

# MAINE STATE LEGISLATURE

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# Sixty-Second Legislature.

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HOUSE.

No. 17.

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## STATE OF MAINE.

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

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AN ACT to facilitate the prompt administration of  
justice by establishing a Superior Court in the  
County of Aroostook.

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

SECTION 1. A superior court is hereby estab-  
2 lished within and for the county of Aroostook,  
3 consisting of one justice, who shall be an inhabi-  
4 tant of said county, of sobriety of manners and  
5 learned in the law; he shall be appointed, commis-  
6 sioned and qualified according to the constitution.

SECT. 2. Said justice shall establish a seal for  
2 said court; and all writs and processes issuing

3 therefrom shall be in the name of the state, of the  
4 usual forms, bearing the teste of said justice, under  
5 the seal of said court, and shall be signed by its  
6 clerk; they shall be obeyed and executed through-  
7 out the state.

SECT. 3. The clerk for the time being of the  
2 supreme judicial court, in said county, shall also  
3 be clerk of said superior court, and shall receive  
4 for his services as such the fees allowed other  
5 clerks for similar services in the supreme judicial  
6 court. He shall appoint a deputy, approved by  
7 said justice, who shall act as clerk of said superior  
8 court whenever said court and the supreme judicial  
9 court happen both to be in session in said county;  
10 and whenever said clerk of the supreme judicial  
11 court is absent, or the office is vacant, said justice  
12 may appoint one to supply the vacancy during  
13 such absence, or until an appointment is made by  
14 the governor and council, or by the supreme judic-  
15 ial court.

SECT. 4. The sheriff of the county of Aroostook  
2 shall attend said superior court, unless the supreme  
3 judicial court shall be in session in said county, in  
4 which case he shall specially designate a dep-  
5 uty, approved by said justice of said superior

6 court, so to attend. And whenever it shall  
7 happen that said justice is prevented from attend-  
8 ing at the time and place at which said court, by  
9 law or by adjournment, ought to be held, said  
10 sheriff or such deputy shall, by oral proclamation,  
11 adjourn said court from day to day, until said jus-  
12 tice shall attend.

SECT. 5. Within said county, said superior court  
2 shall have exclusive appellate jurisdiction of civil  
3 appeals from municipal courts, police courts, and  
4 trial justices; exclusive original jurisdiction of  
5 actions of *scire facias* on judgments and recog-  
6 nizances not exceeding two hundred dollars; of all  
7 bastardy trials, and of all other civil actions at law  
8 not exclusively cognizable by municipal courts,  
9 police courts, and trial justices, where the damages  
10 demanded do not exceed two hundred dollars, ex-  
11 cept complaints for flowage and real actions, and  
12 concurrent original jurisdiction of proceedings in  
13 *habeas corpus* of actions of trespass *quare clausum*  
14 and of all other civil actions at law when the dam-  
15 ages do not exceed five hundred dollars, except  
16 complaints for flowage and real actions.

SECT. 6. Said court shall be held on the first  
2 Tuesdays of December and May, at ———, and  
3 on the first Tuesdays of November and April, at

4 Houlton. Travers jurors shall shall be drawn and  
5 returned to serve at said terms, as in the supreme  
6 judicial court, except that the same jurors may be  
7 required by the justice to serve for two successive  
8 terms. If the plaintiff desires a jury trial, he shall  
9 indorse the same upon his writ at the time of entry.  
10 The defendant shall within fourteen days after  
11 entry, file his pleadings, and if the plaintiff has not  
12 demanded a jury, the defendant shall indorse on  
13 his plea his demand for a jury, if he desires one.  
14 Whenever a jury shall be so demanded by either  
15 party, the clerk shall enter that fact on the docket,  
16 and all other cases, except appeals, shall be tried  
17 by the justice without the intervention of a jury,  
18 subject to exceptions in matters of law, in term  
19 time, or if both parties desire, at chambers. When-  
20 ever, by accident or mistake, the plaintiff fails to  
21 indorse upon his writ at the time of entry a re-  
22 quest for a jury trial, or if the defendant, by acci-  
23 dent or mistake, shall fail to indorse upon  
24 his plea when filed, a demand for a jury,  
25 the court may, on motion of either party, at  
26 its discretion, order a trial by jury in the cause.  
27 When a defendant, legally served, does not appear  
28 by himself or attorney within the first three days

29 of the term, he shall be defaulted as in the supreme  
30 judicial court. If the defendant does not file his  
31 pleadings as hereinbefore provided, he shall be de-  
32 faulted on the first day of the next term after  
33 entry, unless the court, for good cause, shall grant  
34 leave to file a plea, or shall otherwise lawfully dis-  
35 pose of the action. All actions duly answered to  
36 shall be in order for trial at the next term after  
37 entry, and shall be so tried, except for good cause.  
38 Appeals shall be entered by the appellant as in the  
39 supreme judicial court, and shall be in order for  
40 trial at the first term.

SECT. 7. Exceptions may be alleged as in the  
2 supreme judicial court, and entered, heard and  
3 determined at the law term held in the eastern dis-  
4 trict, provided that when the next law term hap-  
5 pens to be held in either of the other districts, the  
6 justice of the superior court may, on motion of the  
7 party not excepting, certify the exceptions to said  
8 next law term, if in his opinion they are alleged  
9 mainly for delay; but the party so moving shall be  
10 deemed to waive his right to be heard in opposition  
11 to said exceptions, which shall be entered and de-  
12 termined at said next law term without argument  
13 by said party, and upon the oral or written argu-

14 ment of the party excepting. Cases certified upon  
15 agreed statements of facts, reports and motions for  
16 new trials, shall be entered, heard and determined  
17 at the next law term in the eastern district, but  
18 any case for the law court may, by agreement of  
19 parties, be entered at the next law term held in  
20 either district. And all exceptions arising in cases  
21 within the exclusive jurisdiction of said superior  
22 court, may be certified at once by said justice to  
23 the chief justice of the supreme judicial court,  
24 and shall, when so certified, be argued in writing,  
25 on both sides, within thirty days thereafter, unless  
26 the justice of said superior court shall, for good  
27 cause, enlarge the time, and exceptions so certified  
28 shall be considered and determined by the justice  
29 of the supreme judicial court, as soon as may be.  
30 Decisions of the law court, on all exceptions and  
31 questions from said superior court, shall be certi-  
32 fied to the clerk of said superior court, with the  
33 same effect as in cases originating in the supreme  
34 judicial court in said county.

SECT. 8. When a demurrer to a declaration is over-  
2 ruled, the defendant, notwithstanding he excepts,  
3 may plead anew within such time as the justice  
4 orders, but in all cases where exceptions are  
5 alleged by the defendant, the action shall, not-

6 withstanding, remain upon the docket of said  
7 superior court and be proceeded with as if no ex-  
8 ceptions had been taken, until the case is in such  
9 a condition that the overruling of said exceptions  
10 would finally dispose of it. And the action shall then  
11 be transferred to the law court, or certified to the  
12 chief justice thereof, as hereinbefore provided for  
13 the hearing and determination of all exceptions  
14 arising in any stage of the case.

SECT. 9. The supreme judicial court sitting as a  
2 court of law for the eastern district, shall have  
3 the same jurisdiction of all questions of law,  
4 motions for new trials, and questions arising on  
5 reports or agreed statements of facts, originating  
6 in said superior court, as if they had originated in  
7 the supreme judicial court for Aroostook county;  
8 and said law court sitting in either of the other  
9 districts shall have the same jurisdiction of all  
10 questions and motions certified thereto from said  
11 superior court as hereinbefore provided. And all  
12 provisions of law and rules of the supreme judi-  
13 cial court relative to the transfer of actions and  
14 other matters from the supreme judicial court for  
15 said county, or from its docket to the docket of  
16 said law court, and all provisions of law and rules



17 regulating proceedings in such cases, and the  
18 effect of such proceedings, shall apply to  
19 the transfer of actions from said superior  
20 court or its docket to said law court, and to the  
21 proceedings in such cases, and the effect thereof,  
22 except so far as they may be inconsistent with the  
23 foregoing provisions of this act.

SECT. 10. Said superior court is hereby author-  
2 ized to administer all necessary oaths, render judg-  
3 ment and issue execution, punish for contempt,  
4 and compel attendance, as in the supreme judicial  
5 court; to make all such rules and regulations, not  
6 repugnant to law, as may be necessary and proper  
7 for the administration of justice promptly and  
8 without delay; and the provisions of law relative  
9 to the jurisdiction of the supreme judicial court in  
10 said county over parties, the arrest of persons,  
11 attachment of property, the time and mode of ser-  
12 vice of precepts, proceedings in court, the taxation  
13 of costs, the rendition of judgments, the issuing,  
14 service and return of executions, and all other  
15 subjects, are hereby made applicable and extended  
16 to said superior court in all respects, except so far  
17 as they are modified by the provisions of this act;  
18 and said superior court is hereby clothed as fully

19 as the supreme judicial court, with all the powers  
20 necessary for the performance of all its duties.

SECT. 11. Final judgments in said superior  
2 court may be re-examined in the supreme judicial  
3 court on a writ of error, or on petition for review,  
4 and when the judgment is reversed, the supreme  
5 judicial court shall render such judgment as said  
6 superior court should have rendered, and when a  
7 review is granted it shall be tried in said supreme  
8 judicial court, which shall have the same power to  
9 grant writs of supersedeas of executions issued  
10 from said superior court, as it has of executions  
11 issued from the supreme judicial court.

SECT. 12. In case the justice of said superior  
2 court should, by reason of continued sickness, or  
3 other cause, be prevented from holding a term or  
4 terms of said court, any justice of the supreme  
5 judicial court may, at the request of said justice of  
6 said superior court, hold such term or terms of said  
7 superior court in place of the justice thereof. And  
8 during a vacancy in the office of said justice of  
9 said superior court, all writs issued from the office  
10 of the clerk thereof shall bear teste of any one of  
11 the justices of the supreme judicial court. When-  
12 ever the justice of said superior court shall be dis-

13 qualified, by interest or other lawful cause, from  
14 trying any cause pending in said court, said case  
15 shall thereupon be transferred to the docket of the  
16 supreme judicial court for said county, and dis-  
17 posed of in said court according to law.

SECT. 13. This act shall take effect March first,  
2 eighteen hundred and eighty-five, and the first term  
3 of said superior court shall be held on the first  
4 Tuesday of May, eighteen hundred and eighty-five.  
5 And upon the taking effect of this act, the juris-  
6 diction of the supreme judicial court for the trial  
7 of civil cases in said county, shall be limited in  
8 conformity to the foregoing provisions; and all  
9 acts and parts of acts relating to courts and judic-  
10 ial proceedings shall be modified so far as to give  
11 full effect to this act, and all acts and parts of acts  
12 inconsistent with this act are hereby repealed.

SECT. 14. The justice of said superior court  
2 may be appointed, commissioned and qualified at  
3 any time after the approval of this act, and his  
4 salary shall be fifteen hundred dollars, payable  
5 quarterly.

SECT. 15. The original and appellate jurisdiction  
2 in all criminal matters now vested in, and exercised  
3 by the supreme judicial court within and for the

4 county of Aroostook, and all powers incident there-  
5 to, shall, on and after the taking effect of this act,  
6 be transferred to and conferred upon the superior  
7 court within and for said county, which court shall  
8 thereafter exercise the same in the same manner as  
9 theretofore authorized by law to be exercised by  
10 the supreme judicial court in said county, except  
11 as hereinafter provided.

SECT. 16. Said criminal business of said county  
2 of Aroostook shall, after the taking effect of this  
3 act, be transacted at the terms of said superior  
4 court held on the first Tuesdays of May and  
5 November, together with the civil business of said  
6 court.

SECT. 17. All indictments and informations, and  
2 all criminal processes pending in said supreme  
3 judicial court for said county, on the taking effect  
4 of this act, and all warrants and recognizances,  
5 appeals in criminal cases, and all criminal processes  
6 whatever, which would be returnable to, or which,  
7 by law, would be entered in said supreme judicial  
8 court in said county, on the third Tuesday of  
9 September, eighteen hundred and eighty-five, and  
10 all criminal matters arising within the jurisdiction  
11 of the supreme judicial court for said county,

12 prior to the taking effect of this act, shall be re-  
13 turnable to and entered upon the docket of said  
14 superior court, and be heard and disposed of  
15 therein; and all grand jurors, witnesses and others,  
16 in criminal matters, who would, but for the pass-  
17 age of this act, be held to appear at said supreme  
18 judicial court for said county, on the third Tuesday  
19 of September, eighteen hundred and eighty-five,  
20 shall be held to appear at said May term of said  
21 superior court. Venires for grand jurors to serve  
22 at said superior court, shall be issued at least forty  
23 days before the first Tuesday of May, annually,  
24 and such jurors shall serve at every term of said  
25 superior court, for the transaction of criminal busi-  
26 ness, throughout the year.

SECT. 18. All exceptions or questions of law aris-  
2 ing in any way during the trial of criminal cases  
3 in said superior court, shall be transferred to the  
4 law docket of the supreme judicial court for the  
5 eastern district, and shall have day therein; and if  
6 said exceptions are sustained or a new trial is or-  
7 dered, the cause shall be remanded to said supe-  
8 rior court for trial. All motions for a new trial in  
9 criminal cases tried in said superior court, shall be  
10 heard and finally determined by the justice thereof.

SECT. 19. When any indictment is found for  
2 any of the offenses described in sections one and  
3 two of chapter one hundred and seventeen of the  
4 Revised Statutes, sections two, three, four, five,  
5 six, eight, nine, ten, eleven, twelve, thirteen, fifteen,  
6 twenty-five and twenty-seven of chapter one hun-  
7 dred and eighteen of the Revised Statutes, sections  
8 one, two and three of chapter one hundred and  
9 nineteen of the Revised Statutes, on motion of  
10 counsel for the state or for the respondent, made when  
11 the respondent is arraigned, the clerk of said supe-  
12 rior court shall certify and transmit the indictment  
13 to the supreme judicial court for said county, at  
14 the next term, where it shall be entered. The  
15 supreme judicial court shall have cognizance and  
16 jurisdiction thereof, and proceedings shall be had  
17 therein in the same manner as if the indictment  
18 had been found in that court.

SECT. 20. Section five of chapter one hundred  
2 and fifteen of the Revised Statutes, so far as it  
3 limits the compensation of clerks of judicial court,  
4 shall not apply to fees received by the clerk of the  
5 superior court for Aroostook county.

SECT. 21. The town of ——— shall furnish  
2 proper and convenient rooms and accommodations

3 for the use of the courts to be held in that town,  
4 and a proper place for the confinement of prison-  
5 ers during such terms, free from expense to the  
6 county of Aroostook, and until said rooms and  
7 accommodations be so furnished, said courts shall  
8 be held in Houlton.

SECT. 22. This act shall not affect actions com-  
2 menced before the approval this act.

STATE OF MAINE.

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IN HOUSE OF REPRESENTATIVES, }  
January 23, 1885. }

Reported from Committee on Judiciary by Mr. POWERS, and ordered  
printed under joint rule.

NICHOLAS FESSENDEN, *Clerk.*