

MAINE STATE LEGISLATURE

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Sixty-Sixth Legislature.

HOUSE.

No. 10.

STATE OF MAINE.

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

AN ACT to consolidate and amend chapter two hundred and five of the special laws of eighteen hundred and eighty-seven, chapters three hundred and fifty-seven, three hundred and eighty-seven and five hundred and forty-one of the special laws of eighteen hundred and eighty nine, and chapter two hundred and fifty-one of the special laws of eighteen hundred and ninety-one, relating to the Bangor Municipal Court.

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

SECTION 1. The Bangor Municipal Court shall continue
2 to be a court of record and have and use a seal on all
3 original processes, and consist of one judge and a clerk
4 who shall be appointed, commissioned and qualified in the

5 manner provided by the constitution of this State. The
6 present judge and the recorder, who shall hereafter be
7 styled clerk, shall continue in office until the end of the
8 terms for which they were respectfully appointed.

SECT. 2. Said court shall exercise jurisdiction over all
2 such matters and things, civil and criminal, within the
3 county of Penobscot as trial justices, justices of the peace
4 and justices of the peace and quorum may exercise, and
5 under similar restrictions and limitations, and concurrent
6 jurisdiction with trial justices in cases of forcible entry
7 and detainer in said county, and exclusive jurisdiction in
8 all such matters and things when both parties interested,
9 or a person summoned as trustee reside in the city of
10 Bangor, and over all offences committed against the ordi-
11 nances and by-laws of said city, though the penalty there-
12 for may accrue to said city; and in the prosecutions on
13 any such ordinances or by-laws, or any special law of the
14 state relating to said city, such by-law, ordinance, or
15 special law need not be recited in the complaint or pro-
16 cess, nor the allegations therein be more particular than
17 in prosecutions on a public statute, and over all such
18 criminal offences committed within the limits of the same
19 as are cognizable by trial justices; and no trial justice or
20 justice of the peace shall take cognizance over any crime
21 or offence committed in said city or any civil action over
22 which said court has exclusive jurisdiction; and concur-
23 rent jurisdiction with the supreme judicial court in all
-24 personal actions where the debt or damage demanded,

25 exclusive of costs, is over twenty dollars and not over
26 three hundred dollars, and in all actions of replevin when
27 it appears that the sum demanded for the penalty, for-
28 feiture or damages does not exceed three hundred dollars,
29 or that the property in the beasts or other chattels is in
30 question and the value thereof does not exceed three
31 hundred dollars and either defendant, or a person sum-
32 moned as trustee is resident in Penobscot county ; but
33 this jurisdiction shall not include proceedings under the
34 divorce laws or complaints under the mill act, so called, nor
35 jurisdiction over actions in which the title to real estate
36 according to the pleadings filed in the case by either party
37 is in question except as provided in chapter ninety-four,
38 sections six and seven of the Revised Statutes.

SECT. 3. Said Court shall have concurrent jurisdiction
2 with the Supreme Judicial Court in the County of Penob-
3 scot of the offences described in the sections specified in
4 the following named chapters of the Revised Statutes,
5 and amendments thereof, viz. : sections one, six, seven,
6 eight and nine of chapter one hundred and twenty, sec-
7 tion one of chapter one hundred and twenty-six, all of
8 the offences described in chapter one hundred and twenty-
9 seven, except those in sections one, four and five, when
10 the value of the property stolen, embezzled, obtained
11 by false pretences, or destroyed or injured is not alleged
12 to exceed fifty dollars, and may punish for said offences
13 by a fine not exceeding fifty dollars, and imprisonment
14 not exceeding six months ; also of the offences described

15 in section four of chapter one hundred and thirty-two
16 and section twenty-eight of chapter one hundred and
17 eighteen, and may punish by fine not exceeding fifty dol-
18 lars or by imprisonment for a term not exceeding three
19 months; also of the offences described in section six of
20 chapter one hundred and twenty-four; also of all the
21 offences in chapter thirty relating to moose, deer and
22 caribou and other wild game, and in chapter forty relating
23 to fish and fisheries; also of the offence described in sec-
24 tion seventeen of chapter one hundred and twenty-eight;
25 and of all other offences over which such jurisdiction is
26 granted, not herein specified.

SECT. 4. If any defendant in any action in said court,
2 where the amount claimed in the writ exceeds twenty
3 dollars, or his agent or attorney shall, on the return day
4 of the writ, file in said court a motion asking that said
5 cause be removed to the supreme judicial court, and
6 deposit with the clerk the sum of two dollars for copies
7 and entry fee in said supreme court, to be taxed in his
8 costs if he prevails, the said action shall be removed into
9 the supreme judicial court for said county, and the clerk
10 shall forthwith cause certified copies of the writ, officer's
11 return and defendant's motion to be filed in the clerk's
12 office of said supreme court, and shall pay the entry fee
13 thereof; and said action shall be entered on the docket of
14 the term next preceding said filing, unless said court shall
15 then be in session, when it shall be entered forthwith,
16 and shall be in order for trial at the next succeeding term.

17 If no such motion is filed, the said municipal court shall
18 proceed and determine said action, subject to the right
19 of appeal in either party as now provided by law. The
20 pleadings in such cases shall be the same as in the
21 supreme judicial court.

SECT. 5. In any action in which the plaintiff recovers
2 not over twenty dollars debt or damage, the costs to be
3 taxed shall be the same as before trial justices, except
4 that the plaintiff shall have two dollars for his writ.
5 Where the defendant prevails in any action in which the
6 sum claimed in the writ is not over twenty dollars, he
7 shall recover two dollars for his pleadings, and other
8 costs as before trial justices. In actions where the
9 amount recovered by plaintiff, exclusive of costs, exceeds
10 twenty dollars, or the amount claimed exceeds twenty
11 dollars, where the defendant prevails, the costs of parties,
12 trustees and witnesses shall be the same as in the supreme
13 judicial court, except the costs to be taxed for attendance
14 shall be two dollars and fifty cents for each term.

SECT. 6. Any person aggrieved at any judgment or
2 sentence of said court may appeal to the supreme judicial
3 court in the same manner as from a judgment or sen-
4 tence of a trial justice, and all such appeals shall be in
5 order for trial at the first term of said appellate court
6 after such appeal is taken. Final judgments in said
7 municipal court may be re-examined in the supreme judi-
8 cial court on a writ of error or on a petition for review,
9 and when the judgment is reversed, the supreme judicial

10 court shall render such judgment as said municipal court
11 should have rendered, and when a review is granted it
12 shall be tried in said supreme judicial court.

SECT. 7. All the provisions of the statutes of this State,
2 relative to the attachment of real and personal property
3 and the levy of executions, shall be applicable to actions
4 in this court, and executions on judgments rendered there-
5 in; *provided*, that property may be attached, equal in
6 value to ad damnum, and in addition thereto, sufficient to
7 satisfy costs of suit. Actions may be referred, and judg-
8 ment on the referee's report may be rendered in the same
9 manner and with the same effect as in the supreme judi-
10 cial court.

SECT. 8. Said court is hereby authorized to administer
2 oaths, render judgment, issue executions, certify copies
3 of its records, punish for contempt and compel attend-
4 ance as in the Supreme Judicial Court, and to make all
5 such rules and regulations, not repugnant to law, as may
6 be necessary and proper for the administration of justice
7 and to facilitate its business; and the provisions of law
8 relating to practice and proceedings in the Supreme Judi-
9 cial Court in civil cases are hereby made applicable and
10 extended to said Court in all respects except so far as
11 they are modified by provisions of this act; and all acts
12 relating to Courts and judicial proceedings shall be mod-
13 ified so far as to give full effect to this act.

SECT. 9. The price of blank writs and summonses with
2 the seal of the court, signed by the clerk, shall be four

3 cents, and all other fees in civil cases shall be the same
4 as are taxable by a trial justice, except as otherwise pro-
5 vided in sections four and five. All writs and processes
6 in civil matters shall be in the name of the State, bear the
7 test of said judge, under the seal of said court and signed
8 by the clerk, be served in time and manner as now pro-
9 vided by law in case of writs issued by trial justices, and
10 be obeyed and executed throughout the State.

SECT. 10. Said court shall be held at such place as shall
2 be provided by the city of Bangor; shall be considered
3 as in constant session for the trial of criminal offences;
4 and for the transaction of civil business shall be held on
5 the first and third Mondays of each month at ten o'clock
6 in the forenoon, except the month of August; and all
7 actions shall be made returnable at one of the four terms
8 next begun and held after the commencement of the
9 action; provided, however, that said court shall be held
10 on every Monday of each month, except the month of
11 August, for the entry and trial of actions of forcible entry
12 and detainer, and judgment in such actions may be
13 entered on the day when the same is heard and deter-
14 mined; and whenever the judge is absent, or temporarily
15 unable to attend said court, the clerk may enter new actions
16 returnable at that term, and enter up judgment in all
17 defaulted actions, and may then, by proclamation, adjourn
18 the court to a day certain, or to the next term. In case
19 of the more permanent disability of the judge, or his
20 being interested in any suit, or in the case of his con-

21 tinued absence or a vacancy in his office, the clerk shall
22 notify any justice of the supreme judicial court, who shall
23 designate a trial justice in said county, who upon being
24 duly sworn may hold said court during the continuance
25 of such vacancy or absence, or until such disability is
26 removed, or try any suit in which said judge may be
27 interested.

SECT. 11. Said court shall be held at such place as
2 the city of Bangor shall provide ; and said city shall have
3 power, and it shall be its duty to raise money to provide
4 a proper place for said court and suitably furnish the same,
5 and to pay quarterly the salary of the judge thereof. All
6 other expenses of said court shall be paid from the treas-
7 ury of the County of Penobscot.

SECT. 12. The city marshal or one of his deputies
2 shall be in attendance on said court when requested to do
3 so by the judge, for the purpose of preserving order, and
4 shall execute all legal orders and processes to him directed
5 by the court.

SECT. 13. The records of said court and of the Police
2 Court formerly existing in Bangor shall be deposited with
3 and kept by the clerk ; and said Municipal Court shall
4 have jurisdiction thereof and full power and authority
5 to issue and renew executions and other processes and
6 carry into effect the judgments and decrees heretofore
7 rendered by said Police Court and to certify and authen-
8 ticate the records thereof as effectually as if it had not
9 been abolished, and shall, for reasonable fees, grant and

10 certify copies of the records of both courts when required,
11 which shall be evidence of the contents of such records
12 in any legal proceedings.

SECT. 14. The clerk of said court shall be sworn and
2 give bond to the city of Bangor in the sum of five hun-
3 dred dollars to be approved by the treasurer of said city,
4 and shall receive a yearly salary of eight hundred dollars
5 from the County of Penobscot in quarterly payments.
6 In case of the absence of said clerk, or vacancy in said
7 office, the judge may appoint a clerk, who shall be sworn
8 by said judge and act during said absence, or till the
9 vacancy is filled.

SECT. 15. If the judge and clerk are both necessarily
2 absent, the judge may designate some trial justice in said
3 county to perform the duties of clerk; and if said judge
4 should not so designate a trial justice, the clerk may
5 designate one.

SECT. 16. Said clerk shall record the doings of said
2 court, may administer oaths, and shall have such powers
3 and perform such duties as are possessed and performed
4 by the clerks of the supreme judicial court; and shall
5 hear complaints in all criminal matters, accusations in
6 bastardy, draw all complaints and sign all warrants, and
7 make and sign all processes of commitment, but the same
8 shall be heard and determined as now provided by law,
9 but such complaints, accusations, warrants or processes
10 of commitment, drawn and signed by the judge of said

11 court shall be equally valid. Whenever said judge shall
12 be engaged in the transaction of civil business, or be
13 absent from the court room or the office shall be vacant,
14 said clerk shall have and exercise the same powers and
15 perform the same duties which said judge possesses and
16 is authorized to perform in the transaction of criminal
17 business. All processes issued by said clerk in criminal
18 matters shall bear the seal of said court and be signed by
19 said clerk and have the same authority as if issued and
20 signed by said judge.

SECT. 17. All fines, penalties and costs paid into said
2 court upon convictions and sentences in criminal matters,
3 together with all fees allowed by law in the transaction
4 of criminal business, shall be paid to said clerk; *provided*,
5 that there shall be allowed for every warrant issued, one
6 dollar, and for the trial of an issue in criminal cases, two
7 dollars, and all other fees in criminal cases shall be the
8 same as are taxable by trial justices.

SECT. 18. All fines and penalties awarded and collected
2 by said court in criminal cases shall be accounted for, and
3 paid over monthly; and all fees in such cases received by
4 said clerk, except fees for making copies on orders to
5 recognize and on appeals, of persons charged with crime,
6 shall be paid monthly into the city treasury for the use of
7 said city; and all fees of said court, paid after commit-
8 ment to any jailor, shall be paid by him monthly into said
9 treasury.

SECT. 19. Said judge and clerk shall receive in equal
2 moities, to their own use, in addition to any other com-
3 pensation allowed by law, the court fees in all civil causes.

SECT. 20. The several trial justices and justices of the
2 peace in the city of Bangor shall continue to have and
3 exercise all the power and authority vested in them by
4 the laws of the United States; but no such justices shall
5 exercise any civil or criminal jurisdiction under a penalty
6 of twenty dollars for each offence to be recovered by
7 indictment. But nothing in this act shall be construed
8 to prevent such justices from doing any business other
9 than that especially devolving upon said court.

SECT. 21. All acts and parts of acts inconsistent with
2 this act,—except chapter one hundred and seventy-seven of
3 the Private and Special Laws of eighteen hundred and
4 eighty-seven and acts additional thereto and amendatory
5 thereof, relating to the Old Town Municipal Court, and
6 chapter two hundred and sixty of the Private and Special
7 Laws of eighteen hundred and eighty-three, and acts addi-
8 tional thereto and amendatory thereof, relating to the muni-
9 cipal court in the town of Dexter, are hereby repealed.

SECT. 22. This act shall take effect when approved.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES,)
January 26, 1893.)

Tabled, pending reference to Committee on Judiciary, by Mr. ADAMS
of Bangor, and ordered printed.

W. S. COTTON, *Clerk.*