

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.

AUGUSTA:

STEVENS & BLAINE, PRINTERS TO THE STATE.

1855.

THIRTY-FOURTH LEGISLATURE.

SENATE.

NO. 18.

STATE OF MAINE.

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

AN ACT to abolish the Police Court for the city of
Bangor, and to establish a Municipal Court for said
city, with enlarged jurisdiction.

*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 Bangor a court to be denominated the mu-
3 nicipal court of Bangor.

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

SECT. 3. Said court shall consist of one judge, to
2 be appointed in the manner and for the term provid-
3 ed by the constitution.

SECT. 4. Said judge shall have concurrent jurisdic-

tion with justices of the peace in all matters, civil and criminal, within the county of Penobscot, and with justices of the peace and quorum in all cases of forcible entry and detainer arising in said county.

SECT. 5. Said judge shall have original and exclusive jurisdiction of all offences against the ordinances and laws of the city of Bangor, and in all civil actions wherever the amount claimed in damages shall not exceed twenty dollars in which both parties interested, or the attorney of the plaintiff who made the writ, and the defendant, or in which the plaintiff or his attorney, and the person or persons summoned as trustees, shall be inhabitants of or residents in said city of Bangor, and in all cases of forcible entry and detainer arising in said city, excepting all actions in which said judge may be interested.

SECT. 6. Said judge shall have jurisdiction in all cases of simple larceny where the property alleged to have been stolen shall not exceed in value the sum of twenty dollars, and of all cases of cheating by false pretences, where the property, money, or other thing alleged to have been fraudulently obtained shall not exceed in value the sum of twenty dollars, and

8 shall have power to try the same, and in either of said
9 cases may award sentence upon conviction by fine not
10 exceeding twenty dollars, or imprisonment in the
11 county jail, or in the house of correction to hard labor,
12 for a term not exceeding ninety days. He shall have
13 exclusive jurisdiction of all offences arising in said
14 city which are by any law or statute within the juris-
15 diction of a justice of the peace, and concurrent jurisdic-
16 tion with justices of the peace of the county of Penob-
17 scot of all such offences arising in said county out of
18 said city.

SECT. 7. 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. 8. Said judge shall have power to make such
2 rules as may be necessary to regulate and facilitate
3 the business of said court ; and he may punish for con-
4 tempt as other courts are authorized to do. And he
5 may alter the forms of writs and other process to
6 make the same consistent with the style, organization,
7 and jurisdiction of said court.

SECT. 9. There shall be a recorder of said court
2 whose duty it shall be to make and keep its records
3 and perform all the duties which are usually exercised
4 by clerks of Courts; he shall be under oath, and shall
5 give bond to the city treasurer, with surety or sure-
6 ties, in such penal sum as said judge shall determine,
7 conditioned for the faithful performance of the duties
8 of his office. And it shall be the duty of said recorder
9 to receive all fees which are or may be by law payable
10 to said court, and he shall render an account thereof
11 upon oath and pay over the same to the city Trea-
12 surer quarter yearly. And in case of the death of said
13 judge, or whenever he may be necessarily absent from
14 the city, or shall be prevented by sickness or other
15 cause from attending to the duties of his office, the
16 said recorder shall have the power and perform the
17 duties of said judge until another person be appointed,
18 or during such absence or disability, as the case may
19 be, excepting the trial of issues in civil and criminal
20 causes; and he may adjourn the court, during such
21 absence or disability, from time to time, until the re-
22 turn of the judge or the disability is removed.

SECT. 10. Said recorder shall be appointed by the

2 judge of said court, subject to the approval of the city
3 council, and shall hold said office for the term of three
4 years, and shall receive for his services the sum of two
5 hundred and fifty dollars per year, to be paid quarter
6 yearly from the city treasury, and said judge shall
7 receive in full for his services the sum of twelve hun-
8 dred dollars per year to be paid quarter yearly from the
9 city treasury. Neither the judge nor recorder shall
10 act as counsel or attorney in any case within the juris-
11 diction of said court, nor in any suit, matter, or thing
12 which may depend on, or have relation to any cause,
13 matter, or thing depending or cognizable in said
14 court.

SECT. 11. Any person aggrieved by any judgment or
2 sentence awarded by said judge, or by any justice of
3 the peace, or any justice of the peace and quorum in
4 the county of Penobscot, may appeal therefrom to a
5 jury to be in attendance upon said court, as herein-
6 after provided, in like manner as from a judgment or
7 sentence awarded by a justice of the peace, or by a
8 justice of the peace and quorum. And said municipal
9 court shall have exclusive appellate jurisdiction from
10 the judgment of said judge and concurrent appellate

11 jurisdiction with the supreme judicial court from the
12 judgment of any justice of the peace, or justice of
13 the peace and quorum, in said county of Penobscot.

SECT. 12. Said court shall hold four regular ses-
2 sions for the purpose of trying cases in which an
3 appeal has been made from the decision of the judge,
4 or a justice of the peace, or a justice of the peace and
5 quorum, to a jury; and one jury of twelve persons
6 shall be in attendance at such sessions on the first
7 Tuesdays of March, June, September and December
8 in each year. And when an appeal in a civil or
9 criminal case shall be taken from the decision of said
10 judge, he shall have power to cause said jury to be in
11 attendance for the purpose of trying the same at any
12 time after said appeal shall have been taken as here-
13 inafter provided, and all trials of appealed cases by a
14 jury in said court shall be final therein. And no
15 appeal shall be allowed therefrom, or from said judge
16 to the supreme judicial court. The said court, with
17 a jury at said sessions on the first Tuesdays of March,
18 June, September and December, shall have original
19 and exclusive jurisdiction of all civil suits in which
20 either party is resident in said city, and concurrent

21 jurisdiction with the supreme judicial court in all
22 actions arising in said county of Penobscot in which
23 neither of the parties shall reside in said city, in
24 which the amount claimed in damages shall not ex-
25 ceed the sum of two hundred dollars, except in both
26 cases, actions of *quare clausum* and such as concern
27 the title to real estate.

SECT. 13. Said municipal court may grant new
2 trials of cases which have been tried in the same, by
3 a jury in like manner and upon the same terms and
4 conditions as the supreme judicial court is authorized
5 to do ; 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 ju-
12 dicial court.

SECT. 14. The traverse jurors for said municipal
2 court shall be drawn and returned from the city of
3 Bangor once in three months to serve for that time.

The recorder of said court shall issue writs of *venire*

5 *facias* in due form directed to the city marshal of
6 said city, upon the receipt of which said marshal shall
7 notify the board of aldermen of said city, to assem-
8 ble and be present at the draft and selection of the
9 jurors called for; which meeting shall be at least six
10 days before the sitting of said court at its regular
11 quarterly term. And the same rules so far as may
12 be, shall be observed in drawing and empaneling said
13 jurors, and in other respects as are laid down in the
14 Statutes of the State. And all officers and jurors
15 shall be subject to the provisions and penalties con-
16 tained in said Statutes. But when there shall not
17 be a full jury in attendance at the court, the court
18 shall cause jurors to be returned from the bystanders
19 or city at large, to complete the panel. And any per-
20 son entitled to serve as a juror shall be subject to be
21 drawn as often as once in one year but not oftener.

SECT. 15. When, in the opinion of the judge, the
2 attendance of the jury shall be necessary for the trial
3 of any case of appeal at any other time than at a reg-
4 ular session for trials by jury, the recorder shall issue
5 a notice to the city marshal, directing him forthwith
6 to summon said jury to be specially in attendance at

7 the time named in said notice, which shall not be less
8 than seven days from the time said jurors are sum-
9 moned.

SECT. 16. In cases of appeal of any criminal case
2 from the decision of said judge, or a justice of the
3 peace, or justice of the peace and quorum, it shall be
4 the duty of the city solicitor of said city, either by
5 himself or by some other attorney, to attend and pros-
6 ecute said cause in behalf of the State.

SECT. 17. Said judge shall hold a court weekly for
2 the trial of causes without a jury, on Tuesday at nine
3 of the clock in the forenoon, at such place as shall be
4 provided by the city; and all civil processes shall be
5 made returnable accordingly; and the judge may ad-
6 journ the court from day to day if necessary, and may
7 perform all duties which are usually exercised by jus-
8 tices of the peace, or justices of the peace and quorum.

SECT. 18. The price of blank writs with the seal
2 of the court and signed by the recorder, shall be four
3 cents each. The fees shall be for a writ to be taxed
4 for the plaintiff if he prevails, one dollar, and an at-
5 torney fee of one dollar to be taxed by the defendant
6 if he prevails. In other respects the fees in civil and

7 criminal cases shall be the same as are taxable by jus-
8 tices of the peace, except in cases of appeal, when the
9 costs and fees, after the appeal, shall be the same as in
10 the supreme judicial court. But in no case shall the
11 attorney fee exceed one dollar and fifty cents.

SECT. 19. The city of Bangor shall raise and as-
2 sess moneys for defraying the expenses of the court,
3 and provide a suitable place for holding the same.

SECT. 20. The mayor, or such committee as he
2 may appoint for that purpose, may inspect and exam-
3 ine the books, records and papers belonging to said
4 court, and it shall be the duty of the 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. 21. The several justices of the peace in the
2 city of Bangor shall continue to have and exercise all
3 the power and authority vested in them by the laws
4 of the United States, but no such justice shall exercise
5 any civil or criminal jurisdiction otherwise under a
6 penalty of twenty dollars for each offence, to be
7 recovered by indictment in any court proper to try the
8 same, for the use of the city of Bangor, excepting in

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

SECT. 22. All actions, suits, matters and things
2 which may be pending in the police court for said
3 city of Bangor, 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,

7 have day in and be fully acted on in the municipal
8 court; and said municipal 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 police court in the same manner as said police court
12 might have done had not this act been passed.

SECT. 23. The records required to be kept by said
2 court shall be the same as have until now been kept
3 by the police court for the city of Bangor, excepting
4 after an appeal to the jury has been entered, when
5 records of the subsequent proceedings shall be the
6 same as are required in similar cases in the supreme
7 judicial court.

SECT. 24. 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 to the appealing party,
4 shall be the same as in the supreme judicial court;
5 and the jury shall be paid from the city treasury by
6 an order thereon from the recorder at the close of each
7 session.

SECT. 25. In all cases of appeal in criminal cases
2 from the decision of said judge, unless the respondent
3 shall appear at the time and place to which he has re-

4 cognized and prosecute his appeal, and he and his sure-
5 ties shall be defaulted, a *scire facias* may issue against
6 principal and sureties, and upon judgment rendered
7 against them thereon, an execution may issue against
8 the principal and sureties, for damages and costs.
9 And the execution shall run against the bodies of
10 the principal and sureties, and the principal shall be
11 liable to such imprisonment in the county jail or
12 house of correction as the judge shall order not exceed-
13 ing ninety days, on the recorder's certifying the same
14 on the margin of the execution. And in case of the
15 principal serving out the time of his imprisonment
16 at any time within six months from the rendition of
17 said judgment, the sureties shall be liable to pay only
18 the costs in said execution.

The provisions of this section shall not apply to or
20 modify the provisions relating to recognizances of the
21 act entitled "an act to suppress drinking houses and
22 tippling shops," approved —, 1855; but the same
23 shall be enforced in said court.

SECT. 26. In all cases where judgment has been
2 rendered on *scire facias* against trustee or otherwise,

3 the damages shall be for the full amount of the dam-
4 ages and costs in the process upon which the *scire*
5 *facias* was issued, and it shall appear in the margin of
9 the execution that the same was issued on a judgment
7 on *scire facias*.

SECT. 27. Said municipal court shall have power
2 to 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 Penobscot or of any
6 other county, or either of their deputies, or any con-
7 stable of the town in which such witness may be.

SECT. 28. When, by a trustee writ, returnable be-
2 fore the municipal court of the city of Bangor, any
3 person is to be summoned as trustee, who is liable to
4 be charged as such, and the defendant resides out of
5 the county of Penobscot and within this State, said
6 writ may run into any county, and shall be served on
7 the defendant fourteen days at least before its return
8 day.

SECT. 29. All precepts, warrants, venirens and pro-
2 cesses issued from said municipal court, shall be test-

3 ed in like manner as similar processes in the supreme
4 judicial court, and shall be made under the seal of the
5 municipal court, and signed by its recorder.

SECT. 30. The city marshal, either himself or by
2 one or more deputies or other officer, shall be in
3 attendance at each session of the municipal court, and
4 under its direction.

SECT. 31. An act approved March 25, 1839, enti-
2 tled "an act to abolish the municipal court of the
3 city of Bangor, and establish a police court for said
3 city," article III. of the ninety-eighth chapter of the
4 Revised Statutes, entitled "Police Court in Bangor,"
5 an act approved March 3d, 1841, entitled "an act
6 additional to an act to abolish the municipal court of
7 the city of Bangor and establish a police court for
8 said city," and an act approved March 10, 1842, enti-
9 tled "an act additional to the several laws now in
10 force respecting the police court of Bangor," and all
11 acts and parts of acts inconsistent with this act are
12 hereby repealed.

SECT. 32. This act shall take effect from and after
2 its approval by the Governor.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
February 5, 1855. }

This Bill, laid upon the table by Mr. Hill of Bangor, was referred to the Committee on the Judiciary. Sent up for concurrence.

H. K. BAKER, *Clerk.*

IN SENATE, February 5, 1855.

Referred in concurrence.

J. W. KNOWLTON, *Secretary Protem.*

IN SENATE, February 22, 1855.

ORDERED, That this Bill be laid on the table, and 350 copies be printed for the use of the Legislature.

LOUIS O. COWAN, *Secretary.*