

# MAINE STATE LEGISLATURE

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# SEVENTY-THIRD LEGISLATURE

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HOUSE.

No. 654

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## STATE OF MAINE.

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

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AN ACT to establish a municipal court in the town of Madison.

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*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 town  
2 of Madison, in the county of Somerset, a court, to be denom-  
3 inated the municipal court of the town of Madison.

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

Sect. 3. Said court shall consist of one judge, to be  
2 appointed in the manner and for the term provided by the  
3 constitution, who shall be a member of the bar in Somerset  
4 county, and who shall have and exercise concurrent juris-  
5 diction and authority with trial justices, justices of the peace,

6 and justices of the peace and quorum, over all matters and  
7 things by law within their jurisdiction, and such jurisdiction  
8 and authority additional thereto as is conferred upon him  
9 by this act.

Sect. 4. Said municipal court shall have jurisdiction as  
2 follows:

First. Original and exclusive jurisdiction of all civil  
4 actions in which the debt or damages demanded do not  
5 exceed twenty dollars, and one of the parties, or a person  
6 summoned in good faith and on probable cause as trustee,  
7 resides in said town of Madison; and of all cases of forcible  
8 entry and detainer arising in said town; and shall have orig-  
9 inal and exclusive jurisdiction of all offences committed  
10 against the ordinances and by-laws of said town and of all  
11 offences committed against the ordinances and by-laws of the  
12 Madison Village Corporation in said town, and all such  
13 criminal offences and misdemeanors committed therein as are  
14 cognizable before trial justices; provided that warrants may  
15 be issued upon complaints for offences committed in said  
16 town of Madison and in Madison Village Corporation by any  
17 justice in the county of Somerset, but all such warrants shall  
18 be returnable before said court, and no trial justice shall take  
19 cognizance of any crime or offence committed in said town  
20 and in Madison Village Corporation or any civil action, or  
21 action of forcible entry or detainer, of which said court has  
22 exclusive jurisdiction.

Second. Said court shall have jurisdiction concurrent with  
24 trial justices of all such matters and things civil and criminal  
25 within the county of Somerset, as are by law within the  
26 jurisdiction of trial justices in said county, and with trial  
27 justices in all cases of forcible entry and detainer arising in  
28 said county.

Third. Said court shall have original jurisdiction concur-  
30 rent with the supreme judicial court in all personal actions  
31 where the debt or damage demanded, exclusive of costs, is  
32 over twenty dollars, and not over one hundred dollars, and  
33 in all actions of replevin under chapter ninety-eight of the  
34 revised statutes, when the sum demanded for the penalty,  
35 forfeiture or damage, or the value of the goods or chattels  
36 replevied does not exceed one hundred dollars; provided  
37 that any defendant or any party summoned as trustee in  
38 good faith and on probable cause is a resident of said county  
39 of Somerset, but this jurisdiction shall not include proceed-  
40 ings under the divorce laws or complaints under the mill act,  
41 so called, or jurisdiction over actions in which the title to  
42 real estate according to the pleadings filed in the case by  
43 either party is in question, except as provided in chapter  
44 ninety-six, sections six and seven of the revised statutes.

Sect. 5. Said court shall have jurisdiction in all cases of  
2 simple larceny, and where the property alleged to have been  
3 stolen shall not exceed the value of thirty dollars, and of all  
4 cases of cheating by false pretenses, where the property,  
5 money or other thing alleged to have been fraudulently

6 obtained, shall not exceed in value the sum of thirty dollars,  
7 and shall have power to try the same, and in either of said  
8 cases to award sentence upon conviction by fine not exceed-  
9 ing fifty dollars, or imprisonment in the county jail with or  
10 without labor, for a term not exceeding ninety days. He  
11 shall have exclusive jurisdiction of all offenses arising in  
12 said town and in Madison Village Corporation which are by  
13 any law or statute within the jurisdiction of a trial justice,  
14 and concurrent jurisdiction with trial justices of the county  
15 of Somerset, of all such offenses arising in said county, out  
16 of said town.

Sect. 6. Nothing in this act shall be construed to give said  
2 court jurisdiction to try any civil action in which the title to  
3 real estate according to the pleading of brief statement 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. 7. But nothing in this act shall give or be construed  
2 to give said court jurisdiction of any case, civil or criminal,  
3 or of forcible entry and detainer where the judge shall be  
4 interested or related to either of the parties by consanguinity  
5 of affinity within the degree of second cousin inclusive. But  
6 all such cases, which would be otherwise within the exclu-  
7 sive jurisdiction of said court, shall be brought before and  
8 disposed of by any trial justice within said county, in the  
9 same manner and with like effect as other actions before said  
10 trial justices.

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

Section 9. It shall be the duty of the judge of said court  
2 to make and keep the records thereof, or cause the same to  
3 be made and kept, and to perform all other duties required  
4 of similar tribunals in this State; and copies of said records,  
5 duly certified by said judge, shall be legal evidence in all  
6 courts. The judge may appoint in writing, a recorder, who  
7 shall be a trial justice for the county of Somerset, duly quali-  
8 fied, who shall be sworn by said judge, who shall keep the  
9 records of said court when requested so to do by the judge;  
10 and in case of absence from the court room or sickness of  
11 the judge, or when the office of the judge shall be vacant,  
12 the recorder shall have and exercise all the powers of the

13 judge, and perform all the duties required of said judge by  
14 this act, and shall be empowered to sign and issue all process-  
15 es and papers, and to do all acts as fully and with the same  
16 effect as the judge could do were he acting in the premises ;  
17 and the signature of the recorder, as such, shall be sufficient  
18 evidence of his right to act instead of the judge. When the  
19 office of judge is vacant, the recorder shall be entitled to the  
20 fees ; in all other cases he shall be paid by the judge, and  
21 shall hold his said office at the discretion of said judge.

Sect. 10. 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 jus-  
4 tice. And if any defendant in any action in said court, where  
5 the amount claimed in the writ exceeds twenty dollars, or  
6 his agent or attorney shall, on the return day of the writ,  
7 file in said court, a motion asking that said action be removed  
8 to the supreme judicial court, accompanied by his pleadings  
9 in said action, and shall at the same time deposit with the  
10 judge the sum of two dollars and sixty cents for copies and  
11 entry fee to be taxed in his costs if he prevail, the said  
12 action shall be removed into the supreme judicial court for  
13 said county, and the judge shall forthwith cause certified  
14 copies of the writ, officers' return and pleas to be filed in the  
15 clerk's office of said supreme judicial court and said action  
16 shall be entered on the docket of the term next preceding  
17 said filing, and shall be in order for trial at the next succeed-  
18 ing term.

Sect. 11. Writs and processes issued by said court shall  
2 be in the usual form, signed by the judge, and under the seal  
3 of said court. They shall be served as like precepts are  
4 required to be served when issued by trial justices, except  
5 original writs in civil actions, which shall be served not less  
6 than seven nor more than sixty days before the sitting of the  
7 court at which the same are made returnable.

Sect. 12. All the provisions of the statutes of the State  
2 relative to attachments of real and personal property, and the  
3 levy of executions shall be applicable to actions brought in  
4 this court, and executions on judgments rendered therein;  
5 provided, that property may be attached in addition to the  
6 ad damnum sufficient to satisfy the costs of suit, and the writ  
7 may be framed accordingly.

Sect. 13. 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. 14. Actions in said court shall be entered on the  
2 first day of the term, and not afterwards, except by special  
3 permission. When a defendant legally served, fails to enter  
4 his appearance by himself or his attorney, on the first day  
5 of the return term, he shall be defaulted; but if he after-  
6 wards appear during the term, the court may, for sufficient  
7 cause, permit the default to be taken off. Pleas in abate-



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

Sect. 15. 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 for holding said court within two hours  
4 after the time for opening said court, then any trial justice  
5 or justice of the peace in the county of Somerset, may pre-  
6 side for the purpose of entering and containing actions and  
7 filing papers in said court, and may adjourn said court from  
8 time to time, not exceeding one week at any one time, with-  
9 out detriment to any action returnable or pending, and may  
10 in his discretion adjourn said court without day, in which

11 event all actions returned or pending, shall be considered as  
12 continued to the next term.

Sect. 16. The costs and fees allowed to parties, attorneys  
2 and witnesses in said court shall be the same as allowed by  
3 trial justices in actions before them, except that the plaintiff,  
4 if he prevail, shall be allowed two dollars for his writ; and  
5 the defendant, if he prevail, two dollars for his pleadings.  
6 In actions where the amount recovered by the plaintiff, ex-  
7 clusive of costs, exceed twenty dollars, or property, the value  
8 of which exceeds that sum, or the amount claimed, or the  
9 value of the property recovered exceeds twenty dollars, where  
10 the defendant prevails, the costs of the parties trustees and  
11 witnesses shall be the same as in the supreme judicial court,  
12 except the costs to be taxed for attendance shall be two  
13 dollars and fifty cents for each term, for as many terms as  
14 may be allowed by the court.

Sect. 17. 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, four  
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, two dollars for every day  
8 actually employed; and said fees for the trial of an issue in  
9 civil actions shall be paid by the plaintiff before proceeding  
10 with the trial each day, to be taxed in his costs, if he pre-

11 vail; and the fees so received by said judge shall be payment  
12 in full for his services.

Sect. 18. Trial justices are hereby restricted from exer-  
2 cising any jurisdiction in the town of Madison over any  
3 matter or thing, civil or criminal, except such as are within  
4 the jurisdiction of justices of the peace and of the quorum;  
5 provided, that said restrictions shall be suspended until the  
6 judge of said court shall enter upon the duties of his office.

Sect. 19. Nothing in this act shall be construed to inter-  
2 fere with actions already commenced before trial justices in  
3 the town of Madison, but all such actions shall be disposed  
4 of by such trial justices the same as if this act had not  
5 passed.

Sect. 20. This act shall take effect when approved.



STATE OF MAINE.

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HOUSE OF REPRESENTATIVES,

Augusta, March 20, 1907.

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

E. M. THOMPSON, *Clerk.*