

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SEVENTY-FIRST LEGISLATURE

OF THE

STATE OF MAINE

1903.

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PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

1903.

Chapter 152.

An Act to amend Chapter one hundred and seventy-five of the Private and Special Laws of eighteen hundred and eighty-seven, entitled "An Act to incorporate the Androscoggin Valley Agricultural Society."

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

Section 1. Chapter one hundred and seventy-five of the private and special laws of eighteen hundred and eighty-seven is hereby amended by adding after section two of said act the following section:

'Section 3. Said society is hereby authorized to construct and maintain on its fair grounds a grand stand, and to issue stock therefor to an amount not exceeding twenty-five hundred dollars, and bonds to an equal amount of the stock so issued, secured by mortgage on said grand stand; and the net proceeds derived from said grand stand after its construction shall be applied exclusively to the payment of the interest on said bonds and the retirement thereof.'

Section 2. This act shall take effect when approved.

Approved March 11, 1903.

Chapter 175 of special laws of 1887, amended.

May erect a grand stand

--may issue stock and bonds.

--net proceeds of grand stand, how applied

Chapter 153.

An Act to consolidate and amend Chapter one hundred and seventy-seven of the Special Laws of eighteen hundred and eighty-seven, and all acts additional thereto and amendatory thereof, relating to the Old Town Municipal Court.

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

Section 1. The Old Town Municipal Court shall continue to be a court of record with a seal and all original processes issuing from said court shall be in the name of the state, under the teste of the judge, or, if the office of judge is vacant, or the recorder thereof, signed either by the judge or recorder, 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, residing in the county of Penobscot, be appointed in manner and for the term provided by the constitution of Maine, and he shall be, ex-officio, a justice of the peace and of the quorum within and for each and every of the several counties through 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

Shall be a court of record.

Judge, qualifications and appointment.

--docket.

CHAP. 153

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. Copies of the records of said court, duly certified by the judge or recorder thereof, shall be legal evidence in all courts. The present judge of said court shall continue in office until the end of the term for which he was appointed and no judge of said court shall act as attorney or counsel in any action, cause, matter or thing within the exclusive jurisdiction thereof.

--tenure of present judge.

Recorder, appointment and tenure.

--shall give bond.

--powers and duties of recorder.

Section 3. The governor, by and with the advice and consent of the council, may appoint a recorder of said court, who shall be qualified as provided in the constitution and hold his office for the term of four years. Said recorder, while in office, shall be a resident of the city of Old Town, give bond to the county of Penobscot in the sum of five hundred dollars to be approved by the commissioners of said county. The said recorder may administer oaths; when requested so to do by the judge, he shall keep the records of said court; he shall be empowered to sign and issue all papers and processes, receive and file pleas and motions, hear complaints and issue warrants in criminal matters, make and sign processes of commitment, but the same shall be heard and determined as now provided by law, and all papers, processes, complaints, warrants or processes of commitment, drawn and signed by the judge of said court shall be equally valid. In the absence of the judge, or when he is engaged in the transaction of civil business, 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 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, but, except when the office of judge is vacant, the said recorder shall not have authority to hear and determine civil causes.

Jurisdiction of court.

Section 4. Said court shall have original and exclusive jurisdiction as follows: First, of all cases of forcible entry and detainer respecting estates within the city of Old Town or either of the towns of Milford, Bradley, Alton, Argyle, Greenbush and Greenfield, in said county of Penobscot. Second, of all such criminal offenses and misdemeanors committed in said city or either of said towns as are within the jurisdiction of trial justices. Third, of all offenses against the ordinances and by-laws of said city or either of said towns. Fourth, 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 this section, and in all such civil matters, excepting, however, actions of forcible entry and detainer respecting estates within the city of Bangor, the said court shall have jurisdiction though either party interested, or a person summoned as trustee, resides in said city of Bangor.

Section 5. 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 two hundred dollars, in which any person summoned as trustee resides within the county of Penobscot, or, if a corporation, has its office or an established or usual place of business in said county; or in which, if such actions are not commenced by 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 petitions relating to the support of wives and children under the provisions of chapter one hundred and thirty-six of the public laws enacted in the year one thousand eight hundred and ninety-five, and amendments thereof and additions thereto, if the defendant resides in the county of Penobscot. Third, of the assaults and batteries described in section twenty-eight of chapter one hundred and eighteen of the revised statutes; of all offenses 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 the offenses described in sections one and four of chapter one hundred and twenty-six of the revised statutes, when the value of the money, goods, other property, or thing, alleged to have been fraudulently obtained, sold, conveyed, mortgaged or pledged, or fraudulently removed or concealed, is not alleged to exceed thirty dollars, and on conviction may punish for either of said crimes or offenses by fine not exceeding one hundred dollars and by imprisonment in the county jail for not more than six months; and also of the offenses described in section six of chapter one hundred and twenty-four of the revised statutes, and on conviction may punish therefor by imprisonment in the county jail for not more than sixty days and by fine not exceeding one hundred dollars.

Original
concurrent
jurisdiction
with supreme
judicial court.

CHAP. 153

Fourth, of all other crimes and offenses committed in said county which are by law punishable by fine not exceeding one hundred dollars and by imprisonment not exceeding six months, and of all such other crimes and offenses committed in said county jurisdiction whereof is expressly conferred upon municipal courts by any general statute, and, upon conviction, may punish therefor as provided by law. Warrants may be issued by any municipal court or trial justice in said county, upon complaint for offenses committed in said city of Old Town or either of the towns mentioned in section four of this act, but all such warrants shall be made returnable before said Old Town Municipal Court, and no other municipal court, and no trial justice, shall have or take cognizance of any crime or offense committed in said city or in either of said towns.

--warrants,
by whom
issued and to
whom
returnable.

When title to
real estate is
in question,
shall not have
jurisdiction.

Section 6. 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 actions 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
or related,
how actions
may be
brought.

Section 7. 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 court in said county, in the same manner as other actions before said trial justice or municipal 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 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; 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 other municipal court in said county, and such trial justice or other municipal 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 said city of Old Town or 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 or recorder being an inhabitant of or owning property in such city or either of said towns, but in any such case the action may, upon written motion of either party, filed before trial, be removed to the supreme judicial court for said county.

--in actions in which city of Old Town is interested, court shall not lose jurisdiction.

Section 8. A term of said court shall be held for the transaction of civil business on the third Tuesday of each month, beginning at ten of the clock in the forenoon. Said court shall also be held on every Tuesday at the usual hour, for the purpose of filing pleas in abatement, the motion mentioned in section eighteen of this act and for the entry and trial of actions of forcible entry and detainer and such actions shall be returnable accordingly and be heard and judgment entered therein on the return day of the writ unless continued for good cause. For the cognizance and trial of criminal cases, and for the entry, hearing and determination of petitions under the provisions of chapter one hundred and thirty-six of the public laws enacted in the year eighteen hundred and ninety-five, said court shall be considered as in constant session. In all cases said court may be adjourned from time to time.

Terms, when held.

--constant session in certain cases.

Section 9. Said court shall be held at such place as the city of Old Town shall provide and said city shall have power and it shall be its duty to raise money to provide a proper place for said court and its officers and suitably furnish, warm and light the same. The salary of the judge of said court is hereby continued at one thousand dollars, annually; that of the recorder is hereby fixed at two hundred dollars, annually, and both of said salaries are to be paid quarterly, with all other expenses of said court, from the treasury of the county of Penobscot.

Location of court.

--salary of judge.

--salary of recorder.

Section 10. The city marshal or one of his deputies shall be in attendance on said court when requested so to do by the judge or recorder, for the purpose of preserving order, and shall execute all legal orders and processes to him directed by the court.

Officers in attendance on court.

Section 11. All fines and forfeitures and fees of the judge and recorder of said court imposed and collected by said court in all criminal cases and all fees of said judge and recorder in civil and criminal cases received by said judge or recorder, shall be accounted for and paid over quarterly into the treasury of said

Fines and forfeitures, how accounted for, and to whom paid.

CHAP. 153

county for the use of the county; and all fees of said court paid after commitment to any jailer shall be paid by him monthly into said treasury.

Trial justices,
when and for
what
purposes
they may
preside.

Section 12. 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 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.

Appeals, how
taken.

Section 13. 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 of.

Section 14. 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.

Attachments
and levy.

Section 15. 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 suit, and the writs may be framed accordingly.

Civil actions,
when
entered.

Section 16. 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 monthly term after the entry if not otherwise disposed of, provided, that any action shall be considered in order for trial at the return term when the party so desiring shall have given written notice thereof to the adverse party seven days at least before the sitting of said court. When a defendant, legally summoned, fails to enter his appearance by himself or his attorney 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

--when in
order for
trial.

--proviso.

--default.

--pleas in
abatement.

--pleadings.

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 17. 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 same effect as in the supreme judicial court, except that the referees' fees shall not be paid by the county but be taxed as costs.

Pending actions.

Section 18. If any defendant, his agent or attorney, in any civil action in this court in which the debt or damage 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 a motion asking that said cause be removed to the supreme judicial court, and deposit with the judge or recorder the sum of two dollars for copies and entry fee in said supreme court, to be taxed in his costs if he prevails, the said action shall 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 defendant's motion to be filed in the clerk's office of said supreme judicial court and shall pay the entry fee thereof. If no such motion is filed, the said municipal court shall proceed and determine said action, subject to the right of appeal in either party as now provided by law.

Actions may be removed to supreme judicial court, in certain cases.

—proceedings.

Section 19. 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 said municipal court for final disposition with the same effect as in cases originating in said supreme judicial court.

Exceptions, etc.

Section 20. 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, and is clothed with all such power as is necessary for the performance of its duties under this act.

Powers of court.

Section 21. In any action in which the plaintiff recovers for the penalty, forfeiture, debt or damage not over twenty dollars,

Costs, how taxed.

CHAP. 153

or property, the value of which does not exceed that sum, the costs shall be taxed as before trial justices, except that the plaintiff shall have two dollars for his writ. Where the defendant prevails in any action in which the sum claimed in the writ is not over twenty dollars, or property, the value of which does not exceed that sum, he shall recover two dollars for his pleadings, and other costs as before trial justices. In actions where the amount recovered by the plaintiff, exclusive of costs, exceeds twenty dollars, or property, the value of which exceeds that sum, or the amount claimed, or the value of the property recovered exceeds twenty dollars where the defendant prevails, the costs of the parties, trustees and witnesses shall be the same as in the supreme judicial court, except the costs to be taxed for attendance shall be two dollars and fifty cents for each term, for as many terms as may be allowed by the court.

Fees.

Section 22. The price of blank writs and summonses with the seal of the court, signed by the judge or recorder, shall be four cents, and all other fees in civil cases shall be the same as are taxable by a trial justice, except as otherwise provided in sections eighteen and twenty-one. For every warrant issued in criminal cases there shall be allowed one dollar, and for the trial of an issue in such cases one dollar may be charged for the first day and two dollars for each subsequent day actually employed. All other fees in criminal cases shall be the same as are taxable by trial justices.

Trial justices,
jurisdiction
restricted.

Section 23. Trial justices are hereby restricted from exercising any jurisdiction in said city of Old Town or either of 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 five, seven and twelve of this act, provided, that 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.

Inconsistent
acts, repealed.

Section 24. All acts and parts of acts inconsistent herewith are hereby repealed, but nothing in this act shall be construed to authorize said court to infringe upon the executive jurisdictions heretofore conferred upon other municipal courts in said county of Penobscot except so far as such exclusive jurisdictions may be affected by the provisions of section four of this act.

Revised
statutes,
meaning of,
defined.

Section 25. The expression, revised statutes, as used in this act relates to the revision of the statutes of the year eighteen hundred and eighty-three and shall be held to include all additions thereto and amendments thereof.

Section 26. This act shall take effect when approved.

Approved March 11, 1903.