

MAINE STATE LEGISLATURE

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Sixty-Second Legislature.

HOUSE.

No. 74.

REPRINT—17.

STATE OF MAINE.

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

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

*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 judi-
15 cial court.

SECT. 1. 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 in 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 Caribou, and
3 on the first Tuesdays of November and April, at
4 Houlton. Traverse jurors 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, and that no jurors shall be drawn or returned
9 for the April term, eighteen hundred and eighty-
10 five, of said court. If the plaintiff desires a jury
11 trial, he shall indorse the same upon his writ at the
12 time of entry. The defendant shall within fourteen
13 days after entry, file his pleadings, and if the plain-
14 tiff has not demanded a jury, the defendant shall
15 indorse on his plea his demand for a jury, if he
16 desires one. Whenever a jury shall be so de-
17 manded by either party, the clerk shall enter that
18 fact on the docket, and all other cases, except
19 appeals, shall be tried by the justice without the
20 intervention of a jury, subject to exceptions in
21 matters of law, in term time, or if both parties
22 desire, at chambers. Whenever, by accident or
23 mistake, the plaintiff fails to indorse upon his writ
24 at the time of entry a request for a jury trial, or if
25 the defendant, by accident or mistake, shall fail to
26 indorse upon his plea when filed, a demand for a
27 jury, the court may, on motion of either party, at
28 its discretion, order a trial by jury in the cause.
29 When a defendant, legally served, does not appear
30 by himself or attorney within the first three days

31 of the term, he shall be defaulted as in the supreme
32 judicial court. If the defendant does not file his
33 pleadings as hereinbefore provided, he shall be
34 defaulted on the first day of the next term after
35 entry, unless the court, for good cause, shall grant
36 leave to file a plea, or shall otherwise lawfully dis-
37 pose of the action. All actions duly answered to
38 shall be in order for trial at the next term after
39 entry, and shall be so tried, except for good cause.
40 Appeals shall be entered by the appellant as in the
41 supreme judicial court, and shall be in order for
42 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
11 then be transferred to the law court, or certified to
12 the chief justice thereof, as hereinbefore provided
13 for 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 the

19 transfer of actions from said superior court or its
20 docket to said law court, and to the proceedings
21 in such cases, and the effect thereof, except so far
22 as they may be inconsistent with the foregoing
23 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 tenth,
2 eighteen hundred and eighty-five, if approved on
3 or before that time, otherwise it shall take effect
4 when approved, and the first term of said
5 superior court shall be held on the first Tuesday
6 of May, eighteen hundred and eighty-five. And
7 upon the taking effect of this act, the jurisdic-
8 tion of the supreme judicial court for the trial
9 of civil cases in said county shall be limited in
10 conformity to the foregoing provisions; and all
11 acts and parts of acts relating to courts and judic-
12 ial proceedings shall be modified so far as to give
13 full effect to this act, and all acts and parts of acts
14 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
7 ordered, 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 coun-
10 sel 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 Caribou 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 taking effect of this act.

STATE OF MAINE.

IN HOUSE OF REPRESENTATIVES, }
February 10, 1885. }

Reported from Committee on Judiciary, by Mr. GOODNOW; ordered
printed under joint rule.

NICHOLAS FESSENDEN, *Clerk.*