

MAINE STATE LEGISLATURE

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SEVENTY-FIFTH LEGISLATURE

HOUSE

NO. 59

House of Representatives, Jan. 31, 1911.

Introduced in the Senate by Mr. Farrington of Kennebec, who moved its reference to the committee on Legal Affairs. By Mr. Williamson of Augusta tabled in the House for printing pending reference to a committee.

C. C. HARVEY, Clerk.

STATE OF MAINE

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

AN ACT with reference to the Gardiner Municipal Court.

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

Section 1. There shall be and hereby is established a
2 court, to be denominated the Gardiner Municipal Court,
3 which shall be a court of record, with a seal, to consist of
4 one judge, who shall be an attorney admitted to practice
5 in the courts of the State of Maine, who shall be appointed
6 in the manner and for the term provided by the constitution
7 of this State. Said judge shall be an actual resident of the
8 City of Gardiner at the time of his appointment and dur-
9 ing his continuance in office.

Sect. 2. The governor, by and with the consent of the

2 Council and upon the recommendation of the judge, shall
3 appoint a recorder of said court, who shall reside in said
4 Gardiner, and who shall be an attorney at law. He shall
5 hold office for the term of four years. Said recorder shall
6 keep the records of said court when requested so to do
7 by said judge; and in case of absence from the court
8 room of said judge, or when the office of said judge shall
9 be vacant, the said recorder shall have and exercise all the
10 powers of the judge and perform all the duties required of
11 said judge by this act, and shall be empowered to sign and
12 issue all papers and processes, and to do all acts as fully
13 and with the same effect as the judge could do if he were
14 acting in the premises; and the signature of the recorder
15 as such shall be sufficient evidence of his right to act in-
16 stead of the judge. In case of the death or resignation of
17 said judge, said recorder shall act and be paid the salary
18 of said judge until his successor is appointed and qualified.

Sect. 3. The City of Gardiner shall provide a suitable
2 court room and consultation room, keep the same in good
3 condition and properly furnished. All expenses of said
4 court including blank books of record, dockets and blanks,
5 and all other supplies necessary for the use of said court
6 shall be paid from the treasury of the county of Kennebec.

Sect. 4. Said court shall have concurrent jurisdiction
2 with trial justices, in all cases of forcible entry and de-
3 tainer arising in said county, and original and exclusive
4 jurisdiction in all cases arising in said city. And the said

5 court shall also have exclusive jurisdiction of all offences
6 against the by-laws and regulations which may be estab-
7 lished by the city council of said city; and may, upon con-
8 viction thereof, award such sentence as to law and justice
9 may appertain, and in declarations for violations of by-
10 laws or ordinances, the by-laws and ordinances need not
11 be set forth; and said court shall have original jurisdic-
12 tion, concurrent with the superior court, of all actions at
13 law, except complaints for flowage, real actions and tres-
14 pass quare clausum, in which the debt or damages demand-
15 ed, exclusive of costs, does not exceed two hundred dol-
16 lars, in which any party defendant or a person summoned
17 in good faith and on probable grounds as trustee, resides
18 in the county of Kennebec, or having his residence be-
19 yond the limits of this state is served with process within
20 said county. And when any party defendant and person
21 so named as trustee, both live in said Gardiner, and are
22 summoned to appear in an action brought in some other
23 municipal court in said county, they or either of them, may
24 have the cause transferred to said Gardiner Municipal
25 Court, upon filing motion and affidavit at the return term
26 thereof, and the cause shall then be heard as though orig-
27 inally brought therein. If any defendant, his agent or at-
28 torney in any action in said court, in which the debt or
29 damage claimed in the writ exceeds twenty dollars, shall
30 appear at the first term and on or before the first day of
31 the second term, file in said court an affidavit that he has

32 a good defense to said action and intends in good faith to
33 make such defense and claims a jury trial, the said action
34 shall be removed into and entered at the next term of the
35 superior court for said county. And the judge or recorder
36 of said municipal court on payment to him of the entry
37 fee in said superior court by the plaintiff, shall forthwith
38 cause the original writ and all other papers in the case to
39 be filed in the clerk's office of said superior court. Any
40 party may appeal from any judgment or sentence of said
41 municipal court to the superior court in the same manner
42 as from a judgment of a trial justice. The costs and fees
43 allowed to parties and attorneys in civil actions before
44 said court, in which the debt or damages do not exceed
45 twenty dollars shall be the same as are allowed before
46 trial justices, except that the plaintiff, if he prevails, shall
47 be allowed two dollars for his writ, and the defendant, if
48 he prevails, shall be allowed one dollar for his pleadings.
49 In all actions in which the amount recovered exceeds twen-
50 ty dollars, the plaintiff, if he prevails, shall be allowed costs
51 as taxed in the superior court. Copies of the records of
52 said court duly certified, shall be evidence in other courts.

Sect. 5. All the provisions of the statutes of this state,
2 relative to the attachment of real and personal property
3 and levy of executions, shall be applicable to actions in
4 this court, and executions on judgments rendered therein;
5 provided, that property may be attached, equal in value to
6 the ad damnum, and in addition thereto, sufficient to satisfy

7 the costs of suit. Actions may be referred and judgment
8 on the referee's report may be rendered in the same man-
9 ner and with the same effect as in the superior court. Ex-
10 ceptions may be allowed and cases certified on an agreed
11 statement of facts, or upon evidence reported by the judge,
12 in all civil actions, as in the supreme judicial or superior
13 courts, and the same shall be entered, heard and deter-
14 mined at the law term thereof as if the same had originated
15 in the superior or supreme judicial courts.

Sect. 6. Said court shall have jurisdiction in all cases
2 of simple larceny arising in said county, unless exclusive
3 jurisdiction is vested in some other court, where the prop-
4 erty alleged to have been stolen shall not exceed the value
5 of fifty dollars, and of all cases of cheating by false pre-
6 tenses, where the property, money or other thing alleged
7 to have been fraudulently obtained, shall not exceed in
8 value the sum of fifty dollars, and shall have power to try
9 the same, and in either of said cases to award sentence up-
10 on conviction by fine not exceeding fifty dollars, or im-
11 prisonment in the county jail with or without hard labor,
12 for a term not exceeding ninety days. He shall have ex-
13 clusive jurisdiction of all offenses arising in said city and
14 in the towns of West Gardiner, Farmingdale, Randolph
15 and Pittston, which are by any law or statute within the
16 jurisdiction of a trial justice, and concurrent jurisdiction
17 with trial justices of said county of Kennebec, of all such
18 offenses arising in said county, outside of said city and

19 towns mentioned, and also concurrent jurisdiction with the
20 municipal court of the City of Augusta in the town of Chel-
21 sea.

Sect. 7. Any action, civil or criminal, in which the judge
2 of said court is interested or related to either of the par-
3 ties by consanguinity or affinity, within the sixth degree
4 according to the rules of the civil law, or within the degree
5 of second cousins, 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
8 municipal or police court in said county, in the same man-
9 ner as other actions before said trial justices, or municipal
10 or police courts. If any action wherein said judge is so in-
11 terested or related to either party, is made returnable be-
12 fore this court, the parties thereto, by themselves or their
13 attorneys, may in writing, consent that said judge shall
14 hear and dispose of the same; or the recorder thereof,
15 if disinterested, or with the written consent of the parties,
16 if interested, may hear and dispose of the same in the
17 judge's stead, or such actions shall be disposed of as fol-
18 lows: civil actions, wherein the debt or damages demand-
19 ed, exclusive of costs exceed twenty dollars, shall upon
20 motion, be removed to the superior court, and all other
21 civil actions, and all criminal actions, shall be removed and
22 entered before any such trial justice within said county as
23 may be agreed upon, in writing, by the parties entering an
24 appearance in such action, or if no trial justice is agreed

25 upon, before any municipal or police court in said county,
26 and such trial justice or municipal or police court shall have
27 and take cognizance of such action and dispose of the same,
28 as if originally returnable before such trial justice or court;
29 provided, that nothing in this section shall prevent any
30 action in which said city or any of the towns hereinbefore
31 mentioned shall be a party or named as trustee, from be-
32 ing heard and disposed of in said court as in other cases;
33 but in any such case the action may, upon motion of either
34 party, filed before trial, be removed to the Superior Court
35 for said county.

Sect. 8. The said court shall be held on each Monday of
2 the month, at nine o'clock in the forenoon, for the trans-
3 action of civil business, and all civil processes shall be made
4 returnable at that time. The judge or recorder shall be
5 at the court room whenever it is necessary to attend to
6 criminal matters.

Sect. 9. Said municipal court may render judgment and
2 issue execution, punish for contempt and compel attend-
3 ance, as in the superior 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. 10. The salary of said judge shall be eight hun-
2 dred dollars and such fees as are allowed by the general
3 law, and the same shall be payable quarterly out of the

4 treasury of the county of Kennebec, on the first days of
5 January, April, July and October. All fines and costs re-
6 ceived in criminal cases, shall be paid quarterly into the
7 county treasury; and no salary shall be paid to said judge
8 until he shall file with the county treasurer, a written state-
9 ment of the fines and criminal costs by him received during
10 and for the preceding quarter.

Sect. 11. The said recorder shall receive an annual sal-
2 ary of three hundred dollars in full for all services, pay-
3 able quarterly from the treasury of the county of Kennebec,
4 on the first days of January, April, July and October.

Sect. 12. Sections eleven, twelve, thirteen, fourteen and
2 fifteen of the charter of the city of Gardiner, and all amend-
3 ments to said sections, are hereby repealed, and all exist-
4 ing acts, public and private, inconsistent with the preced-
5 ing sections, are hereby modified, so far as relates to the
6 city of Gardiner, so as to conform with their provisions.