

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

ACTS AND RESOLVES
OF THE
SEVENTY-FIFTH LEGISLATURE

OF THE
STATE OF MAINE.

1911

Published by the Secretary of State, agreeably to Resolves of
June 28, 1820, February 18, 1840, and March 16, 1842

AUGUSTA
KENNEBEC JOURNAL PRINT
1911

PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE

As Passed by the Seventy-fifth
Legislature

1911

CHAP. 279

Section 3. Section twenty-one of said chapter six hundred and thirteen is hereby repealed.

Section 21, repealed.

Section 4. Trial justices residing within the county of Hancock shall have and exercise the same jurisdiction as though the western Hancock municipal court had never been established.

Jurisdiction of trial justices.

Approved March 30, 1911.

Chapter 279.

An Act to establish the Yorkshire Municipal Court.

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

Section 1. A municipal court is hereby established in and for the towns of North Berwick, Berwick, South Berwick, Kittery, Eliot and York, in the county of York and state of Maine, said towns constituting a municipal district, to be denominated and styled "The Yorkshire Municipal Court," which shall be a court of record and have a seal. Said court shall consist of one judge who shall be, at the time of his appointment, a duly qualified resident within the said municipal district, and a member of the bar in York county, and shall reside, during his continuance in said office, within the limits of the said municipal district, and who shall be appointed, qualified and hold his office as provided in the constitution. And he 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 York, and such authority and jurisdiction additional thereto as is hereinafter conferred upon him by this act.

Municipal court established.

—court, how denominated.

—judge, qualification of.

—appointment of judge.

—concurrent jurisdiction with trial justices.

The governor, by and with the advice and consent of the council, shall appoint a recorder of said court, who at the time of his appointment shall be a member of the York county bar in good standing and a duly qualified resident within the aforesaid municipal district. He shall keep the records of said court when requested so to do by the judge, and in case of the 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 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 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

—recorder, appointment of.

—recorder shall keep records.

—recorder shall act in absence of judge.

CHAP. 279

be sufficient evidence of his right to act instead of the judge without any recital of the provisions of this act herein above 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 salary of the judge during said vacancy only. He shall be ex-officio a justice of the peace throughout the state, and hold his office for four years.

If the judge or recorder should remove from said district during his term within the office he shall thereby vacate his office.

Additional
jurisdiction.

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

—exclusive
with trial
justices.

(a) Exclusive jurisdiction of all such criminal offenses and misdemeanors committed within the said municipal district as are cognizable by trial justices.

—concur-
rent with
trial justices.

(b) Concurrent jurisdiction with trial justices in the county of York 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.

—original
concurrent
with supreme
court.

(c) Original jurisdiction concurrent with the supreme judicial court of all offenses committed in said municipal district when the alleged value of the property exceeds ten dollars, but does not exceed one hundred dollars.

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

(e) Of the offenses described in sections 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 and the owner thereof has been defrauded does not exceed one hundred dollars.

And on conviction may punish for their 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 offenses described in section six of chapter one hundred and twenty-five of the revised statutes, and on conviction may punish therefor as provided by law.

(g) Of all 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.

CHAP. 279

(h) Exclusive original jurisdiction in all civil actions wherein the debt or damage demanded does not exceed twenty dollars, and both parties, or any defendant, or any plaintiff provided any defendant in the same action resides within said county of York and is not within the exclusive jurisdiction of any other court, or any person summoned as trustee, reside, or has his last and usual place of abode in said municipal district, or any defendant, not a resident of said York county, if he is found within and legal service is made on him within said municipal district, provided any plaintiff in said action resides in said municipal district; or goods, estate, effects, or credits of any defendant are found within said municipal district and attached on the original writ, and services in this instance shall be made as provided in section twenty-one of chapter eighty-three of revised statutes; including prosecutions for penalties in which either of said towns are interested, and of actions for forcible entry and detainer arising therein.

—exclusive original jurisdiction.

—proviso.

And shall also have exclusive jurisdiction over all offenses committed against the ordinances and by-laws of the several towns of said municipal district.

(i) Concurrent jurisdiction with trial justices in said county of all other civil actions and other proceedings cognizant by them, not within the exclusive jurisdiction of this or some other court.

—concurrent with trial justices.

(j) Original jurisdiction concurrent with the supreme judicial court in said county of York of all civil actions, which are not within the exclusive jurisdiction of some other municipal court of said county of York, in which the debt or damages demanded exceed twenty dollars, but do not exceed three hundred dollars, and both parties, or any defendant, or any plaintiff provided any defendant in the same action resides within said county of York, or any person summoned as trustee, reside, or has his last and usual place of abode in said county of York, or any defendant, not a resident of said county of York, if he is found within and legal service is made on him within said county of York, provided any plaintiff in said action resides in said county of York; or goods, estate, effects, or credits of any defendant are found within said county of York and attached on the original writ, and service in this last instance shall be made as provided in section twenty-one of chapter eighty-three of revised statutes; 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, or by agreement of the parties in writing at any subsequent term, be removed into the supreme judicial court, if the defendant,

—original concurrent with supreme court.

—proviso.

—proviso.

—removal of cases to supreme court, motion for.

CHAP. 279

at the time of filing said motions or agreements, pays into the court the fee of the clerk of courts 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 or written agreement, and his order thereon for the removal of said action, and shall pay the clerk of courts 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 case in which either of the towns of said municipal district is a party, or is summoned as trustee, this court shall not lose jurisdiction by reason of residence or ownership of property in such towns by the judge, but in such case the action may, upon 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 try case.

—parties may consent.

Jurisdiction wherein title to real estate is in question.

Court may administer oaths, adopt seal, render judgments, etc.

—make and enforce rules.

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 degree of second cousin inclusive, but which would otherwise be within the exclusive jurisdiction of the court, may be brought in and disposed of in said court, before said judge, if the parties thereto, by agreement, waive the objection, or before the recorder of said court, or in any other municipal court in the county in the same manner and with like effect as other actions brought therein.

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.

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 there-

in 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.

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 terms of said court held not later than sixty days after the date of said writs, 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.

Writs and processes, forms and service of

Section 6. Said court shall be held on the first and third Wednesdays 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, at nine of the clock in the forenoon, at such suitable place as the judge may determine, until the town of South Berwick shall provide a 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 trial justice, or 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 trial justice, or justice of the peace who continues said court as aforesaid shall note on

Term time.

—adjournment.

—proviso.

CHAP. 279

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 records.

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
entered.

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 can not 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,
when filed.

Pleas and motions in abatement must be filed on the first day of the term to which the action is returnable.

—pleadings
in bar.

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 a 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.

—actions of
forcible entry
and detainer.

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.

CHAP. 279

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.

—where one party has given five days' notice.

Actions 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.

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.

—trials shall not be assigned for first day, save by consent.

To serve the best interests of the parties, trials may be had at any time in or out of term time, and at any place to be provided by the parties thereto within said judicial district, by the consent of the parties thereto, or on motion by either party and hearing granted by the court, or by order of 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 defendant shall be defaulted unless the court enlarge the time, for which it may impose terms.

—defendant's pleading in actions of forcible entry and detainer.

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. All the doings and proceedings of this court, when not otherwise regulated by this act, and not inconsistent herewith, shall be governed by the rules and laws regulating supreme court procedure.

Costs and fees, allowed,

CHAP. 279

Fees of judge
in civil ac-
tions.

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 York county.

—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, for-
feitures 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 York county, but no account required by this section shall be deemed sufficient unless certified by oath of the judge.

Town shall
provide court
room.

Section 14. The town of South Berwick shall provide a suitable court room in said South Berwick, conveniently situated, 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. The county of York 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 county of York is hereby authorized to appropriate money therefor.

—county
shall provide
seal, blanks,
books, etc.

Salary of
judge.

Section 15. The judge shall receive a salary in full for all services of one thousand dollars per annum to be paid him by

CHAP. 280

the county of York, and the recorder a salary of three hundred dollars per annum, payable quarterly.

Section 16. Trial justices are hereby restricted from exercising any civil or criminal jurisdiction in the towns of said municipal district, 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 six 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 in said municipal district which have been brought and are pending, before trial justices, or any other municipal court, 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 or municipal courts the same as if this act had not passed.

Restrictions
of trial jus-
tices.

Approved March 30, 1911.

Chapter 280.

An Act to incorporate the Sandy River Power and Development Co.

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

Section 1. Oscar H. Hersey, Daniel F. Field, James W. Brackett, Harry B. Austin, Fred Morton, J. Blaine Morrison, Nathaniel H. Harden and Herbert Goldsmith of Phillips in the county of Franklin, state of Maine, their associates, successors and assigns are hereby incorporated under the name of the Sandy River Power and Development Company.

Corporators.

Section 2. Said corporation is hereby authorized and empowered to generate, buy, sell, distribute and supply electricity for lighting, heating, manufacturing and mechanical purposes in the towns of Phillips, Avon and Madrid with all the rights and powers and subject to all the duties and liabilities of similar corporations organized under the general laws of this state.

—corporate
name.
Purposes.

Section 3. The capital stock shall not exceed fifty thousand dollars, to be fixed by the corporation from time to time.

Capital stock.

Section 4. Said corporation is further authorized to develop such water power as it may own or acquire in said towns of Phillips, Avon and Madrid and in Sandy River plantation, and said corporation is hereby authorized to contract with any firm, individual or corporation for the purpose of buying, leasing or selling power as the needs of its business may require or permit.

May develop
water powers.