

# MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SEVENTY-FOURTH LEGISLATURE

OF THE

STATE OF MAINE

1909

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PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE

As Passed by the Seventy-fourth  
Legislature

1909

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Chapter 393.

An Act to establish a Municipal Court in the Town of Millinocket.  
*Be it enacted by the People of the State of Maine, as follows:*

Millinocket municipal court established.

Section 1. A municipal court is hereby established in and for the towns of Millinocket, East Millinocket, Medway, the Indian townships, and all the territory lying north thereof within the limits of Penobscot county, to be denominated and styled as the Millinocket municipal court, which shall be a court of record and have a seal; said court shall consist of one judge who shall reside during his continuance in said office in said town of Millinocket, who shall be an attorney at law in good standing, or a trial justice who shall have been in active practice for at least seven years, 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 for the state, and have and exercise a concurrent authority and jurisdiction with trial justices over all matters and things by law within their jurisdiction throughout the county of Penobscot, and such authority and jurisdiction additional thereto as is hereinafter conferred upon him by this act.

—shall be a court of record and have a seal.

—judge, appointment of.

—recorder, appointment of.

The governor, by and with the advice and consent of the council, may appoint a recorder of said court, who at the time of his appointment, shall be a resident of Millinocket, duly qualified, who shall keep the records of said court when requested to do so 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 the 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, without any recital of the provision of this act hereinbefore authorizing him to act. When the office of judge is vacant, the recorder shall be entitled to a salary at the same rate as the judge's salary during said vacancy only. He shall be ex-officio a justice of the peace throughout the state.

—powers and duties of recorder.

—signature of recorder, evidence.

—salary when office of judge is vacant.

—tenure.

Both judge and recorder shall hold their offices for four years.

Additional jurisdiction.

Section 2. Said court shall have additional jurisdiction as follows:

## CHAP. 393

(a) Exclusive jurisdiction of all such criminal offenses and misdemeanors committed within the town of Millinocket and the Indian townships as are cognizable by trial justices.

—exclusive.

(b) Concurrent jurisdiction with trial justices in the county of Penobscot of all like offenses and misdemeanors, not herein placed within its exclusive jurisdiction, when committed in said county outside the territory wherein some other municipal court has exclusive jurisdiction.

—concurrent with trial justices.

(c) Original jurisdiction concurrent with the supreme judicial court of the offenses committed in Millinocket, East Millinocket, Medway, the Indian townships and the territory within the limits of Penobscot county lying north thereof described in section one, six, seven, eight, ten and twelve of chapter one hundred twenty-one of the revised statutes, when the alleged value of the property exceeds ten dollars but does not exceed one hundred dollars.

—original concurrent with supreme judicial court.

(d) Of the offenses described in section twenty-eight of chapter one hundred and nineteen of the revised statutes.

—offenses described in sec. 28, ch. 119, R. S.

(e) Of the offenses described in section one, four and five of chapter one hundred and twenty-seven of the revised statutes, when the alleged value of the property fraudulently obtained, mortgaged or sold, or fraudulently removed or concealed, does not exceed one hundred dollars, or where the amount of which such inn-keeper or boarding house keeper or the owner thereof has been defrauded does not exceed one hundred dollars.

—offenses described in sec. 1, 4 and 5, ch. 127, R. S.

And on conviction may punish for either of said offenses by fine not exceeding one hundred dollars and by imprisonment in the county jail for not more than six months.

(f) Also of the offense described in section six of chapter one hundred twenty-five of the revised statutes, and on conviction may punish therefor as provided by law.

—offenses described in sec. 6, ch. 125, R. S.

(g) And of the offenses described in sections twenty-six and thirty-one of chapter one hundred and twenty-nine of the revised statutes, relating to tramps, and may punish as therein provided.

—offenses described in sects. 26 and 31, ch. 129, R. S.

(h) 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 any person summoned as trustee, reside in Millinocket, East Millinocket, Medway or the Indian townships, including prosecutions for penalties in which either of said towns are interested and of actions for forcible entry and detainer arising therein.

—exclusive original

(i) Concurrent jurisdictions with trial justices in said county of all other civil actions and other proceedings cognizable by

—concurrent with trial justices.

## CHAP. 393

them, not within the exclusive jurisdiction of this or some other court.

—original concurrent with supreme judicial court.

(j) Original jurisdiction concurrent with the supreme judicial court in said county of all civil actions in which the debt or damages demanded exceed twenty dollars but do not exceed three hundred dollars, and any party thereto or any person summoned as trustee resides or had his last and usual place of abode in the state in the towns of Millinocket, East Millinocket, Medway, the Indian townships or the territory north thereof within the limits of Penobscot county, provided that one of the defendants or trustees reside in Penobscot county, provided also that any action wherein the debt or damage demanded exceeds twenty dollars shall on motion of the defendant filed at the return term be removed into the supreme judicial court if the defendant at the time of filing said motion pays into court the fee of the clerk of court above for entering said action therein, and the fees of the court for the necessary copies which shall be the same as for copies in cases carried up on appeal. The judge shall then file in the supreme judicial court at its next term in the county an attested copy of the writ in such action and of such motion and his order thereon for the removal of said action, and shall pay the clerk of the court above his fee for entering said action. The amount paid by the defendant shall be certified to the court above and shall be taxed in his costs if he shall prevail. In any action in which either of the towns of Millinocket, East Millinocket, Medway, the Indian townships, or any towns or place north of the same within the limits of Penobscot county is a party, or is summoned as trustee, this court shall not lose jurisdiction by reason of the residence or ownership of property in such towns or place by the judge, but in such case the action may upon the written motion of either party, filed at the return term, be removed to the supreme judicial court.

—consanguinity within degree of which judge may not have authority to act.

Any action civil or criminal in which the judge may be 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 degrees of second cousin inclusive, but which would otherwise be within the exclusive jurisdiction of the court, may be brought in, and disposed of by any other municipal court in Penobscot county in the same manner and with like effect as other actions brought therein.

Jurisdiction where title to

Section 3. Nothing in the foregoing section shall be construed to give said court any authority exceeding that of trial

justice 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 three of chapter eighty-five of the revised statutes.

real estate  
is in ques-  
tion.

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 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 and 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.

Authority  
of court.

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 and criminal, issued by said court shall bear teste of the judge under seal of said court, and be signed by the judge or by the recorder and be of equal force and validity when signed by either. All such writs shall be made returnable at any one of the next three terms of said court held after either date, and service thereon may be made at any time not less than seven days before the return day thereof, except that when any defendant or trustee is a corporation, service upon such corporation must be made at least thirty days before the return date.

Form of  
writs.

—when re-  
turnable.

Section 6. Said court shall be held on the first Monday 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 Millinocket shall vote to provide a

Terms  
of court.

## CHAP. 393

—court  
may be ad-  
journed.

—proviso.

court room, after which the court shall be held therein, and all civil processes shall be made returnable accordingly. Said court 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 at any regular or adjourned term of said court to be held for civil business neither the judge nor recorder is present at the place used for holding said court within two hours after the time for opening said court, then it may be adjourned from day to day by any justice of the peace, without detriment to any action then returnable or pending, until the judge or recorder can attend, when said action 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 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. The justice of the peace who continues said court as aforesaid shall note on the docket thereof the fact that the judge and recorder were absent and the time to which said court stands adjourned, and shall sign the same, and need not keep any other record thereof.

Judge shall  
keep rec-  
ords.

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 so 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 or recorder shall be legal evidence in all courts.

Appeals.

Section 8. 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.

Actions,  
when en-  
tered.

Section 9. Actions in said court shall be entered on the first day of the term, and not afterward, save by permission of the other party, or special permission of the judge. 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 afterward appear during the term the court may for sufficient cause permit the default to be taken off. But it cannot be taken off after the first term without consent of the plaintiff, unless the judge shall make a special order to that effect after notice to and an opportunity for a hearing for the plaintiff.

—pleas and  
motions in  
abatement,  
when filed.

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 if he have any at any time after the writ is entered, and must file them before he can ask that a day be set for trial. If at any term the plaintiff files a motion asking that the defendant be ordered to file his pleadings, the judge shall order the defendant to file them accordingly, and shall notify the defendant thereof in such manner as he deems proper. If the defendant in such case does not file his pleadings on or before the first day of the next term he shall be defaulted, unless the court for good cause enlarge the time for which it may impose reasonable terms.

—pleading  
in bar.

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 shown in which latter case the court may dispose such terms as it deems reasonable.

—actions of  
forcible en-  
try and de-  
tainer.

Actions in which one party has given to the other five days written notice that a trial will be demanded at the return term, on proving such notice, shall be in order for trial at such term, but all other actions except actions of forcible entry and detainer shall be continued as of course to the next term.

—when  
notice has  
been given  
that trial  
will be de-  
manded.

Action shall be assigned for trial as follows: During term time at any term either party may ask the court to assign the action for trial during term time at the next or some other term. The party asking the earlier assignment shall have it granted. The court shall assign the case for trial as asked, unless there is some good reason for the contrary, and shall notify the other party of the time set for trial as he deems proper.

—when ac-  
tion shall  
be assigned  
for trial.

Trials shall not be assigned for the first day of any term save by consent of both parties. Any party may appear on the first day of a term, and by motion show cause for a continuance, which the judge may grant with or without terms, as he deems right, or may refuse.

—consent  
of both  
parties re-  
quired.

Trials may be had at any time in or out of term time by consent of all parties and the court.

—trials at  
any time.

Section 10. In actions of forcible entry and detainer brought in said court, the defendant's pleading shall be a general issue with a brief statement of any special matters of defense, and must be filed upon the first day of the return term, or the

Actions of  
forcible en-  
try and de-  
tainer.

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 CHAP. 393
 

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defendant shall be defaulted unless the court enlarge the time, for which it may impose terms.

Costs and fees to be allowed in civil actions.

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 allowed by trial justices in 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 witnesses shall be allowed one dollar per day and travel as in other cases.

Fees allowed judge in civil actions.

Section 12. The judge of said court may tax and shall be allowed for his services in a civil action wherein the debt or damage demanded does not exceed twenty dollars, the same fees allowed by law to trial justices for like services and at the same rates, and when the debt or damage demanded exceeds twenty dollars he may tax and shall be allowed the same fees that the law allows to clerks of the supreme judicial court for like services. All said fees are to be paid him by the party at whose instance the services were performed, and taxed with the costs of said party if he prevail in the suit, and shall be accounted for and paid over to the treasurer of Penobscot county.

—for services in criminal proceedings.

For his services in criminal proceedings he shall be entitled to fifty cents for receiving complaint and issuing a warrant; 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 libel of intoxicating liquors; twenty-five cents for each order to destroy or restore such liquors; and two dollars for each day actually employed in the trial of any issue, said fees to be taxed in the bill of costs.

Fines, forfeitures and costs, how disposed of.

Section 13. The judge shall receive all fines, forfeitures and costs paid into court in criminal proceedings, and shall pay over all fees to the persons to whom they are 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, and all other fees and costs he shall account for and pay over at the time and in the manner required by

law to the treasurer of Penobscot county, but no account required by this section shall be deemed sufficient unless verified by oath of the judge.

Section 14. The town of Millinocket may, if it shall so vote, at any regularly held town meeting, provide a suitable court room in said Millinocket, conveniently situated and appropriately fitted up and furnished, in which to hold said court, and keep the same in proper condition for use, and it shall be deemed and denominated the court room, though used also for other purposes if approved by the judge. Said town of Millinocket shall provide for said court an appropriate seal, and all blanks, blank books, dockets, stationery, and other things necessary for the transaction of its business; and said town is hereby authorized to appropriate money therefor.

Town of Millinocket may provide suitable court room.

Section 15. The judge shall receive a salary in full for all services of six hundred dollars per annum to be paid him by the county of Penobscot, and the recorder a salary of one hundred dollars per annum, payable quarterly.

—shall provide seal, blanks, stationery and supplies for said court.

Salary of judge.

Section 16. Trial justices are hereby restricted from exercising any civil or criminal jurisdiction in the town of Millinocket and the Indian townships, and they are restricted from exercising any civil jurisdiction also in the towns of East Millinocket and Medway, over any matter or thing except such as are within the jurisdiction of justices of the peace, and except that they may issue warrants on complaints for criminal offenses committed in said towns to be returned before said municipal court, and excepting also such jurisdiction as is reserved for them in section seven of this act. Such restrictions shall be suspended until the judge of said court shall enter on the duties of his office. Nothing in this act shall be construed to interfere with matters which have been brought and are pending before trial justices at the time when the judge of said court shall enter upon the duties of his office, but all such matters shall be disposed of by such trial justices the same as if this act had not passed.

Trial justices, jurisdiction restricted.

Section 17. All acts and parts of acts inconsistent with this act are hereby repealed.

Inconsistent acts repealed.

Approved April 2, 1909.

### Chapter 394.

An Act to authorize the building of a dam at the outlet of Sebec Lake.

*Be it enacted by the People of the State of Maine, as follows:*

Section 1. Charles J. Chase of Sebec, Walter J. Mayo of Foxcroft, Wainwright Cushing of Foxcroft, Crowell C. Hall of

Authorized to maintain dam at