

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1850.

Augusta:

WILLIAM T. JOHNSON, PRINTER TO THE STATE.

1850.

THIRTIETH LEGISLATURE.

No. 7.]

[SENATE.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND
FIFTY.

AN ACT to establish a criminal court for the county of
Cumberland.

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

SEC. 1. That there be, and hereby is established a
2 court, to be denominated the criminal court for the
3 county of Cumberland, to be holden in the city of
4 Portland, on the third Tuesday of January, the fourth
5 Tuesday of March, the third Tuesday of May, the
6 third Tuesday of July, the second Tuesday of Sep-
7 tember and the fourth Tuesday of October, which

8 may be adjourned by said court as occasion may
9 require; said court shall consist of one judge, who
10 shall be appointed and commissioned by the governor
11 pursuant to the constitution of this state.

SEC. 2. The said court shall have original and
2 exclusive jurisdiction of all such offenses, crimes and
3 misdemeanors as before the passage of this act were
4 cognizable by the district court for the county of
5 Cumberland; and shall also have appellate jurisdic-
6 tion of all crimes, offenses and misdemeanors where
7 an appeal may now by law, be made to the said dis-
8 trict court from the judgment or sentence of any
9 justice of the peace or any police or municipal court.
10 And also all matters and things under the provisions
11 of the one hundred and thirty-first chapter of the
12 revised statutes of Maine. And the said court is
13 hereby fully authorized to give judgment, award ex-
14 ecution, administer necessary oaths and affirmations,
15 and to do, execute, perform and order, whatever by
16 the constitution and laws it shall be his duty to do, or
17 whatever the said district court before the passage of
18 this act were authorized to do, execute and perform
19 so far as its criminal jurisdiction extended.

SEC. 3. The judge of said court shall continue to
2 hold his office according to the tenor of his commis-
3 sion, and when a vacancy occurs, it shall be filled in
4 the manner prescribed by the constitution.

SEC. 4. If the judge shall be absent at any time
2 appointed for holding a court, whether at the begin-
3 ning of a term or at any adjournment thereof, the
4 clerk shall adjourn the court, either without day, or to
5 such time and place as the public convenience may
6 in his judgment require ; and notice of such adjourn-
7 ment shall be given by proclamation, to be made in
8 the court house, by the sheriff or his deputy, and in
9 such other manner as the court may by any general
10 rule direct.

SEC. 5. The said judge shall issue all such writs
2 and processes and exercise all such powers in relation
3 to crimes, offenses and misdemeanors, as the district
4 court might do, and which may be necessary for a
5 proper discharge of his duty, and all such writs and
6 processes may run into any county, and shall be
7 obeyed and executed throughout the state.

SEC. 6. The grand jurors for the criminal court,
2 shall be drawn and returned according to the provis-

3 ions of the one hundred and thirty-fifth chapter of the
4 revised statutes, and shall serve for the space of one
5 year from the time they are thus returned.

SEC. 7. The traverse jurors for the said court shall
2 be drawn and returned in the same way and manner
3 that the traverse jurors are drawn for the district
4 court, and according to the provisions of the one hun-
5 dred and thirty-fifth chapter of the revised statutes ;
6 and writs, venire facias, shall be issued for that pur-
7 pose returnable at the terms of said court as the judge
8 may direct, and the jurors so returned at the January
9 term, shall serve at the March term, and those
10 returned at the May term, shall serve at the July term,
11 and those returned at the September term, shall serve
12 at the October term.

SEC. 8. The said judge shall from time to time ap-
2 point the clerk of said court, who shall be sworn to
3 the faithful discharge of his duty, and shall hold his
4 office during the pleasure of said court, and in case
5 of the absence or inability of the clerk, the court may
6 appoint a clerk pro tempore who may be sworn to the
7 faithful discharge of his duty.

SEC. 9. All fines, forfeitures and costs accrued and

2 allowed upon any judgment or any proceeding in said
3 court shall be paid to and received by said clerk and
4 accounted for in like manner as is provided in crim-
5 inal prosecutions in the said district court prior to the
6 passage of this act. And the said clerk shall reserve
7 the same compensation as the clerk of the supreme
8 judicial court and district courts, and in the manner
9 prescribed by the statutes now in force, and the pro-
10 vision of statute prescribing the duties of clerk of the
11 last mentioned courts so far as they relate to criminal
12 business shall be applicable to the clerk of said crim-
13 inal court.

SEC. 10. Any person convicted of any offense in
2 said court may alledge exceptions to any rulings or
3 opinions, direction of said court, which shall be
4 allowed and signed by the presiding judge in the
5 manner mentioned in the eighteenth section of the
6 ninety-seventh chapter of the revised statutes, and the
7 persons alledging the exceptions shall first recognize
8 with sureties as this court shall direct, to produce the
9 papers, and prosecute his exceptions before the
10 supreme judicial court and abide the sentence and
11 order of said court, or if the cause shall be remanded

12 to the said criminal court, and not depart without
13 license, and the supreme judicial court shall have
14 cognizance thereof, and may affirm the verdict ren-
15 dered in the criminal court, or grant a new trial, and
16 enter judgment or remand the cause to the said crim-
17 inal court as justice may require, and if he shall fail
18 to enter and prosecute his appeal or exceptions, the
19 said supreme judicial court may sentence him to such
20 punishment as the said criminal court might have
21 inflicted, and for that purpose to compel his attend-
22 ance if absent, or adjudging the recognizance for-
23 feited, or both as the case may require.

SEC. 11. There shall be appointed by the governor
2 and council an attorney or prosecuting officer for said
3 court for the term of three years, and he shall attend
4 all the terms of said court, and in behalf of the state,
5 county or city, in the same way and manner as the
6 county attorney is now required to do by the provi-
7 sions of statute; and said prosecuting officer shall be
8 required to do and perform all such services as the
9 county attorney for said Cumberland county is re-
10 quired by law to do and to perform. And the said
11 attorney or prosecuting officer shall receive the sum

12 of eight hundred dollars in quarterly payment from
13 the treasurer of the state, on the first day of January,
14 April, July and October, which sum shall be in full
15 satisfaction for all his services. Providing that the
16 present attorney for the county of Cumberland is
17 hereby constituted said prosecuting officer for the
18 remaining term of time for which he was and is
19 elected as attorney for the state for said county.

SEC. 12. Said criminal court may grant new trials
2 in like cases, and upon the same terms and conditions
3 as are now provided in the ninety-seventh chapter of
4 the revised statutes for the granting new trials by the
5 district court, and exceptions may be taken to any
6 decision or direction of the court in matter of law in
7 the same manner and with the same limitation as are
8 provided by said ninety-seventh chapter of the revised
9 statutes and by complying with the provision of the
10 tenth section of this act.

SEC. 13. It shall be the duty of said prosecuting
2 officer to enforce the collection and payment to the
3 treasurer of said county, of all fines, forfeitures and
4 bills of costs that shall have accrued to the state,
5 county or city, and enforce on sheriffs, coroners and

6 constables, a faithful performance of the duties of
7 their respective offices in relation thereto, and to give
8 information to the court of all defaults and failures to
9 pay into the said treasury such fines and forfeitures as
10 shall accrue to the said county.

SEC. 14. When the office of said prosecuting offi-
2 cer shall happen to be vacant at any session of said
3 court, or such attorney is detained from court by
4 sickness or other unavoidable causes, the said court
5 may appoint some proper person to perform during
6 such vacancy the duties of the office.

SEC. 15. The said prosecuting officer shall annu-
2 ally in the month of November, make to the attorney
3 general a report of the amount and kind of official
4 business by him done in the preceding year, the num-
5 ber of persons prosecuted, the offenses for which such
6 prosecutions were had, the results thereof, and the
7 punishments awarded in each case, with such partic-
8 ular statements and suggestions as he may deem
9 necessary or expedient.

SEC. 16. The judge of said court shall receive the
2 sum of twelve hundred dollars from the treasurer of
3 the state in quarterly payments, on the first day of

4 January, April, July and October, which sum shall not
5 be diminished during his continuance in office, and
6 shall be in full compensation for all his services.

SEC. 17. The sheriff of said county is hereby re-
2 quired to attend said court during the sessions thereof
3 either in person or by his deputies or other officers by
4 him selected, and to do and perform all such services
5 as he is now required by the revised statutes or by
6 any subsequent statutes relating to said matter, to do
7 and perform in the district court for said county and
8 to serve all writs, precepts or other processes issued
9 by said court to him directed, in the same manner
10 and under the same restrictions as he or they are
11 required to do by the laws of the state now in force.
12 The said sheriff and his deputies shall receive in addi-
13 tion to the salary he or they now by law receive, the
14 same sum per day as he or they now receive for attend-
15 ing the district court during the time he or they shall
16 personally attend said court.

SEC. 18. The county commissioners for the county
2 of Cumberland shall immediately after the passage of
3 this act prepare a suitable place to hold said court.

SEC. 19. The jailer of said county shall at the

2 opening of the said criminal court at each session,
3 return his list of prisoners to said court instead of
4 returning it to the district court according to the pro-
5 visions of the laws of this state at the passage of this
6 bill ; and said jailer is hereby required to do and per-
7 form all such acts as he was required to perform by
8 the laws of the state.

SEC. 20. The second section of the one hundred
2 and sixty-sixth chapter of the revised statutes and all
3 other acts or parts of acts inconsistent with this act
4 giving criminal jurisdiction to the district court for the
5 county of Cumberland be and the same are hereby
6 repealed.

SEC. 21. All criminal matter which may be pend-
2 ing in the district court for this county at the time of
3 the passage of this act or the time when it becomes a
4 law, be and hereby are transferred to said criminal
5 court ; and all recognizances or other processes of a
6 criminal character returnable to said district court at
7 the passage of said act shall be returnable to and have
8 day in said criminal court, and the clerk of the dis-
9 trict court is hereby required to furnish the clerk of
10 the criminal court with a list of all criminal matters

11 pending in said court as aforesaid, and deliver over to
12 said clerk all the papers appertaining to such matters.

SEC. 22. The grand jurors for said court shall
2 make due presentment of all such crimes, offenses,
3 misdemeanors, which are committed within the body
4 of the county of Cumberland as could legally be in-
5 quired into by the grand jurors drawn to serve either
6 in the supreme judicial court or the district court for
7 the county of Cumberland, according to the provi-
8 sions of the laws of this state prior to the passage of
9 this act ; and all indictments (or other matters) which
10 may be found by said grand jurors against any person
11 or persons, body politic or corporation, for any crime,
12 offense or misdemeanor, of which the supreme judicial
13 court has jurisdiction, the party thus charged in such
14 indictment shall not be tried nor arraigned in said
15 criminal court, but the indictment or other matter,
16 together with all other papers appertaining thereto,
17 shall be transmitted by the clerk to the supreme judi-
18 cial court then in session or next to be holden in said
19 county, to be there heard, tried and determined in
20 the manner provided by the laws of this state prior to
21 the passage of this act, and the clerk of said supreme

22 judicial court shall forthwith give notice of such in-
23 dictment or other matter to the chief justice of said
24 supreme judicial court.

SEC. 23. If the party or parties charged in any in-
2 dictment which may be found by said grand jurors are
3 not already in custody (if the subject matter of the
4 indictment be of such a character as to require it) the
5 said criminal court shall issue a warrant to arrest such
6 person or persons and shall require them to give bail
7 for their appearance at said court or commit them to
8 the jail, and in case any person or persons are indicted
9 for any offense, crime or misdemeanor of which said
10 court has not jurisdiction, and who may be brought
11 before said court by a warrant issuing therefrom, then
12 it shall be the duty of the clerk of said court to inform
13 such person or persons of the crime for which they
14 have been arrested, and the court shall thereupon
15 order the person or persons thus arrested and in cus-
16 tody to be committed or bound over with sufficient
17 sureties for trial to the court of law having jurisdiction
18 of the case as is now provided by the laws of this
19 state.

SEC. 24. All acts and parts of acts requiring that a

2 grand jury shall be summoned to serve at either the
3 supreme judicial court or the district court for the
4 western district for the county of Cumberland, and
5 which are inconsistent with this act, be and the same
6 are hereby repealed.

STATE OF MAINE.

IN SENATE, May 25, 1850.

ORDERED, That 350 copies of the foregoing bill, (laid upon the table by Mr. Shepley,) be printed for the use of the Legislature.

A. H. SMALL, *Secretary.*