

# MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

FIFTY-SEVENTH LEGISLATURE

OF THE

STATE OF MAINE.

1878.

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PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

1878.

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shall be used in said schools, and the English language shall be used in giving instruction and directing the discipline of the same.' CHAP. 72.

Approved February 19, 1878.

**Chapter 72.**

An act to amend an act entitled "an act to incorporate the City of Calais."

*Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows :*

SECT. 1. The municipal court of the city of Calais shall hereafter be denominated the Calais Municipal Court, which shall be a court of record, with a seal, and shall consist of one judge, who shall reside in said Calais. He shall cause to be entered on the docket of said court all civil and criminal actions, with full minutes of the proceedings in and disposition of the same, which docket shall be at all times open to inspection, and he shall perform all other duties required of similar tribunals in this state; and copies of the records of said court, duly certified by said judge, shall be legal evidence in all courts. He shall not act as attorney or counsel in any action, matter or thing, within the jurisdiction of said court.

SECT. 2. The governor, by and with the advice of the council, shall appoint a recorder of said court, who shall be a trial justice for the county of Washington, reside in said Calais, and hold his office for four years. He shall be sworn by said judge, and keep the records of said court when requested so to do by said judge. In case of absence from the court room, or sickness of the judge, or when the office of judge shall be vacant, the recorder shall have and exercise all the powers of said judge, and perform all the duties required of said judge by this act, and the signature of the recorder, as such, shall be sufficient evidence of his right to act instead of the judge. In the absence of both judge and recorder, any justice of the peace of the city of Calais may preside for the purpose of entering and continuing actions and filing papers in said court, and may adjourn the same from day to day, or till the next regular term.

Calais municipal court.

—seal.

—judge.

—docket entries.

Certified copies, legal evidence.

Judge shall not act as attorney within jurisdiction of said court.

Recorder, appointment, qualification and duties.

In absence of judge and recorder, justice of peace may preside.

## CHAP. 72.

Jurisdiction.

SECT. 3. Said court shall have exclusive original jurisdiction of all civil actions in which the debt or damages demanded do not exceed twenty dollars, and both parties, or one of the parties and a person summoned in good faith and on probable grounds as trustee, reside in said city of Calais, and shall have exclusive original jurisdiction of all offenses committed against the ordinances and by-laws of said city, and all such criminal offenses and misdemeanors committed therein as are cognizable by trial justices; *provided*, that warrants may be issued upon complaints for offenses committed in said city of Calais, by any trial justice in said county, but all such warrants shall be made returnable before said court, and no trial justice shall take cognizance of any crime or offense committed in said city, or any civil action of which said court has exclusive jurisdiction. Said court shall have original jurisdiction concurrent with trial justices, of all such matters and things, civil and criminal, within the county of Washington, as are by law within the jurisdiction of trial justices in said county.

Proviso.

Concurrent jurisdiction with trial justices.

Concurrent jurisdiction with S. J. court, in what causes.

SECT. 4. Said court shall have original jurisdiction concurrent with the supreme judicial court, of all civil actions in which the debt or damages demanded, exclusive of costs, do not exceed one hundred dollars, in which either party, or a person summoned in good faith and on probable grounds as trustee, resides in the county of Washington, or having his residence beyond the limits of this state, is served with process within said county. And said court shall have original jurisdiction concurrent with the supreme judicial court in said county, of all larcenies described in sections one, six, seven, eight and nine of chapter one hundred and twenty of the revised statutes, when the value of the property is not alleged to exceed thirty dollars; of all the cases of cheating by false pretences described in section one of chapter one hundred and twenty-six of the revised statutes, when the value of the property or other thing alleged to have been fraudulently obtained or sold does not exceed thirty dollars; of the assaults and batteries described in section twenty-eight of chapter one hundred and eighteen of the revised statutes, and of the offense described in section six of chapter one hundred and twenty-four of the revised statutes, and may punish for either of said offenses by fine not exceeding fifty dollars, and by imprisonment not exceeding three months;

and of all other crimes, offenses and misdemeanors committed in said county which are by law punishable by fine not exceeding fifty dollars, and by imprisonment not exceeding three months; provided, that said court shall not try civil actions in which the title to real estate, according to the pleadings filed in the case by either party, is in question, except as provided in chapter ninety-four, sections six and seven of the revised statutes.

SECT. 5. A term of said court shall be held on the third Tuesday of each month, beginning at ten o'clock in the forenoon, at such place in the city of Calais as said city shall provide, for the transaction of civil business, and all civil processes shall be made returnable accordingly; *provided, however,* that said court shall be held on every Tuesday at the usual hour, for the entry and trial of actions of forcible entry and detainer, and such actions shall be returnable accordingly, and be heard and determined, and judgment entered on the return day of the writ, unless continued for good cause. Said court may adjourn from time to time, but shall be considered as in constant session for the trial of criminal offenses.

Terms to be held third Tuesday of each month.

Proviso.

SECT. 6. Writs and processes issued by said court shall be in the usual forms, signed by the judge or recorder, and under the seal of said court. They shall be served as like precepts are required to be served when issued by trial justices, except original writs in civil actions, which shall be served not less than seven nor more than sixty days before the sitting of the court at which the same are made returnable. All the provisions of the statutes of the state relative to the attachment of real and personal property and the levy of executions, shall be applicable to actions in this court, and executions on judgments rendered therein; *provided,* that property may be attached equal in value to the ad damnum, and in addition thereto sufficient to satisfy the costs of suit, and the writ may be framed accordingly.

Writs and processes, by whom signed.

—service.

Provisions of statutes relating to attachments, applicable to court.

Proviso.

SECT. 7. All civil actions in said court shall be entered the first day of the term, and not afterwards except by special permission, and they shall be in order for trial at the next term after the entry if not otherwise disposed of. The pleadings shall be the same as in the supreme judicial court, and all the provisions of law relative to practice and proceedings in the supreme judicial court, in civil actions, are hereby

Civil actions, when entered and in order for trial.

Pleadings, practice and proceedings.

CHAP. 72. made applicable and extended to this court, except so far as they are modified by the provisions of this act.

Certain actions may be removed to S. J. court.

—proceedings.

SECT. 8. If any defendant, his agent or attorney, in any action in said court, in which the debt or damages claimed in the writ exceeds twenty dollars, shall on or before the first day of the second term file in said court an affidavit that he has a good defense to said action, and intends in good faith to make such defense, and claims a jury trial, and shall deposit with the judge of said court one dollar and fifty cents for copies and entry in the supreme judicial court, to be taxed in his costs if he prevails, the said action shall be removed into and entered at the next term of the supreme judicial court for said county, and the judge of said municipal court shall forthwith cause certified copies of the writ, return of the officer, and all other papers in the case to be filed in the clerk's office of the said supreme court.

Pending actions may be referred.

SECT. 9. Actions pending in this court may be referred in the same manner as in the supreme judicial court, and on report of the referees to said municipal court, judgment may be rendered in the same manner, and with like effect, as in the supreme judicial court.

Any party may appeal to S. J. court.

SECT. 10. Any party may appeal from any judgment or sentence of said municipal court to the supreme judicial court, in the same manner as from a judgment or sentence of a trial justice.

Exceptions alleged and cases certified, as in S. J. court.

—when determined.

—may be certified to chief justice, and argued in writing.

SECT. 11. Exceptions may be alleged and cases certified, on agreed statements of facts, or upon evidence reported by the judge, in all civil actions, as in the supreme judicial court, and the same shall be entered, heard and determined at the next law term held in the eastern district, or by agreement of parties may be certified at once to the chief justice of the supreme judicial court, and when so certified, to be argued in writing, on both sides, within thirty days; and the supreme judicial court, sitting as a court of law, shall have the same jurisdiction of all questions of law arising on said exceptions, statements and reports, as if they had originated in the supreme judicial court for the county of Washington; and all the provisions of law, and rules of the supreme judicial court, relative to the transfer of actions and other matters from the supreme judicial court for said county, shall apply to the transfer of actions from said municipal court to said law court. Decisions of the law court on all cases from said

Provisions of law and rules relating to transfer of actions.

municipal court, shall be certified to the judge of said municipal court, with the same effect as in cases originating in the supreme judicial court in said county.

CHAP. 72.

Decisions certified to judge.

SECT. 12. The costs and fees allowed to parties and attorneys in civil actions before said court, in which the debt or damages recovered do not exceed twenty dollars, shall be the same as are allowed in actions before trial justices, except that the plaintiff, if he prevails, shall be allowed one dollar for his writ, and the defendant, if he prevails, one dollar for his pleadings. But in all actions in which the amount recovered exceeds twenty dollars, the costs and fees of parties and attorneys shall be the same as in the supreme judicial court, except that the defendant, if he prevails, shall be allowed two dollars for his pleadings.

Costs and fees.

SECT. 13. The fees of the judge, which he may demand and receive for his services, shall be the same as are allowed by law to trial justices and clerks of the supreme judicial court for similar services, except that he shall receive for every blank writ signed by him, four cents; for the entry of each civil action, fifty cents; for every warrant issued by him, one dollar; and for the trial of an issue in civil or criminal cases, one dollar, and two dollars for each day actually employed after the first. All fines and penalties awarded and received by said judge or said recorder, shall be accounted for and paid over as if the same had been awarded and received by a trial justice, and for neglect to do so they shall be subject to like penalties with trial justices.

Fees of judge.

SECT. 14. The city marshal of Calais, or one of his deputies, shall be in attendance on said court, when requested so to be by the judge or recorder, for the purpose of preserving order, and he shall execute all legal orders and processes to him directed by said court.

City marshal or deputy to be in attendance and execute processes.

SECT. 15. The city of Calais shall provide suitable rooms for said court, and furnish the same in an appropriate manner.

City to provide rooms.

SECT. 16. Any trial justice in the county of Washington may take cognizance of any action, matter or thing within his jurisdiction, wherein the judge or recorder of said court is a party or interested.

Causes wherein judge or recorder is interested, may be heard by trial justice.

SECT. 17. This act shall have no effect upon any action, suit, matter or thing now pending in or returnable to said municipal court, except that writs and other processes in

Act not to affect pending suits.

—exception.



CHAP. 73. civil actions, issued before and returnable at a term of said court after this act goes into effect, shall be returned and entered at the next term thereof after the return day named in them; and the judge and recorder of said court shall have full power and authority to issue and renew executions and other processes, and to carry into effect the judgments and decrees heretofore rendered by said court, and to certify and authenticate the records thereof as effectually as if this act had not been passed.

Inconsistent acts repealed.  
To take effect April 1, 1878.

SECT. 18. All acts and parts of acts inconsistent with this act are hereby repealed, and this act shall go into effect on the first day of April, in the year of our Lord one thousand eight hundred and seventy-eight.

Approved February 19, 1878.

### Chapter 73.

An act providing for a Canal at the head waters of Presumpscot River.

*Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:*

Certain franchises, rights and property of Cumberland and Oxford Canal Corporation, revested and revived.  
Proviso.

SECT. 1. The franchises, and all rights and property heretofore vested in the Cumberland and Oxford Canal Corporation and its mortgagees, between Gambo Falls, so called, on Presumpscot river, and Harrison, are revested in said corporation and its mortgagees, and fully revived; *provided*, that this act shall not be construed as declaring that the same have ever been divested or ceased to exist; and provided further, that this act shall have no effect whatever, direct or by implication, below said Gambo Falls.

Corporation declared valid for certain purposes.

SECT. 2. For the purpose of preserving and using said franchises, rights and property, above said Gambo Falls, said corporation is declared an existing corporation, with all the powers of choosing officers and commissioners, and subject to all the liabilities and restrictions described in its act of incorporation and acts additional to and amendatory thereof.

Lease or sale, authorized.

SECT. 3. Said corporation and its mortgagees are authorized to lease or sell, to any other person or corporation, all or any of the rights, franchises, or property, described in the first section hereof, or any undivided or partial interest therein, subject, nevertheless, to the obligations on the part of the