

MAINE STATE LEGISLATURE

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NEW DRAFT.

Seventy-first Legislature.

HOUSE.

No. 428

STATE OF MAINE.

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

AN ACT to amend chapter four hundred and twenty-nine of the
Private and Special Laws of nineteen hundred and one, entitled
“An Act to establish a municipal court in the town of Win-
throp.”

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

Section 1. Section one of chapter four hundred and twenty-
2 nine of the Private and Special Laws of nineteen hundred and
3 one is hereby amended. by adding, after the words “municipal
4 court” in the fourth line, the words ‘which shall be a court
5 of record and have a seal,’ and by adding after the word
6 “quorum” in the eighth line the words ‘for the State,’ so
7 that said section, as amended, shall read as follows:

‘Sect. 1. A municipal court is hereby established in and
9 for the towns of Winthrop, Monmouth, Wayne and Fayette,
10 in the county of Kennebec, to be denominated as the Win-

11 throp municipal court, which shall be a court of record and
12 have a seal; said court shall consist of one judge, who shall
13 reside during his continuance in said office, in said town of
14 Winthrop or Monmouth and who shall be appointed, quali-
15 fied and hold his office as provided in the constitution, and
16 who shall be, ex-officio, a justice of the peace and of the
17 quorum for the State, and have and exercise a concurrent
18 authority and jurisdiction with trial justices over all matters
19 and things by law within their jurisdiction and such authority
20 and jurisdiction additional thereto as is conferred upon him
21 by this act.'

Sect. 2. Section two is hereby amended so as to read as
2 follows:

'Sect. 2. Said court shall have jurisdiction as follows:
4 exclusive jurisdiction of all such criminal offenses and mis-
5 demeanors committed within said towns of Winthrop, Mon-
6 mouth, Wayne and Fayette as are cognizable by trial justices
7 and concurrent jurisdiction with trial justices in the county
8 of Kennebec of all like offenses and misdemeanors, not herein
9 placed within its exclusive jurisdiction, when committed in
10 the towns of Readfield, Mount Vernon, Vienna, Rome, Bel-
11 grade and Manchester, in said county; exclusive original
12 jurisdiction of all civil actions wherein the debt or damages
13 demanded do not exceed twenty dollars, and both parties, or
14 any plaintiff, and a person summoned as trustee, resides in
15 either of said towns named in section one of this act, includ-
16 ing prosecutions for penalties in which either of said towns
17 are interested, and actions of forcible entry and detainer
18 arising therein; and concurrent jurisdiction with trial justices
19 in said county of all other civil actions and other proceedings
20 cognizant by them, not within the exclusive jurisdiction of
21 said court; provided that any action, civil or criminal, in
22 which the judge may be interested or related to either of the
23 parties by consanguinity or affinity within the sixth degree,

24 according to the rules of the civil law, or within the degree
25 of second cousin inclusive, but which otherwise would be
26 within the exclusive jurisdiction of said court, may be brought
27 in and disposed of by any other municipal or police court in
28 said county in the same manner and with like effect as other
29 actions therein; original jurisdiction concurrent with the
30 superior court of the offenses committed in Winthrop, Mon-
31 mouth, Wayne and Fayette described in sections one, six,
32 seven and nine of chapter one hundred and twenty of the
33 Revised Statutes, when the alleged value of the property
34 exceeds twenty dollars, but does not exceed fifty dollars; of
35 the offenses described in section twenty-eight of chapter one
36 hundred and eighteen of the Revised Statutes; of the offenses
37 described in sections one and four of chapter one hundred
38 and twenty-six of the Revised Statutes, when the alleged
39 value of the property fraudulently obtained, mortgaged or
40 sold, or fraudulently removed or concealed, does not exceed
41 fifty dollars, and on conviction may punish for either of said
42 offenses by fine not exceeding one hundred dollars and by
43 imprisonment in the county jail for not more than six months;
44 and also of the offense described in section six of chapter one
45 hundred and twenty-four of the Revised Statutes, and on
46 conviction may punish therefor by fine not exceeding fifty
47 dollars and by imprisonment in the county jail not more than
48 thirty days; and also of the offenses described in section four
49 of chapter one hundred and forty-one of the Revised Stat-
50 utes, and on conviction may sentence therefor to imprison-
51 ment in the county jail not more than ninety days; and of
52 the offenses described in sections seventeen and twenty-two
53 of chapter one hundred and twenty-eight of the Revised Stat-
54 utes, as amended, relating to tramps, and on conviction may
55 punish therefor as therein provided; original jurisdiction
56 concurrent with the superior court in said county of all civil
57 actions in which the debt or damages demanded, exceed

58 twenty dollars, but do not exceed three hundred dollars and
59 the defendant or a person summoned as trustee resides within
60 Kennebec county; provided, however, that any action wherein
61 the debt or damage demanded exceeds twenty dollars, brought
62 in said court, shall be removed by order of the judge, or in
63 his absence, by order of the recorder, into the superior court,
64 on motion of the defendant, filed at the return term, if he files
65 therewith, at the same time, an affidavit that he believes he
66 has a good defense to said action, in whole or in part, and in
67 good faith intends to make such defense, and deposits with
68 the judge or recorder the fee of the clerk of the court above
69 for entering said action therein; and when such removal has
70 been ordered, the judge shall file in the superior court, at its
71 next term in the county, an attested copy of the writ in such
72 action, and of said motion and affidavit, and order of court
73 thereon, and pay to the clerk of said court the fee for entering
74 the same, for which services he shall be entitled to the same
75 fees allowed for the necessary copies in actions carried up
76 by appeal, to be paid to him by the defendant and recovered
77 by him with his costs, if he prevail in the suit; in any action
78 in which either of the towns named in section one of this
79 chapter is a party, or is summoned as trustee, this court shall
80 not lose jurisdiction by reason of the residence or the owner-
81 ship of property in such town by the judge or recorder; but
82 in such case the action may, upon written motion of either
83 party, filed at the return term, be removed to the superior
84 court.'

Sect. 3. Section five of said chapter is hereby amended by
2 adding, after the word "judge" in the fifth line, the words
3 'or by the recorder and be of equal force and validity when
4 signed by either,' so that said section, as amended, shall read
5 as follows:

'Sect. 5. Writs in civil actions commenced in said court
7 shall be in the usual forms, and all such writs and all other

8 precepts and processes, civil or criminal, issued by said court,
9 shall bear teste of the judge under seal of said court, and be
10 signed by the judge, or by the recorder and be of equal force
11 and validity when signed by either. All such writs shall be
12 made returnable at one of the next four terms of said court
13 held after seven days from their date, and service thereof
14 may be made at any time not less than seven days before the
15 return day thereof, except that when any defendant or trustee
16 named in any such writ is a corporation, service upon such
17 corporation must be made at least thirty days before the
18 return day.'

Sect. 4. Section six of said chapter is hereby amended by
2 striking out in the thirteenth and fourteenth lines the words
3 "if said judge is prevented by any cause from attending at
4 the time said court is to be held for civil business" and insert-
5 ing in place thereof, the words "if at any regular or adjourned
6 term of said court to be held for civil business, neither the
7 judge nor the recorder is present at the place used for holding
8 said court within two hours after the time for opening said
9 court, then' and also by striking out in the seventeenth line
10 the word "he" and inserting in place thereof the words
11 'either the judge or recorder,' so that said section, as amended,
12 shall read as follows :

'Sect. 6. Said court shall be held on the first and third
14 Mondays of each month for the entry, trial and determination
15 of civil actions of all kinds that may lawfully be brought
16 before it, and for the transaction of other civil business, and
17 upon each other Monday for the entry, trial and determina-
18 tion of actions of forcible entry and detainer only, at ten of
19 the clock in the forenoon, at such suitable place as the judge
20 may determine, until the town of Winthrop shall provide a
21 court room, when the court shall be held therein, and all
22 civil processes shall be made returnable accordingly; and it
23 may be adjourned from time to time by the judge, at his dis-

24 cretion, but it shall be considered in constant session for the
25 cognizance of criminal actions. Provided that, if at any reg-
26 ular or adjourned-term of said court to be held for civil busi-
27 ness, neither the judge nor the recorder is present at the place
28 used for holding said court within two hours after the time
29 for opening said court, then it may be adjourned from day to
30 day by a constable of Winthrop or a deputy sheriff of the
31 county of Kennebec, without detriment to any action then
32 returnable or pending, until the judge or recorder can attend,
33 when said action may be entered or disposed of with the same
34 effect as if it were the first day of the term; and it may be so
35 adjourned without day when necessary, in which event, pend-
36 ing actions shall be considered as continued, and actions then
37 returnable may be returned and entered at the next term with
38 the same effect as if originally made returnable at said term.'

Sect. 5. Section seven of said chapter is hereby amended
2 by adding, in the fifth line, after the words "said judge"
3 the words 'or recorder,' by striking out in the fifth, sixth,
4 seventh and eighth lines the following: "the judge may
5 appoint, in writing, a recorder, who shall be a trial justice for
6 the county of Kennebec, duly qualified, who shall be sworn
7 by said judge," and inserting in place thereof the following
8 words: "The governor, by and with the advice and consent
9 of the council, may appoint a recorder of said court, who, at
10 the time of his appointment shall be a resident of said Win-
11 throp, duly qualified,' and also by adding in the seventeenth
12 line after the words "the judge" the words 'without any
13 recital of the act hereinbefore named authorizing him to act,'
14 and also by striking out the twentieth line and inserting in
15 place thereof the words 'for four years,' so that said section,
16 as amended, shall read as follows:

'Sect. 7. It shall be the duty of said judge of said court to
18 make and keep the records thereof or cause the same to be
19 made and kept, and to perform all other duties, required of

20 similar tribunals in this State; and copies of said records,
21 duly certified by said judge or recorder, shall be legal evidence
22 in all courts. The governor, by and with the advice and con-
23 sent of the council, may appoint a recorder of said court, who,
24 at the time of his appointment, shall be a resident of Win-
25 throp, duly qualified, who shall keep the records of said court
26 when requested so to do by the judge; and in case of absence
27 from the court room, or sickness of the judge, or when the
28 office of judge shall be vacant, the recorder shall have and
29 exercise all the powers of the judge, and perform all the duties
30 required of said judge by this act, and shall be empowered to
31 sign and issue all processes and papers, and to do all acts as
32 fully and with the same effect as the judge could do were he
33 acting in the premises; and the signature of the recorder, as
34 such, shall be sufficient evidence of his right to act instead of
35 the judge without any recital of the act hereinbefore named
36 authorizing him to act. When the office of judge is vacant,
37 the recorder shall be entitled to the fees; in all other cases he
38 shall be paid by the judge, and shall hold his said office for
39 four years.'

Sect. 6. Section fourteen of said chapter is hereby amended
2 by adding, after the word "use" in the fourth line, the words
3 'and it shall be deemed and denominated as the court room,
4 though used also for other purposes, if approved by the
5 judge,' so that said section, as amended, shall read as fol-
6 lows:

'Sect. 14. It shall be the duty of the town of Winthrop to
8 provide a suitable court room in said Winthrop, conveniently
9 situated and appropriately fitted up and furnished, in which
10 to hold said court, and keep the same in proper condition for
11 use, and it shall be deemed and denominated as the court
12 room, though used also for other purposes, if approved by
13 the judge, and also to provide for said court an appropriate
14 seal, and all blanks, blank books, dockets, stationery and

15 other things necessary in the transaction of its business; and
16 said town is hereby authorized to appropriate money therefor.'

Sect. 7. Section fifteen of said chapter is hereby amended
2 by adding, after the word "quorum" in the fifth line, the
3 words 'and except that they may issue warrants on complaints
4 for criminal offenses committed in said towns to be returned
5 before said municipal court,' so that said section, as amended,
6 shall read as follows:

'Sect. 15. Trial justices are hereby restricted from exer-
8 cising any jurisdiction in the towns of Winthrop, Monmouth,
9 Wayne and Fayette, over any matter or thing, civil or crimi-
10 nal, except such as are within the jurisdiction of justices of
11 the peace and quorum and except that they may issue war-
12 rants on complaints for criminal offenses committed in said
13 towns to be returned before said municipal court; provided,
14 that such restrictions shall be suspended until the judge of
15 said court shall enter upon the duties of his office. Nothing
16 in this act shall be construed to interfere with actions which
17 have been brought and are pending before trial justices in the
18 towns of Winthrop, Monmouth, Wayne and Fayette at the
19 time when the judge of said court shall enter upon the duties
20 of his office, but all such actions shall be disposed of by such
21 trial justices the same as if this act had not passed.'

Sect. 8. All acts and parts of acts, inconsistent with this
2 act, are hereby repealed.

Sect. 9. This act shall take effect when approved.

STATE OF MAINE.

IN HOUSE OF REPRESENTATIVES,
AUGUSTA, March 18, 1903.

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

W. S. COTTON, *Clerk*