

MAINE STATE LEGISLATURE

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SEVENTY-FIFTH LEGISLATURE

HOUSE

NO. 103

House of Representatives, Feb. 2, 1911.

Introduced by Mr. Weymouth of Saco, who moved its reference to the Committee on Legal Affairs. By him tabled 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 to abolish the municipal court of the City of Biddeford, the municipal court of the City of Saco and the Sanford Municipal Court, and to establish the Northern York Municipal Court, the Eastern York Municipal Court, the Western York Municipal Court and the Southern York Municipal Court.

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

Section 1. The municipal court of the City of Biddeford is hereby abolished.

Sect. 2. The municipal court of the City of Saco is hereby abolished.

Sect. 3. The Sanford Municipal Court is hereby abolished.

Sect. 4. A municipal court is hereby established in and for

2 the towns of Parsonsfield, Cornish, Limington, Limerick,
3 Waterboro, Newfield, Shapleigh, Acton, Lebanon, Alfred and
4 Sanford, in the County of York and State of Maine, said
5 towns constituting a municipal district, to be denominated
6 and styled the "Northern York Municipal Court," which
7 shall be a court of record and have a seal. Said court shall
8 consist of one judge who shall be, at the time of his appoint-
9 ment, a duly qualified resident within the said municipal dis-
10 trict, and a member of the bar in York County, and shall re-
11 side, during his continuance in said office, within the limits of
12 said district, and who shall be appointed, qualified, and hold
13 his office for the term of four years from the date of appoint-
14 ment. And he shall be ex officio a Justice of the Peace for
15 the State over all matters and things by law within their
16 jurisdiction throughout the County of York, and such au-
17 thority and jurisdiction additional thereto as is hereinafter
18 conferred upon him by this act.

Section 5. A municipal court is hereby established in and
2 for the City of Biddeford and the towns of Kennebunkport,
3 Kennebunk, Lyman, Dayton and Wells in the County of
4 York and State of Maine, said city and towns to constitute a
5 municipal district to be denominated and styled the "Western
6 York Municipal Court," which shall be a court of record and
7 have a seal. Said court shall consist of one judge who shall
8 be, at the time of his appointment, a duly qualified resident
9 within the said municipal district, and a member of the bar
10 in York County, and shall reside, during his continuance in

11 said office, within the limits of said district, and who shall be
12 appointed, qualified, and hold his office for the term of four
13 years from the date of appointment. And he shall be ex
14 officio a Justice of the Peace for the State over all matters
15 and things by law within their jurisdiction throughout the
16 County of York, and such authority and jurisdiction addi-
17 tional thereto as is hereinafter conferred upon him by this
18 act.

Sect. 6. A municipal court is hereby established in and for
2 the City of Saco and the towns of Old Orchard, Buxton and
3 Hollis in the County of York and State of Maine, said city
4 and towns constituting a municipal district, to be denominat-
5 ed and styled the "Eastern York Municipal Court," which
6 shall be a court of record and have a seal. Said court shall
7 consist of one judge who shall be, at the time of his appoint-
8 ment, a duly qualified resident within the said municipal dis-
9 trict, and a member of the bar in York County, and shall
10 reside, during his continuance in said office, within the limits
11 of said district, and who shall be appointed, qualified, and
12 hold his office for the term of four years from the date of
13 appointment. And he shall be ex officio a Justice of the
14 Peace for the State over all matters and things by law within
15 their jurisdiction throughout the County of York, and such
16 authority and jurisdiction additional thereto as is hereinafter
17 conferred upon him by this act.

Sect. 7. A municipal court is hereby established in and for
2 the towns of North Berwick, Berwick, South Berwick, Kit-

3 tery, Eliot and York in the County of York and State of
4 Maine, said towns constituting a municipal district to be de-
5 nominated and styled the "Southern York Municipal Court,"
6 which shall be a court of record and have a seal. Said court
7 shall consist of one judge who shall be, at the time of his ap-
8 pointment, a duly qualified resident within the said municipal
9 district, and a member of the bar in York County, and shall
10 reside, during his continuance in said office, within the limits
11 of said district, and who shall be appointed, qualified, and
12 hold his office for the term of four years from the date of
13 appointment. And he shall be ex officio a Justice of the
14 Peace for the State over all matters and things by law within
15 their jurisdiction throughout the County of York, and such
16 authority and jurisdiction additional thereto as is hereinafter
17 conferred upon him by this act.

Sect. 8. The Governor, by and with the advice and consent
2 of the Council, shall appoint a recorder of each of said
3 courts, who at the time of his appointment shall be a member
4 of the York county bar in good standing and a duly qualified
5 resident within municipal district for which he is appointed.
6 He shall keep the records of said court when requested so to
7 do by the judge, and in case of the absence from the court
8 room, or sickness of the judge, or when the office of judge
9 shall be vacant, the recorder shall have and exercise all the
10 powers of judge, and perform all the duties required of the
11 judge by this act, and shall be empowered to sign and issue
12 all processes and papers and do all acts as fully and with the

13 same effect as the judge could do were he acting in the
14 premises, and the signature of the recorder as such shall be
15 sufficient evidence of his right to act instead of the judge
16 without any recital of the provisions of this act herein above
17 authorizing him to act. When the office of judge is vacant in
18 any of said courts the recorder thereof shall be entitled to a
19 salary at the same rate as the salary of the judge during said
20 vacancy only. He shall be ex officio a Justice of the Peace
21 throughout the county and hold his office for four years.

If the judge or recorder should remove from the district
23 during his term within the office he shall thereby vacate his
24 office.

Sect. 9. Said courts shall have additional jurisdiction as
2 follows:

(a) Exclusive jurisdiction of all such criminal offenses
4 and misdemeanors committed within the said municipal dis-
5 tricts as are cognizable by trial justices.

(b) Concurrent jurisdiction to issue process in the county
7 of York of all like offenses and misdemeanors, not herein
8 placed within their exclusive jurisdiction, when committed in
9 said county, wherein some other municipal court has ex-
10 clusive jurisdiction.

(c) Original jurisdiction concurrent with the supreme ju-
12 dicial court of all offenses committed in said municipal dis-
13 tricts when the alleged value of the property exceeds ten dol-
14 lars, but does not exceed one hundred dollars.

(d) Of the offenses described in Section twenty-eight of

16 Chapter one hundred and nineteen of the Revised Statutes.

(e) Of the offenses described in Sections one, four and
18 five of Chapter one hundred and twenty-seven of the Revised
19 Statutes when the alleged value of the property fraudulently
20 obtained, mortgaged or sold, or fraudulently removed or con-
21 cealed, does not exceed one hundred dollars, or where the
22 amount of which such inn-keeper or boarding-house keeper
23 and the owner thereof has been defrauded does not exceed
24 one hundred dollars.

And on conviction may punish for their said offenses by fine
26 not exceeding one hundred dollars and by imprisonment in
27 the county jail for not more than six months.

(f) Also of the offenses described in Section six of Chap-
29 ter one hundred and twenty-five of the Revised Statutes, and
30 on conviction may punish therefor as provided by law.

(g) Of all offenses described in Sections twenty-six and
32 thirty-one of Chapter one hundred and twenty-nine of the
33 Revised Statutes relating to tramps, and may punish as there-
34 in provided.

(h) Exclusive original jurisdiction in all civil actions
36 wherein the debt or damage demanded does not exceed
37 twenty dollars, and both parties, or any defendant, or any
38 plaintiff provided any defendant in the same action resides
39 within said county of York and is not within the exclusive
40 jurisdiction of any other court, or any person summoned as
41 trustee, reside, or has his last and usual place of abode in said
42 municipal districts, or any defendant, not a resident of said

43 York county, if he is found within and legal service is made
44 on him within said municipal districts, provided any plaintiff
45 in said action resides in said municipal districts; or goods, es-
46 tate, effects, or credits of any defendant are found within
47 said municipal districts and attached on the original writ, and
48 services in this instance shall be made as provided in Section
49 twenty-one of Chapter eighty-three of Revised Statutes; in-
50 cluding prosecution for penalties in which any of said towns
51 are interested, and of actions for forcible entry and detainer
52 arising therein.

And shall also have exclusive jurisdiction over all offenses
54 committed against the ordinances and by-laws of the several
55 towns of said municipal districts.

(i) Original jurisdiction concurrent with the supreme ju-
57 dicial court in said county of York of all civil actions, which
58 are not within the exclusive jurisdiction of some other mu-
59 nicipal court of said county of York, in which the debt or
60 damages demanded exceed twenty dollars, but do not exceed
61 three hundred dollars, and both parties, or any defendant, or
62 any plaintiff provided any defendant in the same action re-
63 sides within said county of York, or any person summoned
64 as trustee, reside, or has his last and usual place of abode in
65 said county of York, or any defendant, not a resident of said
66 county of York, if he is found within and legal service is
67 made on him within said county of York, provided any
68 plaintiff in said action resides in said county of York; or
69 goods, estate, effects, or credits of any defendant are found

70 within said county of York and attached on the original writ,
71 and service in this last instance shall be made as provided in
72 Section twenty-one of Chapter eighty-three of Revised Stat-
73 utes; provided also that any action wherein the debt or dam-
74 age demanded exceeds twenty dollars shall, on motion of the
75 defendant filed at the return term, or by agreement of the
76 parties in writing at any subsequent term, be removed into
77 the supreme judicial court or any other municipal court in
78 said York county if the defendant, at the time of filing said
79 motions or agreements, pays into the court the fee of the
80 courts above for entering said action therein and the fees of
81 the court for the necessary copies which shall be the same as
82 for copies in cases carried up on appeal. The judge shall
83 then file in the municipal or supreme judicial court at its
84 next term in the county an attested copy of the writ in such
85 action and of such motion or written agreement, and his
86 order thereon for the removal of said action, and shall pay
87 the recorder or clerk of courts above his fee for entering
88 said action. The amount paid by the defendant shall be
89 certified to the court named and shall be taxed in his costs
90 if he shall prevail. In any case in which any of the towns
91 of said municipal districts is a party, or is summoned as
92 trustee, these courts shall not lose jurisdiction by reason of
93 residence or ownership of property in such towns by the
94 judge, but in such case the action may, upon written motion
95 of either party filed at the return term, be removed from
96 any municipal court in the county to the supreme judicial
97 court.

Any action civil or criminal in which the judge may be interested or related to either of the parties by consanguinity or affinity within the sixth degree according to the rules of the civil law, or within the degree of second cousin inclusive, but which would otherwise be within the exclusive jurisdiction of the courts, may be brought in and disposed of in any of said courts, before its judge, if the parties thereto, by agreement, waive the objection, or before the recorder of any of said courts, or in any other of the municipal courts in the county in the same manner and with like effect as other actions brought therein.

Sect. 10. Nothing in the foregoing Section shall be construed to give said courts any authority exceeding that of trial justice to hear and determine any civil action in which the title to real estate, according to the pleadings or brief statement filed therein by either party, is in question, but all such actions brought therein shall be removed to the supreme judicial court in the county, or otherwise disposed of as provided in Section three of Chapter eighty-five of the Revised Statutes.

Sect. 11. Said courts shall have authority to administer all necessary oaths or affirmations; to adopt an official seal; to hear and determine civil causes before it, and to render judgment therein and issue executions upon the same, such executions except when otherwise provided by law to have the same force and be satisfied in the same manner as if issued by the supreme judicial court, to compel the attendance of witnesses

8 and punish persons duly summoned as witnesses if they re-
9 fuse or neglect to attend; to make and enforce such rules and
10 regulations not repugnant to law as may be necessary therein
11 for the prompt administration of justice; and all the pro-
12 visions of law relating to proceedings and practice in the
13 supreme judicial court, and to the attachment of real and
14 personal estate, the taxation of costs, the rendition of judg-
15 ments and the issuing, service, satisfaction and return of exe-
16 cutions, shall be extended to and apply to said municipal
17 courts and to proceedings therein except so far as such appli-
18 cation may be modified by the provisions of this act.

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

Sect. 13. Said courts shall be held on the second and
2 fourth Tuesdays of each month for the entry, trial and de-
3 termination of civil actions of all kinds that may lawfully be

4 brought before them and for the transaction of other civil
5 business, at nine of the clock in the forenoon, at such suitable
6 place as each judge may determine, and all civil processes
7 shall be made returnable accordingly. Said courts may be
8 adjourned from time to time by the judge at his discretion,
9 but shall be considered in constant session for the cognizance
10 of criminal actions. Provided that if at any regular or ad-
11 journed term of said courts to be held for civil business
12 neither the judge nor recorder is present at the place used for
13 holding said court, then it may be adjourned from day to day
14 by any other judge or trial justice, or justice of the peace,
15 without detriment to any action then returnable or pending,
16 until the judge or recorder can attend, when said action may
17 be entered or disposed of with the same effect as if it were
18 the first day of the term; and it may be so adjourned without
19 day when necessary, in which event pending actions shall be
20 considered as continued, and actions then returnable may
21 be returned and entered at the next term with the same effect
22 as if originally made returnable at said term. The judge,
23 trial justice, or justice of the peace who continues said court
24 as aforesaid shall note on the docket thereof the fact that
25 the judge and recorder were absent and the time to which
26 said court stands adjourned, and shall sign the same, and
27 need not keep any other record thereof.

Sect. 14. It shall be the duty of said judges of said courts
2 to make and keep the records thereof, or cause the same to
3 be so 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 or recorder shall be legal evi-
6 dence in all courts.

Sect. 15. Any party may appeal from any judgment or
2 sentence of said courts to the supreme judicial court in the
3 same manner as from a judgment or sentence of a trial
4 justice.

Sect. 16. Actions in said courts shall be entered on the
2 first day of the term, and not afterward, save by permission
3 of the other party, or special permission of the judge. When
4 a defendant legally served, fails to enter his appearance, by
5 himself or his attorney on the first two days of the return
6 term, he may be defaulted, but if he afterward appear during
7 the term the court may for sufficient cause permit the default
8 to be taken off. But it can not be taken off after the first term
9 without consent of the plaintiff, unless the judge shall make a
10 special order to that effect after notice to and an opportunity
11 for a hearing for the plaintiff.

Pleas and motions in abatement must be filed on the first day
13 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 defense 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 to file them accordingly, and shall notify

21 the defendant thereof in such a manner as he deems proper.
22 If the defendant in such case does not file his pleadings on or
23 before the first day of the next term he shall be defaulted,
24 unless 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 term,
34 on proving such notice, shall be in order for trial at such
35 term, but all other actions except actions of forcible entry and
36 detainer shall be contained as of course to the next term.

Actions shall be assigned for trial as follows: During term
38 time at any term either party may ask the court to assign the
39 action for trial during term time at the next or some other
40 term. The party asking the earlier assignment shall have it
41 granted. The court shall assign the case for trial as asked,
42 unless there is some good reason for the contrary, and shall
43 notify the other party of the time set for trial as he deems
44 proper.

Trials shall not be assigned for the first day of any term
46 save by consent of both parties. Any party may appear on
47 the first day of a term, and by motion show cause for a con-

48 tinuance, which the Judge may grant with or without terms,
49 as he deems right or may refuse.

To serve the best interests of the parties, trials may be had
51 at any time in or out of term time, and at any place to be pro-
52 vided by the parties thereto within said municipal districts,
53 by the consent of the parties thereto, or on motion by either
54 party and hearing granted by the Court, or by order of the
55 Court.

Sect. 17. In actions of forcible entry and detainer brought
2 in said Courts, the defendant's pleading shall be a general is-
3 sue with a brief statement of any special matters of defense,
4 and must be filed upon the first day of the return term, or
5 the defendant shall be defaulted unless the Court enlarge the
6 time, for which it may impose terms.

Sect. 18. The costs and fees allowed to parties, attorneys
2 and witnesses in all civil actions in any of said Courts in
3 which the debt or damage demanded does not exceed twenty
4 dollars, including actions of forcible entry and detainer, shall
5 be the same allowed by trial justices in actions before them,
6 except that the plaintiff, if he prevail, shall be allowed two
7 dollars for his writ, and the defendant, if he prevail, one dol-
8 lar for his pleadings, but in actions in which the debt or
9 damage demanded exceeds twenty dollars the costs and fees
10 shall be the same as allowed in the Supreme Judicial Court
11 in like actions, except that witnesses shall be allowed one
12 dollar per day and travel as in other cases. All the doings
13 and proceedings of these Courts, when not otherwise regu-

14 lated by this act, and not inconsistent herewith, shall be gov-
15 erned by the rules and laws regulating Supreme Court pro-
16 cedure.

Sect. 19. The Judges of said Courts may tax and shall be
2 allowed for their services in a civil action wherein the debt
3 or damage demanded does not exceed twenty dollars, the
4 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 dollars he may tax and shall be allowed the
7 same fees that the law allows to clerks of the Supreme Judi-
8 cial Court for like services. All said fees are to be paid him
9 by the party at whose instance the services were performed,
10 and taxed with the costs of said party if he prevail in the
11 suit, and shall be accounted for and paid over to the treasurer
12 of York County.

Each judge for his services in criminal proceedings shall be
14 entitled to fifty cents for receiving complaint and issuing a
15 warrant; seventy-five cents for entering complaint, swearing
16 witnesses, filing papers, and certifying costs to the county
17 commissioners; forty cents for taxing the costs and recording
18 judgment; ten cents for each subpoena; twenty-five cents for
19 each mittimus and each recognizance; fifty cents for making
20 and recording each libel of intoxicating liquors; twenty-five
21 cents for each order to destroy or restore such liquors; and
22 two dollars for each day actually employed in the trial of any
23 issue, said fees to be taxed in the bill of costs.

Sect. 20. The Judges shall receive all fines, forfeitures and

2 costs paid into said Courts in criminal proceedings, and shall
3 pay over all fees to the persons to whom they are allowed
4 when called for, if called for within one year. All fines and
5 forfeitures received by them, and all fees so received, but not
6 seasonably called for, and all other fees and costs they shall
7 account for and pay over at the time and in the manner re-
8 quired by law to the treasurer of York County, but no ac-
9 count required by this Section shall be deemed sufficient un-
10 less certified by oath of the Judge making the same.

Sect. 21. The City of Biddeford, the City of Saco, and the
2 town of Sanford shall provide suitable Court rooms in said
3 Biddeford, Saco and Sanford, conveniently situated, appro-
4 priately fitted up and furnished, in which to hold said Courts,
5 and keep the same in proper condition for use, and they shall
6 be deemed and denominated the Court rooms, though used
7 also for other purposes if approved by the Judges. The
8 County of York shall provide for each of said Courts an ap-
9 propriate seal, and all blanks, blank books, dockets, stationery,
10 and other things necessary for the transaction of its business;
11 and said County of York is hereby authorized to appropriate
12 money therefor.

Sect. 22. Each Judge shall receive a salary in full for all
2 services of twelve hundred dollars per annum to be paid him
3 by the County of York, and each Recorder a salary of three
4 hundred dollars per annum, payable quarterly.

Sect. 23. Trial justices are hereby restricted from exercis-
2 ing any civil or criminal jurisdiction in the towns in each of

3 said Municipal Districts, except that they may issue warrants
4 on complaints for criminal offenses committed in said towns
5 to be returned before the Municipal Court within their dis-
6 trict, and excepting also such jurisdiction as is reserved for
7 them in Section six of this act. Such restrictions shall be
8 suspended until the Judge of said Court shall enter on the
9 duties of his office. Nothing in this act shall be construed to
10 interfere with matters in said Municipal District which have
11 been brought and are pending, before trial justices, or any
12 other Municipal Court, at the time when the Judge of said
13 Court shall enter upon the duties of his office, but all such
14 matters shall be disposed of by such trial justices or Muni-
15 pal Courts the same as if this act had not passed.

Sect. 24. This act shall take effect when approved.