

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

NEW DRAFT.

---

---

# SEVENTY-THIRD LEGISLATURE

---

---

HOUSE.

No. 430

---

---

## STATE OF MAINE.

---

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

---

AN ACT to establish the Milo Municipal Court.

---

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

Section 1. A municipal court is hereby established in and  
2 for the towns of Milo, Brownville, Williamsburg, Medford  
3 and Orneville, in the county of Piscataquis, which shall be  
4 called the Milo municipal court, and shall be a court of  
5 record with a seal. All original processes issuing from said  
6 court shall be under the teste of the judge, or, if the office  
7 of judge is vacant, of the recorder thereof, and signed by  
8 the judge, or recorder thereof, and shall have the seal of said  
9 court affixed.

Sect. 2. Said court shall consist of one judge who shall  
2 be an inhabitant of the county of Piscataquis, and shall be  
3 appointed in the manner and for the term provided by the  
4 Constitution of this state. The said judge shall enter, or  
5 cause to be entered on the docket of said court all civil and  
6 criminal actions with full minutes of the proceedings in and  
7 disposition of the same, which docket shall be at all times  
8 open to inspection, and he shall perform all other duties  
9 required of similar tribunals in this state; and copies of the  
10 records of said court duly certified by the judge, or recorder  
11 thereof shall be legal evidence in all courts. The said judge  
12 shall not act as attorney or counsel in any action or matter  
13 within the exclusive jurisdiction of said court.

Sect. 3. A recorder may be appointed in the manner pro-  
2 vided by article five of section eight, of the Constitution, who  
3 shall keep the records of said court when requested so to do  
4 by said judge; and in case of absence from the court room  
5 of said judge, or when the office of judge shall be vacant,  
6 the said recorder shall have and exercise all the powers of  
7 the judge, and perform all the duties required of said judge  
8 by this act, and shall be empowered to sign and issue all  
9 papers and processes, and to do all acts as fully and with the  
10 same effect as the judge could do if he were acting in the  
11 premises; and the signature of the recorder as such shall  
12 be sufficient evidence of his right to act instead of the judge.  
13 Said recorder shall reside in the town of Milo, and shall hold  
14 his said office of recorder for four years.

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 either of the towns named

4 in section 1; second, of all such criminal offenses and mis-  
5 demeanors committed in either of said towns as are by law  
6 within the jurisdiction of trial justices; third, of all offenses  
7 against the ordinances and by-laws of either of said towns;  
8 provided, that warrants may be issued by any trial justice in  
9 said county upon complaint for offenses committed in either  
10 of said towns, but all such warrants shall be made returnable  
11 before said court and no other municipal or police court, and  
12 no trial justice, shall have or take cognizance of any crime  
13 or offense committed in either of said towns; provided fur-  
14 ther, that warrants issued by any trial justice in said county,  
15 upon complaint, for crimes or offenses committed in any  
16 town or unorganized place in said county, may be made  
17 returnable before said court.

Sect. 5. Said court shall have original jurisdiction con-  
2 current with trial justices in all such matters, civil or crim-  
3 inal within the county of Piscataquis though neither party  
4 resides in the town where said court may be held as are by  
5 law within the jurisdiction of trial justices within said  
6 county, and are not placed within the exclusive jurisdiction  
7 of said court by the preceding section.

Sect. 6. 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 damage 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 Piscataquis, or, if a corporation, has an established  
7 place of business in said county, or in which, no trustee  
8 being named in the writ, any defendant resides in said

9 county, or if no defendant resides within the limits of this  
10 state, any defendant is served with process in said county,  
11 or the goods, estate or effects of any defendant are found  
12 within said county and attached on the original writ; second,  
13 of the assaults and batteries described in section twenty-  
14 eight of chapter one hundred and nineteen of the Revised  
15 Statutes; of all larcenies described in sections one, six,  
16 seven, nine and eleven of chapter one hundred and twenty-  
17 one of the Revised Statutes; when the value of the property  
18 is not alleged to exceed thirty dollars, of the offense described  
19 in section twenty-one of chapter one hundred and twenty-  
20 three of the Revised Statutes; of all offenses and crimes  
21 described in sections one and four of chapter one hundred  
22 and twenty-four of the Revised Statutes; of all offenses  
23 described in section six and in sections thirty-four to fifty-  
24 three inclusive, of chapter one hundred and twenty-five of  
25 the Revised Statutes; of the offense described in section five  
26 of chapter one hundred and twenty-six of the Revised Stat-  
27 utes; of all offenses described in section one of chapter one  
28 hundred and twenty-seven of the Revised Statutes, when  
29 the value of the property or thing alleged to have been fraud-  
30 ulently obtained, sold, mortgaged, or pledged, is not alleged  
31 to exceed thirty dollars; and of all offenses described in  
32 sections two, nine, nineteen, twenty-one and twenty-six of  
33 chapter one hundred and twenty-eight of the Revised Stat-  
34 utes, when the value of the property destroyed or the injury  
35 done, is not alleged to exceed thirty dollars; and may pun-  
36 ish for either of said crimes or offenses by a fine not exceed-  
37 ing fifty dollars, and by imprisonment not exceeding three

38 months, provided, that when the offenses described in section  
39 twenty-eight of chapter one hundred and nineteen, section  
40 twenty-one of chapter one hundred and twenty-three, and  
41 sections one and four of chapter one hundred and twenty-  
42 four, are of a high and aggravated nature, the judge of said  
43 court may cause persons charged with such offenses to  
44 recognize with sufficient sureties to appear before the  
45 supreme judicial court and in default thereof commit them;  
46 third, of all other crimes, offenses and misdemeanors com-  
47 mitted in said county, which are by law punishable by a fine  
48 not exceeding fifty dollars, and by imprisonment not exceed-  
49 ing three months, and are not within the exclusive jurisdic-  
50 tion of some other municipal or police court.

Sect. 7. 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  
4 question; 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 cases 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-six of the Revised Statutes.

Sect. 8. 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 cousins, but which would otherwise be within the exclu-  
6 sive jurisdiction of said court, may be brought before and  
7 disposed of by any trial justice or any other municipal or

8 police court in said county, in the same manner as other  
9 actions before said trial justices, or municipal or police  
10 courts. If any action wherein said judge is so interested or  
11 related to either party, is made returnable before this court,  
12 the parties thereto, by themselves or their attorneys, may in  
13 writing consent that said judge shall hear and dispose of the  
14 same; or the recorder thereof, if disinterested, or with the  
15 written consent of the parties, if interested, may hear and  
16 dispose of the same in the judge's stead, or such actions shall  
17 be disposed of as follows: civil actions, wherein the debt or  
18 damages demanded, exclusive of costs exceed twenty dollars,  
19 shall upon motion, be removed to the supreme judicial court,  
20 and all other civil actions, and all criminal actions, shall be  
21 removed and entered before any such trial justice within said  
22 county as may be agreed upon, in writing, by the parties  
23 entering an appearance in such action, or if no trial justice  
24 is agreed upon, before any municipal or police court in said  
25 county, and such trial justice, or municipal or police court  
26 shall have and take cognizance of such action and dispose  
27 of the same, as if originally returnable before such justice  
28 or court; provided, that nothing in this section contained  
29 shall prevent any civil action wherein the title to real estate  
30 is in question, from being disposed of in accordance with the  
31 provisions of the preceding section. In any action in which  
32 either of the towns hereinbefore named is a party, or is sum-  
33 moned as trustee, this court shall not lose its jurisdiction by  
34 reason of the said judge or recorder being an inhabitant of  
35 or owning property in such town: but in any such case the  
36 action may, upon written motion of either party, filed before  
37 trial, be removed to the supreme judicial court.

Sect. 9. A term of said court shall be held for the trans-  
2 action of civil business on the second Monday of each month,  
3 beginning at ten o'clock in the forenoon, at such place in the  
4 town of Milo as the judge shall determine; but said town of  
5 Milo may, at any time, provide a court room, in which case  
6 the court shall be held therein, and all civil processes shall be  
7 made returnable accordingly. Said court shall also be held  
8 on every Monday at the usual hour, for the purpose of filing  
9 pleas in abatement, and the affidavit mentioned in section  
10 sixteen of this act, and for the entry and trial of actions of  
11 forcible entry and detainer, and such actions shall be return-  
12 able accordingly, and they shall be heard and judgment shall  
13 be entered therein on the return day of the writ, unless con-  
14 tinued for good cause. For the cognizance and trial of  
15 criminal actions, said court shall be considered as in constant  
16 session. In all cases it may be adjourned from time to time  
17 by the judge.

Sect. 10. 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 of holding said court, within two hours  
4 after the time of opening said court, then any trial justice or  
5 justice of the peace in the county of Piscataquis, may preside  
6 for the purpose of entering and continuing actions 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 his  
10 discretion, adjourn said court without day, in which event  
11 all actions returned or pending shall be considered as con-



tinued to the next term. No trial justice or justice of the peace shall be disqualified from presiding for the purpose mentioned in this section by reason of his being interested in any action returnable before or pending in said court.

Sect. 11. Any party may appeal from any judgment or sentence of said court to the supreme judicial court, in the same manner as from a judgment or sentence or a trial justice.

Sect. 12. Writs and processes issued by said court shall be in the usual forms and shall be served as like precepts are required to be served when issued by trial justices.

Sect. 13. All the provisions of the statutes relating to attachment of real and personal property and the levy of execution 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 the suit, and the writs may be framed accordingly. When any action in which real estate is attached shall be finally disposed of in said court, or shall be removed to the supreme judicial court, by appeal or otherwise, the judge of said municipal court shall forthwith certify the disposition or removal thereof to the register of deeds of the county of Piscataquis, who may make a minute of the disposition or removal upon the record of attachment in said action.

Sect. 14. All civil actions in said court shall be entered on the first day of the term and not afterwards, except by special permission; and they shall be in order for trial, except

4 actions of forcible entry and detainer at the next regular  
5 monthly term after the entry if not otherwise disposed of.  
6 When a defendant legally summoned fails to enter his  
7 appearance by himself or his attorney before twelve o'clock,  
8 noon, on the first day of the return term, he shall be  
9 defaulted; but if he afterward appear during said term, the  
10 court may for sufficient cause, permit the default to be taken  
11 off. Pleas in abatement must be filed on or before the first  
12 day of the first regular weekly term held after the entry of  
13 the action. The pleading shall be the same as in the supreme  
14 judicial court, and all provisions of law relative to practice  
15 and proceedings in civil actions in the supreme judicial  
16 court, are hereby made applicable and extended to this court  
17 except so far as they are modified by the provisions of this  
18 act.

Sect. 15. Action pending in this court may be referred in  
2 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 like effect as  
5 in the supreme judicial court.

Sect. 16. If any defendant, his agent or attorney, in any  
2 civil action in this court in which the debt or damages  
3 demanded or claimed in the writ exceeds twenty dollars,  
4 shall, on or before the first day of the second regular weekly  
5 term of said court after the entry of said action file in said  
6 court an affidavit that he has a good defense to said action,  
7 and intends in good faith to make such defense and claims  
8 a jury trial, and shall at the same time deposit with the judge  
9 or recorder of said court, one dollar and sixty cents, for

10 copies and entry in the supreme judicial court, to be taxed  
11 in his costs if he prevail, the said action shall at the next  
12 regular monthly term of said municipal court, after the entry  
13 thereof be removed into the supreme judicial court for said  
14 county, and shall be entered at the next ensuing term of the  
15 supreme judicial court after such removal; and the judge  
16 or recorder of said municipal court shall forthwith cause  
17 certified copies of the writ, return to the officer, and all other  
18 papers in the case to be filed in the clerk's office of said  
19 supreme judicial court.

Sect. 17. 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 Piscataquis; and decisions  
7 of the law court in all such cases shall be certified to the judge  
8 of said municipal court for final disposition with the same  
9 effect as in cases originating in said supreme judicial court.

Sect. 18. 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  
4 regulations not repugnant to law, as may be necessary and  
5 proper for the administration of justice promptly; and is  
6 clothed with all such lawful power as is necessary for the  
7 performance of its duties under this act.

Sect. 19. The costs and fees allowed to parties, attorneys  
2 and witnesses, in all actions in this court, in which the debt

3 or damages recovered shall not exceed twenty dollars, and  
4 in actions of forcible entry and detainer, shall be the same  
5 as allowed in similar actions before trial justices, except that  
6 the plaintiff if he prevail, shall be allowed two dollars for his  
7 writ, and the defendant if he prevail, shall be allowed one  
8 dollar for his pleadings; and in cases where the amount  
9 recovered shall exceed twenty dollars the costs and fees of  
10 parties, attorneys and witnesses shall be the same as in the  
11 supreme judicial court, except that the defendant, if he pre-  
12 vails, shall be allowed two dollars for his pleadings.

Sect. 20. The judge of said court may demand and receive  
2 the same fees allowed by law to trial justices and clerks of  
3 the supreme judicial court for similar services, except that  
4 he shall receive for every blank writ signed by him, three  
5 cents; for the entry of each civil action, fifty cents; for  
6 every warrant issued by him, one dollar; for the trial of an  
7 issue in civil or criminal cases, one dollar for the first day  
8 and two dollars for each subsequent day actually employed;  
9 and said fees for the trial of an issue in civil actions shall be  
10 paid by the plaintiff before proceeding with the trial each  
11 day, to be taxed in his costs, if he prevail. An accurate  
12 account of the fees so received by the said judge shall be by  
13 him laid before the county commissioners of Piscataquis  
14 county and he shall pay the same into the county treasury  
15 of said county quarterly on or before the first days of Jan-  
16 uary, April, July, and October of each year. The judge of  
17 said court shall receive a salary of five hundred dollars per  
18 year, to be paid him in quarterly payments from the county  
19 treasury of Piscataquis county, which shall be in full for his

20 services as such judge. When the judge of said court is  
21 absent and the recorder of said court is obliged to sit in  
22 place of said judge the fees of said recorder shall be paid  
23 by the judge of said court.

Sect. 21. Trial justices are hereby restricted from exer-  
2 cising any jurisdiction in the towns named in section one  
3 of this act over any matter or thing, civil or criminal, except  
4 such as are within the jurisdiction of justices of the peace  
5 and quorum, and except as provided in sections four, eight  
6 and ten of this act, provided that until the judge of said  
7 court shall enter upon the duties of his office and whenever  
8 the offices of judge and recorder are together vacant, any  
9 trial justice shall have and exercise the same jurisdiction as  
10 though this municipal court had never been established; and  
11 in such case any civil or criminal action made returnable  
12 before a trial justice shall be entered before and finally dis-  
13 posed of by such justice.

Sect. 22. Nothing contained in this act shall be construed  
2 to interfere with such actions returnable before a trial justice  
3 or a municipal or police court, as shall be commenced before  
4 this act takes effect, and all said actions shall be disposed of  
5 as if this act had not been passed.

Sect. 23. It shall be the duty of the county commissioners  
2 of the county of Piscataquis to furnish and provide at the  
3 expense of the county, all books, blanks, and all necessary  
4 stationery and supplies required for the use of the Milo  
5 municipal court in the transaction of the civil and criminal  
6 business of said court including proper books for the record  
7 of all cases arising in said court at a cost not exceeding one  
8 hundred dollars per year.

Sect. 24. All acts or parts of acts conflicting with section 2 twenty-three of this act are hereby repealed.

Sect. 25. This act shall take effect when approved.

STATE OF MAINE.

---

HOUSE OF REPRESENTATIVES,

Augusta, March 8, 1907.

Reported by Mr. WALDRON from Committee on Judiciary, and  
ordered printed under joint rules.

E. M. THOMPSON, *Clerk.*