

MAINE STATE LEGISLATURE

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SEVENTY-SIXTH LEGISLATURE

HOUSE

NO. 226

House of Representatives, Feb. 13, 1913.

Tabled pending reference to a committee by Mr. Sanborn of South Portland, and ordered printed.

W. R. ROIX, Clerk.

STATE OF MAINE

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

AN ACT to give uniformity of Jurisdiction and Procedure to
Municipal Courts.

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

Section 1. The judges of all municipal courts which are
2 or hereafter may be established within the state, except
3 when interested, shall have and exercise concurrent juris-
4 diction with trial justices over all such matters and things
5 civil and criminal within their respective counties as are
6 by law cognizable by trial justices concurrent jurisdiction
7 with justices of the peace to hear accusations in bastardy
8 and to issue warrants thereon wherein the complainant is
9 an inhabitant of the city, town or group of municipalities

10 for which the court was created; exclusive jurisdiction in
11 cases of forcible entry and detainer where the premises in
12 question are situated in such city, town or group of munic-
13 ipalities; exclusive jurisdiction in all civil actions if other-
14 wise cognizable by a trial justice in which a defendant or
15 a person summoned in good faith as a trustee is a resident
16 or inhabitant of such city, town or group or municipalities;
17 concurrent jurisdiction with the supreme judicial court or
18 in counties having a superior court, with such superior
19 court, in all civil actions at law, subject to the exceptions
20 hereinafter made, where the sum to be recovered as debt
21 or damage does not exceed three hundred dollars in which
22 any defendant or a person summoned in good faith as a
23 trustee is a resident or inhabitant of the county in which
24 such municipal court is located. Except that no municipal
25 court shall have jurisdiction in divorce, actions of trespass,
26 quare clausum, flowage cases, actions brought under the
27 Mill Act, so called, or actions wherein the title to real
28 estate according to the pleadings or brief statement filed
29 by either party, is in question, and all such actions brought
30 in a municipal court shall be removed to the supreme judi-
31 cial court or superior court according to their respective
32 jurisdiction, in the county or otherwise disposed of as pro-
33 vided in section three of chapter eighty-five of the Revised
34 Statutes. Writs issued by any municipal court may be
35 made returnable before any other municipal court having
36 jurisdiction of the cause and parties.

Municipal courts as aforesaid shall have and exercise exclusive jurisdiction of all offences against the ordinances or by-laws of the city, town or group of municipalities for which such courts are created or of any village corporation existing therein. They may take cognizance of all offences which may be punished by fine not to exceed one hundred dollars or by imprisonment in the county jail not exceeding six months or punishable by commitment to the industrial school for girls, to the State school for boys, or to any other penal or reformatory institution except the State prison, and of all offences for which punishment may be imposed without presentment by a grand jury. In prosecutions or ordinances or by-laws they need not be recited in complaint nor need the allegations therein be more particular than in prosecutions on a public statute.

Sect. 2. When any judge of a municipal court is interested in any matter otherwise cognizable by him, or is related to either of the parties within the degree of second cousin inclusive, the same shall be acted upon by the recorder or clerk if any and not so interested or related; otherwise the matter shall be cognizable by any such other municipal court as might have jurisdiction if the court whose judge is so interested or related did not exist, unless the parties by agreement waive the objection and consent to its disposal by the court where pending.

Sect. 3. Return days for all civil process in municipal courts shall be every Tuesday at nine o'clock in the fore-

3 noon, which time shall be the opening of their respective
4 terms, the final adjournment of which shall be the follow-
5 ing Saturday at noon; process shall be served on individual
6 defendants seven days before the return day thereof and
7 in case the sum claimed as debt or damage exceeds twenty
8 dollars it shall be served fourteen days before the return
9 day, and in such latter case the ad damnum shall not ex-
10 ceed twice the amount so claimed. No writ or process
11 shall be served more than sixty days before the sitting of
12 the court at which the same is made returnable.

Sect. 4. If at any regular or adjourned term of a munic-
2 ipal court to be held for civil business neither the judge
3 nor recorder is present at the place used for holding said
4 court within two hours after the time for opening said
5 court, then it may be adjourned from day to day by any
6 trial justice, or justice of the peace, without detriment to
7 any action then returnable or pending, until the judge or
8 recorder can attend, when actions may be entered or dis-
9 posed of with the same effect as if it were the first day
10 of the term; and it may be so adjourned without day when
11 necessary, in which event, pending actions shall be consid-
12 ered as continued, and actions then returnable may be re-
13 turned and entered at the next term with the same effect
14 as if originally made returnable at said term. The trial
15 justice, or justice of the peace who continues said court as
16 aforesaid shall note on the docket thereof the fact that the
17 judge and recorder were absent and time to which said court

18 stands adjourned, and shall sign the same, and need not
19 keep any other record thereof.

Sect. 5. 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, 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 dur-
7 ing the term the court may for sufficient cause permit the
8 default to be taken off. But it cannot be taken off after
9 the first term without consent of the plaintiff, unless the
10 judge shall make a special order to that effect after notice
11 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 be
15 the general issue with a brief statement of special matters
16 of defense if he have any at any time after the writ is en-
17 tered, and must file them before he can ask that a day be
18 set for trial. If at any term the plaintiff files a motion ask-
19 ing that the defendant be ordered to file his pleadings, the
20 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 en-
25 large the time for which it 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
28 remain so until tried or otherwise disposed of finally, un-
29 less continued by consent, or on motion of either party for
30 good cause shown, in which latter case the court may im-
31 pose such terms as it deems reasonable.

Actions in which one party has given to the other ten 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, on such day thereof as the court may by rule or
36 special order designate but all other actions of forcible entry
37 and detainer shall be continued as of course to the next
38 term.

Actions shall be in order for trial according to the follow-
40 ing rules:

I. Actions will be regularly disposed of on the first day
42 of the next term following that of their entry.

II. During term time at any time either party may ask
44 the court to assign an action for trial during term time, at
45 the next or any following term, and the court shall there-
46 upon assign the case for trial at such time as, having ref-
47 erence to requests and to other considerations, seems to him
48 proper and shall notify the parties of the time set for trial
49 as he deems proper.

III. Any party may appear on the first day of a term,
51 and by motion show cause for a continuance, which the

52 judge may grant with or without terms, as he deems right
53 or may refuse.

Sect. 6. In all civil actions in which the amount sued for
2 shall not exceed twenty dollars, the same costs shall be taxed
3 and allowed as in actions before trial justices, except that
4 the fee for entry shall be thirty cents and that the plaintiff,
5 if he prevails, shall have two dollars for his writ. In all
6 actions in which the amount sued for shall exceed twenty
7 dollars the costs and fees of parties, witnesses and attor-
8 neys shall be the same as in the Supreme Judicial Court, or
9 in counties having a Superior Court, in such Superior Court,
10 except that the defendant, if he prevail, shall be allowed
11 two dollars for his pleadings.

Sect. 7. If any defendant in any action in any municipal
2 court, where the amount claimed in the writ exceeds twenty
3 dollars, or his agent or attorney, shall, on the return day
4 of the writ, file in said court his pleadings, and a motion
5 asking that said action be removed to the Supreme Judicial
6 Court or in counties having a Superior Court to such Su-
7 perior Court, and deposit with the judge the sum of two
8 dollars and ten cents for copies and entry fee in said Su-
9 preme Judicial Court or Superior Court to be taxed in his
10 costs if he prevail, the said action shall be removed to the
11 Supreme Judicial Court or to the Superior Court. The
12 judge shall forthwith cause certified copies of the writ,
13 officer's return, and defendant's motion and pleadings, to
14 be filed in the office of the Clerk of Courts within ten days.

15 and shall pay the entry fee thereof and said action shall be
16 entered on the docket of the following term of the court
17 to which such action is removed, unless such court shall then
18 be in session, when it shall be entered forthwith, and shall
19 be in order for trial at that term. If no such motion and
20 pleadings are filed, the municipal court shall proceed and
21 determine said action, subject to the right of appeal as now
22 provided by law. The pleadings in such cases shall be the
23 same as in the Supreme Judicial Court or Superior Court.

Sect. 8. Executions may issue on Monday following the
2 end of the term at which final judgment is rendered and at
3 any time thereafter not contrary to law.

Sect. 9. Actions may be referred, and judgment on the
2 referee's report may be rendered, in the same manner and
3 with the same effect as in the Supreme Judicial Court or
4 Superior Court.

Sect. 10. All provisions of the statute relating to the at-
2 tachment of real and personal property and to levy of exe-
3 cution shall be applicable to actions brought in municipal
4 courts and to executions on judgments rendered therein.

Sect. 11. Any person aggrieved by any sentence or judg-
2 ment of a municipal court may appeal therefrom under such
3 recognizance as the court may require.

Sect. 12. Municipal courts shall be considered in constant
2 session as to criminal matters and accusations in bastardy.

Sect. 13. No person shall hereafter be eligible for ap-
2 pointment to the office of judge of a municipal court who

3 shall not have previously served in such capacity in this
4 state or be an attorney at law.

Sect. 14. All judges of municipal courts shall be ex-officio
2 justices of the peace and notaries public.

Sect. 15. All enactments relating to the several municipal
2 courts contrary to or inconsistent with the provisions of
3 this act are hereby repealed.