

# MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SEVENTIETH LEGISLATURE

OF THE

STATE OF MAINE

1901.

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Published by the Secretary of State, agreeably to Resolves of June 28, 1820,  
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PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

1901.

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**Chapter 429.**

An Act to establish a Municipal Court in the Town of Winthrop.

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

Section 1. A municipal court is hereby established in and for the towns of Winthrop, Monmouth, Wayne and Fayette, in the county of Kennebec, to be denominated as the Winthrop Municipal Court; said court shall consist of one judge, who shall reside during his continuance in said office, in said town of Winthrop or Monmouth and who shall be appointed, qualified and hold his office as provided in the constitution, and who shall be, ex-officio, a justice of the peace and of the quorum, and have and exercise a concurrent authority and jurisdiction with trial justices over all matters and things by law within their jurisdiction, and such authority and jurisdiction additional thereto as is conferred upon him by this act.

Winthrop  
municipal  
court estab-  
lished.

—judge and  
residence.

Section 2. Said court shall have jurisdiction as follows: Exclusive jurisdiction of all such criminal offenses and misdemeanors committed within said towns of Winthrop, Monmouth, Wayne and Fayette as are cognizable by trial justices. Exclusive original jurisdiction of all civil actions wherein the debt or damages demanded do not exceed twenty dollars, and both parties, or any plaintiff, and a person summoned as trustee, resides in either of the towns of Winthrop, Monmouth, Wayne or Fayette, including prosecutions for penalties in which either of said towns are interested, and actions of forcible entry and detainer arising therein; provided, that any civil action, in which the judge is interested, but which otherwise would be within the exclusive jurisdiction of said court, may be brought in and disposed of by the municipal court of the city of Waterville, or the municipal court of the city of Augusta in the same manner and with like effect as other actions therein.

Exclusive  
jurisdiction.

—jurisdiction  
when debt  
does not  
exceed \$20.

Original jurisdiction concurrent with the superior court, of the offenses committed in Winthrop, Monmouth, Wayne and Fayette described in sections one, six, seven and nine of chapter one hundred and twenty of the revised statutes, when the alleged value of the property exceeds twenty dollars, but does not exceed fifty dollars; of the offenses described in section twenty-eight of chapter one hundred and eighteen of the revised statutes; of the offenses described in sections one and four of chapter one hundred and twenty-six of the revised statutes, when the alleged value of the property fraudulently obtained, mortgaged or sold, or fraudulently removed or concealed, does not exceed fifty dollars, and on conviction may punish for either of said offenses

Concurrent  
jurisdiction  
with superior  
court.

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by fine not exceeding one hundred dollars and by imprisonment in the county jail for not more than six months; and also of the offense described in section six of chapter one hundred and twenty-four of the revised statutes, and on conviction may punish therefor by fine not exceeding fifty dollars and by imprisonment in the county jail not more than thirty days; and also of the offenses described in section four of chapter one hundred and forty-one of the revised statutes, and on conviction may sentence therefor to imprisonment in the county jail not more than sixty days, and of the offenses described in sections seventeen and twenty-two of chapter one hundred and twenty-eight of the revised statutes, as amended relating to tramps, and on conviction may punish therefor as therein provided. Original jurisdiction concurrent with the superior court and the municipal court of the city of Waterville and the municipal court of the city of Augusta, of all civil actions in which the debt or damages demanded exceed twenty dollars, but do not exceed three hundred dollars and the defendant or a party summoned as trustee resides within Kennebec county; provided, however, that any action wherein the debt or damage demanded exceeds twenty dollars, brought in said court, shall be removed by order of the judge into the superior court, on motion of the defendant, filed at the return term, if he files therewith, at the same time an affidavit that he believes he has a good defense to said action, in whole or in part, and in good faith intends to make such defense, and deposits with the judge the fee of the clerk of the court above for entering said action therein; and when such removal has been ordered, the judge shall file in the superior court, at its next term in the county, an attested copy of the writ in such action and of said motion and affidavit, and order of the court thereon, and pay to the clerk of said court the fee for entering the same, for which services he shall be entitled to the same fees allowed for the necessary copies in actions carried up by appeal, to be paid to him by the defendant and recovered by him with his costs, if he prevails in the suit.

Section 3. Nothing in the foregoing section shall be construed to give said court any authority, exceeding that of trial justices, to hear and determine any civil action in which the title to real estate, according to the pleadings or brief statement filed therein by either party, is in question, but all such actions brought therein shall be removed to the supreme judicial court in the county, or otherwise disposed of as provided in section four of chapter eighty-three of the revised statutes.

Section 4. Said court shall have authority to administer all necessary oaths or affirmations; to adopt an official seal; to hear and determine civil causes before it, and to render judgment

—concurrent jurisdiction with superior court and municipal court of Waterville and Augusta when debt does not exceed \$300.

—actions may be removed by order of judge to superior court on motion of defendant.

—when removal has been ordered attested copy of writ shall be filed in superior court.

—fee of clerk for entering.

In actions when title to real estate is in question authority shall not exceed that of a trial justice.

Powers.

—seal.

therein, and issue executions upon the same, such executions, except when otherwise provided by law, to have the same force and be satisfied in the same manner as if issued by the supreme judicial court; to compel the attendance of witnesses, and punish persons duly summoned as witnesses, if they refuse or neglect to attend; to make and enforce such rules and regulations not repugnant to law, as may be necessary therein for the prompt administration of justice; and all the provisions of law relating to proceedings and practice in the supreme judicial court, and to the attachment of real or personal estate, the taxation of costs, the rendition of judgments and the issuing, service, satisfaction and return of executions, shall be extended to and apply to said municipal court and to proceedings therein, except so far as such application may be modified by the provisions of this act.

Section 5. Writs in civil actions commenced in said court shall be in the usual forms, and all such writs and all other precepts and processes, civil or criminal, issued by said court, shall bear teste of the judge under seal of said court, and be signed by the judge. All such writs shall be made returnable at one of the next four terms of said court held after seven days, from their date, and service thereof may be made at any time not less than seven days before the return day, thereof, except that when any defendant or trustee named in any such writ is a corporation, service upon such corporation must be made at least thirty days before the return day.

Writs and processes, form of.

—when returnable.

Section 6. Said court shall be held on the first and third Mondays of each month for the entry, trial and determination of civil actions of all kinds that may lawfully be brought before it, and for the transaction of other civil business, and upon each other Monday for the entry, trial and determination of actions of forcible entry and detainer only, at ten of the clock in the forenoon, at such suitable place as the judge may determine, until the town of Winthrop shall provide a court room, when the court shall be held therein, and all civil processes shall be made returnable accordingly; and it may be adjourned from time to time by the judge, at his discretion, but it shall be considered in constant session for the cognizance of criminal actions. Provided that, if said judge is prevented by any cause from attending at the time said court is to be held for civil business, it may be adjourned from day to day by a constable of Winthrop or a deputy sheriff of the county of Kennebec, without detriment to any action then returnable or pending, until he can attend, when said actions may be entered or disposed of with the same effect as if it were the first day of the term; and it may be so adjourned without day when necessary, in which event, pending actions

Terms.

—court room.

—adjournments.

—when judge cannot attend, court may be adjourned from day to day by constable or sheriff.

—pending actions shall be considered as continued.

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shall be considered as continued, and actions then returnable may be returned and entered at the next term, with the same effect as if originally made returnable at said term.

Records,  
how kept.

Section 7. It shall be the duty of said judge of said court to make and keep the records thereof or cause the same to be made and kept, and to perform all other duties required of similar tribunals in this state; and copies of said records, duly certified by said judge, shall be legal evidence in all courts. The judge may appoint in writing a recorder, who shall be a trial justice for the county of Kennebec, duly qualified, who shall be sworn by said judge, who shall keep the records of said court when requested so to do by the judge; and 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 the judge, and perform all the duties required of said judge by this act, and shall be empowered to sign and issue all processes and papers, and to do all acts as fully and with the same effect as the judge could do were he 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. When the office of judge is vacant, the recorder shall be entitled to the fees; in all other cases he shall be paid by the judge, and shall hold his said office at the discretion of said judge.

—judge may  
appoint a  
recorder.

—powers and  
duties.

—fees, how  
disposed of  
when the  
office is  
vacated.

Appeals may  
be taken to  
superior  
court.

Section 8. Any party may appeal from any judgment or sentence of said court to the superior court, in the same manner as from a judgment or sentence of a trial justice.

When actions  
shall be  
entered.

Section 9. Actions in said court shall be entered on the first day of the term, and not afterwards, except by special permission. When a defendant, legally served, fails to enter his appearance, by himself, or his attorney, on the first two days of the return term, he may be defaulted, but if he afterwards appear during the term, the court may for sufficient cause permit the default to be taken off. Pleas and motions in abatement must be filed on the first day of the term to which the action is returnable. The defendant may file his pleadings in bar, which shall be the general issue, with a brief statement of special matters of defense, on the return day of the writ, and must file them on or before the first day of the next term, or he shall be defaulted, unless the court, for good cause, enlarge the time for which it may impose reasonable terms. Actions in which the defendant files his pleadings on the return day, and all actions of forcible entry and detainer seasonably answered to shall be in order for trial at the return term and shall remain so until tried or otherwise disposed of finally, unless continued by consent, or on motion of either party, for good cause, in which latter case the court may impose such terms as it deems reasonable; but all

—if defendant  
fails to enter  
appearance,  
may be  
defaulted.

—when pleas,  
etc., must be  
filed.

—when  
defendant  
must file  
pleadings.

—actions,  
when in order  
for trial.

other actions, unless defaulted or otherwise finally disposed of, shall be continued as of course, and be in order for trial at the next term.

Section 10. In actions of forcible entry and detainer brought in said court, the defendant's pleading at bar shall be the general issue with a brief statement of any special matters of defense, and must be filed upon the first day of the return, or the defendant shall be defaulted unless the court enlarge the time, for which it may impose terms. All actions of forcible entry and detainer, and any other action in which either party shall have given written notice to the adverse party five days before the return day that he desires a trial at the first term, shall be in order for trial at the return term, and so remain until tried or otherwise finally disposed of unless continued by consent, or on motion of either party for good cause, in which latter case the court may impose reasonable terms, but all other actions not defaulted or otherwise finally disposed of, shall be continued as of course, and be in order for trial at the next term.

How and when pleadings of defendant shall be made in cases of forcible entry and detainer.

—when such actions shall be in order for trial.

Section 11. The costs and fees allowed to parties, attorneys and witnesses in all civil actions in said court, in which the debt or damage demanded does not exceed twenty dollars, including actions of forcible entry and detainer, shall be the same as allowed by trial justices in like actions before them, except that the plaintiff, if he prevail, shall be allowed two dollars for his writ, and the defendant, if he prevail, one dollar for his pleadings, but in actions in which the debt or damage demanded exceeds twenty dollars, the costs and fees shall be the same as allowed in the supreme judicial court in like actions, except that the defendant, if he prevail, shall be allowed two dollars for his pleadings, and that witnesses shall be allowed one dollar per day, and travel as in other cases.

Costs and fees, how allowed and taxed.

Section 12. The judge of said court may tax and shall be allowed for his services in a civil action the same fees, the trial fee excepted, allowed by law to trial justices, for like services and at the same rates, except that he shall be entitled to fifty cents for entering and recording an action, and twenty-five cents for taxing the costs, and for the trial of an issue in civil cases, two dollars for every day actually employed, said fees to be paid him by the party at whose instance the services were performed, and taxed with the costs of such party if he prevail in the suit. For his services in criminal proceedings he shall be entitled to seventy-five cents for entering complaint, swearing witnesses, filing papers, and certifying costs to the county commissioners, forty cents for taxing the costs and recording judgment, ten cents for each subpoena, twenty-five cents for each mittimus and each recognizance, fifty cents for making and recording each

Fees of the judge.



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libel of intoxicating liquors, twenty-five cents for each order to destroy or to restore such liquors and two dollars for each day actually employed in the trial of an issue, said fees to be taxed in the bill of costs, and unless paid into court, to be allowed by the commissioners, and paid by the county treasurer, as provided by law in relation to other criminal expenses.

Judge shall receive all fines.

Section 13. The judge shall receive all fines, forfeitures and costs paid into court in criminal proceedings, and may retain from such costs his own fees, but shall pay over all other fees to the persons to whom they were allowed when called for, if called for within one year. All fines and forfeitures received by him, and all fees so received but not seasonably called for, he shall account for and pay over at the time and manner required by law, but no account required by this section shall be deemed sufficient unless verified by oath of the judge.

—fees, how disposed of.

Town shall provide court room, seal, blanks, etc.

Section 14. It shall be the duty of the town of Winthrop to provide a suitable court room in said Winthrop, conveniently situated and appropriately fitted up and furnished, in which to hold said court, and keep the same in proper condition for use, and also to provide for said court an appropriate seal, and all blanks, blank books, dockets, stationery and other things necessary in the transaction of its business; and said town is hereby authorized to appropriate money therefor.

Jurisdiction of trial justices restricted.

Section 15. Trial justices are hereby restricted from exercising any jurisdiction in the towns of Winthrop, Monmouth, Wayne and Fayette over any matter or thing, civil or criminal, except such as are within the jurisdiction of justices of the peace and quorum; provided, that said restrictions shall be suspended until the judge of said court shall enter upon the duties of his office. Nothing in this act shall be construed to interfere with actions which have been brought and are pending before trial justices in the towns of Winthrop, Monmouth, Wayne and Fayette at the time when the judge of said court shall enter upon the duties of his office, but all such actions shall be disposed of by such trial justices the same as if this act had not passed.

—pending actions shall not be interfered with.

Inconsistent acts repealed.

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

Section 17. This act shall take effect when approved.

Approved March 20, 1901.