

# MAINE STATE LEGISLATURE

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# Fifty-Seventh Legislature.

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HOUSE.

No. 133.

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## STATE OF MAINE.

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

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AN ACT to amend an act entitled “ an act to incorporate  
the city of Calais ”

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

SECTION 1. The municipal court of the city of Calais,  
2 shall hereafter be denominated the Calais municipal  
3 court, which shall be a court of record, with a seal,  
4 and shall consist of one judge, who shall reside in said  
5 Calais. He shall cause to be entered on the docket of  
6 said court all civil and criminal actions, with full min-  
7 utes of the proceedings in, and disposition of the same,  
8 which docket shall be at all times open to inspection,  
9 and he shall perform all other duties required of simi-  
10 lar tribunals in this state ; and copies of the records of  
11 said court duly certified by said judge shall be legal

12 evidence in all courts. He shall not act as attorney  
13 or counsel in any action, matter or thing, within the  
14 jurisdiction of said court.

SECT. 2. The governor, by and with the advice of  
2 the council, shall appoint a recorder of said court, who  
3 shall be a trial justice for the county of Washington,  
4 reside in said Calais, and hold his office for four years.  
5 He shall be sworn by said judge, and keep the records  
6 of said court, when requested so to do by said judge.  
7 In case of absence from the court room, or sickness of  
8 the judge, or when the office of judge shall be vacant,  
9 the recorder shall have and exercise all the powers of  
10 said judge, and perform all the duties required of said  
11 judge by this act, and the signature of the recorder,  
12 as such, shall be sufficient evidence of his right to act  
13 instead of the judge. In the absence of both judge  
14 and recorder, any justice of the peace, of the city of  
15 Calais, may preside for the purpose of entering and  
16 continuing actions and filing papers in said court, and  
17 may adjourn the same from day to day, or till the next  
18 regular term

SECT. 3. Said court shall have exclusive original juris-  
2 diction of all civil actions in which the debt or damages  
3 demanded do not exceed twenty dollars, and both par-  
4 ties, or one of the parties and a person summoned in  
5 good faith and on probable grounds as trustee, reside

6 in said city of Calais, and shall have exclusive original  
7 jurisdiction of all offences committed against the ordi-  
8 nances and by-laws of said city, and all such criminal  
9 offences and misdemeanors committed therein as are  
10 cognizable by trial justices; *provided*, that warrants  
11 may be issued upon complaints for offences committed  
12 in said city of Calais, by any trial justice in said  
13 county, but all such warrants shall be made returnable  
14 before said court, and no trial justice shall take cog-  
15 nizance of any crime or offence committed in said city,  
16 or any civil action of which said court has exclusive  
17 jurisdiction. Said court shall have original jurisdic-  
18 tion concurrent with trial justices, of all such matters  
19 and things, civil and criminal, within the county of  
20 Washington, as are by law within the jurisdiction of  
21 trial justices in said county.

SECT. 4. Said court shall have original jurisdiction  
2 concurrent with the supreme judicial court, of all civil  
3 actions in which the debt or damages demanded, exclu-  
4 sive of costs, do not exceed one hundred dollars, in  
5 which either party, or a person summoned in good faith  
6 and on probable grounds as trustee, resides in the county  
7 of Washington, or having his residence beyond the  
8 limits of this state, is served with process within said  
9 county. And said court shall have original jurisdic-  
10 tion concurrent with the supreme judicial court in said

11 county, of all larcenies described in sections one, six,  
12 seven, eight and nine of chapter one hundred and  
13 twenty of the revised statutes, when the value of the  
14 property is not alleged to exceed thirty dollars; of all  
15 the cases of cheating by false pretences described in  
16 section one of chapter one hundred and twenty-six of  
17 the revised statutes, when the value of the property or  
18 other thing alleged to have been fraudulently obtained  
19 or sold does not exceed thirty dollars; of the assaults  
20 and batteries described in section twenty-eight of chap-  
21 ter one hundred and eighteen of the revised statutes,  
22 and of the offence described in section six of chapter  
23 one hundred and twenty-four of the revised statutes,  
24 and may punish for either of said offences by fine not  
25 exceeding fifty dollars, and by imprisonment not ex-  
26 ceeding three months; and of all other crimes, offen-  
27 ces and misdemeanors committed in said county which  
28 are by law punishable by fine not exceeding fifty dol-  
29 lars, and by imprisonment not exceeding three months;  
30 *provided*, that said court shall not try civil actions in  
31 which the title to real estate according to the pleadings  
32 filed in the case by either party is in question, except  
33 as provided in chapter ninety-four, sections six and  
34 seven of the revised statutes.

SECT. 5. A term of said court shall be held on the  
2 third Tuesday of each month, beginning at ten o'clock

3 in the forenoon, at such place in the city of Calais as  
4 said city shall provide, for the transaction of civil busi-  
5 ness, and all civil processes shall be made returnable  
6 accordingly; *provided, however*, that said court shall be  
7 held on every Tuesday at the usual hour, for the entry  
8 and trial of actions of forcible entry and detainer, and  
9 such actions shall be returnable accordingly, and be  
10 heard and determined and judgment entered on the  
11 return day of the writ, unless continued for good cause.  
12 Said court may adjourn from time to time, but shall be  
13 considered as in constant session for the trial of crimi-  
14 nal offences.

SECT. 6. Writs and processes issued by said court  
2 shall be in the usual forms, signed by the judge or re-  
3 corder, and under the seal of said court. They shall  
4 be served as like precepts are required to be served  
5 when issued by trial justices, except original writs in  
6 civil actions, which shall be served not less than seven  
7 nor more than sixty days before the sitting of the court  
8 at which the same are made returnable. All the pro-  
9 visions of the statutes of the state relative to the at-  
10 tachment of real and personal property and the levy of  
11 executions, shall be applicable to actions in this court  
12 and executions on judgments rendered therein; *pro-*  
13 *vided*, that property may be attached equal in value to  
14 the addamnum, and in addition thereto sufficient to

15 satisfy the costs of suit, and the writ may be framed  
16 accordingly.

SECT. 7. All civil actions in said court shall be entered the first day of the term and not afterwards, except by special permission, and they shall be in order for trial at the next term after the entry if not otherwise disposed of. The pleadings shall be the same as in the supreme judicial court, and all the provisions of law relative to practice and proceedings in the supreme judicial court in civil actions are hereby made applicable and extended to this court, except so far as they are modified by the provisions of this act.

SECT. 8. If any defendant, his agent or attorney, in any action in said court, in which the debt or damages claimed in the writ exceeds twenty dollars, shall on or before the first day of the second term file in said court an affidavit that he has a good defence to said action, and intends in good faith to make such defence, and claims a jury trial, and shall deposit with the judge of said court one dollar and fifty cents for copies and entry in the supreme judicial court, to be taxed in his costs if he prevails, the said action shall be removed into and entered at the next term of the supreme judicial court for said county, and the judge of said municipal court shall forthwith cause certified copies of the writ, return of the officer, and all other

15 papers in the case to be filed in the clerk's office of  
16 the said supreme court.

SECT. 9. Actions pending in this court may be re-  
2 ferred in the same manner as in the supreme judicial  
3 court, and on report of the referees to said municipal  
4 court, judgment may be rendered in the same manner  
5 and with like effect as in the supreme judicial court.

SECT. 10. Any party may appeal from any judgment  
2 or sentence of said municipal court to the supreme  
3 judicial court, in the same manner as from a judgment  
4 or sentence of a trial justice.

SECT. 11. Exceptions may be alleged and cases cer-  
2 tified on agreed statements of facts, or upon evidence  
3 reported by the judge in all civil actions, as in the  
4 supreme judicial court, and the same shall be entered,  
5 heard and determined at the next law term held in the  
6 eastern district, or by agreement of parties may be  
7 certified at and to the chief justice of the supreme  
8 judicial court, and when so certified, to be argued in  
9 writing on both sides within thirty days; and the su-  
10 preme judicial court, sitting as a court of law, shall  
11 have the same jurisdiction of all questions of law aris-  
12 ing on said exceptions, statements and reports as if  
13 they had originated in the supreme judicial court for  
14 the county of Washington; and all the provisions of  
15 law and rules of the supreme judicial court relative to



16 the transfer of actions and other matters from the su-  
17 preme judicial court for said county, shall apply to the  
18 transfer of actions from said municipal court to said law  
19 court. Decisions of the law court on all cases from  
20 said municipal court, shall be certified to the judge of  
21 said municipal court, with the same effect as in cases  
22 originating in the supreme judicial court in said county.

SECT. 12. The costs and fees allowed to parties and  
2 attorneys in civil actions before said court, in which  
3 the debt or damages recovered do not exceed twenty  
4 dollars, shall be the same as are allowed in actions be-  
5 fore trial justices, except that the plaintiff, if he pre-  
6 vails, shall be allowed one dollar for his writ; and the  
7 defendant, if he prevails, one dollar for his pleadings.  
8 But in all actions in which the amount recovered ex-  
9 ceeds twenty dollars, the costs and fees of parties and  
10 attorneys shall be the same as in the supreme judicial  
11 court, except that the defendant, if he prevails, shall  
12 be allowed two dollars for his pleadings.

SECT. 13. The fees of the judge, which he may de-  
2 mand and receive for his services, shall be the same as  
3 are allowed by law to trial justices and clerks of the  
4 supreme judicial court for similar services; except that  
5 he shall receive for every blank writ signed by him,  
6 four cents; for the entry of each civil action, fifty  
7 cents; for every warrant issued by him, one dollar;

8 and for the trial of an issue in civil or criminal cases,  
9 one dollar, and two dollars for each day actually em-  
10 ployed after the first. All fines and penalties awarded  
11 and received by said judge or said recorder, shall be  
12 accounted for and paid over as if the same had been  
13 awarded and received by a trial justice, and for neg-  
14 lect to do so they shall be subject to like penalties with  
15 trial justices.

SECT. 14. The city marshal of Calais, or one of his  
2 deputies, shall be in attendance on said court when re-  
3 quested so to be by the judge or recorder, for the pur-  
4 pose of preserving order, and he shall execute all legal  
5 orders and processes to him directed by said court.

SECT. 15. The city of Calais shall provide suitable  
2 rooms for said court, and furnish the same in an appro-  
3 priate manner.

SECT. 16. Any trial justice in the county of Wash-  
2 ington may take cognizance of any action, matter or  
3 thing within his jurisdiction, wherein the judge or re-  
4 corder of said court is a party or interested.

SECT. 17. This act shall have no effect upon any  
2 action, suit, matter or thing now pending in or return-  
3 able to said municipal court, except that writs and  
4 other processes in civil actions, issued before and re-  
5 turnable at a term of said court after this act goes into  
6 effect, shall be returned and entered at the next term

7 thereof after the return day named in them, and the  
8 judge and recorder of said court shall have full power  
9 and authority to issue and renew executions and other  
10 processes, and to carry into effect the judgments and  
11 decrees heretofore rendered by said court, and to cer-  
12 tify and authenticate the records thereof as effectually  
13 as if this act had not been passed.

SECT. 18. All acts and parts of acts inconsistent with  
2 this act are hereby repealed, and this act shall go into  
3 effect on the first day of April, in the year of our Lord  
4 one thousand eight hundred and seventy-eight.

# STATE OF MAINE.

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IN HOUSE OF REPRESENTATIVES, }  
February 8, 1878.

Reported from the Committee on the Judiciary, by Mr. CURRAN  
of Calais, and ordered printed under the Joint Rule.

ORAMANDAL SMITH, *Clerk.*