

# MAINE STATE LEGISLATURE

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NEW DRAFT.

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SEVENTY-FIFTH LEGISLATURE

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HOUSE

NO. 708

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*House of Representatives, Mar. 21, 1911.*

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

*C. C. HARVEY, Clerk.*

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STATE OF MAINE

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

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AN ACT to establish the Yorkshire Municipal Court.

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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 North Berwick, Berwick, South Berwick,  
3 Kittery, Eliot and York, in the county of York and State  
4 of Maine, said towns constituting a municipal district, to  
5 be denominated and styled "The Yorkshire Municipal  
6 Court," which shall be a court of record and have a seal.  
7 Said court shall consist of one judge who shall be, at the  
8 time of his appointment, a duly qualified resident within  
9 the said municipal district, and a member of the bar in  
10 York county, and shall reside, during his continuance in  
11 said office, within the limits of the said municipal district.

12 and who shall be appointed, qualified and hold his office as  
13 provided in the constitution. And he shall be ex-officio,  
14 a justice of the peace for the State and have and exercise  
15 a concurrent authority and jurisdiction with trial justices  
16 over all matters and things by law within their jurisdiction  
17 throughout the county of York, and such authority and  
18 jurisdiction additional thereto as is hereinafter conferred  
19 upon him by this act.

The Governor, by and with the advice and consent of the  
21 Council, shall appoint a recorder of said court, who at  
22 the time of his appointment shall be a member of the York  
23 county bar in good standing and a duly qualified resident  
24 within the aforesaid municipal district. He shall keep the  
25 records of said court when requested so to do by the judge,  
26 and in case of the absence from the court room, or sickness  
27 of the judge, or when the office of judge shall be vacant,  
28 the recorder shall have and exercise all the powers of judge,  
29 and perform all the duties required of the judge by this act,  
30 and shall be empowered to sign and issue all processes and  
31 papers and do all acts as fully and with the same effect as  
32 the judge could do were he acting in the premises, and the  
33 signature of the recorder as such shall be sufficient evidence  
34 of his right to act instead of the judge without any recital  
35 of the provisions of this act herein above authorizing him  
36 to act. When the office of judge is vacant the recorder  
37 shall be entitled to a salary at the same rate as the salary  
38 of the judge during said vacancy only. He shall be ex-

39 officio a justice of the peace throughout the State, and hold  
40 his office for four years.

If the judge or recorder should remove from said district  
42 during his term within the office he shall thereby vacate his  
43 office.

Sect. 2. Said court 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 trict as are cognizable by trial justices.

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

(c) Original jurisdiction concurrent with the supreme  
12 judicial court of all offenses committed in said municipal  
13 district when the alleged value of the property exceeds ten  
14 dollars, 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 Re-  
19 vised Statutes when the alleged value of the property fraud-  
20 ulently obtained, mortgaged or sold, or fraudulently re-  
21 moved or concealed, does not exceed one hundred dollars,  
22 or where the amount of which such inn-keeper or board-

23 ing-house keeper and the owner thereof has been defrauded  
24 does not exceed one hundred dollars.

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

(f) Also of the offenses described in section six of chapter  
29 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  
34 therein 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  
41 as trustee, reside, or has his last and usual place of abode  
42 in said municipal district, or any defendant, not a resident  
43 of said York county, if he is found within and legal service  
44 is made on him within said municipal district, provided any  
45 plaintiff in said action resides in said municipal district; or  
46 goods, estate, effects, or credits of any defendant are found  
47 within said municipal district and attached on the original  
48 writ, and services in this instance shall be made as provided

49 in section twenty-one of chapter eighty-three of Revised  
50 Statutes; including prosecution for penalties in which either  
51 of said towns are interested, and of actions for forcible  
52 entry and detainer 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 district.

(i) Concurrent jurisdiction with trial justices in said  
57 county of all other civil actions and other proceedings cog-  
56 nizant by them, not within the exclusive jurisdiction of this  
59 or some other court.

(j) Original jurisdiction concurrent with the supreme  
61 judicial court in said county of York of all civil actions,  
62 which are not within the exclusive jurisdiction of some  
63 other municipal court of said county of York, in which the  
64 debt or damages demanded exceed twenty dollars, but do,  
65 not exceed three hundred dollars, and both parties, or any  
66 defendant, or any plaintiff provided any defendant in the  
67 same action resides within said county of York, or any  
68 person summoned as trustee, reside, or has his last and  
69 usual place of abode in said county of York, or any defend-  
70 ant, not a resident of said county of York, if he is found  
71 within and legal service is made on him within said county  
72 of York, provided any plaintiff in said action resides in  
73 said county of York; or goods, estate, effects, or credits of  
74 any defendant are found within said county of York and  
75 attached on the original writ, and service in this last instance

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

Any action civil or criminal in which the judge may be  
101 interested or related to either of the parties by consanguin-  
102 ity or affinity within the sixth degree according to the rules

103 of the civil law, or within the degree of second cousin  
104 inclusive, but which would otherwise be within the exclu-  
105 sive jurisdiction of the court, may be brought in and dis-  
106 posed of in said court, before said judge, if the parties  
107 thereto, by agreement, waive the objection, or before the  
108 recorder of said court, or in any other municipal court in  
109 the county in the same manner and with like effect as other  
110 actions brought therein.

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

Sect. 4. Said court shall have authority to administer all  
2 necessary oaths or affirmations; to adopt an official seal;  
3 to hear and determine civil causes before it, and to render  
4 judgment therein and issue executions upon the same, such  
5 executions except when otherwise provided by law to have  
6 the same force and be satisfied in the same manner as if  
7 issued by the supreme judicial court, to compel the attend-  
8 ance of witnesses and punish persons duly summoned as  
9 witnesses if they refuse or neglect to attend; to make and  
10 enforce such rules and regulations not repugnant to law as



11 may be necessary therein for the prompt administration of  
12 justice; and all the provisions of law relating to proceed-  
13 ings and practice in the supreme judicial court, and to the  
14 attachment of real and personal estate, the taxation of  
15 costs, the rendition of judgments and the issuing, service,  
16 satisfaction and return of executions, shall be extended to  
17 and apply to said municipal court and to proceedings therein  
18 except so far as such application may be modified by the  
19 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 teste of the judge under seal of said court,  
5 and be signed by the judge or by the recorder and be of  
6 equal force and validity when signed by either. All such  
7 writs shall be made returnable at any one of the next terms  
8 of said court held not later than sixty days after the date  
9 of said writs, and service thereon may be made at any time  
10 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. 6. Said court shall be held on the first and third  
2 Wednesdays of each month for the entry, trial and deter-  
3 mination of civil actions of all kinds that may lawfully be  
4 brought before it, and for the transaction of other civil  
5 business, at nine of the clock in the forenoon, at such suit-

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

Sect. 7. It shall be the duty of said judge of said court  
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 re-  
4 quired of similar tribunals in this state, and copies of said  
5 records duly certified by said judge or recorder shall be  
6 legal evidence in all courts.

Sect. 8. 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  
4 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  
3 the other party, or special permission of the judge. When  
4 a defendant legally served, fails to enter his appearance,  
5 by himself or his attorney on the first two days of the re-  
6 turn term, he may be defaulted, but if he afterward appear  
7 during the term the court may for sufficient cause permit  
8 the default to be taken off. But it can not be taken off  
9 after the first term without consent of the plaintiff, unless  
10 the judge shall make a special order to that effect after no-  
11 tice to and an opportunity 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  
15 be the general issue with a brief statement of special matters  
16 of defense if he have any at any time after the writ is  
17 entered, and must file them before he can ask that a day  
18 be set for trial. If at any term the plaintiff files a motion  
19 asking that the defendant be ordered to file his pleadings,

20 the judge shall order the defendant to file them accordingly,  
21 and shall notify the defendant thereof in such a manner as  
22 he deems proper. If the defendant in such case does not  
23 file his pleadings on or before the first day of the next term  
24 he shall be defaulted, unless the court for good cause enlarge  
25 the time for which it may impose reasonable terms.

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

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

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

To serve the best interests of the parties, trials may be had  
52 at any time in or out of term time, and at any place to be  
53 provided by the parties thereto within said judicial district,  
54 by the consent of the parties thereto, or on motion by either  
55 party and hearing granted by the Court, or by order of the  
56 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 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. 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,  
4 including 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 for his writ, and the defendant, if he prevail, one dollar for  
8 his pleadings, but in actions in which the debt or damage  
9 demanded exceeds twenty dollars the costs and fees shall be  
10 the same as allowed in the Supreme Judicial Court in like  
11 actions, except that witnesses shall be allowed one dollar per  
12 day and travel as in other cases. All the doings and pro-

13 ceedings of this Court, when not otherwise regulated by this  
14 act, and not inconsistent herewith, shall be governed by the  
15 rules and laws regulating Supreme Court procedure.

Sect. 12. The Judge of said Court may tax and shall be  
2 allowed for his 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 de-  
6 manded exceeds twenty dollars he may tax and shall be al-  
7 lowed 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 York County.

For his services in criminal proceedings he shall be entitled  
14 to fifty cents for receiving complaint and issuing a war-  
15 rant; 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 record-  
18 ing judgment; ten cents for each subpoena; twenty-five  
19 cents for each mittimus and each recognizance; fifty cents  
20 for making and recording each libel of intoxicating liquors;  
21 twenty-five cents for each order to destroy or restore such  
22 liquors; and two dollars for each day actually employed in  
23 the trial of any issue, said fees to be taxed in the bill of  
24 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  
6 seasonably called for, and all other fees and costs he 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  
10 unless certified by oath of the Judge.

Sect. 14. The Town of South Berwick shall provide a  
2 suitable Court room in said South Berwick, conveniently  
3 situated, appropriately fitted up and furnished, in which to  
4 hold said Court, and keep the same in proper condition for  
5 use, and it shall be deemed and denominated the Court room,  
6 though used also for other purposes if approved by the  
7 Judge. The County of York shall provide for said Court  
8 an appropriate seal, and all blanks, blank books, dockets,  
9 stationery, and other things necessary for the transaction of  
10 its business; and said County of York is hereby authorized  
11 to appropriate money therefor.

Sect. 15. The Judge shall receive a salary in full for all  
2 services of one thousand dollars per annum to be paid him  
3 by the County of York, and the Recorder a salary of three  
4 hundred dollars per annum, payable quarterly.

Sect. 16. Trial justices are hereby restricted from exercis-  
2 ing any civil or criminal jurisdiction in the towns of said

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