

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

Eighty-first Legislature

OF THE

STATE OF MAINE

1923

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OF THE

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after the word "dollars" in the third line thereof the words 'out-standing at one time,' so that said section, as amended, shall read as follows:

'Sec. 6. More than one issue of bonds permitted; not allowed to have more than \$175,000 outstanding at one time. Said Dover and Foxcroft Water District is authorized to issue its bonds in amounts not exceeding in the aggregate one hundred and seventy-five thousand dollars outstanding at one time, for such purposes and on such terms and conditions as it may deem expedient. Said bonds shall have interest coupons attached. Said bonds shall be signed in behalf of said corporation by its treasurer and countersigned by its assessors, and the coupons attached thereto shall be impressed by the facsimile of the signature of its treasurer. Said bonds shall be a legal obligation of said water district, which is hereby declared to be quasi-municipal corporation within the meaning of section fifty-five, chapter forty-six, of the revised statutes and all the provisions of said section shall be made applicable thereto. Said bonds it is hereby declared, shall be public funds of the state of Maine, within the meaning of section one of chapter one hundred and sixty-one of the public laws of one thousand eight hundred and ninety-five.'

Approved February 22, 1923.

Chapter 15.

An Act to Establish the Kennebunk Municipal Court.

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

Sec. 1. Territorial jurisdiction; name; judge and recorder, qualifications and duties; offices of judge and recorder vacated by removal from district. A municipal court is hereby established in and for the towns of Kennebunk, Kennebunkport, North Kennebunkport, Wells and Lyman, in the county of York and state of Maine, said towns constituting a municipal district, to be denominated and styled "The Kennebunk 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 in good standing, 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. The governor, by and with the advice and consent of the council, shall appoint a recorder of said

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court, who at the time of his appointment shall be a member of the bar in York county 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 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 in office he shall thereby vacate his office.

Sec. 2. Criminal and civil jurisdiction. Said court shall have additional jurisdiction as follows:

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

(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-six of chapter one hundred and twenty of the revised statutes.

(e) Of offenses described in sections one, five and six of chapter one hundred and twenty-eight 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 owner or keeper of such garage or other place where automobiles are stored for hire has been defrauded, does not exceed one hundred dollars. And on conviction may punish for said offenses by a 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 seven of chapter one hundred and twenty-six of the revised statutes, and on conviction may punish therefor as provided by law.

(g) Of all offenses described in sections twenty-four and twenty-nine of chapter one hundred and thirty of the revised statutes relating to tramps, and may punish therefor as provided by law.

(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, resides, 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-six of the revised statutes; including prosecutions for penalties in which either of said towns are interested, and of actions for forcible entry and detainer arising therein. 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 cognizable by them, not within the exclusive jurisdiction of this or some other court.

(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 exceeds twenty dollars, but does 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, resides, 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-six of the revised statutes; provided also that any action wherein the debt or damage demanded ex-

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ceeds 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, 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. 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.

Sec. 3. Jurisdiction denied when title to real estate is involved. 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-eight of the revised statutes.

Sec. 4. Powers; seal; provisions of law relating to proceedings and practice in S. J. court made applicable. 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.

Sec. 5. Forms of writs; teste and seal; writs when returnable. 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 the 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 fourteen days before the return date.

Sec. 6. Terms; trial justice or justice of the peace may adjourn court when judge and recorder absent; actions, how disposed of in such case. Said court shall be held on the first and third Tuesdays 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 Kennebunk 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 the docket

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thereof the fact that the judge and recorder were absent and the time to which the said court stands adjourned, and shall sign the same, and need not keep any other record thereof.

Sec. 7. Records; certified copies legal evidence. 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 the said judge or recorder shall be legal evidence in all courts.

Sec. 8. Appeals. 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.

Sec. 9. Entry of actions; defaults, pleadings, motions, trials and civil procedure. 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 of the plaintiff. 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 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 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 make such terms as it deems reasonable. 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. Actions shall be assigned for trial

as follows: At any term either party may ask the court to assign the action for trial 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. 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 hearing granted by the court, or by order of the court.

Sec. 10. Forcible entry and detainer actions procedure. 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.

Sec. 11. Costs and fees to parties, attorneys and witnesses. 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 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.

Sec. 12. Court fees and costs; how taxed and paid. 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

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for and paid over to the treasurer of York county. 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 being taxed in the bill of costs.

Sec. 13. Fines, forfeitures and costs in criminal proceedings, how collected and accounted for. The judge shall receive all fines, forfeitures and costs paid into court in criminal proceedings, and shall pay over all fees to the person 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.

Sec. 14. Court room to be provided by town of Kennebunk; county of York to provide seal, blanks, stationery, etc. The town of Kennebunk shall provide a suitable court room in said Kennebunk, 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.

Sec. 15. Salaries of judge and recorder. 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 York, and the recorder a salary of three hundred dollars per annum, payable quarterly.

Sec. 16. Trial justices, jurisdiction restricted; pending actions not affected. Trial justices are hereby restricted from exercising any civil or criminal jurisdiction in the towns of said municipal district, except as 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 inter-

tere with actions or proceedings 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 actions and proceedings shall be disposed of by such trial justices or municipal courts in the same manner as if this act had not been passed.

Approved February 22, 1923.

Chapter 16.

An Act to Amend Section One of Chapter One Hundred and Eighty-five of the Private and Special Laws of Eighteen Hundred and Twenty-three, Relating to the Limit of the Endowment Fund of Foxcroft Academy.

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

P. & S. L., 1823, c. 185, sec. 1; relating to incorporation of Foxcroft Academy, amended. Section one of chapter one hundred and eighty-five of the private and special laws of eighteen hundred and twenty-three, is hereby amended by striking out in the twentieth line thereof the words "three thousand" and inserting in place thereof the words 'fifteen thousand,' so that said section, as amended, shall read as follows:

'Sec. 1. Limit of income from endowment fund increased to \$15,000. Be it enacted by the Senate and House of Representatives, in Legislature Assembled, That Joseph E. Foxcroft, William Emerson, Daniel Wilkins, Thomas Williams, John Bradbury, Samuel Chamberlain, James S. Holmes, Phillip Greeley, Joshua Carpenter, Joseph Kelsey, Samuel M'Clanathan, Samuel C. Clark, and Jason Hassel, and their successors forever, be, and they hereby are, constituted and made a body politic, by the name of the Trustees of Foxcroft Academy; with power to prosecute and defend suits at law; to have a common seal, and to alter it at pleasure; to establish an academy at Foxcroft, in the county of Penobscot, for the promotion of literature, science, morality and piety; to make any by-laws for the management of their affairs not repugnant to the laws of the state, and to choose such officers as they deem proper; to hold any property, real and personal, by gift, grant, or otherwise, the yearly income of which shall not exceed the sum of fifteen thousand dollars; and to receive all property which may heretofore have been given or subscribed for the benefit of such academy.'

Approved February 26, 1923.