

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SIXTY-THIRD LEGISLATURE

OF THE

STATE OF MAINE.

1887.

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1887.

PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

1887.

SECT. 5. The officers of said corporation shall consist of a clerk, treasurer, three assessors, collector, fire wardens, and such other officers as may be provided for in the by-laws of said corporation; which said fire wardens shall have, exclusively, all the power and authority within the limits of said corporation, that fire wardens now have or may have, chosen by towns in town meeting.

Officers.

Power of fire wardens.

SECT. 6. Said corporation, at any legal meeting thereof, may adopt a code of by-laws for the government of the same and for the efficient management of the fire departments aforesaid, provided, the same are not repugnant to the laws of the state.

By-laws.

SECT. 7. That Asa O. Pike may call the first meeting by issuing his warrant, directed to some member of said corporation, requiring him to notify the members thereof to assemble at some suitable time and place in said Fryeburg village, by posting up notices in two public places within said village, seven days at least, before the time of said meeting.

First meeting, how called.

SECT. 8. This act shall take effect and be in force after the same shall be accepted by a majority of the voters present at a meeting of said corporation, called agreeably to the seventh section of this act.

When act shall take effect.

Approved March 1, 1887.

Chapter 177.

An Act to establish the Oldtown Municipal Court.

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

SECT. 1. A municipal court is hereby established in and for the towns of Oldtown, Milford, Bradley, Alton, Argyle, Greenbush and Greenfield, in the county of Penobscot, which shall be called the Oldtown municipal court, and shall be a court of record with a seal. All original processes issuing from said court shall be under the teste of the judge, or, if the office of judge is vacant, of the recorder thereof, and signed by the judge or recorder thereof, and shall have the seal of said court affixed.

Oldtown Municipal Court, established.

Court of record, with seal.

SECT. 2. Said court shall consist of one judge, who shall be an inhabitant of the county of Penobscot, and shall be appointed in the manner and for the term provided by the

Judge, appointment and duties of.

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constitution of this state. The said judge shall enter, or 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 the judge or recorder thereof, shall be legal evidence in all courts. The said judge shall not act as attorney or counsel in any action or matter within the exclusive jurisdiction of said court.

Shall not act as counsel.

May appoint a recorder.

—duties and powers.

SECT. 3. The said judge may in his discretion appoint, in writing, a recorder, who shall be sworn by said judge, and shall keep the records of said court when requested so to do by said judge; and in case of absence from the court room of said judge, or when the office of judge shall be vacant, the said recorder shall have and exercise all the powers of the judge, and perform all the duties required of said judge by this act, and shall be empowered to sign and issue all papers and processes, and to do all acts as fully and with the same effect as the judge could do if he were acting in the premises; and the signature of the recorder as such shall be sufficient evidence of his right to act instead of the judge. Said recorder shall reside in the town of Oldtown or Milford, and shall hold his said office of recorder for four years.

—tenure

Exclusive jurisdiction.

SECT. 4. Said court shall have original and exclusive jurisdiction as follows; first, of all cases of forcible entry and detainer respecting estates within either of the towns named in section one; second, of all such criminal offenses and misdemeanors committed in either of said towns as are by law within the jurisdiction of trial justices; third, of all offenses against the ordinances and by-laws of either of said towns; provided, that warrants may be issued by any trial justice in said county, upon complaint for offenses committed in either of said towns, but all such warrants shall be made returnable before said court; and no other municipal or police court, and no trial justice, shall have or take cognizance of any crime or offense committed in either of said towns.

Proviso.

Concurrent jurisdiction with trial justices.

SECT. 5. Said court shall have original jurisdiction concurrent with trial justices in all such matters, civil or criminal, within the county of Penobscot, as are by law within the jurisdiction of trial justices within said county, and are not placed within the exclusive jurisdiction of said court by the preceding section.

SECT. 6. Said court shall have original jurisdiction concurrent with the supreme judicial court as follows ; first, of all civil actions wherein the debt or damages demanded, exclusive of costs, does not exceed one hundred dollars, in which any person summoned as trustee resides within the county of Penobscot, 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 eighteen of the revised statutes ; of all larcenies described in sections one, six, seven, nine and eleven of chapter one hundred and twenty 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-two of the revised statutes ; of all offenses and crimes described in sections one and four of chapter one hundred and twenty-three of the revised statutes ; of all offenses described in section six and in sections twenty-nine to forty-five inclusive of chapter one hundred and twenty-four of the revised statutes ; of the offense described in section five of chapter one hundred and twenty-five of the revised statutes ; of all offenses described in section one of chapter one hundred and twenty-six of the revised statutes, when the value of the property or thing alleged to have been fraudulently obtained, sold, mortgaged or pledged, is not alleged to exceed thirty dollars ; and of all offenses described in sections two, nine, sixteen, seventeen and twenty-one of chapter one hundred and twenty-seven of the revised statutes, when the value of the property destroyed or the injury done is not alleged to exceed thirty dollars ; and may punish for either of said crimes or offenses by fine not exceeding fifty dollars and by imprisonment not exceeding three months, provided, that when the offenses described in section twenty-eight of chapter one hundred and eighteen, section twenty-one of chapter one hundred and twenty-two, and sections one and four of chapter one hundred and twenty-three, are of a high and aggravated nature, the judge of said court may cause persons charged with such

Concurrent jurisdiction with the S. J. Court.

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offenses, to recognize with sufficient sureties to appear before the supreme judicial court, and in default thereof commit them ; third, 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, and are not within the exclusive jurisdiction of some other municipal or police court.

Jurisdiction denied, when title to real estate is in question.

SECT. 7. Said court shall not have jurisdiction of any civil action wherein the title to real estate, according to the pleading or brief statement filed therein by either party, is in question ; and all such actions brought in said court shall be removed to the supreme judicial court or otherwise disposed of as in like cases before a trial justice ; provided, that nothing herein contained, shall prevent said court from proceeding in accordance with the provisions of sections six and seven of chapter ninety-four of the revised statutes.

Proviso.

Cases in which judge is interested, how disposed of.

SECT. 8. Any action, civil or criminal, in which the judge of said court is interested or related to either of the parties by consanguinity or affinity, within the sixth degree according to the rules of the civil law, or within the degree of second cousin inclusive, but which would otherwise be within the exclusive jurisdiction of said court, may be brought before and disposed of by any trial justice or any other municipal or police court in said county, in the same manner as other actions before said trial justices, or municipal or police courts. If any action wherein said judge is so interested or related to either party, is made returnable before this court, the parties thereto, by themselves or their attorneys, may in writing consent that said judge shall hear and dispose of the same ; or the recorder thereof, if disinterested, or with the written consent of the parties, if interested, may hear and dispose of the same in the judge's stead ; or such actions shall be disposed of as follows, to wit : civil actions, wherein the debt or damages demanded, exclusive of costs, exceed twenty dollars shall, upon motion, be removed to the supreme judicial court for said county ; and all other civil actions, and all criminal actions, shall be removed and entered before any such trial justice within said county as may be agreed upon, in writing, by the parties entering an appearance in such action, or if no trial justice is agreed upon, before any municipal or police court in said county, and such trial justice, or municipi-

pal or police court shall have and take cognizance of such action and dispose of the same, as if originally returnable before such justice or court; provided, that nothing in this section contained shall prevent any civil action wherein the title to real estate is in question, from being disposed of in accordance with the provisions of the preceding section. In any action in which either of the towns hereinbefore named is a party, or is summoned as trustee, this court shall not lose its jurisdiction by reason of the said judge's or recorder's being an inhabitant of or owning property in such town; but in any such case the action may, upon written motion of either party, filed before trial, be removed to the supreme judicial court.

SECT. 9. A term of said court shall be held for the transaction of civil business on the third Tuesday of each month, beginning at ten o'clock in the forenoon, at such place in the town of Oldtown as the judge shall determine; but said town of Oldtown may, at any time provide a court room, in which case the court shall be held therein, and all civil processes shall be made returnable accordingly. Said court shall also be held on every Tuesday at the usual hour, for the purpose of filing pleas in abatement and the affidavit mentioned in section sixteen of this act, and for the entry and trial of actions of forcible entry and detainer; and such actions shall be returnable accordingly, and they shall be heard and judgment shall be entered therein, on the return day of the writ unless continued for good cause. For the cognizance and trial of criminal actions, said court shall be considered as in constant session. In all cases it may be adjourned from time to time by the judge.

Terms.

Adjournment.

SECT. 10. If at any regular or adjourned term of said court to be held for civil business, the judge or recorder is not present at the place for holding said court within two hours after the time for opening said court, then any trial justice or justice of the peace in the county of Penobscot, may preside for the purpose of entering and continuing actions and filing papers in said court, and may adjourn said court from time to time, not exceeding one week at any one time without detriment to any action returnable or pending, and may in his discretion, adjourn said court without day, in which event all actions returned or pending, shall be consid-

When judge or recorder is not present, any trial justice or justice of the peace, may preside.

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ered as continued to the next term. No trial justice or justice of the peace shall be disqualified from presiding for the purpose mentioned in this section, by reason of his being interested in any action returnable before or pending in said court.

Appeals.

SECT. 11. Any party may appeal from any judgment or sentence of said court, to the supreme judicial court in the same manner as from a judgment or sentence of a trial justice.

Writs and processes, forms and service.

SECT. 12. Writs and processes issued by said court shall be in the usual forms, and shall be served as like precepts are required to be served when issued by trial justices.

Provisions of statutes relating to attachments, applicable to actions in this court.

SECT. 13. All the provisions of the statutes relating to attachment of real and personal property and the levy of executions, shall be applicable to actions brought in this court and executions on judgments rendered therein; provided, that property may be attached in addition to the ad damnum, sufficient to satisfy the costs of the suit, and the writs may be framed accordingly. When any action in which real estate is attached shall be finally disposed of in said court, or shall be removed to the supreme judicial court by appeal or otherwise, the judge of said municipal court shall forthwith certify the disposition or removal thereof to the register of deeds of the county of Penobscot, who may make a minute of the disposition or removal upon the record of the attachment in said action.

Judge, shall certify to register of deeds, disposition of actions, in which real estate is involved.

Entry of actions and proceedings.

SECT. 14. All civil actions in said court shall be entered on the first day of the term and not afterward, except by special permission; and they shall be in order for trial, except actions of forcible entry and detainer, at the next regular monthly term after the entry if not otherwise disposed of. When a defendant legally summoned, fails to enter his appearance by himself or his attorney before twelve o'clock noon on the first day of the return term, he shall be defaulted; but if he afterward appear during said term, the court may for sufficient cause, permit the default to be taken off. Pleas in abatement must be filed on or before the first day of the first regular weekly term held after the entry of the action. The pleadings shall be the same as in the supreme judicial court, and all provisions of law relative to practice and proceedings in civil actions in the supreme judicial court, are hereby made applicable and extended to this court, except so far as they are modified by the provisions of this act.

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SECT. 15. Actions pending in this court may be referred in the same manner as in the supreme judicial court, and on the report of the referee to said municipal court, judgment may be rendered in the same manner and with the like effect as in the supreme judicial court.

Actions may be referred.

SECT. 16. If any defendant, his agent or attorney, in any civil action in this court in which the debt or damages demanded or claimed in the writ exceeds twenty dollars, shall, on or before the first day of the second regular weekly term of said court after the entry of said action, file in said court an affidavit that he has a good defence to said action, and intends in good faith to make such defence and claims a jury trial, and shall at the same time deposit with the judge or recorder of said court, one dollar and sixty cents for copies and entry in the supreme judicial court, to be taxed in his costs if he prevail, the said action shall at the next regular monthly term of said municipal court, after the entry thereof be removed into the supreme judicial court for said county, and shall be entered at the next ensuing term of the supreme judicial court after such removal; and the judge or recorder 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 said supreme judicial court.

Proceedings when defendant in any civil action, claims a trial by jury in the S. J. Court.

SECT. 17. Exceptions may be alleged and cases certified on an agreed statement 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 law term thereof as if the same had originated in the supreme judicial court for said county of Penobscot; and decisions of the law court in all such cases, shall be certified to the judge of said municipal court for final disposition with the same effect as in cases originating in said supreme judicial court.

Exceptions may be alleged and cases heard and determined, at Law Term of S. J. Court.

—decisions of law court shall be certified to judge.

SECT. 18. Said municipal court may render judgment and issue execution, punish for contempt and compel attendance, as in the supreme judicial court; make all such rules and regulations, not repugnant to law, as may be necessary and proper, for the administration of justice promptly; and is clothed with all such lawful power as is necessary for the performance of its duties under this act.

Powers of judge.

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Costs and fees to be allowed to parties, attorneys and witnesses.

SECT. 19. The costs and fees allowed to parties, attorneys and witnesses, in all actions in this court, in which the debt or damages recovered shall not exceed twenty dollars, and in actions of forcible entry and detainer, shall be the same as allowed in similar action before trial justices, except that the plaintiff if he prevail, shall be allowed one dollar for his writ, and the defendant if he prevail, shall be allowed one dollar for his pleadings; and in cases where the amount recovered shall exceed twenty dollars, the costs and fees of parties, attorneys and witnesses shall be the same as in the supreme judicial court, except that the defendant if he prevail, shall be allowed two dollars for his pleadings.

Fees received by the judge.

SECT. 20. The judge of said court may demand and receive the same fees 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, three cents; for the entry of each civil action, fifty cents; for every warrant issued by him, one dollar; for the trial of an issue in civil or criminal cases, one dollar for the first day and two dollars for each subsequent day actually employed; and said fees for the trial of an issue in civil actions shall be paid by the plaintiff before proceeding with the trial each day, to be taxed in his costs if he prevail. The fees received by said judge shall be payment in full for his services, provided, that the legal voters of the town of Oldtown aforesaid, may at any time by vote determine to pay him a salary which may be accepted by him instead of said fees and shall not be diminished during his term of office; and if such salary is so accepted by him, he shall pay all fees of office by him received into the treasury of said town of Oldtown. When the office of judge is vacant, the recorder shall be entitled to the fees or salary; in all other cases he shall be paid by the judge.

Town may fix salary.

Jurisdiction of trial justices, restricted.

SECT. 21. Trial justices are hereby restricted from exercising any jurisdiction in the towns named in section one of this act over any matter or thing, civil or criminal, except such as are within the jurisdiction of justices of the peace and quorum, and except as provided in sections four, eight and ten of this act, provided, that until the judge of said court shall enter upon the duties of his office, and whenever the offices of judge and recorder are together vacant, any trial justice shall have and exercise the same jurisdiction as though this municipal court had never been established; and in such case any

civil or criminal action made returnable before a trial justice, shall be entered before and finally disposed of by such justice.

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SECT. 22. Nothing contained in this act shall be construed to interfere with such actions returnable before a trial justice or a municipal or police court, as shall be commenced before this act takes effect, and all said actions shall be disposed of as if this act had not been passed.

Not to affect pending actions.

SECT. 23. This act shall take effect when approved.

Approved March 2, 1887.

Chapter 178.

An Act to legalize the doings of Elliottsville Plantation.

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

SECT. 1. The doings of the inhabitants of the township of Elliottsville, in Piscataquis county, at a meeting held on the twenty-first day of June, eighteen hundred and eighty-six, for the purpose of organizing into a plantation, in accordance with the provisions of chapter three of the revised statutes of Maine, are hereby made legal and valid.

Doings of Elliottsville, made valid.

SECT. 2. This act shall take effect when approved.

Approved March 2, 1887.

Chapter 179.

An Act to incorporate the Saint Croix River Railroad Company.

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

SECT. 1. L. S. Downes, E. C. Goodnow, Judson S. Clark, George H. Eaton, William A. Murchie, George A. Curran, Albert E. Neill, Samuel D. Leavitt, Martin Bradish, N. B. Nutt, Patrick Whalen, Ezra L. Pattangall, Hiram Hunt, Jethro B. Nutt and their associates, are hereby created a body corporate under the name of the Saint Croix River Railroad Company, with all the powers, rights and privileges, and subject to all the duties, restrictions and obligations conferred and imposed on railroad corporations by the laws of the state.

Corporators.

Corporate name:

Powers.