

# MAINE STATE LEGISLATURE

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NEW DRAFT.

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# SEVENTY-FOURTH LEGISLATURE

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HOUSE.

No. 774

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## STATE OF MAINE.

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

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AN ACT to establish a Municipal Court in the Town of Millinocket.

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*Be it enacted by the People of the State of Maine, as follows:*

Section 1. A municipal court is hereby established in and  
2 for the towns of Millinocket, East Millinocket, Medway, the  
3 Indian Townships, and all the territory lying north thereof  
4 within the limits of Penobscot county, to be denominated and  
5 styled as the Millinocket Municipal Court, which shall be a  
6 court of record and have a seal; said court shall consist of  
7 one judge who shall reside during his continuance in said  
8 office in said town of Millinocket, who shall be an attorney  
9 at law in good standing, or a trial justice who shall have

10 been in active practise for at least seven years, who shall be  
11 appointed, qualified and hold his office as provided in the  
12 constitution, and who shall be ex-officio a Justice of the  
13 Peace for the State, and have and exercise a concurrent au-  
14 thority and jurisdiction with trial justices over all matters  
15 and things by law within their jurisdiction throughout the  
16 county of Penobscot, and such authority and jurisdiction ad-  
17 ditional thereto as is hereinafter conferred upon him by this  
18 act.

The governor, by and with the advice and consent of the  
20 council, may appoint a recorder of said court, who at the time  
21 of his appointment, shall be a resident of Millinocket, duly  
22 qualified, who shall keep the records of said court when re-  
23 quested to do so by the judge; and in case of absence from  
24 the court room, or sickness of the judge, or when the office of  
25 judge shall be vacant, the recorder shall have and exercise all  
26 the powers of the judge, and perform all the duties required  
27 of the judge by this act, and shall be empowered to sign and  
28 issue all processes and papers, and to do all acts as fully and  
29 with the same effect as the judge could do were he acting in  
30 the premises; and the signature of the recorder as such shall  
31 be sufficient evidence of his right to act instead of the judge,  
32 without any recital of the provision of this act hereinbefore  
33 authorizing him to act. When the office of judge is vacant,  
34 the recorder shall be entitled to a salary at the same rate as  
35 the judge's salary during said vacancy only. He shall be ex-  
36 officio a Justice of the Peace throughout the State.

Both judge and recorder shall hold their offices for four  
38 years.

Sect. 2. Said court shall have additional jurisdiction as fol-  
2 lows:

(a) Exclusive jurisdiction of all such criminal offences and  
4 misdemeanors committed within the town of Millinocket and  
5 the Indian Townships as are cognizable by trial justices.

(b) Concurrent jurisdiction with trial justices in the  
7 county of Penobscot of all like offences and misdemeanors,  
8 not herein placed within its exclusive jurisdiction, when com-  
9 mitted in said county outside the territory wherein some oth-  
10 er municipal court has exclusive jurisdiction.

(c) Original jurisdiction concurrent with the Supreme  
12 Judicial Court of the offences committed in Millinocket, East  
13 Millinocket, Medway, the Indian Townships and the terri-  
14 tory within the limits of Penobscot county lying north there-  
15 of described in section one, six, seven, eight, ten and twelve  
16 of chapter one hundred twenty-one of the Revised Statutes,  
17 when the alleged value of the property exceeds ten dollars  
18 (\$10.00) but does not exceed one hundred (\$100.00) dol-  
19 lars;

(d) Of the offences described in section twenty-eight of  
21 chapter one hundred and nineteen of the Revised Statutes;

(e) Of the offences described in section one, four and five  
23 of chapter one hundred and twenty-seven of the Revised  
24 Statutes, when the alleged value of the property fraudulent-  
25 ly obtained, mortgaged or sold, or fraudulently removed or

26 concealed, does not exceed one hundred dollars, or where  
27 the amount of which such inn-keeper or boarding house keep-  
28 er or the owner thereof has been defrauded does not exceed  
29 one hundred dollars.

And on conviction may punish for either of said offences by  
31 fine not exceeding one hundred dollars and by imprisonment  
32 in the county jail for not more than six months;

(f) Also of the offence described in section six of chapter  
34 one hundred twenty-five of the Revised Statutes, and on con-  
35 viction may punish therefor as provided by law;

(g) And of the offences described in sections twenty-six  
37 and thirty-one of chapter one hundred and twenty-nine of  
38 the Revised Statutes, relating to tramps, and may punish as  
39 therein provided:

(h) Exclusive original jurisdiction of all civil actions  
41 wherein the debt or damages demanded do not exceed  
42 twenty dollars, and both parties or any plaintiff and any per-  
43 son summoned as trustee, reside in Millinocket, East Milli-  
44 nocket, Medway or the Indian Townships, including prose-  
45 cutions for penalties in which either of said towns are inter-  
46 ested and of actions of forcible entry and detainer arising  
47 therein.

(i) Concurrent jurisdictions with trial justices in said  
49 county of all other civil actions and other proceedings cog-  
50 nizant by them, not within the exclusive jurisdiction of this  
51 or some other court;

(j) Original jurisdiction concurrent with the Supreme  
53 Judicial Court in said county of all civil actions in which the  
54 debt or damages demanded exceed twenty dollars but do not  
55 exceed three hundred ollars, an any party thereto or any per-  
56 son summoned as trustee resides or had his last and usual  
57 place of abode in the State in the towns of Millinocket, East  
58 Millinocket, Medway, the Indian Townships or the territory  
59 north thereof within the limits of Penobscot county, pro-  
60 vided that one of the defendants or trustees reside in Penob-  
61 scot county, provided also that any action wherein the debt  
62 or damage demanded exceeds twenty dollars shall on motion  
63 of the defendant filed at the return term be removed into the  
64 Supreme Judicial Court if the defendant at the time of filing  
65 said motion pays into court the fee of the clerk of the court  
66 above for entering said action therein, and the fees of the  
67 court for the necessary copies which shall be the same as for  
68 copies in cases carried up on appeal. The judge shall then  
69 file in the Supreme Judicial Court at its next term in the  
70 county an attested copy of the writ in such action and of such  
71 motion and his order thereon for the removal of said action,  
72 and shall pay the clerk of the court above his fee for enter-  
73 ing said action. The amount paid by the defendant shall be  
74 certified to the court above and shall be taxed in his costs if  
75 he shall prevail. In any action in which either of the towns  
76 of Millinocket, East Millinocket, Medway, the Indian Town-  
77 ships, or any towns or place north of the same within the  
78 limits of Penobscot county is a party, or is summoned as

79 trustee, this court shall not lose jurisdiction by reason of the  
80 residence or ownership of property in such towns or place by  
81 the judge, but in such case the action may upon the written  
82 motion of either party, filed at the return term, be removed to  
83 the Supreme Judicial Court.

Any action civil or criminal in which the judge may be in-  
85 terested or related to either of the parties by consanguinity  
86 or affinity within the sixth degree according to the rules of  
87 the civil law, or within the degrees of second cousins inclu-  
88 sive, but which would otherwise be within the exclusive juris-  
89 diction of the court, may be brought in, and disposed of by  
90 any other municipal court in Penobscot county in the same  
91 manner and with like effect as other actions therein.

Sect. 3. Nothing in the foregoing section shall be con-  
2 strued to give said court any authority exceeding that of trial  
3 justice to hear and determine any civil action in which the  
4 title to real estate, according to the pleadings or brief state-  
5 ment filed therein by either party, is in question, but all such  
6 actions brought therein shall be removed to the Supreme  
7 Judicial Court in the county, or otherwise disposed of as pro-  
8 vided in section three of chapter eighty-five of the Revised  
9 Statutes.

Sect. 4. Said court shall have authority to administer all  
2 necessary oaths or affirmations; to adopt an official seal; to  
3 hear and determine civil causes before it, and to render judg-  
4 ment therein and issue executions upon the same, such ex-  
5 ecutions except when otherwise provided by law to have the

6 same force and be satisfied in the same manner as if issued  
7 by the Supreme Judicial Court, to compel the attendance of  
8 witnesses and punish persons duly summoned as witnesses if  
9 they refuse or neglect to attend; to make and enforce such  
10 rules and regulations not repugnant to law as may be neces-  
11 sary therein for the prompt administration of justice; and all  
12 the provisions of law relating to proceedings and practise in  
13 the Supreme Judicial Court, and to the attachment of real  
14 and personal estate, the taxation of costs, the rendition of  
15 judgments and the issuing, service, satisfaction and return of  
16 executions, shall be extended to and apply to said municipal  
17 court and to proceedings therein except so far as such ap-  
18 plication may be modified by the provisions of this act.

Sect. 5. Writs in civil actions commenced in said court  
2 shall be in the usual forms, and all such writs and all other  
3 precepts and processes, civil and criminal, issued by said  
4 court shall bear tests of the judge under seal of said court,  
5 and be signed by the judge or by the recorder and be of equal  
6 force and validity when signed by either. All such writs  
7 shall be made returnable at any one of the next three terms  
8 of said court held after either date, and service thereon may  
9 be made at any time not less than seven days before the return  
10 day thereof, except that when any defendant or trustee is a  
11 corporation, service upon such corporation must be made at  
12 least thirty days before the return day.



Sect. 6. Said court shall be held on the first Monday of  
2 each month for the entry, trial and determination of civil  
3 actions of all kinds that may lawfully be brought before it,  
4 and for the transaction of other civil business, and upon each  
5 other Monday for the entry, trial and determination of ac-  
6 tions of forcible entry and detainer only, at ten of the clock  
7 in the forenoon, at such suitable place as the judge may de-  
8 termine, until the town of Millinocket shall vote to provide a  
9 court room, after which the court shall be held therein, and  
10 all civil processes shall be made returnable accordingly.  
11 Said court may be adjourned from time to time by the judge  
12 at his discretion, but it shall be considered in constant session  
13 for the cognizance of criminal actions. Provided that if at  
14 any regular or adjourned term of said court to be held for  
15 civil business neither the judge nor recorder is present at the  
16 place used for holding said court within two hours after the  
17 time for opening said court, then it may be adjourned from  
18 day to day by any Justice of the Peace, without detriment to  
19 any action then returnable or pending, until the judge or re-  
20 corder can attend, when said action may be entered or, dis-  
21 posed of with the same effect as if it were the first day of the  
22 term; and it may be so adjourned without day when neces-  
23 sary, in which event pending actions shall be considered as  
24 continued, and actions then returnable may be returned and  
25 entered at the next term with the same effect as if originally  
26 made returnable at said term. The Justice of the Peace who

27 continues said court as aforesaid shall note on the docket  
28 thereof the fact that the judge and recorder were absent and  
29 the time to which said court stands adjourned, and shall sign  
30 the same, and need not keep any other record thereof.

Sect. 7. It shall be the duty of said judge of said court to  
2 make and keep the records thereof, or cause the same to be  
3 so made and kept, and to perform all other duties required of  
4 similar tribunals in this State, and copies of said records duly  
5 certified by said judge or recorder shall be legal evidence in  
6 all courts.

Sect. 8. 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. 9. Actions in said court shall be entered on the first  
2 day of the term, and not afterward, save by permission of the  
3 other party, or special permission of the judge. When a de-  
4 fendant legally served, fails to enter his appearance, by him-  
5 self or his attorney on the first two days of the return term,  
6 he may be defaulted, but if he afterward appear during the  
7 term the court may for sufficient cause permit the default to  
8 be taken off. But it cannot be taken off after the first term  
9 without consent of the plaintiff, unless the judge shall make  
10 a special order to that effect after notice to and an opportu-  
11 nity for a hearing for the plaintiff.

Pleas and motions in abatement must be filed on the first  
13 day of the term to which the action is returnable.

The defendant may file his pleadings in bar, which shall be  
15 the general issue with a brief statement of special matters of  
16 defence if he have any at any time after the writ is entered,  
17 and must file them before he can ask that a day be set for  
18 trial. If at any term the plaintiff files a motion asking that  
19 the defendant be ordered to file his pleadings, the judge shall  
20 order the defendant file them accordingly, and shall notify  
21 the defendant thereof in such manner as he deems proper. If  
22 the defendant in such case does not file his pleadings on or be-  
23 fore the first day of the next term he shall be defaulted, un-  
24 less the court for good cause enlarge the time for which it  
25 may impose reasonable terms.

Actions of forcible entry and detainer seasonably answered  
27 to shall be in order for trial at the return term, and shall re-  
28 main so until tried or otherwise disposed of finally, unless  
29 continued by consent, or on motion of either party for good  
30 cause shown in which latter case the court may dispose such  
31 terms as it deems reasonable.

Actions in which one party has given to the other five days  
33 written notice that a trial will be demanded at the return  
34 term, on proving such notice, shall be in order for trial at  
35 such term, but all other actions except actions of forcible en-  
36 try and detainer shall be continued as of course to the next  
37 term.

Action shall be assigned for trial as follows: During term  
39 time at any term either party may ask the court to assign the

40 action for trial during term time at the next or some other  
41 term. The party asking the earlier assignment shall have it  
42 granted. The court shall assign the case for trial as asked,  
43 unless there is some good reason for the contrary, and shall  
44 notify the other party of the time set for trial as he deems  
45 proper.

Trials shall not be assigned for the first day of any term  
47 save by consent of both parties. Any party may appear on  
48 the first day of a term, and by motion show cause for a con-  
49 tinuance, which the judge may grant with or without terms,  
50 as he deems right, or may refuse.

Trial may be had at any time in or out of term time by  
52 consent of all parties and the court.

Sect. 10. In actions of forcible entry and detainer brought  
2 in said court, the defendant's pleading shall be a general is-  
3 sue with a brief statement of any special matters of defence,  
4 and must be filed upon the first day of the return term, or the  
5 defendant shall be defaulted unless the court enlarge the  
6 time, for which it may impose terms.

Sect. 11. The costs and fees allowed to parties, attorneys  
2 and witnesses in all civil actions in said court in which the  
3 debt or damage demanded does not exceed twenty dollars, in-  
4 cluding actions of forcible entry and detainer, shall be the  
5 same allowed by trial justices in actions before them, except  
6 that the plaintiff, if he prevail, shall be allowed two dollars  
7 (\$2.00) for his writ, and the defendant, if he prevail, one

8 dollar (\$1.00) for his pleadings, but in actions in which the  
9 debt or damage demanded exceeds twenty dollars the costs  
10 and fees shall be the same as allowed in the Supreme Judicial  
11 Court in like actions, except that witnesses shall be allowed  
12 one (\$1.00) dollar per day and travel, as in other cases.

Sect. 12. The judge of said court may tax and shall be al-  
2 lowed for his services in a civil action wherein the debt or  
3 damage demanded does not exceed twenty (\$20.00) dollars,  
4 the same fees allowed by law to trial justices for like services  
5 and at the same rates, and when the debt or damage demand-  
6 ed exceeds twenty (\$20.00) dollars he may tax and shall be  
7 allowed the same fees that the law allows to clerks of the Su-  
8 preme Judicial Court for like services. All said fees are to  
9 be paid him by the party at whose instance the services were  
10 performed, and taxed with the costs of said party if he pre-  
11 vail in the suit, and shall be accounted for and paid over to  
12 the treasurer of Penobscot county.

For his services in criminal proceedings he shall be entitled  
14 to fifty (\$.50) cents for receiving a complaint and issuing a  
15 warrant; seventy-five (\$.75) cents for entering complaint,  
16 swearing witnesses, filing papers, and certifying costs to the  
17 county commisioners; forty (\$.40) cents for taxing the costs  
18 and recording judgment; ten (\$.10) cents for each subpoena;  
19 twenty-five (\$.25) cents for each mittimus and each recog-  
20 nizance; fifty (\$.50) cents for making and recording each  
21 libel of intoxicating liquors; twenty-five (\$.25) cents for each

22 order to destroy or restore such liquors; and two (\$2.00)  
23 dollars for each day actually employed in the trial of any is-  
24 sue, said fees to be taxed in the bill of costs.

Sect. 13. The judge shall receive all fines, forfeitures and  
2 costs paid into court in criminal proceedings, and shall pay  
3 over all fees to the persons to whom they are allowed when  
4 called for, if called for within one year. All fines and for-  
5 feitures received by him, and all fees so received, but not sea-  
6 sonably called for, and all other fees and costs he shall ac-  
7 count for and pay over at the time and in the manner re-  
8 quired by law to the treasurer of Penobscot county, but no  
9 account required by this section shall be deemed sufficient  
10 unless verified by oath of the judge.

Sect. 14. The town of Millinocket may, if it shall so vote,  
2 at any regularly held town meeting, provide a suitable court  
3 room in said Millinocket, conveniently situated and appro-  
4 priately fitted up and furnished, in which to hold said court,  
5 and keep the same in proper condition for use, and it shall be  
6 deemed and denominated the court room, though used also  
7 for other purposes if approved by the judge. Said town of  
8 Millinocket shall provide for said court an appropriate seal,  
9 and all blanks, blank books, dockets, stationery, and other  
10 things necessary for the transaction of its business; and said  
11 town is hereby authorized to appropriate money therefor.

Sect. 15. The judge shall receive a salary in full for all  
2 services of six hundred (\$600.00) dollars per annum to be

3 paid him by the county of Penobscot and the recorder a sal-  
4 ary of one hundred (\$100.00) dollars per annum, payable  
5 quarterly.

Sect. 16. Trial justices are hereby restricted from exercis-  
2 ing any civil or criminal jurisdiction in the town of Milli-  
3 nocket and the Indian Townships, and they are restricted  
4 from exercising any civil jurisdiction also in the towns of  
5 East Millinocket and Medway, over any matter or thing ex-  
6 cept such as are within the jurisdiction of Justices of the  
7 Peace, and except that they may issue warrants on complaints  
8 for criminal offences committed in said towns to be returned  
9 before said Municipal Court, and excepting also such juris-  
10 diction as is reserved for them in section seven of this act.  
11 Such restrictions shall be suspended until the judge of said  
12 court shall enter on the duties of his office. Nothing in this  
13 act shall be construed to interfere with matters which have  
14 been brought and are pending before trial justices at the time  
15 when the judge of said court shall enter upon the duties of  
16 his office, but all such matters shall be disposed of by such  
17 trial justices the same as if this act had not passed.

Sect. 17. All act and parts of acts inconsistent with this act  
2 are hereby repealed.





STATE OF MAINE.

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HOUSE OF REPRESENTATIVES,

Augusta, March 24, 1909.

Reported by Mr. SMITH from Committee on Legal Affairs  
and ordered printed under joint rules.

E. M. THOMPSON, *Clerk.*