

# MAINE STATE LEGISLATURE

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SEVENTY-SIXTH LEGISLATURE

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SENATE

NO. 43

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*In Senate, Jan. 16, 1913.*

*Laid on table for printing, on motion by Senator Dutton of Kennebec, pending reference to the Committee on Judiciary in concurrence.*

*W. E. LAWRY, Secretary.*

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STATE OF MAINE

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IN THE YEAR OF OUR LORD ONE THOUSAND NINE  
HUNDRED AND THIRTEEN.

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AN ACT relating to the Municipal Court of the City of  
Hallowell.

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

Section 11, of Chap. 413 of the Private and Special Laws  
2 of eighteen hundred and fifty, being an act to incorporate  
3 the city of Hallowell, is hereby amended by striking out all  
4 the words of said section after the word "constitution" in  
5 the fourth line and inserting in place thereof the follow-  
6 ing: 'said court shall be a court of record, with a seal; said  
7 judge shall be an attorney-at-law, admitted to practice in  
8 the courts of Maine, and an actual resident of the city of

9 Hallowell at the time of his appointment and during his  
10 continuance in office,' so that said section shall read as  
11 follows:

'Sect. 11. A police court shall be and hereby is estab-  
13 lished in and for the city to be denominated the municipal  
14 court of the city of Hallowell, to consist of one judge, who  
15 shall be appointed and commissioned in the manner pro-  
16 vided in the constitution; said court shall be a court of  
17 record, with a seal; said judge shall be an attorney-at-law,  
18 admitted to practice in the courts of Maine and an actual  
19 resident of the city of Hallowell at the time of his appoint-  
20 ment and during his continuance in office.'

Sections twelve, thirteen, fourteen and fifteen of said chap-  
22 ter are hereby stricken out and the following are inserted  
23 in place thereof:

'Sect. 12. The governor, by and with the consent of the  
25 council and upon the recommendation of the judge shall  
26 appoint a recorder of said court. He shall hold office for  
27 the term of four years. Said recorder shall keep the rec-  
28 ords of said court when requested so to do by said judge;  
29 and in case of absence from the court room of said judge,  
30 or when the office of said judge shall be vacant, the said  
31 recorder shall have and exercise all the powers of the judge  
32 and perform all the duties required of said judge by this  
33 act, and shall be empowered to sign and issue all papers  
34 and processes, and to do all acts as fully and with the same  
35 effect as the judge could do if he were acting in the prem-

36 ises; and the signature of the recorder as such shall be  
37 sufficient evidence of his right to act instead of the judge.  
38 In case of the death or resignation of said judge, said re-  
39 corder shall act and be paid the salary of said judge until  
40 his successor is appointed and qualified.

‘Sect. 13. The city of Hallowell shall provide a suitable  
42 court room and consultation room, keep the same in good  
43 condition and properly furnished. All expenses of said  
44 court including blank books of record, dockets and blanks,  
45 and all other supplies necessary for the use of said court  
46 shall be paid from the treasury of the county of Kennebec.

‘Sect. 14. Said court shall have concurrent jurisdiction  
48 with trial justices, in all cases of forcible entry and de-  
49 tainer arising in said county, and original and exclusive  
50 jurisdiction in all such cases arising in said city, and in all  
51 civil actions now triable before a justice of the peace in  
52 which both parties interested, or in which the party plain-  
53 tiff and the person or parties summoned as trustee, shall  
54 be inhabitants of or residents in said city, excepting all  
55 actions in which said judge may be interested. And the  
56 said court shall also have exclusive jurisdiction of all of-  
57 fences against the by-laws and regulations which may be  
58 established by the city council of said city; and may, upon  
59 conviction thereof, award such sentence as to law and jus-  
60 tice may appertain, and in declarations for violations of  
61 by-laws or ordinances, the by-laws and ordinances need not  
62 be set forth; and said court shall have original jurisdiction

63 concurrent with the superior court, of all actions at law, ex-  
64 cept complaints for flowage, real actions and trespass quare  
65 clausum, in which the debt or damage demanded, exclu-  
66 sive of costs, does not exceed two hundred dollars, in which  
67 any party defendant or a person summoned in good faith  
68 and on probable grounds as trustee, resides in the county  
69 of Kennebec, or having his residence beyond the limits of  
70 this state is served with process within said county. And  
71 when any party defendant and person so named as trustee,  
72 both live in said Hallowell, and are summoned to appear  
73 in an action brought in some other municipal court in said  
74 county, they or either of them, may have the cause trans-  
75 ferred to said Hallowell municipal court, upon filing motion  
76 and affidavit at the return term thereof, and the cause shall  
77 then be heard as though originally brought therein. If any  
78 defendant, his agent or attorney in any action in said court,  
79 in which the debt or damage claimed in the writ exceeds  
80 twenty dollars, shall appear at the first term and on or be-  
81 fore the first day of the second term, file in said court an  
82 affidavit that he has a good defense to said action and in-  
83 tends in good faith to make such defense and claims a jury  
84 trial, the said action shall be removed into and entered at  
85 the next term of the superior court for said county. And  
86 the judge or recorder of said municipal court on payment  
87 to him of the entry fee in said superior court by the plain-  
88 tiff, shall forthwith cause the original writ and all other  
89 papers in the case to be filed in the clerk's office of said

90 superior court. Any party may appeal from any judgment  
91 or sentence of said municipal court to the superior court in  
92 the same manner as from a judgment of a trial justice.  
93 The costs and fees allowed to parties and attorneys in civil  
94 actions before said court, in which the debt or damages do  
95 not exceed twenty dollars shall be the same as are allowed  
96 before trial justices, except that the plaintiff, if he prevails,  
97 shall be allowed two dollars for his writ, and the defend-  
98 ant, if he prevails, shall be allowed one dollar for his plead-  
99 ings. In all actions in which the amount recovered ex-  
100 ceeds twenty dollars, the plaintiff, if he prevails, shall be  
101 allowed costs as taxed in the superior court. Copies of  
102 the records of said court duly certified, shall be evidence  
103 in other courts.

‘Sect. 15. I. All the provisions of the statutes of this  
105 state, relative to the attachment of real and personal prop-  
106 erty and levy of executions, shall be applicable to actions  
107 in this court, and executions on judgments rendered there-  
108 in; provided, that property may be attached, equal in value  
109 to the ad damnum, and in addition thereto, sufficient to  
110 satisfy the costs of suit. Actions may be referred and  
111 judgment on the referee’s report may be rendered in the  
112 same manner and with the same effect as in the superior  
113 court. Exceptions may be allowed and cases certified on  
114 an agreed statement of facts, or upon evidence reported  
115 by the judge, in all civil actions, as in the supreme judicial  
116 or superior courts, and the same shall be entered, heard

117 and determined at the law term thereof as if the same had  
118 originated in the superior or supreme judicial courts.

‘II. Said court shall have jurisdiction in all cases of  
120 simple larceny arising in said county, unless exclusive  
121 jurisdiction is vested in some other court, where the prop-  
122 erty alleged to have been stolen shall not exceed the value  
123 of fifty dollars, and of all cases of cheating by false pre-  
124 tences, where the property, money or other thing alleged  
125 to have been fraudulently obtained, shall not exceed in  
126 value the sum of fifty dollars, and shall have power to try  
127 the same, and in either of said cases to award sentence  
128 upon conviction by fine not exceeding fifty dollars, or  
129 imprisonment in the county jail with or without hard labor,  
130 for a term not exceeding ninety days. He shall have ex-  
131 clusive jurisdiction of all offenses arising in said city, and  
132 in the town of Manchester, which are by any law or statute  
133 within the jurisdiction of a trial justice and concurrent  
134 jurisdiction with trial justices of said county of Kennebec,  
135 of all such offenses arising in said county, outside of said  
136 city, and town mentioned, and also concurrent jurisdiction  
137 with the municipal courts of the city of Augusta and Gar-  
138 diner in the town of Chelsea.

‘III. Any action, civil or criminal, in which the judge  
140 of said court is interested or related to either of the par-  
141 ties by consanguinity or affinity, within the sixth degree  
142 according to the rules of the civil law, or within the degree  
143 of second cousins, but which would otherwise be within

144 the exclusive jurisdiction of said court, may be brought  
145 before and disposed of by any trial justice or any other  
146 municipal or police court in said county, in the same man-  
147 ner as other actions before said trial justices, or municipal  
148 or police courts. If any action wherein said judge is so  
149 interested or related to either party, is made returnable  
150 before this court, the parties thereto, by themselves or  
151 their attorneys, may in writing consent that said judge  
152 shall hear and dispose of the same; or the recorder there-  
153 of, if disinterested, or with the written consent of the par-  
154 ties, if interested, may hear and dispose of the same in  
155 the judge's stead, or such action shall be disposed of as  
156 follows: civil actions, wherein the debt or damages de-  
157 manded, exclusive of costs exceed twenty dollars, shall  
158 upon motion, be removed to the superior court, and all  
159 other civil actions, and all criminal actions, shall be re-  
160 moved and entered before any such trial justice within  
161 said county as may be agreed upon, in writing, by the  
162 parties entering an appearance in such action, or if no  
163 trial justice is agreed upon, before any municipal or police  
164 court in said county, and such trial justice or municipal  
165 or police court shall have and take cognizance of such ac-  
166 tion and dispose of the same, as if originally returnable  
167 before such trial justice or court; provided, that nothing  
168 in this section shall prevent any action in which said city  
169 or any of the towns hereinbefore mentioned shall be a  
170 party or named as trustee, from being heard and disposed



171 of in said court as in other cases; but in any such case the  
172 action may, upon motion of either party, filed before trial,  
173 be removed to the superior court, for said county.

‘IV. The said court shall be held on the first and third  
175 Mondays of each month, at nine o’clock in the forenoon,  
176 for the transaction of civil business, and all civil processes  
177 shall be made returnable accordingly. The judge or re-  
178 corder shall be at the court room whenever it is necessary  
179 to attend to criminal matters.

‘V. Said municipal court may render judgment and issue  
181 execution, punish for contempt, and compel attendance, as  
182 in the superior court; make all such rules and regulations  
183 not repugnant to law, as may be necessary and proper for  
184 the administration of justice promptly; and is clothed with  
185 all such lawful power as is necessary for the performance  
186 of its duties under this act.

‘VI. The salary of said judge shall be four hundred dol-  
188 lars and such fees as are allowed by the general law, and  
189 the same shall be payable quarterly out of the treasury of  
190 the county of Kennebec, on the first days of January, April,  
191 July and October. All fines and costs received in criminal  
192 cases, shall be paid quarterly into the county treasury; and  
193 no salary shall be paid to said judge until he shall file with  
194 the county treasurer, a written statement of the fines and  
195 criminal costs by him received during and for the preced-  
196 ing quarter.

‘VII. The said recorder shall receive an annual salary of

198 one hundred fifty dollars in full for all services, payable  
199 quarterly from the treasury of the county of Kennebec, on  
200 the first days of January, April, July and October.

‘VIII. All amendments to sections eleven, twelve, thirteen,  
202 fourteen and fifteen of the charter of the city of Hallowell,  
203 are hereby repealed, and all existing acts, public and pri-  
204 vate, inconsistent with the preceding sections are hereby  
205 modified; so far as relates to the city of Hallowell, so as to  
206 conform with their provisions.