

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE.

DURING ITS SESSION

A. D. 1855.

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1855.

THIRTY-FOURTH LEGISLATURE.

HOUSE,

No. 17.

STATE OF MAINE.

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

AN ACT to abolish the Municipal Court in the city of
Portland and to establish a Police Court in said city.

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

SECTION 1. There is hereby established in and for
2 the city of Portland a court to be denominated the
3 Police Court of Portland, to consist of one judge, to
4 be appointed in the manner and for the term provided
5 in the constitution.

SECT. 2. Said judge shall have concurrent jurisdic-
2 tion with justices of the peace in all matters civil and
3 criminal, within the county of Cumberland, and with
4 justices of the peace and quorum in all cases of forci-

5 ble entry and detainer, and concurrent jurisdiction
6 with the supreme judicial court in all civil actions,
7 except actions of quere clausum and such as concerns
8 the title to real estate where the party defendant, or
9 the person summoned as trustee, resides within said
10 county, and where the amount claimed in damages
11 does not exceed the sum of one hundred dollars ; but
12 all cases in which the amount claimed in damages ex-
13 ceeds the sum of twenty dollars, shall be tried by a
14 jury, if either party so elect.

SECT. 3. Said judge shall have original and exclu-
2 sive jurisdiction in all offences against the laws and
3 ordinances of the city of Portland, and in all civil
4 actions wherein the amount claimed in damages does
5 not exceed twenty dollars, in which either party, or
6 the person or persons summoned as trustee, reside
7 within said city, and in all cases of forcible entry and
8 detainer arising in said city, excepting actions in
9 which said judge may be interested, and in all
10 offences arising in said city which are by any law or
11 statute within the jurisdiction of a justice of the peace.

SECT. 4. Said judge shall have jurisdiction in all
2 cases of simple larceny, where the property alleged to

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3 have been stolen shall not exceed in value the sum of
4 twenty dollars, and of all cases of cheating by false
5 pretences where the property, money or other thing
6 alleged to have been fraudulently obtained shall not
7 exceed in value the sum of twenty dollars, and shall
8 have power to try the same, and in either of said cases
9 may award sentence upon conviction by fine not ex-
10 ceeding twenty dollars, or imprisonment in the county
11 jail, or in the house of correction to hard labor,
12 for a term not exceeding ninety days. He shall
13 have exclusive jurisdiction of all offences arising in
14 said city which are by any law or statute within the
15 jurisdiction of a justice of the peace, and concurrent
16 jurisdiction with justices of the peace of the county of
17 Cumberland of all such offences arising in said county
18 out of said city.

SECT. 5. Said judge shall have power to sentence
2 boys under the age of eighteen years who have been
3 convicted of offences before said court, to the State
4 Reform School, for such term as he shall deem expe-
5 dient during the minority of said offender.

SECT. 6. Said judge shall have power to make
2 such rules as may be necessary to regulate and facili-

3 tate the business of said court; and he may punish
4 for contempt as other courts are authorized to do.
5 And he may alter the forms of writs and other process
6 to make the same consistent with the style, organiza-
7 tion, and jurisdiction of said court.

SECT. 7. Said judge shall hold four regular terms
2 in each year, for the purpose of trying cases by a jury,
3 to wit: on the first Tuesdays of January, April, July
4 and October, at each of which terms there shall be in
5 attendance a jury of twelve persons, to be drawn and
6 returned from the city of Portland, as near as may be
7 in the same manner as other traverse jurors are now
8 drawn. And in case there shall not be a full jury in
9 attendance, the court shall cause jurors to be returned
10 from the bystanders, or from the city at large, to
11 complete the panel. And the said jurors shall be
12 subject to all the provisions and penalties of other
13 traverse jurors; but no juror shall be compelled to serve
14 oftener than once in each year.

SECT. 8. Said judge may grant new trials of cases
2 which have been tried in the said court, by a jury in
3 like manner and upon the same terms and conditions
4 as the supreme judicial court is authorized to do;

5 and exceptions may be taken to any decision or
6 direction of the court in matters of law, in the same
7 manner as they may be taken in the supreme judicial
8 court. And parties may remove their cases to the
9 supreme judicial court for final decision of the law,
10 in the same manner they are now authorized to do
11 from the decision of one judge in the supreme judicial
12 court.

SECT. 9. There shall be a recorder of said court
2 appointed by the Governor, with advice of the Council,
3 to hold his office for the term of four years, whose
4 duty it shall be to make and keep its records, and
5 perform all the duties which are usually exercised by
6 clerks of courts. He shall be under oath, and shall
7 give bond to the city treasurer, with surety or sureties,
8 in such penal sum as said judge shall determine,
9 conditioned for the faithful performance of the duties
10 of his office. And it shall be the duty of said recorder
11 to receive all fees and fines which are or may be by
12 law payable to said court; and he shall render an
13 account thereof upon oath, and pay over the same to
14 the city treasurer quarter-yearly. And in case of the
15 death of said judge, or whenever he may be necessarily

16 absent from the city, or shall be prevented by sickness
17 or other cause from attending to the duties of his
18 office, the said recorder shall have the power and
19 perform the duties of said judge until another person
20 be appointed, or during such absence or disability, as
21 the case may be, excepting the trial of issues in civil
22 cases; and he may adjourn the court, during such
23 absence or disability, from time to time, until the
24 return of the judge or the disability is removed.

SECT. 10. Said court shall have a seal, to be affixed
2 to all original processes issuing therefrom.

SECT. 11. Said judge shall hold a court weekly
2 for the trial of causes without a jury, on Monday at
3 nine of the clock in the forenoon, at such place as
4 shall be provided by the city; and all civil processes
5 shall be made returnable accordingly; and the judge
6 may adjourn the court from day to day if necessary,
7 and may perform all duties which are usually exercised
8 by justices of the peace, or justices of the peace and
9 quorum; and for the trial of criminal cases, said court
10 may be considered as continually open.

SECT. 12. The price of blank writs, with the seal
2 of the court, and signed by the recorder, shall be four

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3 cents each. The fees shall be, for a writ to be taxed
4 for the plaintiff, if he prevails, one dollar, and an
5 attorney fee of one dollar to be taxed by the defend-
6 ant if he prevails. In other respects the fees in civil
7 and criminal cases shall be the same as are taxable by
8 justices of the peace.

SECT. 13. The city of Portland shall raise and
2 assess moneys for defraying the expenses of the court,
3 and provide a suitable place for holding the same.

SECT. 14. The mayor, or such committee as he
2 may appoint for that purpose, may inspect and ex-
3 amine the books, records and papers belonging to said
4 court, and it shall be the duty of said recorder to
5 exhibit the same, and give such information relative
6 thereto as may be required of him from time to time
7 as aforesaid.

SECT. 15. The several justices of the peace in the
2 city of Portland shall continue to have and exercise
3 all the power and authority vested in them by the
4 laws of the United States; but no such justice shall
5 exercise any civil or criminal jurisdiction otherwise,
6 under a penalty of twenty dollars for each offense, to
7 recovered by indictment in any court proper to try

8 the same, for the use of the city of Portland, except-
9 ing in cases of death, absence or other disability of
10 the judge, or in cases in which said judge is inter-
11 ested, when they may exercise the duties usually
12 devolving upon justices of the peace. But nothing
13 in this act shall be construed to prevent said justices
14 from administering oaths, taking acknowledgements
15 of deeds, and other writings, acting as arbiters or
16 referees, or doing any business other than that specially
17 devolving upon said court. All fines and forfeitures
18 of bonds, recognizances or otherwise, and all fees
19 arising out of trials in said court, which would by
20 law, in such trials in the supreme judicial court, be
21 paid into the county treasury, shall be paid into the
22 city treasury, and be applied to the payment of the
23 expenses of said court and the salaries of the recorder
24 and judge.

SECT. 16. All actions, suits, matters and things
2 which may be pending in the municipal court for said
3 city of Portland, and all writs, recognizances, execu-
4 tions, warrants and processes returnable, which could
5 have had day therein, had not this act been passed,
6 shall, after this act shall take effect, be returnable to,

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7 have day in, and be fully acted on in the police
8 court; and said police court shall have full power
9 and authority to grant any execution or other process
10 to carry into effect any judgment rendered by the
11 municipal court in the same manner as said municipi-
12 pal court might have done had not this act been
13 passed.

SECT. 17. The records required to be kept by said
2 court shall be the same as have until now been kept
3 by the municipal court for the city of Portland.

SECT. 18. The compensation of jurors shall be the
2 usual travel and one dollar for each day's attendance,
3 and the jury fee to be taxed, shall be the same as in
4 the supreme judicial court; and the jury shall be paid
5 from the city treasury, by an order thereon from the
6 recorder, at the close of each term.

SECT. 19. In all cases where judgment has been
2 rendered in scire facias against trustee or otherwise,
3 the damages shall be for the full amount of the
4 damages and costs in the process upon which the scire
5 facias was issued, and it shall appear in the margin of
6 the execution, that the same was issued on a judgment
7 on scire facias.

SECT. 20. Said police court shall have power to
2 issue summons and other processes, to procure the
3 attendance of witnesses in the trial and examination
4 of criminal cases, to run into any county, to be served
5 by the sheriff of the county of Cumberland, or any
6 other county, or either of their deputies, or any con-
7 stable of the town in which such witness may be.

SECT. 21. When, by a trustee writ returnable be-
2 fore the police court of the city of Portland, any
3 person is summoned as trustee, who is liable to be
4 charged as such, and the defendant resides out of the
5 county of Cumberland and within this State, said writ
6 may run into any county, and shall be served on the
7 defendant fourteen days at least before its return day.

SECT. 22. All precepts, warrants, venires and pro-
2 cesses issued from said police court, shall be tested in
3 like manner as similar processes in the supreme
4 judicial court, and shall be made under the seal of
5 the police court and signed by its recorder.

SECT. 23. The city marshal, either himself or by
2 one or more deputies or other officers, shall be in
3 attendance at each session of the police court, and
4 under its direction.

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SECT. 24. Said recorder shall receive for his ser-
2 vices the sum of one thousand dollars per year, to be
3 paid quarter yearly from the city treasury, and said
4 judge shall receive in full for his services the sum of
5 fourteen hundred dollars per year, to be paid quarter
6 yearly from the city treasury. Neither the judge nor
7 recorder shall act as counsel or attorney in any case
8 within the jurisdiction of said court, nor in any suit,
9 matter or thing which may depend on, or have rela-
10 tion to any cause, matter or thing depending or
11 cognizable in said court.

SECT. 25. The municipal court now existing in
2 the city of Portland is hereby abolished, and the act
3 establishing the same is hereby repealed.

SECT. 26. This act shall take effect from and after
2 the first day of April in the year of our Lord one
3 thousand eight hundred and fifty-five.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
March 7, 1855. }

The foregoing bill was read twice, laid on the table, and 350 copies ordered to be printed for the use of the Legislature.

H. K. BAKER, *Clerk.*