

MAINE STATE LEGISLATURE

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NEW DRAFT.

SEVENTY-SIXTH LEGISLATURE

HOUSE

NO. 643

House of Representatives, March 22, 1913.

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

W. R. ROIX, Clerk.

STATE OF MAINE

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

AN ACT to establish a municipal court in the town of
Readfield.

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 Readfield, Vienna, Mt. Vernon, and Fayette
3 in the county of Kennebec, and shall have concurrent ju-
4 risdiction with the Winthrop Municipal Court in and for
5 the town of Wayne in said county, to be denominated as the
6 Readfield Municipal Court; said court shall consist of one
7 judge, who shall reside during his continuance in said of-
8 fice, in said town of Readfield or Mt. Vernon, and who shall
9 be appointed, qualified and hold his office as provided in the

10 constitution, and who shall be, ex-officio, a justice of the
11 peace and of the quorum, and have and exercise concurrent
12 authority and jurisdiction with trial justices over all mat-
13 ters and things by law within their jurisdiction, and such
14 authority and jurisdiction additional thereto as is conferred
15 upon him by this act.

Sect. 2. Said court shall have jurisdiction as follows:
2 exclusive jurisdiction of all such criminal offenses and mis-
3 demeanors committed within said towns of Readfield, Vien-
4 na, Mt. Vernon, and Fayette as are cognizable by trial jus-
5 tices, and concurrent jurisdiction with the Winthrop Mu-
6 nicipal Court in and for the town of Wayne in Kennebec
7 County. Exclusive original jurisdiction of all civil ac-
8 tions, wherein the debt or damage demanded do not exceed
9 twenty dollars, and both parties, or any plaintiff, and a per-
10 son summoned as trustee, resides in either of the towns of
11 Readfield, Mt. Vernon, Vienna, or Fayette and concurrent
12 jurisdiction with the Winthrop Municipal Court in and for
13 the town of Wayne, including prosecutions for penalties in
14 which either of said towns are interested, and actions of
15 forcible entry and detainer arising therein; provided, that
16 any civil action, in which the judge is interested, but which
17 otherwise would be within the exclusive jurisdiction of said
18 court, may be brought in and disposed of by the Municipal
19 Court of the City of Waterville, or the Municipal Court of
20 the City of Augusta, in the same manner and with like ef-
21 fect as other actions therein.

Original jurisdiction concurrent with the Superior Court, of
23 the offenses committed in Readfield, Mt. Vernon, Vienna,
24 and Fayette, and concurrent jurisdiction with the Winthrop
25 Municipal Court for said offenses in the town of Wayne,
26 described in sections one, six, eight and ten of chapter one
27 hundred twenty-one of the Revised Statutes, when the al-
28 leged value of the property exceeds twenty dollars, but does
29 not exceed fifty dollars; of the offenses described in section
30 twenty-eight of chapter one hundred and eighteen of the
31 Revised Statutes; of the offenses described in sections one
32 and four of chapter one hundred and twenty-seven of the
33 Revised Statutes, when the alleged value of the property
33a fraudulently obtained, mortgaged or sold, or fraudulently
34 removed or concealed, does not exceed fifty dollars, and on
35 conviction may punish for either of said offenses by fine not
36 exceeding one hundred dollars and by imprisonment in the
37 county jail for not more than six months; and also of the
38 offense described in section six of chapter one hundred and
39 twenty-five of the Revised Statutes, and on conviction may
40 punish therefor by fine not exceeding fifty dollars and by
41 imprisonment in the county jail not more than thirty days;
42 and also of the offenses described in section six of chapter
43 one hundred and forty-two of the Revised Statutes, and on
44 conviction may sentence therefor to imprisonment in the
45 county jail not more than sixty days, and of the offenses
46 described in sections twenty-six and thirty-one of chapter
47 one hundred twenty-nine of the Revised Statutes, as amend-

48 ed relating to tramps, and on conviction may punish therefor
49 as therein provided. Original jurisdiction concurrent with
50 the superior court and the municipal court of the city of
51 Waterville and the municipal court of the city of Augusta,
52 of all civil actions in which the debt or damage demanded
53 exceed twenty dollars, but do not exceed two hundred dol-
54 lars and the defendant or a party summoned as trustee re-
55 sides within Kennebec County; provided, however, that any
56 action wherein the debt or damage demanded exceeds twen-
57 ty dollars, brought in said court, shall be removed by order
58 of the judge into the superior court, on motion of the de-
59 fendant, filed at the return term, if he files therewith, at the
60 same time an affidavit that he believes he has a good de-
61 fence to said action, in whole or in part, and in good faith
62 intends to make such defence, and deposits with the judge
63 the fee of the clerk of the court above for entering said ac-
64 tion therein; and when such removal has been ordered the
65 judge shall file in the superior court, at its next term in the
66 county, an attested copy of the writ in such action and of
67 said motion and affidavit, and order of the court thereon,
68 and pay to the clerk of said court the fee for entering the
69 same, for which services he shall be entitled to the same
70 fees allowed for the necessary copies in actions carried up
71 by appeal, to be paid to him by the defendant and recov-
72 ered by him with his costs, if he prevails in the suit.

Sect. 3. Nothing in the foregoing section shall be con-
2 strued to give said court any authority, exceeding that of

3 trial justices, to hear and determine any civil action in which
4 the title to real estate, according to the pleading 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
8 of 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; to
3 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 is-
7 sued by the Supreme Judicial Court; to compel witnesses,
8 and punish persons duly summoned as witnesses, if they
9 refuse or neglect to attend; to make and enforce such rules
10 and regulations not repugnant to law, as may be necessary
11 therein for the prompt administration of justice; and all
12 the provisions of law relating to proceedings and practice
13 in the Supreme Judicial Court, and to the attachment of real
14 or personal estate, the taxation of costs, the rendition of
15 judgment and the issuing, service, satisfaction and return
16 of executions, shall be extended to and apply to said mu-
17 nicipal court and to proceedings therein except so far as
18 such application may be modified by the provisions of this
19 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 or criminal, issued by said court,
4 shall bear teste of the judge under seal of said court, and be
5 signed by the judge. All such writs shall be made return-
6 able at one of the next four terms of said court held after
7 seven days, from their date, and service thereof may be
8 made at any time not less than seven days before the return
9 day thereof, except that when any defendant or trustee
10 named in any such writ is a corporation, service upon such
11 corporation must be made at least thirty days before the
12 return day.

Sect. 6. Said court shall be held on the first and third
2 Mondays of each month for the entry, trial and determina-
3 tion of civil actions of all kinds that may lawfully be brought
4 before it, and for the transaction of other civil business, and
5 upon each other Monday for the entry, trial and determina-
6 tion of actions of forcible entry and detainer only, at ten of
7 the clock in the forenoon, at such suitable place as the judge
8 may determine, until the town of Readfield shall provide a
9 court room, when the court shall be held therein, and all
10 civil processes shall be made returnable accordingly, and it
11 may be adjourned from time to time by the judge, at his
12 discretion but it shall be considered in constant session for
13 the cognizance of criminal actions, provided that, if said
14 judge is prevented by any cause from attending at the time
15 said court is to be held for civil business, it may be ad-
16 journed from day to day by a constable of Readfield or a

17 deputy sheriff of the county of Kennebec, without detri-
18 ment to any action then returnable or pending, until he can
19 attend, when said actions may be entered or disposed of
20 with the same effect as if it were the first day of the term;
21 and it may be so adjourned without day when necessary, in
22 which event, pending actions shall be considered as con-
23 tinued, and actions then returnable may be returned and
24 entered at the next term, with the same effect as if originally
25 made returnable at said term.

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 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, shall be legal evidence in all
6 courts. The judge may appoint in writing a recorder, who
7 shall be a trial justice for the county of Kennebec, duly
8 qualified, who shall be sworn by said judge, who shall keep
9 the records of said court when requested so to do by the
10 judge; and in case of absence from the court room, or sick-
11 ness of the judge, or when the office of judge shall be va-
12 cant, the recorder shall have and exercise all the powers of
13 the judge, and perform all the duties required of said judge
14 by this act, and shall be empowered to sign and issue all
15 processes and papers, and to do all acts as fully and with
16 the same effect as the judge could do were he acting in the
17 premises, and the signature of the recorder, as such, shall
18 be sufficient evidence of his right to act, instead of the judge.

19 When the office of judge is vacant, the recorder shall be
20 entitled to the fees ; in all other cases he shall be paid by the
21 judge, and shall hold his said office at the discretion of said
22 judge.

Sect. 8. Any party may appeal from any judgment or
2 sentence of said court to the superior court, in the same man-
3 ner as from a judgment or sentence of a trial justice.

Sect. 9. Actions in said court shall be entered on the first
2 day of the term, and not afterwards, except by special
3 permission. When a defendant, legally served, fails to
4 enter his appearance, by himself, or his attorney, on the
5 first two days of the return term, he may be defaulted, but
6 if he afterwards appears during the term, the court may for
7 sufficient cause permit the default to be taken off. Pleas
8 and motions in abatement must be filed on the first day of
9 the term to which the action is returnable. The defendant
10 may file his pleadings in bar, which shall be the general issue,
11 with a brief statement of special matters of defense, on the
12 return day of the writ, and must file them on or before the
13 first day of the next term, or he shall be defaulted, unless
14 the court, for good cause, enlarge the time for which it may
15 impose reasonable terms. Actions in which the defendant
16 filed his pleadings on the return day, and all actions of forci-
17 ble entry and detainer seasonably answered to shall be in
18 order for trial at the return term and shall remain so until
19 tried or otherwise disposed of finally, unless continued by
20 consent, or on motion of either party, for good cause, in

21 which latter case the court may impose such terms as it
22 deems reasonable, but all other actions, unless defaulted or
23 otherwise finally disposed of, shall be continued as of course,
24 and be in order for trial at the next term.

Sect. 10. In actions of forcible entry and detainer brought
2 in said court, the defendant's pleading at bar shall be the
3 general issue with a brief statement of any special matters
4 of defense, and must be filed upon the first day of the re-
5 turn, or the defendant shall be defaulted unless the court
6 enlarge the time, for which it may impose terms. All ac-
7 tions of forcible entry and detainer, and any other action in
8 which either party shall have given written notice to the
9 adverse party five days before the return day that he de-
10 sires a trial at the first term shall be in order for trial at the
11 return term, and so remain until tried or otherwise finally
12 disposed of unless continued by consent, or on motion of
13 either party for good cause, in which latter case the court
14 may impose reasonable terms, but all other actions not de-
15 faulted or otherwise finally disposed of, shall be continued
16 as of course, and be in order for trial at the next term.

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 as allowed by trial justices in like 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

8 dollar for his pleadings, but in actions in which the debt
9 or damage demanded exceeds twenty dollars, the costs and
10 fees shall be the same as allowed in the Supreme Judicial
11 Court in like actions, except that the defendant, if he pre-
12 vails, shall be allowed two dollars for his pleadings and that
13 witnesses shall be allowed one dollar per day, and travel
14 as in other cases.

Sect. 12. The judge of said court may tax and shall be
2 allowed for his services in a civil action the same fees, the
3 trial fee excepted, allowed by law to trial justices, for like
4 services and at the same rates, except that he shall be en-
5 titled to fifty cents for entering and recording an action,
6 and twenty-five cents for taxing the costs, and for the trial
7 of an issue in civil cases, two dollars for every day actually
8 employed, said fees to be paid him by the party at whose
9 instance the services were performed, and taxed with the
10 costs of such party if he prevail in the suit. For his ser-
11 vices in criminal proceedings he shall be entitled to seventy-
12 five cents for entering complaint, swearing witnesses, filing
13 papers, and certifying costs to the county commissioners,
14 forty cents for taxing the costs and recording judgment, ten
15 cents for each subpoena, twenty-five cents for each mitti-
16 mus and each recognizance, fifty cents for making and re-
17 cording each libel of intoxicating liquors, twenty-five cents
18 for each order to destroy or to restore such liquors and two
19 dollars for each day actually employed in the trial of an is-
20 sue, said fees to be taxed in the bill of costs, and unless paid

21 into court, to be allowed by the commissioners, and paid by
22 the County Treasurer, as provided by law in relation to
23 other criminal expenses.

Sect. 13. The Judge shall receive all fines, forfeitures and
2 costs paid into court in criminal proceedings, and may re-
3 tain from such costs his own fees, but shall pay over all
4 other fees to the persons to whom they were allowed when
5 called for, if called for within one year. All fines and for-
6 feitures received by him, and all fees so received but not
7 seasonably called for, he shall account for and pay over at
8 the time and manner required by law, but no account re-
9 quired by this section shall be deemed sufficient unless veri-
10 fied by oath of the judge.

Sect. 14. It shall be the duty of the town of Readfield to
2 provide a suitable court room in said Readfield, convenient-
3 ly situated and appropriately fitted up and furnished, in
4 which to hold said court, and keep same in proper condition
5 for use, and also to provide for said court an appropriate
6 seal, and all blanks, blank books, dockets, stationery and
7 other things necessary in the transaction of its business; and
8 said town is hereby authorized to appropriate money there-
9 for.

Sect. 15. Trial justices are hereby restricted from exer-
2 cising any jurisdiction in the towns of Readfield, Mt. Ver-
3 non, Vienna, Wayne, and Fayette over any matters or thing,
4 civil or criminal, except such as are within jurisdiction of
5 justices of the peace and quorum; provided, that said re-

6 strictions shall be suspended until the judge of said court
7 shall enter upon the duties of his office. Nothing in this
8 act shall be construed to interfere with actions which have
9 been brought and are pending before trial justices in the
10 towns of Readfield, Mt. Vernon, Vienna, Wayne, and Fay-
11 ette at the time when the judge of said court shall enter upon
12 the duties of his office but all such actions shall be disposed
13 of by such trial justices the same as if this act had not
14 passed.

Sect. 16. All acts and parts of acts, inconsistent with this
2 act are hereby repealed.