

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SIXTY-NINTH LEGISLATURE

OF THE

STATE OF MAINE

1899.

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PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

1899.

Chapter 61.

An Act to establish the Bar Harbor Municipal Court,

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

Bar Harbor municipal court, established.

—court of record and seal.

Judge and qualification.

—duties.

—certified copies of record, legal evidence in all courts.

Recorder, appointment of, qualifications, powers and duties.

—fees of.

Original jurisdiction in certain cases.

Section 1. A municipal court is hereby established in the town of Eden, which shall be called the Bar Harbor 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.

Section 2. Said court shall consist of one judge, who shall be a member of the bar of this state, and shall be appointed in the manner and for the term provided by the constitution of this state; and he shall be, ex-officio, a justice of the peace and of the quorum for the 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.

Section 3. The governor, by and with the consent of the council, may appoint a recorder of said court, who shall hold his said office for the term of four years. Said recorder shall be sworn to the faithful discharge of his duties and shall keep the records of said court when requested so to do by said judge; and in case of absence of said judge from the court room, or when the office of judge shall be vacant, the said recorder shall have and exercise all the powers of the judge by this act, and shall be empowered to sign and issue all papers and processes, in criminal cases, and do all acts relating to criminal proceedings as full 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. But nothing in this act shall be construed to give the recorder authority to act other than in criminal cases. Said recorder shall receive as compensation for his services the same fees allowed by law to trial justices, in criminal cases, except that he shall receive for receiving a complaint and issuing a warrant one dollar.

Section 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 crim-

inal 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, and in the prosecutions on any such ordinances or by-laws, such by-law or ordinance need not be recited in the complaint or process, nor the allegations therein be more particular than in prosecutions on a public statute. Warrants may be issued by any trial justice in said county upon complaints for offenses committed in said town of Eden, but all such warrants issued by any trial justice in said Eden shall be made returnable before said court, and no trial justice in said Eden shall have or take cognizance of offenses committed within said town of Eden.

—warrants issued by trial justices in Eden, made returnable before this court.

Section 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 trial justices in the county.

Section 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 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

Concurrent jurisdiction with supreme judicial court in certain cases.

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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.

Shall not have jurisdiction wherein real estate is in question.

Section 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.

When judge is interested, actions may be brought in other courts.

Section 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 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 other case the action may, upon written motion of either party, filed before trial, be removed to the supreme judicial court.

—if parties agree, judge may hear such cases.

—when costs exceed \$20, actions may be removed to supreme judicial court.

—judge shall not lose jurisdiction in actions in which towns are party.

Section 9. A term of said court shall be held for the transaction of civil business on the first Wednesday of each month, beginning at ten o'clock in the forenoon. 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; and in civil actions said judge shall have power for cause shown, upon application of either party, or his attorney, to adjourn the hearing to any place within his jurisdiction. Said court shall be held at such place as the town of Eden shall provide; and said town shall have power and it shall be its duty to raise money to provide a proper place for said court and suitably furnish the same. All other expenses of the court, including blank books of record, dockets and blanks necessary for the use of said court shall be paid from the treasury of the county of Hancock.

Terms.

—adjournments.

—town shall provide court room.

—expenses, how paid.

Section 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

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

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—shall not be disqualified by reason of being interested.

Appeal may be taken to supreme judicial court.

Writs and processes, form and service of.

Provisions of law relating to attachments and levy of executions.

—how such actions shall be disposed of.

When civil actions shall be entered.

—when defendant shall be defaulted.

—proceedings in supreme judicial court made applicable.

Actions may be referred in same manner as in supreme judicial court.

Proceedings when defendant in

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.

Section 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.

Section 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.

Section 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.

Section 14. All civil actions in said court shall be entered on the first day of the term and not afterwards, 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 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.

Section 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.

Section 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 defense to said action, and intends in good faith to make such defense 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.

any civil action claims a trial by jury in supreme judicial court.

Section 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.

Exceptions, how entered, heard and determined.

—decisions shall be certified to judge.

Section 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.

Powers of court to render judgment and punish for contempt.

Section 19. The costs and fees allowed to parties, attorneys and witnesses in all actions in this court, in which the debt or damage is 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

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

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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.

Compensation of judge.

Section 20. The judge of said court shall receive as compensation, a salary of five hundred dollars a year to be paid quarterly from the treasury of the county of Hancock, and in addition thereto he shall receive the court fees in all civil cases, which shall be for every blank writ signed by him four cents, for entry of each civil action, sixty cents; all other fees not herein specified shall be the same as allowed by law to trial justices and clerks of the supreme judicial court, for similar services. All costs in criminal cases shall be taxed the same and paid into court in the same manner as in trial justice courts, except that every warrant issued by said judge shall be taxed at one dollar.

Shall render semi-annually, statement to county treasurer.

Section 21. Said judge shall render to the county treasurer, semi-annually, on the second Tuesdays of April and October, a true statement in writing signed and sworn to by him, of all sums of money received or which he is entitled to receive by virtue of his said office, including all sums of money received by his recorder by virtue of his said office, for the six months ending on the last days of March and September of each year, and to pay to said treasurer all money due said county; and on the second Tuesdays of April and October, he shall produce and exhibit his criminal dockets to the court of county commissioners of said county for their examination.

Jurisdiction of trial justices, restricted.

Section 22. Trial justices in said Eden are hereby prohibited from exercising any jurisdiction in the town of Eden 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 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.

How pending actions shall be disposed of.

Section 23. 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.

Section 24. Nothing in this act shall be so construed as to prohibit any municipal court in said county of Hancock from taking cognizance of all matters and things civil or criminal, arising within said town of Eden as fully as though this act had not been passed, as the jurisdiction of any existing municipal court in said county of Hancock shall be in no way impaired or limited by this act.

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Jurisdiction of other municipal courts shall not be impaired.

Section 25. This act shall take effect when approved.

Approved March 1, 1899.

Chapter 62.

An Act to incorporate the Messalonskee Water Power Company.

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

Section 1. Frank Chase, Nathaniel Meader, H. S. Ricker, W. B. Arnold, R. W. Dunn and W. T. Haines, all of Waterville; W. M. Ayer, A. R. Small, George F. Allen, Cyrien Roy, George W. Goulding and George H. Bryant, all of Oakland; Josiah S. Maxcy of Gardiner; Henry W. Golder and John K. Damren, of Belgrade; Julia Holt of Farmington; W. R. Pinkham and William P. Blake of Oakland, their associates, successors and assigns, are hereby created a corporation, by the name of the Messalonskee Water Power Company, with all the rights and powers, and subject to all the obligations and liabilities of similar corporations under the general laws of the state.

Corporators.

—corporate name.

Section 2. The first meeting of the corporators for organization may be called on written notices, signed by any two of them, and mailed, postpaid, to each of them, seven days, at least, before the meeting, naming the time, place and purposes of such meeting; and at such meeting a president, secretary, treasurer and directors may be chosen and by-laws adopted, and any corporate business transacted.

First meeting, how called.

Section 3. The amount of the capital stock may be fixed by the corporation, at first, at such sum as they think will be required for the purposes herein specified, and may afterwards, by a vote of not less than three-fourths of all the stock, be increased from time to time if necessary, at any regular meeting of the stockholders, not to exceed seventy-five thousand dollars in all.

Capital stock.

Section 4. Said corporation is authorized to purchase, construct, maintain, repair and rebuild dams, sluice ways, basins and canals on the Messalonskee stream, so called, and on all

May maintain dams, etc.