

MAINE STATE LEGISLATURE

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SEVENTY-FIFTH LEGISLATURE

SENATE

NO. 100

In Senate, Feb. 13, 1911.

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

W. C. HANSON, Secretary.

STATE OF MAINE

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

AN ACT to abolish the Dover Municipal Court and the Milo
Municipal Court and to establish the Piscataquis Municipal
Court.

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

Section 1. The Dover Municipal Court is hereby abol-
2 ished.

Sect. 2. The Milo Municipal Court is hereby abolished.

Sect. 3. A municipal Court is hereby established in and
2 for the County of Piscataquis which shall be called the
3 Piscataquis Municipal Court and shall be a court or record
4 with a seal. All original processes issuing from said court
5 shall be under the teste of the judge, or if the office of
6 judge is vacant, of the recorder thereof, and signed by the

7 judge, or recorder thereof, and shall have the seal of said
8 court affixed.

Sect. 4. Said court shall consist of one judge who shall
2 be an inhabitant of the county of Piscataquis and shall be
3 appointed in the manner and for the term provided by the
4 constitution of this state. The said judge shall enter, or
5 cause to be entered on the docket of said court all civil
6 and criminal actions with full minutes of the proceedings
7 in and disposition of the same, which docket shall be at all
8 times open to inspection, and he shall perform all other
9 duties required of similar tribunals in this state; and
10 copies of the records of said court duly certified by the
11 judge, or recorder thereof shall be legal evidence in all
12 courts. The said judge shall not act as attorney or coun-
13 sel in any action or matter within the jurisdiction of said
14 court.

Sect. 5. A recorder may be appointed in the manner
2 provided by Article five of Section eight, of the Constitu-
3 tion, who shall keep the records of said court when re-
4 quested so to do by said judge; and in case of absence
5 from the court room of said judge, or when the office of
6 judge shall be vacant, the said recorder shall have and
7 exercise all the powers of the judge and perform all the
8 duties required of said judge by this act, and shall be em-
9 powered to sign and issue all papers and processes, and do
10 all acts as fully and with the same effect as the judge could
11 do if he were acting in the premises; and the signature of

12 the recorder as such shall be sufficient evidence of his right
13 to act instead of the judge. Said recorder shall reside in
14 the County of Piscataquis aforesaid and shall hold his said
15 office of recorder for four years.

1 Sect. 6. Said court shall have original and exclusive
2 jurisdiction as follows: First, of all cases of forcible en-
3 try and detainer respecting estates within the county of
4 Piscataquis aforesaid; second, of all such criminal offences
5 and misdemeanors committed in said county of Piscataquis
6 as are by law within the jurisdiction of trial justices; third,
7 of all offences against the ordinances and by-laws of any
8 of the towns in said Piscataquis County; provided, that
9 warrants may be issued by any trial justice in said county
10 upon complaint for offences committed in said County of
11 Piscataquis, but all such warrants shall be made returnable
12 before said court and no other municipal or police court,
13 and no trial justice, shall have or take cognizance of any
14 crime or offense committed in said county of Piscataquis;
15 provided, further, that warrants issued by any trial justice
16 in said county upon complaint for crimes and offenses com-
17 mitted in any town or unorganized place in said county,
18 shall be made returnable before said court.

Sect. 7. Trial justices in and for the county of Piscata-
2 quis shall not have the right to issue writs in civil processes
3 or determine any causes in civil actions in the county of
4 Piscataquis, and their rights and jurisdiction in criminal
5 matters are limited in accordance with the preceding Sec-

tion excepting that they may act within the provisions of Section ten and eleven hereinafter.

Sect. 8. Said court shall have original jurisdiction concurrent with the Supreme Judicial Court as follows: First, of all civil actions wherein the debt or damage demanded, exclusive of costs, does not exceed two hundred dollars, in which any person, summoned as trustee resides within the county of Piscataquis, or, if a corporation, has an established place of business in said county, or in which no trustee being named in the writ, any defendant resides in said county, or if no defendant resides within the limits of this State, any defendant is served with process in said county, or the goods, estate or effects of any defendant are found within said county and attached on the original writ; second, of the assaults and batteries described in section twenty-eight of chapter one hundred and nineteen of the Revised Statutes; of all larcenies described in sections one, six, seven, nine and eleven of chapter one hundred and twenty-one of the Revised Statutes; when the value of the property is not alleged to exceed thirty dollars, of the offense described in section twenty-one of chapter one hundred and twenty-three of the Revised Statutes; of all offenses and crimes described in sections one and four of chapter one hundred twenty-four of the Revised Statutes; of all offenses described in section six and in sections thirty-four to fifty-three inclusive, of chapter one hundred and twenty-five of the Revised Statutes; of the offense described in section

26 five of chapter one hundred and twenty-six of the Revised
27 Statutes; of all offenses described in section one of chapter
28 one hundred and twenty-seven of the Revised Statutes,
29 when the value of the property or thing alleged to have
30 been fraudulently obtained, sold, mortgaged, or pledged, is
31 not alleged to exceed thirty dollars; and of all offenses de-
32 scribed in sections two, nine, nineteen, twenty-one and twen-
33 ty-six of chapter one hundred and twenty-eight of the Re-
34 vised Statutes, when the value of the property destroyed
35 or the injury done, is not alleged to exceed thirty dollars;
36 and may punish for either of said crimes or offenses by a
37 fine not exceeding fifty dollars and by imprisonment not ex-
38 ceeding three months, provided, that when the offenses
39 described in section twenty-eight of chapter one hundred
40 and nineteen, section twenty-one of chapter one hundred and
41 twenty-three, and sections one and four of chapter one hun-
42 dred and twenty-four, are of a high and aggravated nature,
43 the judge of said Court may cause persons charged with
44 such offenses to recognize with sufficient sureties to appear
45 before the Supreme Judicial Court and in default thereof
46 commit them; third, of all other crimes, offenses and mis-
47 demeanors committed in said county which are by law pun-
48 ishable by a fine not exceeding fifty dollars, and by im-
49 prisonment not exceeding three months, and are not within
50 the exclusive jurisdiction of some other Municipal or Police
51 Court.

Sect. 9. Said Court shall not have jurisdiction of any

2 civil action wherein the title to real estate according to the
3 pleading or brief statement filed therein by either party, is
4 in question; and all such actions brought in said Court shall
5 be removed to the Supreme Judicial Court, or otherwise dis-
6 posed of as in like cases before a trial justice; provided,
7 that nothing herein contained shall prevent said court from
8 proceeding in accordance with the provisions of sections
9 six and seven of chapter ninety-six of the Revised Statutes.

Sect. 10. Any action, civil or criminal, in which the judge
2 of said Court is interested or related to either of the parties
3 by consanguinity or affinity, within the sixth degree ac-
4 cording to the rules of the civil law, or within the degree of
5 second cousins, but which would otherwise be within the
6 exclusive jurisdiction of said Court, may be brought before
7 and disposed of by any trial justice or any other municipal or
8 police court in said county, in the same manner as other
9 actions before said trial justices, or municipal or police
10 courts. If any action wherein said judge is so interested
11 or related to either party, is made returnable before this
12 Court, the parties thereto, by themselves or their attorneys,
13 may in writing consent that said judge shall hear and dis-
14 pose of the same; or the recorder thereof, if disinterested,
15 or with the written consent of the parties, if interested, may
16 hear and dispose of the same in the judge's stead, or such
17 actions shall be disposed of as follows: civil actions, where-
18 in the debt or damages demanded, exclusive of costs exceed
19 twenty dollars, shall upon motion, be removed to the Su-

20 preme Judicial Court, and all other civil actions, and all
21 criminal actions, shall be removed and entered before any
22 such trial justice within said county as may be agreed upon,
23 in writing, by the parties entering an appearance in such
24 action, or if no trial justice is agreed upon, before any mu-
25 nicipal or police court in said county, and such trial justice,
26 or municipal or police court shall have and take cognizance
27 of such action and dispose of the same, as if originally re-
28 turnable before such justice or court; provided, that noth-
29 ing in this section contained shall prevent any civil action
30 wherein the title to real estate is in question from being
31 disposed of in accordance with the provisions of the pre-
32 ceding section. In any action in which any of the towns
33 in the county is a party or is summoned as trustee, this
34 court shall not lose its jurisdiction by reason of the said
35 judge or recorder being an inhabitant of or owning property
36 in such town; but in any such case the action may, upon
37 written motion of either party, filed before trial, be removed
38 to the Supreme Judicial Court.

Sect. 11. The terms of said Court shall be held for the
2 transaction of civil business as follows, to wit:

In Dover on the 1st Wednesday of every month; in Milo on
4 the 2d Wednesday of every month; in Greenville on the 3rd
5 Wednesday of every month; and in Guilford on the 4th
6 Wednesday of every month; in such places in said towns of
7 Dover, Milo, Greenville and Guilford as said towns may
8 establish, and said towns shall at their own expense provide

9 a suitable place in which said court may be held; and all
10 civil processes shall be made returnable accordingly.

Said Court shall also be held at said Dover on every Mon-
12 day at the usual hour for the purpose of filing pleas in
13 abatement and the affidavit mentioned in section 16 of this
14 Act; and for the entry of cases of forcible entry and de-
15 tainer and such actions shall be returnable accordingly, and
16 they shall be heard and judgment shall be entered therein
17 on the return day of the writ, unless continued for good
18 cause. Provided, however, that actions of forcible entry
19 and detainer may be commenced, entered, and tried at any
20 other term of court.

For the cognizance and trial of criminal actions said Court
22 shall be considered as in constant session.

In all cases it may be adjourned from time to time by the
24 judge.

Sect. 12. 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 of holding said Court, within two hours
4 after the time of opening said Court, then any trial justice or
5 justice of the peace in the County of Piscataquis, may pre-
6 side for the purpose of entering and continuing actions and
7 filing papers in said Court, and may adjourn said Court
8 from time to time, not exceeding one week at any one time,
9 without detriment to any action returnable or pending, and
10 may, in his discretion, adjourn said Court without day, in
11 which event all actions returned or pending shall be con-

12 sidered as continued to the next term. No trial justice or
13 justice of the peace shall be disqualified from presiding for
14 the purpose mentioned in this section by reason of his be-
15 ing interested in any action returnable before or pending
16 in said Court.

Sect. 13. 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. 14. Writs and processes issued by said Court shall
2 be in the usual forms and shall be served as like precepts
3 are required to be served when issued by trial justices.

Sect. 15. All the provisions of the statutes relating to at-
2 tachment of real and personal property and the levy of exe-
3 cution shall be applicable to actions brought in this Court,
4 and executions on judgments rendered therein; provided
5 that property may be attached in addition to the ad damnum,
6 sufficient to satisfy the costs of the suit, and the writs may
7 be framed accordingly. When any action in which real
8 estate is attached shall be finally disposed of in said Court,
9 or shall be removed to the Supreme Judicial Court, by ap-
10 peal or otherwise, the judge of said Municipal Court shall
11 forthwith certify the disposition or removal thereof to the
12 register of deeds of the County of Piscataquis, who may
13 make a minute of the disposition or removal upon the record
14 of attachment in said action.

Secti 16. All civil actions in said court shall be entered on

2 the first day of the term and not afterward, except by special
3 permission; and they shall be in order for trial, except
4 actions of forcible entry and detainer at the next regular
5 monthly term after the entry if not otherwise disposed of.
6 When a defendant legally summoned fails to enter his ap-
7 pearance by himself or his attorney before twelve o'clock
8 noon, on the first day of the return term, he shall be default-
9 ed; but if he afterward appear during said term the Court
10 may for sufficient cause permit the default to be taken off.
11 Pleas in abatement must be filed on or before the Monday
12 next succeeding the date of the entry of the action. The
13 pleading shall be the same as in the Supreme Judicial Court
14 and all provisions of law relative to practice and proceed-
15 ings in civil actions in the Supreme Judicial Court, are
16 hereby made applicable and extended to this Court except so
17 far as they are modified by the provisions of this act.

Sect. 17. If any defendant is agent or attorney in any civil
2 action in this Court in which the debt or damages demanded
3 or claimed in the writ exceeds twenty dollars, shall, on or
4 before the Monday succeeding the date of entry of said
5 action file in said Court an affidavit that he has a good
6 defense to said action, and intends in good faith to make
7 such defense and claims a jury trial, and shall at the same
8 time deposit with the judge or recorder of said Court, one
9 dollar and sixty cents, for copies and entry in the Supreme
10 Judicial Court, to be taxed in his costs if he prevail, the
11 said action shall at the next regular monthly term of said

12 Municipal Court, after the entry thereof be removed into the
13 Supreme Judicial Court for said County, and shall be en-
14 tered at the next ensuing term of the Supreme Judicial
15 Court after such removal; and the judge or recorder of
16 said Municipal Court shall forthwith cause certified copies
17 of the writ, return of the officer, and all other papers in the
18 case to be filed in the clerk's office of said Supreme Judicial
19 Court.

Sect. 18. Exceptions may be alleged and cases certified on
2 an agreed statement of facts, or upon evidence reported by
3 the judge in all civil actions as in the Supreme Judicial
4 Court, and the same shall be entered, heard and determined
5 at the law term thereof as if the same had originated in the
6 Supreme Judicial Court for said County of Piscataquis; and
7 decisions of the law court in all such cases shall be certified
8 to the judge of said Municipal Court for final disposition
9 with the same effect as in cases originating in said Supreme
10 Judicial Court.

Sect. 19. Said Municipal Court may render judgment and
2 issue execution, punish for contempt and compel attendance,
3 as in the Supreme Judicial 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. 20. The costs and fees allowed to parties, attorneys
2 and witnesses, in all actions in this Court, in which the debt

3 or damages recovered shall not exceed twenty dollars, and
4 in actions of forcible entry and detainer, shall be the same
5 as allowed in similar actions before trial justices, except that
6 the plaintiff if he prevail, shall be allowed two dollars for
7 his writ, and the defendant if he prevail, shall be allowed
8 one dollar for his pleadings; and in cases where the amount
9 recovered shall exceed twenty dollars the costs and fees of
10 parties, attorneys and witnesses shall be the same as in the
11 Supreme Judicial Court, except that the defendant, if he
12 prevail, shall be allowed two dollars for his pleadings.

Sect. 21. The judge of said Court may demand and re-
2 ceive the same fees allowed by law to trial justices and
3 clerks of the Supreme Judicial Court for similar services,
4 except that he shall receive for every blank writ signed by
5 him three cents; for the entry of each civil action, fifty cents;
6 for every warrant issued by him one dollar; for the trial of
7 an issue in civil or criminal cases, one dollar for the first
8 day and two dollars for each subsequent day actually em-
9 ployed; and said fees for the trial of an issue in civil actions
10 shall be paid by the plaintiff before proceeding with the
11 trial each day, to be taxed in his costs if he prevail.

An accurate account of the fees so received by said judge
13 shall be by him laid before the county commissioners of
14 Piscataquis County, and he shall pay the same into the
15 county treasurer of said county quarterly on or before the
16 first days of January, April, July and October of each year.

The judge of said Court shall receive the salary of twelve

18 hundred dollars per year, to be taxed as a part of the costs
19 to be paid him in quarterly payments from the county treas-
20 ury of Piscataquis County, which shall be in full for his
21 services as such judge.

Said salary shall not be paid until said judge shall have
23 paid into the county treasury all fees so received by him.
24 Said recorder shall be paid for all services by said judge.

Sect. 22. Nothing contained in this act shall be construed
2 to interfere with such actions returnable before a trial jus-
3 tice or a Municipal or Police Court as shall be commenced
4 before this act takes effect, and all said actions shall be dis-
5 posed of as if this act had not been passed.

Sect. 23. For the purpose only of closing the business
2 pending in the Dover Municipal Court, and in the Milo
3 Municipal Court, at the time of the approval of this act,
4 the entire jurisdiction thereof, civil and criminal, shall be
5 conferred upon the Piscataquis Municipal Court, which
6 court shall issue all executions or other processes necessary
7 to carry into effect any judgment, order or decree of the
8 Dover Municipal Court or of the Milo Municipal Court.
9 All complaints, civil suits, recognizances, appeals in civil or
10 criminal cases, and all other processes, civil or criminal,
11 pending in said Dover Municipal Court, or in said Milo Mu-
12 nicipal Court, shall be transferred forthwith to the Piscata-
13 quis Municipal Court, to be entered on the docket thereof,
14 and be heard and disposed of as if originally entered in said
15 Dover Municipal Court or said Milo Municipal Court; and

16 all writs, petitions, warrants, and all processes whatever,
17 returnable to said Dover Municipal Court or to said Milo
18 Municipal Court, shall be returnable to and be entered on
19 the docket of said Piscataquis Municipal Court, and shall
20 be heard and disposed of in said Piscataquis Municipal
21 Court as if originally entered therein. The judgments, de-
22 cisions, orders and decrees of the Supreme Judicial Court,
23 at any law term, made in cases originating in said Dover
24 Municipal Court or in said Milo Municipal Court shall be
25 certified to the recorder of the Piscataquis Municipal Court.
26 All records of the Dover Municipal Court and of the Milo
27 Municipal Court, and the custody of the same, shall be
28 transferred to the recorder of the Piscataquis Municipal
29 Court, to whose attestation of the same, or their contents,
30 full faith shall be given.

Sect. 24. It shall be the duty of the county commissioners
2 of the County of Piscataquis to furnish and provide at the
3 expense of the county all books, blanks, and all necessary
4 stationery and supplies required for the use of the Piscata-
5 quis Municipal Court in the transaction of the civil and
6 criminal business of said court, including proper books for
7 the record of all cases arising in said court. The records
8 of all cases when completed shall be kept in a fire proof
9 vault in the Court House in said Dover.

Sect. 25. All acts or parts of acts conflicting with section
2 twenty-five of this act are hereby repealed.