

MAINE STATE LEGISLATURE

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NEW DRAFT.

Seventy-first Legislature.

HOUSE.

No. 155

STATE OF MAINE.

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

AN ACT to amend chapter two hundred and four of the Private and Special Laws of eighteen hundred and eighty-three, entitled "An Act to establish a Municipal Court in the town of Westbrook."

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

Section 1. Chapter two hundred and four of the Private and Special Laws of eighteen hundred and eighty-three is hereby amended by striking out all after the enacting clause and substituting the following sections:

"Sect. 1. A municipal court is hereby established in and for the city of Westbrook, to be denominated the municipal court for the city of Westbrook, and to consist of one justice

8 who shall be an inhabitant of said city and a person learned
9 in the law and of sobriety of manners. Said judge shall be
10 appointed as provided in the constitution for the appointment
11 of judges of municipal and police courts; and shall be,
12 ex-officio, a justice of the peace and of the quorum for the
13 State, and have and exercise concurrent jurisdiction with
14 trial justices of the county of Cumberland over all matters
15 and things within their jurisdiction, and such authority and
16 jurisdiction additional thereto as are conferred upon him by
17 this act.

Sect. 2. Said court shall have exclusive original jurisdic-
2 tion of all offenses against the ordinances and by-laws of
3 said city, and of the local board of health therein, and of
4 such criminal offenses and misdemeanors committed therein,
5 as are cognizable by trial justices; and of all civil actions
6 wherein the debt or damages demanded do not exceed twenty
7 dollars, and both parties reside in said city, except when the
8 judge of said court is interested in any such action as party
9 or attorney; and original jurisdiction concurrent with the
10 superior court of the county of Cumberland in all civil actions
11 wherein the debt or damages demanded do not exceed fifty
12 dollars, exclusive of costs, in which any party to the action
13 or person summoned as trustee shall reside, or, if not an
14 inhabitant of the State, shall be commorant or have a place
15 of business, in said city.

Sect. 3. Said court shall also have original jurisdiction
2 concurrent with the superior court of the county of Cum-
3 berland, of the assaults and batteries described in section
4 twenty-eight of chapter one hundred and eighteen of the
5 Revised Statutes of eighteen hundred and eighty-three, and
6 of all larcenies described in sections, one, six, seven and nine
7 of chapter one hundred and twenty of the Revised Statutes
8 of eighteen hundred and eighty-three, when the value of the
9 property is not alleged to exceed fifty dollars, and may punish

10 for either of said crimes or offenses by a fine not exceeding
11 fifty dollars, or by imprisonment not exceeding four months ;
12 provided, that when the offenses described in section twenty-
13 eight of chapter one hundred and eighteen, and in sections
14 one, six, seven and nine, of chapter one hundred and twenty
15 aforesaid, are of a high and aggravated nature, the judge of
16 said court may cause persons charged with such offenses to
17 recognize with sufficient sureties to appear before the supe-
18 rior court of Cumberland county ; and in default thereof com-
19 mit them. Said court shall also have original jurisdiction,
20 concurrent with said superior court, of the offense described
21 in section six of chapter one hundred and twenty-four of the
22 Revised Statutes of eighteen hundred and eighty-three.

Sect. 4. Nothing in this act shall be construed to give said
2 court jurisdiction in any civil action in which the title to real
3 estate, according to the pleadings and brief statements filed
4 therein by either party, is in question ; and all such actions
5 brought therein shall be removed to the supreme judicial
6 court, or otherwise disposed of as in like cases before a trial
7 justice.

Sect. 5. Said court shall be held Saturday of each week,
2 at ten o'clock in the forenoon for the transaction of civil
3 business, at such place in the village of Saccarappa or Cum-
4 berland Mills in said city, as the city council shall provide ;
5 and all civil processes shall be made returnable accordingly ;
6 and it may be adjourned from time to time, by the judge at
7 his discretion ; but it shall be considered in constant session
8 for the cognizance of criminal actions. The judge of said
9 court may punish contempts against his authority by fine or
10 imprisonment, or either, compel the attendance of witnesses,
11 and administer oaths in civil and criminal cases.

Sect. 6. If said judge is prevented by any cause from
2 attending at the time said court is to be held for civil busi-

3 ness, it may be adjourned from day to day by a constable
4 of said city, or any deputy sheriff residing therein, without
5 detriment to any action then returnable or pending, until he
6 can attend, when said action shall be entered or disposed of
7 with the same effect as if it were the first day of the term ;
8 and it may be so adjourned without day when necessary, in
9 which event, pending actions shall be considered as continued,
10 and actions then returnable may be returned and entered at
11 the next term with the same effect as if originally made
12 returnable at said term.

Sect. 7. The seal of said court shall remain as already
2 established; and in addition to the judicial duties imposed
3 upon the judge of said court by this act, he shall cause the
4 records of said court to be kept in a legible hand, or type-
5 written or printed in whole or in part by some person of
6 either sex to be appointed by himself for the purpose: and
7 perform all other duties required of similar tribunals in this
8 State; and copies of such records duly certified by said judge
9 shall be legal evidence in all courts. All writs and processes
10 issuing from said court shall be in the usual forms, bear the
11 teste of the judge, and be signed by him; and shall be served
12 as like precepts are required to be served when issued by
13 trial justices. But warrants in criminal cases issuing from
14 said court shall be made returnable before the same; and no
15 writ in a civil action shall be made returnable at a term of
16 said court to begin more than two calendar months after the
17 commencement of the action.

Sect. 8. 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 day of
5 the return term, he shall be defaulted; but if he afterwards
6 appears during the term, the court may, for sufficient cause,

7 permit the default to be taken off. Pleas or motions in
8 abatement must be filed on or before the day of the entry of
9 the action. The defendant may file his pleadings, which
10 shall be the general issue with a brief statement of special
11 matter of defense, on or before the return day of the writ,
12 and must file them on or before the first day of the next term,
13 or he shall be defaulted, unless the court, for good cause,
14 enlarge the time, for which it may impose reasonable terms.
15 All actions of forcible entry and detainer, seasonably
16 answered to, shall be in order for trial at the return term,
17 and shall remain so until tried or otherwise finally disposed
18 of, unless continued by consent or on motion of either party
19 for good cause, in which latter case, the court may impose
20 such terms as it deems reasonable; but all other actions,
21 unless defaulted or finally disposed of, shall be continued as
22 of course, and be in order for trial at the next term.

Sect. 9. The costs and fees allowed to parties, attorneys
2 and witnesses in all actions in said court shall be the same
3 as allowed by trial justices in actions before them, when the
4 debt or damages recovered do not exceed twenty dollars
5 exclusive of costs, except that the plaintiff if he prevails shall
6 be allowed one dollar for his writ, and the defendant if he
7 prevails one dollar for his pleadings. But in all actions in
8 which the amount recovered exceeds twenty dollars exclusive
9 of costs, the costs and fees allowed to parties, attorneys and
10 witnesses shall be the same as in the superior court for the
11 county of Cumberland, except that the defendant if he pre-
12 vails shall be allowed two dollars for his pleadings.

Sect. 10. The judge of said court shall demand and receive
2 the same fees as are allowed to trial justices in similar cases,
3 except that he shall receive one dollar for a complaint and
4 warrant in criminal actions, twenty-five cents for the entry
5 and five cents for a blank writ in a civil action. An accurate
6 account of the fees so received by said judge shall be by him

7 laid before the county commissioners of Cumberland county,
8 and he shall pay the same into the county treasury quarterly
9 on or before the first days of January, April, July and Octo-
10 ber of each year.

Sect. 11. The judge of said court shall receive a salary of
2 eight hundred dollars per year to be paid him in quarterly
3 payments from the county treasury of Cumberland county,
4 which shall be in full for his services as such judge; and he
5 shall receive an additional sum not to exceed two hundred
6 dollars per year, at the discretion of said county commis-
7 sioners, to defray the cost of keeping the records of said
8 court. All blanks, civil and criminal, dockets and record
9 books, required by said court, shall be furnished by the
10 county of Cumberland.

Sect. 12. All the provisions of the statutes of this State
2 in relation to attachments of real and personal property, and
3 the levy of execution on the same shall be applicable to
4 actions brought in said court, which shall have authority to
5 issue execution to be satisfied in the same manner as though
6 issuing from the supreme judicial court, except that no such
7 execution shall be levied on real estate unless the debt or
8 damages therein exceed the sum of twenty dollars.

Sect. 13. Any party may appeal from a sentence or judg-
2 ment of said court to the then next term for civil or criminal
3 business, as the case may require, of the court having juris-
4 diction within the county of Cumberland, by appeal from
5 trial justices; and such appeal shall be taken and prosecuted
6 in the same manner as from a sentence or judgment of a trial
7 justice.

Sect. 14. Trial justices are hereby restricted from exer-
2 cising any jurisdiction in said Westbrook over any matter or
3 thing, civil or criminal, except such as are within the juris-
4 diction of justices of the peace and of the quorum, and except

5 that they may issue warrants in complaints for criminal
6 offenses returnable before said court; or in case of the death,
7 disability, or long continued absence from the State, of the
8 judge, before themselves or some other trial justice within
9 and for said county.

Sect. 15. Chapter four hundred and eight of the Private
2 and Special Laws of eighteen hundred and eighty-five and
3 chapter six hundred and thirty-five of the Private and
4 Special Laws of eighteen hundred and ninety-three are
5 hereby repealed.'

Sect. 2. This act shall take effect when approved.

STATE OF MAINE.

IN HOUSE OF REPRESENTATIVES,

AUGUSTA, February 19, 1903.

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

W. S. COTTON, *Clerk.*