

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SIXTY-SEVENTH LEGISLATURE

OF THE

STATE OF MAINE

1895.

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PRIVATE AND SPECIAL LAWS
OF THE
STATE OF MAINE.

1895.

Chapter 211.

An Act to amend chapter four hundred and seventy-two of the Special Laws of eighteen hundred and ninety-three, relating to the Bangor Municipal Court.

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

SECT. 1. Chapter four hundred and seventy-two of the special laws of eighteen hundred and ninety-three is hereby amended, so as to read as follows :

Bangor
municipal
court, how
constituted.

—seal.

—present
judge, and
recorder, to
continue in
office.

‘SECT. 1. The Bangor Municipal Court shall continue to be a court of record and have and use a seal on all original processes, and consist of one judge and a clerk who shall while in office be a trial justice, and be appointed by the governor, by and with the advice of the council, and hold his office for the term of four years, and both be duly commissioned and qualified. The present judge and the clerk shall continue in office until the end of the terms for which they were respectively appointed. Neither shall act as counsel or attorney in any cause, matter or thing, which may depend upon or relate to any cause cognizable by said court.

—jurisdiction.

‘SECT. 2. Said court shall exercise jurisdiction over all such matters and things, civil and criminal, within the county of Penobscot as trial justices, justices of the peace and justices of the peace and quorum may exercise, and under similar restrictions and limitations, and concurrent jurisdiction with trial justices in cases of forcible entry and detainer in said county, and exclusive jurisdiction in all such matters and things when either party interested, or a person summoned as trustee resides in the city of Bangor ; and over all offenses committed against the ordinances and by-laws of the city of Bangor, though the penalty therefor may accrue to said city ; and in the prosecutions on any such ordinances or by-laws, or any special law of the state relating to said city, such by-law, ordinance, or special law need not be recited in the complaint or process, nor the allegations therein be more particular than in prosecutions on a public statute ; and over all such criminal offenses committed within the limits of the same as are cognizable by trial justices ; and no trial justice, except the clerk of said court, or justice of the peace shall take cognizance over any crime or offense committed in said city, or any civil action over which said court has exclusive jurisdiction. Said court shall have concurrent jurisdiction

with the supreme judicial court in all personal actions where the debt or damage demanded, exclusive of costs, is over twenty dollars and not over three hundred dollars, and in all actions of replevin under chapter ninety-six of the revised statutes, when the sum demanded for the penalty, forfeiture or damages, or the value of the goods or chattels replevied does not exceed three hundred dollars; but this jurisdiction shall not include proceedings under the divorce laws or complaints under the mill act, so called, nor jurisdiction over actions in which the title to real estate according to the pleadings filed in the case by either party is in question except as provided in chapter ninety-four, sections six and seven of the revised statutes.

‘SECT. 3. Said court shall have concurrent jurisdiction with the supreme judicial court in the county of Penobscot of all offenses not required by the constitution or any statute to be answered for on a presentment or indictment of a grand jury, and may punish for said offenses by a fine not exceeding one hundred dollars, and imprisonment less than one year; and of all other offenses over which such jurisdiction is or may be granted, not herein specified.

Concurrent jurisdiction, with S. J. court, of certain offenses.

‘SECT. 4. If any defendant in any action in said court, where the amount claimed in the writ exceeds twenty dollars, or his agent or attorney shall, on the return term of the writ, file in said court a motion asking that said cause be removed to the supreme judicial court, and deposit with the clerk 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 the clerk shall forthwith cause certified copies of the writ, officers’ return and defendant’s motion to be filed in the clerk’s office of said supreme court, and shall pay the entry fee thereof; and said action shall be entered on the docket of the term next preceding said filing, unless said court shall then be in session, when it shall be entered forthwith, and shall be in order for trial at the next succeeding term. 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. The pleadings in such cases shall be the same as in the supreme judicial court.

Actions may be removed, to S. J. court.

‘SECT. 5. In any action in which the plaintiff recovers for the penalty, forfeiture, debt or damage not over twenty dol-

How costs shall be taxed

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lars, 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.

Any person
aggrieved,
may appeal to
S. J. court.

—proceed-
ings.

‘SECT. 6. Any person aggrieved at any judgment or sentence of said court may appeal to the supreme judicial court in the same manner as from a judgment or sentence of a trial justice, and all such appeals shall be in order for trial at the first term of said appellate court after such appeal is taken. Final judgments in said municipal court may be re-examined in the supreme judicial court on a writ of error or on a petition for review, and when the judgment is reversed, the supreme judicial court shall render such judgment as said municipal court should have rendered, and when a review is granted it shall be tried in said supreme judicial court. Questions of law, upon exceptions to the ruling of the court on agreed statement of facts, or on facts found by the court, shall be certified by the clerk to the chief justice of the supreme judicial court, with arguments of counsel, if such have been delivered to him, within sixty days after such exceptions have been allowed by the court. The party raising such questions shall deliver a copy of his argument to the opposing counsel within thirty days thereafter, who shall within twenty days after receiving the same make reply thereto and deliver the same to the counsel for the moving party, who shall in turn make reply thereto within ten days thereafter, and deliver said arguments to the clerk to be delivered with the exceptions to the chief justice as aforesaid. And such questions of law shall be considered and decided by the law court

as soon as may be ; or, if the parties so agree of record, such questions shall be certified to the next law term for the eastern district, to be entered on the docket thereof, and argued and determined according to the practice in said court, the result in either case to be certified by the clerk of said law court to this court ; costs to be taxed to the prevailing party.

‘SECT. 7. All the provisions of the statutes of this state, relative to the attachment of real and personal property and the levy of executions, shall be applicable to actions in this court, and executions on judgments rendered therein ; provided, that property may be attached, equal in value to double the ad damnum. Actions may be referred, and judgment on the referee’s report may be rendered in the same manner and with the same effect as in the supreme judicial court, except that the referee’s fees shall not be paid by the county, but taxed as costs.

Provisions of law, relating to attachments and levy of executions, applicable.

Actions may be referred.

‘SECT. 8. Said court is hereby authorized to administer oaths, render judgments, issue executions, certify copies of its records, punish for contempt and compel attendance as in the supreme judicial court, and to make all such rules and regulations, not repugnant to law, as may be necessary and proper for the administration of justice and to facilitate its business.

Powers of court.

‘SECT. 9. The price of blank writs and summonses with the seal of the court, signed by the clerk, 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 four and five. All writs and processes in civil matters shall be in the name of the state, bear the teste of said judge, under the seal of said court and signed by the clerk, be served in time and manner as now provided by law in case of writs issued by trial justices and made returnable at one of the five terms next begun and held after the commencement of the action, and be obeyed and executed throughout the state.

Fees for blank writs, etc.

—writs and processes, shall be under seal, and bear teste of judge.

‘SECT. 10. Said court may adjourn from time to time, but shall be considered in constant session for the trial of criminal offenses ; and for the transaction of civil business shall be held on the first and third Mondays of each month at ten o’clock in the forenoon, except the month of August, provided, however, that said court shall be held on every Mon-

—terms.

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—when judge is temporarily unable to attend, clerk may act, in certain cases.

—in case of permanent disability, justice of S. J. court, may designate trial justice to hold court.

City, shall provide place for holding court.

—expense and salary, of judge and clerk, shall be paid from Co. treasury.

City marshal, or deputy, shall be in attendance.

Records of court, shall be kept by clerk.

day of each month, except the month of August, for the entry and trial of actions of forcible entry and detainer, and judgment in such actions may be entered on the day when the same are defaulted, or heard and determined; and whenever the judge is absent, or temporarily unable to attend at any term of said court, the clerk may enter new actions returnable at that term, receive and file pleas, motions and other papers cognizable by said court, and enter up judgment in all defaulted actions, and may then, by proclamation, adjourn the court to a day certain, or to the next term; provided, however, that said court shall not, during the month of August be open for the trial of any civil action. In case of the more permanent disability of the judge, or his being interested, in any suit or in the case of his continued absence or a vacancy in his office, the clerk shall notify any justice of the supreme judicial court, who shall designate a trial justice in said county, who upon being duly sworn may hold said court during the continuance of such vacancy or absence, or until such disability is removed, or try any suit in which said judge may be interested.

‘SECT. 11. Said court shall be held at such place as the city of Bangor 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, for which there shall be paid from the county of Penobscot, as rental, in quarterly payments, the sum of one thousand dollars annually. The salaries of the judge and clerk thereof, which are hereby fixed at fifteen hundred dollars and fourteen hundred and fifty dollars respectively, to be paid quarterly which with all other expenses of said court, shall be paid from the treasury of the county of Penobscot.

‘SECT. 12. The city marshal or one of his deputies shall be in attendance on said court when requested to do so by the judge, for the purpose of preserving order, and shall execute all legal orders and processes to him directed by the court.

‘SECT. 13. The records of said court and of the police court formerly existing in said Bangor shall be deposited with and kept by the clerk; and said municipal court shall have jurisdiction thereof and full power and authority to issue and renew executions and other processes and carry into effect

the judgments and decrees heretofore rendered by said police court and to certify and authenticate the records thereof as effectually as if it had not been abolished, and shall, for reasonable fees, grant and certify copies of the records of both courts when required, which shall be evidence of the contents of such records in any legal proceedings.

‘SECT. 14. The clerk of said court shall give a bond to the county of Penobscot in the sum of five hundred dollars to be approved by the county commissioners of said county. In case of the absence of said clerk, or a vacancy in said office, the judge may appoint a clerk who shall be sworn by said judge and act during said absence, or till the vacancy is filled.

Clerk shall be sworn, and give bond.

—vacancy, how filled.

‘SECT. 15. If the judge and clerk are both necessarily absent, the judge may designate some trial justice in said county to perform the duties of clerk; and if said judge should not so designate a trial justice, the clerk may designate one.

When judge and clerk are both absent, judge may designate some trial justice to act.

‘SECT. 16. Said clerk shall record the doings of said court, may administer oaths, and shall have such powers and perform such duties as are possessed and performed by the clerks of the supreme judicial court; and shall have the power to hear complaints in all criminal matters, accusations in bastardy, draw all complaints and sign all warrants, and make and sign all processes of commitment, but the same shall be heard and determined as now provided by law; but such complaints, accusations, warrants or processes of commitment, drawn and signed by the judge of said court shall be equally valid. Whenever said judge shall be engaged in the transaction of civil business, or be absent from the court room or the office shall be vacant, said clerk shall have and exercise the same powers and perform the same duties which said judge possesses and is authorized to perform in the transaction of criminal business. All processes issued by said clerk in criminal matters shall bear the seal of said court and be signed by said clerk and have the same authority as if issued and signed by said judge.

Powers and duties of clerk.

When judge is absent from court room, clerk shall perform duties.

—processes issued in criminal matters, shall be under seal.

‘SECT. 17. All fines, penalties and costs paid into said court upon convictions and sentences in criminal matters, together with all fees allowed by law in the transaction of criminal and civil business, shall be paid to said clerk; pro-

All fines and costs in criminal matters, shall be paid into Co. treasury.

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vided, that there shall be allowed for every warrant issued, one dollar, and for the trial of an issue in criminal cases, two dollars, and all other fees in criminal cases shall be the same as are taxable by trial justices.

All fines and fees, shall be paid into Co. treasury.

‘SECT. 18. All fines and forfeitures and fees of the judge and clerk of said court imposed and collected by said court in all criminal cases and all fees of said judge and clerk of said court in civil and criminal cases received by said clerk shall be accounted for and paid over quarterly into the treasury of said county for the use of said county; and all fees of said court paid after any commitment to any jailer shall be paid by him monthly into said treasury.

Trial justices, and justices of the peace, in Bangor, shall not exercise any civil or criminal jurisdiction.

‘SECT. 19. The several trial justices and justices of the peace in the city of Bangor shall continue to have and exercise all the power and authority vested in them by the laws of the United States; but no such justices shall, except in proceedings in bastardy, exercise any civil or criminal jurisdiction under a penalty of twenty dollars for each offense, to be recovered by indictment. But nothing in this act shall be construed to prevent such justices from doing any business other than that especially devolving upon said court.

—penalty.

Inconsistent acts, repealed.

‘SECT. 20. All acts and parts of acts inconsistent with this act, except chapter one hundred and seventy-seven of the private and special laws of eighteen hundred and eighty-seven and acts additional thereto and amendatory thereof, relating to the Old Town Municipal Court, and chapter two hundred and sixty of the private and special laws of eighteen hundred and eighty-three, and acts additional thereto and amendatory thereof, relating to the municipal court in the town of Dexter, are hereby repealed.

Secs. 11 and 18, shall be considered as in force on Jan. 1st.

‘SECT. 21. Sections eleven and eighteen of this act shall relate back and be considered as in force and effect on the first day of January, eighteen hundred and ninety-five.

‘SECT. 22. This act shall take effect when approved.’

Approved March 20, 1895.