

MAINE STATE LEGISLATURE

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NEW DRAFT.

Sixty-Sixth Legislature.

HOUSE.

No. 175.

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 same manner as now provided by law and the constitution
6 for the appointment and qualification of the judge and
7 recorder thereof. The present judge and the recorder,
8 who shall hereafter be styled clerk, shall continue in
9 office until the end of the terms for which they were
10 respectively 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 one hundred dollars, and in all actions of replevin under
27 chapter ninety-six of the Revised Statutes, when the sum
28 demanded for the penalty, forfeiture or damages or the
29 value of the goods does not exceed one hundred dollars
30 and either defendant, or a person summoned as trustee is
31 resident in Penobscot county; but this jurisdiction shall
32 not include proceedings under the divorce laws or com-
33 plaints under the mill act, so called, nor jurisdiction over
34 actions in which the title to real estate according to the
35 pleadings filed in the case by either party is in question
36 except as provided in chapter ninety-four, sections six and
37 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 where the offence is not of a high and aggra-
18 vated nature, and may punish by fine not exceeding fifty
19 dollars or by imprisonment for a term not exceeding three
20 months; also of the offences described in section six of
21 chapter one hundred and twenty-four; also of all the
22 offences in chapter thirty relating to moose, deer and
23 caribou and other wild game, and in chapter forty relat-
24 ing to fish and fisheries; also of the offence described in
25 section seventeen of chapter one hundred and twenty-
26 eight; and of all other offences over which such jurisdic-
27 tion is 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 term
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, not
15 however exceeding two terms.

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 double the ad damnum. Actions may be referred,
7 and judgment on the referee's report may be rendered in
8 the same manner and with the same effect as in the
9 supreme judicial court, except that the referee's fees shall
10 not be paid by the county.

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.

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 may adjourn from time to time
2 but shall be considered in constant session for the trial of
3 criminal offences; and for the transaction of civil busi-
4 ness shall be held on the first and third Mondays of each
5 month at ten o'clock in the forenoon; *provided, however,*
6 that a term of said court shall be held on every Monday
7 of each month for the entry and trial of actions of forcible
8 entry and detainer, except as hereinafter provided,
9 and judgment in such actions may be entered on the day
10 when the same are defaulted, or heard and determined;
11 and whenever the judge is absent, or temporarily unable
12 to attend at any term of said court, the clerk may enter
13 new actions returnable at that term, receive and file pleas,
14 motions and other papers cognizable by said court, and
15 enter up judgment in all defaulted actions, and may then,
16 by proclamation, adjourn the court to a day certain, or
17 to the next term; *provided, however,* that said court shall
18 not, during the month of August, be open for the trial of
19 any civil action. In case of the more permanent disabili-
20 ty of the judge, or his being interested in any suit, or

21 in the case of his continued absence or a vacancy in his
22 office, the clerk shall notify any justice of the Supreme
23 Judicial Court, who shall designate a trial justice in said
24 county, who upon being duly sworn may hold said court
25 during the continuance of such vacancy or absence, or
26 until such disability is removed, or try any suit in which
27 said judge may be 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
9 give bond to the city of Bangor in the sum of five hundred
3 dollars to be approved by the treasurer of said city, and
4 shall receive a yearly salary of eight hundred dollars from
5 the County of Penobscot in quarterly payments. In
6 case of the absence of said clerk, or vacancy in said office,
7 the judge may appoint a clerk, who shall be sworn by said
8 judge and act during said absence, or till the vacancy is
9 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 have the power to hear complaints in all criminal matters,
6 accusations in bastardy, draw all complaints and sign all
7 warrants, and make and sign all processes of commitment,
8 but the same shall be heard and determined as now pro-
9 vided by law, but such complaints, accusations, warrants
10 or processes of commitment, drawn and signed by the

11 judge of said court shall be equally valid. Whenever
12 said judge shall be engaged in the transaction of civil
13 business, or be absent from the court room or the office
14 shall be vacant, said clerk shall have and exercise the same
15 powers and perform the same duties which said judge
16 possesses and is authorized to perform in the transaction
17 of criminal business. All processes issued by said clerk
18 in criminal matters shall bear the seal of said court and
19 be signed by said clerk and have the same authority as
20 if issued and 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 of
4 criminal business, shall be paid to said clerk; and all fees
5 in criminal cases shall be the same as are taxable by trial
6 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;

4 and neither shall act as counsel or attorney in any cause,
5 matter or thing, which may depend upon, or relate to any
6 cause cognizable by said court.

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 the
4 laws of the United States; but no such justices shall
5 except in proceedings in bastardy exercise any civil or
6 criminal jurisdiction under a penalty of twenty dollars for
7 each offence to be recovered by indictment. But nothing
8 in this act shall be construed to prevent such justices from
9 doing any business other than that especially devolving
10 upon said court.

SECT. 21. All acts and parts of acts inconsistent with
2 this act,—except chapter one hundred and seventy-seven
3 of 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, }
February 22, 1893. }

Reported by Mr. SCOTT of Patten, from Committee on Legal Affairs,
and ordered printed under joint rules.

W. S. COTTON, *Clerk.*