

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SIXTY-SIXTH LEGISLATURE

OF THE

STATE OF MAINE.

1893.

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PRIVATE AND SPECIAL LAWS
OF THE
STATE OF MAINE.

1893.

Chapter 613.

An Act to establish the Western Hancock 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 the county of Hancock, which shall be called the Western Hancock Municipal Court, and shall be a court of record with a seal. All the original processes, issuing from said court, shall be under the teste of the judge, and signed by the judge, and shall have the seal of said court affixed.

Western Hancock 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 Hancock, and a person learned in the law, and shall be appointed in the manner and for the term provided by the 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.

Judge, appointment and duties.

—shall not act as counsel.

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. Said recorder shall reside in the county of Hancock and shall hold his office of recorder for four years unless sooner removed by the judge of said court, for cause.

May appoint a recorder.

—tenure.

SECT. 4. Said court shall have original jurisdiction as follows: first, of all cases of forcible entry and detainer respecting estates in the county of Hancock; second, of all such criminal offenses and misdemeanors committed in the said county as are by law within the jurisdiction of trial justices; third, of all offenses against the ordinances and by-laws of either of the towns in said county. Warrants may be issued by any trial justice in said county upon complaints for offenses committed in either of the towns of Bucksport, Verona, Orland, Penobscot, Castine, Dedham, Bluehill, Brooksville, Brooklin, Sedgwick, Deer Isle, Isle au Haut

Original jurisdiction.

—warrants may be issued by trial justices.

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and Swan's Island Plantation in said county, but all such warrants shall be made returnable before said court, and no trial justice shall have or take cognizance of offenses committed in either of said towns.

Concurrent jurisdiction, with trial justices.

SECT. 5. Said court shall have original jurisdiction concurrent with trial justices in all such matters civil and criminal, within the county of Hancock, 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.

Concurrent jurisdiction, with supreme judicial court.

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 Hancock, or, if a corporation has an established place of business in said county of Hancock; or in which if such actions are not commenced by a trustee process, 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; but no proceedings under the laws relating to divorce shall be included within the jurisdiction of said court; 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 injury done is not alleged to exceed thirty dollars, and all amendments thereto; and may be punished 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 of such 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.

SECT. 7. Said court shall not have jurisdiction of any civil action wherein the title of 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.

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

—proviso.

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 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 trial justices or municipal or police courts. If any action wherein said judge is so interested in either party, is made returnable before this court, the parties thereto, by themselves or their attorneys, may in writing consent that

Cases in which judge is interested, how disposed of.

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said judge shall hear and dispose of the same ; or such actions shall be disposed of as follows : 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 municipal or police court shall have and take cognizance of such action and dispose of the same, as 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 in said county is a party, or is summoned as trustee, this court shall not lose its jurisdiction by reason of the said judge or recorder 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.

Terms.

SECT. 9. A term of said court shall be held for the transaction of civil business as follows. On the second Tuesday of each of the months of January, March, July and September in the town of Bluehill. On the second Tuesday of each of the months of February, May, June and August, November and December in the town of Bucksport. On the fourth Tuesday of each of the months of May, July, September and November in the town of Deer Isle. On the fourth Tuesday of the months of June and August in the town of Castine. Beginning at ten o'clock in the forenoon at such place in either of the towns named in this section, as the judge shall determine. For the cognizance and trial of criminal actions said court shall be considered in constant session. In all cases it may be adjourned from time to time by the judge.

—adjournment—

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

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 Hancock, 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 considered 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.

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.

Appeals.

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.

Writs and processes, forms and service.

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 Hancock, who shall make a minute of the disposition or removal upon the record of the attachment in said action.

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

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

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 term after the entry if not otherwise disposed of. When a defendant legally summoned, fails to enter his appearance by himself or by his attorney before twelve o'clock noon on the first day of the return term, he shall be defaulted; but if he afterwards appear during said term the court may for sufficient cause, permit the default to be taken off. The pleading shall be the same as in the supreme judicial court, and all provisions of law relative to practice and proceedings in civil

Entry of actions and proceedings.

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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.

Actions, may be referred.

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

Proceedings, when defendant in any civil action, claims a trial by jury in supreme judicial court.

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 his writ exceeds twenty dollars, shall on or before the first day of the second regular 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, two dollars 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 office of the clerk of said supreme judicial court.

Exceptions may be alleged, and case heard and determined, at law term of supreme judicial 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 Hancock; 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.

Powers of court.

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 prompt administration of justice and is

clothed with all such lawful power as is necessary for the performance of its duties under this act.

SECT. 19. The costs and fees allowed to parties, attorneys, and witnesses in all actions in this court, in which the debt or damages demanded shall not exceed twenty dollars, and in actions of forcible entry and detainer, shall be the same as allowed in similar actions before trial justices, except that the plaintiff, if he prevail, shall be allowed two dollars for his writ, and the defendant, if he prevail, shall be allowed one dollar for his pleadings; and in cases wherein the amount demanded 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, and that the costs to be taxed for attendance, shall be two dollars and fifty cents for the first term, and one dollar for each subsequent term. In all actions wherein the debt or damages demanded exceeds twenty dollars, costs for travel may include costs for constructive travel for not exceeding forty miles, as in the supreme judicial court. In every action the judge may at his discretion, disallow any costs for travel and attendance after the second term.

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

SECT. 20. The judge of said court shall 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, five cents; for entry of each civil action, sixty cents; for every warrant issued by him, one dollar; for the trial of an issue in civil or criminal cases, three dollars for each day employed, together with ten cents a mile travel to and from the place where said trial shall be held; 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.

Fees received by judge.

—fees shall be in full payment for services.

SECT. 21. Trial justices are hereby restricted from exercising any jurisdiction in the towns named in section four 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

Jurisdiction of trial justices, restricted.

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office of judge is vacant, any trial justice shall have and exercise the same jurisdiction as though this municipal court had never been established; as 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.

Pending actions,
not affected.

SECT. 22. Nothing contained in this act shall be construed to interfere with such actions returnable before a trial justice or a municipal or a 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.

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

Approved March 23, 1893.

Chapter 614.

An Act to provide for the division and apportionment of the State and County Taxes for the years eighteen hundred and ninety-three and eighteen hundred and ninety-four of the towns of Poland and Minot, between said towns and the town of Mechanic Falls.

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

County commissioners made a commission, to apportion state and county taxes of the towns of Mechanic Falls, Poland and Minot.

SECT. 1. The county commissioners of Androscoggin county are hereby made a commission and as such are authorized and empowered to decide and determine what sums of money shall be paid by the town of Mechanic Falls as its share of the state and county taxes which has been or may be assessed on the towns of Poland and Minot, respectively, for the years eighteen hundred and ninety-three and eighteen hundred and ninety-four, and the decision of such commission shall be conclusive and binding on said towns. And said sums when paid into the county and state treasuries by said town of Mechanic Falls, shall be in full of all claims and demands against said town of Mechanic Falls on account of state and county taxes assessed on the towns of Poland and Minot for the years eighteen hundred and ninety-three and eighteen hundred and ninety-four.

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

Approved March 23, 1893.