

MAINE STATE LEGISLATURE

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Seventy-first Legislature.

HOUSE.

No. 217

STATE OF MAINE.

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

AN ACT to consolidate and amend chapter one hundred and seventy-seven of the Special Laws of 1887, and all acts additional thereto and amendatory thereof, relating to the Old Town Municipal Court.

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

Section 1. The Old Town municipal court shall continue 2 to be a court of record with a seal and all original processes 3 issuing from said court shall be in the name of the State, 4 under the teste of the judge, or, if the office of judge is 5 vacant, of the recorder thereof, signed either by the judge 6 or recorder, and shall 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, residing in the county 3 of Penobscot, be appointed in manner and for the term

4 provided by the constitution of Maine, and he shall be,
5 ex-officio, a justice of the peace and of the quorum within
6 and for each and every of the several counties through the
7 State. The said judge shall enter, or cause to be entered
8 on the docket of said court all civil and criminal actions, with
9 full minutes of the proceedings in and disposition of the
10 same, which docket shall be at all times open to inspection,
11 and he shall perform all other duties required of similar tri-
12 bunals in this State. Copies of the records of said court,
13 duly certified by the judge or recorder thereof, shall be legal
14 evidence in all courts. The present judge of said court shall
15 continue in office until the end of the term for which he was
16 appointed and no judge of said court shall act as attorney
17 or counsel in any action, cause, matter or thing within the
18 exclusive jurisdiction thereof.

Sect. 3. The governor, by and with the advice and consent
2 of the council, may appoint a recorder of said court, who shall
3 be qualified as provided in the constitution and hold his office
4 for the term of four years. Said recorder, while in office,
5 shall be a resident of the city of Old Town, give bond to the
6 county of Penobscot in the sum of five hundred dollars to be
7 approved by the commissioners of said county. The said
8 recorder may administer oaths; when requested so to do by
9 the judge, he shall keep the records of said court; he shall
10 be empowered to sign and issue all papers and processes,
11 receive and file pleas and motions, hear complaints and issue
12 warrants in criminal matters, make and sign processes of
13 commitment, but the same shall be heard and determined as
14 now provided by law, and all papers, processes, complaints,
15 warrants or processes of commitment, drawn and signed by
16 the judge of said court shall be equally valid. In the absence
17 of the judge, or when he is engaged in the transaction of civil
18 business, or when the office of judge shall be vacant, the said

19 recorder shall have and exercise all the powers of the judge
20 by this act, and do all acts as fully and with the same effect
21 as the judge could do if he were acting in the premises, and
22 the signature of the recorder, as such, shall be sufficient evi-
23 dence of his right to act instead of the judge, but, except
24 when the office of judge is vacant, the said recorder shall not
25 have authority to hear and determine civil causes.

Sect. 4. Said court shall have original and exclusive juris-
2 diction as follows: First, of all cases of forcible entry and
3 detainer respecting estates within the city of Old Town or
4 either of the towns of Milford, Bradley, Alton, Argyle,
5 Greenbush and Greenfield, in said county of Penobscot. Sec-
6 ond, of all such criminal offenses and misdemeanors com-
7 mitted in said city or either of said towns as are within the
8 jurisdiction of trial justices. Third, of all offenses against
9 the ordinances and by-laws of said city or either of said
10 towns. Fourth, said court shall have original jurisdiction
11 concurrent with trial justices in all such matters, civil or
12 criminal, within the county of Penobscot, as are by law
13 within the jurisdiction of trial justices within said county
14 and are not placed within the exclusive jurisdiction of said
15 court by this section, and in all such civil matters, excepting,
16 however, actions of forcible entry and detainer respecting
17 estates within the city of Bangor, the said court shall have
18 jurisdiction though either party interested, or a person sum-
19 moned as trustee, resides in said city of Bangor.

Sect. 5. 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 two hundred dollars, in
5 which any person summoned as trustee resides within the
6 county of Penobscot, or, if a corporation, has its office or an
7 established or usual place of business in said county; or in
8 which, if such actions are not commenced by trustee process,

9 any defendant resides in said county, or, if no defendant
10 resides within the limits of this State, any defendant is served
11 with process in said county, or the goods, estate, or effects
12 of any defendant are found within said county and attached
13 on the original writ, but no proceedings under the laws relat-
14 ing to divorce shall be included within the jurisdiction of
15 said court. Second, of petitions relating to the support of
16 wives and children under the provisions of chapter one hun-
17 dred and thirty-six of the Public Laws enacted in the year
18 one thousand eight hundred and ninety-five, and amendments
19 thereof and additions thereto, if the defendant resides in the
20 county of Penobscot. Third, of the assaults and batteries
21 described in section twenty-eight of chapter one hundred and
22 eighteen of the Revised Statutes; of all offenses described in
23 sections one, six, seven, nine and eleven of chapter one hun-
24 dred and twenty of the Revised Statutes, when the value of
25 the property is not alleged to exceed thirty dollars; of the
26 offense described in section twenty-one of chapter one hun-
27 dred and twenty-two of the Revised Statutes; of all offenses
28 described in sections one and four of chapter one hundred
29 and twenty-three of the Revised Statutes; of the offenses
30 described in sections one and four of chapter one hundred
31 and twenty-six of the Revised Statutes, when the value of the
32 money, goods, other property, or thing, alleged to have been
33 fraudulently obtained, sold, conveyed, mortgaged or pledged,
34 or fraudulently removed or concealed, is not alleged to exceed
35 thirty dollars, and on conviction may punish for either of
36 said crimes or offenses by fine not exceeding one hundred
37 dollars and by imprisonment in the county jail for not more
38 than six months; and also of the offense described in section
39 six of chapter one hundred and twenty-four of the Revised
40 Statutes, and on conviction may punish therefor by imprison-
41 ment in the county jail for not more than sixty days and by

42 fine not exceeding one hundred dollars. Fourth, of all other
43 crimes and offenses committed in said county which are by
44 law punishable by fine not exceeding one hundred dollars
45 and by imprisonment not exceeding six months, and of all
46 such other crimes and offenses committed in said county
47 jurisdiction whereof is expressly conferred upon municipal
48 courts by any general statute, and, upon conviction, may
49 punish therefor as provided by law.

Warrants may be issued by any municipal court or trial
51 justice in said county, upon complaint for offenses commit-
52 ted in said city of Old Town or either of the towns mentioned
53 in section four of this act, but all such warrants shall be made
54 returnable before said Old Town municipal court, and no
55 other municipal court, and no trial justice, shall have or take
56 cognizance of any crime or offense committed in said city or
57 in either of said towns.

Sect. 6. Said court shall not have jurisdiction of any civil
2 action wherein the title to 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 actions 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. 7. 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 the civil law, or within the degree of sec-
5 ond cousin inclusive, but which would otherwise be within
6 the exclusive jurisdiction of said court, may be brought
7 before and disposed of by any trial justice or any other muni-
8 cipal court in said county, in the same manner as other actions

9 before said trial justice or municipal courts. If any action
10 wherein said judge is so interested or related to either party,
11 is made returnable before this court, the parties thereto, by
12 themselves or their attorneys, may in writing consent that
13 said judge shall hear and dispose of the same; or such actions
14 shall be disposed of as follows: civil actions, wherein the debt
15 or damages demanded, exclusive of costs, exceed twenty
16 dollars, shall, upon motion, be removed to the supreme judi-
17 cial court for said county; all other civil actions, and all
18 criminal actions, shall be removed and entered before any
19 such trial justice within said county as may be agreed upon
20 in writing by the parties entering an appearance in such
21 action, or, if no trial justice is agreed upon, before any other
22 municipal court in said county, and such trial justice or other
23 municipal court shall have and take cognizance of such action
24 and dispose of the same as if originally returnable before
25 such justice or court, provided, that nothing in this section
26 contained shall prevent any civil action wherein the title to
27 real estate is in question, from being disposed of in accord-
28 ance with the provisions of the preceding section. In any
29 action in which said city of Old Town or either of the towns
30 hereinbefore named 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 city or either of said towns, but in any such case the
34 action may, upon written motion of either party, filed before
35 trial, be removed to the supreme judicial court for said
36 county.

Sect. 8. A term of said court shall be held for the transac-
2 tion of civil business on the third Tuesday of each month,
3 beginning at ten of the clock in the forenoon. Said court
4 shall also be held on every Tuesday at the usual hour, for
5 the purpose of filing pleas in abatement, the motion men-

6 tioned in section eighteen of this act and for the entry and
7 trial of actions of forcible entry and detainer and such actions
8 shall be returnable accordingly and be heard and judgment
9 entered therein on the return day of the writ unless continued
10 for good cause. For the cognizance and trial of criminal
11 cases, and for the entry, hearing and determination of peti-
12 tions under the provisions of chapter one hundred and thirty-
13 six of the Public Laws enacted in the year eighteen hundred
14 and ninety-five, said court shall be considered as in constant
15 session. In all cases said court may be adjourned from time
16 to time.

Sect. 9. Said court shall be held at such place as the city
2 of Old Town shall provide and said city shall have power
3 and it shall be its duty to raise money to provide a proper
4 place for said court and its officers and suitably furnish,
5 warm and light the same. The salary of the judge of said
6 court is hereby continued at one thousand dollars, annually ;
7 that of the recorder is hereby fixed at two hundred dollars,
8 annually, and both of said salaries are to be paid quarterly,
9 with all other expenses of said court, from the treasury of
10 the county of Penobscot.

Sect. 10. The city marshal or one of his deputies shall be
2 in attendance on said court when requested so to do by the
3 judge or recorder, for the purpose of preserving order, and
4 shall execute all legal orders and processes to him directed
5 by the court.

Sect. 11. All fines and forfeitures and fees of the judge
2 and recorder of said court imposed and collected by said court
3 in all criminal cases and all fees of said judge and recorder
4 in civil and criminal cases received by said judge or recorder,
5 shall be accounted for and paid over quarterly into the treas-
6 ury of said county for the use of the county ; and all fees of
7 said court paid after commitment to any jailer shall be paid
8 by him monthly into said treasury.

Sect. 12. If at any regular or adjourned term of said court
2 to be held for civil business the judge or recorder is not pres-
3 ent 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 Penobscot may preside
6 for the purpose of entering and continuing action 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 event
11 all actions returned or pending, shall be considered as con-
12 tinued to the next term. No trial justice or justice of the
13 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. 13. 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.

Sect. 14. Writs and processes issued by said court shall be
2 in the usual forms, and shall be served as like precepts are
3 required to be served when issued by trial justices.

Sect. 15. 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 court
4 and executions on judgments rendered therein, provided, that
5 property may be attached in addition to the ad damnum, suffi-
6 cient to satisfy the costs of suit, and the writs may be framed
7 accordingly.

Sect. 16. All civil actions in said court shall be entered on
2 the first day of the term and not afterwards, except by special
3 permission; and they shall be in order for trial, except actions
4 of forcible entry and detainer, at the next regular monthly
5 term after the entry if not otherwise disposed of, provided,
6 that any action shall be considered in order for trial at the

7 return term when the party so desiring shall have given writ-
8 ten notice thereof to the adverse party seven days at least
9 before the sitting of said court. When a defendant, legally
10 summoned, fails to enter his appearance by himself or his
11 attorney on the first day of the return term, he shall be
12 defaulted; but if he afterward appear during said term, the
13 court may for sufficient cause, permit the default to be taken
14 off. Pleas in abatement must be filed on or before the first
15 day of the first regular weekly term held after the entry of
16 the action. The pleadings shall be the same as in the supreme
17 judicial court, and all provisions of law relative to practice
18 and proceedings in civil actions in the supreme judicial court
19 are hereby made applicable and extended to this court, except
20 so far as they are modified by the provisions of this act.

Sect. 17. Actions pending in this court may be referred
2 in the same manner as in the supreme judicial court, and on
3 the report of the referee to said municipal court, judgment
4 may be rendered in the same manner and with the same effect
5 as in the supreme judicial court, except that the referee's fees
6 shall not be paid by the county but be taxed as costs.

Sect. 18. If any defendant, his agent or attorney, in any
2 civil action in this court in which the debt or damage
3 demanded or claimed in the writ exceeds twenty dollars, shall,
4 on or before the first day of the second regular weekly term
5 of said court after the entry of said action file in said court
6 a motion asking that said cause be removed to the supreme
7 judicial court, and deposit with the judge or recorder the
8 sum of two dollars for copies and entry fee in said supreme
9 court, to be taxed in his costs if he prevails, the said action
10 shall be removed into the supreme judicial court for said
11 county, and shall be entered at the next ensuing term of the
12 supreme judicial court after such removal; and the judge or
13 recorder of said municipal court shall forthwith cause certi-

14 fied copies of the writ, return of the officer and defendant's
15 motion to be filed in the clerk's office of said supreme judicial
16 court and shall pay the entry fee thereof. If no such motion
17 is filed, the said municipal court shall proceed and determine
18 said action, subject to the right of appeal in either party as
19 now provided by law.

Sect. 19. 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 Penobscot; and decisions of
7 the law court in all such cases, shall be certified to said munic-
8 ipal court for final disposition with the same effect as in cases
9 originating in said supreme judicial court.

Sect. 20. 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 reg-
4 ulations, not repugnant to law, as may be necessary and
5 proper for the administration of justice, and is clothed with
6 all such power as is necessary for the performance of its
7 duties under this act.

Sect. 21. In any action in which the plaintiff recovers for
2 the penalty, forfeiture, debt or damage not over twenty dol-
3 lars, or property, the value of which does not exceed that
4 sum, the costs shall be taxed as before trial justices, except
5 that the plaintiff shall have two dollars for his writ. Where
6 the defendant prevails in any action in which the sum claimed
7 in the writ is not over twenty dollars, or property, the value
8 of which does not exceed that sum, he shall recover two dol-
9 lars for his pleadings, and other costs as before trial justices.
10 In actions where the amount recovered by the plaintiff, exclu-
11 sive of costs, exceeds twenty dollars, or property, the value

12 of which exceeds that sum, or the amount claimed, or the
13 value of the property recovered exceeds twenty dollars where
14 the defendant prevails, the costs of the parties, trustees and
15 witnesses shall be the same as in the supreme judicial court,
16 except the costs to be taxed for attendance shall be two dol-
17 lars and fifty cents for each term, for as many terms as may
18 be allowed by the court.

Sect. 22. The price of blank writs and summonses with the
2 seal of the court, signed by the judge or recorder, shall be
3 four cents, and all other fees in civil cases shall be the same
4 as are taxable by a trial justice, except as otherwise provided
5 in sections eighteen and twenty-one. For every warrant
6 issued in criminal cases there shall be allowed one dollar, and
7 for the trial of an issue in such cases one dollar may be
8 charged for the first day and two dollars for each subsequent
9 day actually employed. All other fees in criminal cases shall
10 be the same as are taxable by trial justices.

Sect. 23. Trial justices are hereby restricted from exercis-
2 ing any jurisdiction in said city of Old Town or either of the
3 towns named in section four of this act over any matter or
4 thing, civil or criminal, except such as are within the juris-
5 diction of justices of the peace and quorum and except as
6 provided in sections four, seven and twelve of this act, pro-
7 vided, that whenever the offices of judge and recorder are
8 together vacant any trial justice shall have and exercise the
9 same jurisdiction as though this municipal court had never
10 been established.

Sect. 24. All acts and parts of acts inconsistent herewith
2 are hereby repealed, but nothing in this act shall be construed
3 to authorize said court to infringe upon the exclusive juris-
4 dictions heretofore conferred upon other municipal courts in
5 said county of Penobscot except so far as such exclusive juris-

6 ditions may be affected by the provisions of section four of
7 this act.

Sect. 25. The expression "Revised Statutes" as used in this
2 act relates to the revision of the statutes of the year eighteen
3 hundred and eighty-three and shall be held to include all
4 additions thereto and amendments hereof.

Sect. 26. This act shall take effect when approved.

STATE OF MAINE.

IN HOUSE OF REPRESENTATIVES,

AUGUSTA, February 27, 1903.

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

W. S. COTTON, *Clerk.*