollars; provided that any defendant or any party sum-
10 moned as trustee in good faith and on probable cause is a
11 resident of said county of Somerset, but this jurisdiction
12 shall not include proceedings under the divorce laws or
13 complaints under the mill act, so called, or jurisdiction
14 over actions in which the title to real estate according to
15 the pleadings filed in the case by either party is in question,
16 except as provided in chapter ninety-four, sections six and
17 seven of the Revised Statutes.

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

Sect. 7. Said court shall be held on the third Monday
2 of each month at ten o'clock in the forenoon, for the trans-
3 action of civil business, at such place within said town as the
4 judge shall determine, but the town may at any time pro-
5 vide a court room, in which case the court shall be held
6 therein, and all civil processes shall be made returnable
7 accordingly; provided, however, that said court shall be
8 held on every Monday at the usual hour for the entry and
9 trial of actions of forcible entry and detainer, and such
10 actions shall be returnable accordingly, and be heard and
11 determined and judgment entered on the return day of the
12 writ, unless continued for good cause. Said court may be
13 adjourned from time to time by the judge, but it shall be
14 considered in constant session for the cognizance of crimi-
15 nal actions.

Sect. 8. It shall be the duty of the judge of said court 2 to make and keep the records thereof, or cause the same 3 to be made and kept, and to perform all other duties 4 required of similar tribunals in this State; and copies of 5 said records, duly certified by said judge, shall be legal 6 evidence in all courts. The judge may appoint in writing, 7 a recorder, who shall be a trial justice for the county of 8 Somerset, duly qualified, who shall be sworn by said 9 judge, who shall keep the records of said court 10 when requested so to do by the judge; and in case of 11 absence from the court room, or sickness of the judge, 12 or when the office of judge shall be vacant, the recorder 13 shall have and exercise all the powers of the judge, and 14 perform all the duties required of said judge by this act, 15 and shall be empowered to sign and issue all processes and 16 papers, and to do all acts as fully and with the same effect 17 as the judge could do were he acting in the premises; and 18 the signature of the recorder, as such, shall be sufficient 19 evidence of his right to act instead of the judge. When 20 the office of judge is vacant, the recorder shall be entitled 21 to the fees; in all other cases he shall be paid by the judge, 22 and shall hold his said office at the discretion of said 23 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 4 justice. And if any defendant in any action in said court, 5 where the amount claimed in the writ exceeds twenty 6 dollars, or his agent or attorney shall, on the return day 7 of the writ, file in said court, a motion asking that said 8 action be removed to the supreme judicial court, accom-

9 panied by his pleadings in said action, and shall at the
10 same time deposit with the judge the sum of two dollars
11 and sixty cents for copies and entry fee to be taxed in his
12 costs if he prevail, the said action shall be removed into
13 the supreme judicial court for said county, and the judge
14 shall forthwith cause certified copies of the writ, officers
15 return and pleas to be filed in the clerk's office of said
16 supreme judicial court and said action shall be entered on
17 the docket of the term next preceding said filing, and
18 shall be in order for trial at the next succeeding term.

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

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

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 admin-
6 istration of justice.

Sect. 13. Actions in said court shall be entered on the
2 first day of the term, and not afterwards, except by spec-

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

Sect. 14. 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 Somers-
6 set, may preside for the purpose of entering and contin-
7 uing actions and filing papers in said court, and may adjourn
8 said court from time to time, not exceeding one week at
9 any one time, without detriment to any action returnable

10 or pending, and may in his discretion adjourn said court
11 without day, in which event all actions returned or pend-
12 ing, shall be considered as continued to the next term.

Sect. 15. The costs and fees allowed to parties, attor-
2 neys and witnesses in said court shall be the same as
3 allowed by trial justices in actions before them, except
4 that the plaintiff, if he prevail, shall be allowed two dol-
5 lars for his writ; and the defendant, if he prevail, two
6 dollars for his pleadings. In actions where the amount
7 recovered by the plaintiff, exclusive of costs, exceed twenty
8 dollars, or property, the value of which exceeds that sum,
9 or the amount claimed, or the value of the property re-
10 covered exceeds twenty dollars, where the defendant pre-
11 vails, the costs of the parties, trustees and witnesses shall
12 be the same as in the supreme judicial court, except the
13 costs to be taxed for attendance shall be two dollars and
14 fifty cents for each term, for as many terms as may be
15 allowed by the court.

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

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

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

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



STATE OF MAINE.

IN SENATE, March 15, 1901.

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

KENDALL M. DUNBAR, *Secretary*.