

# MAINE STATE LEGISLATURE

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# Sixty-Seventh Legislature.

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HOUSE.

No. 4.

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## STATE OF MAINE.

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

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AN ACT to amend Chapter four hundred and seventy-two  
of the Special Laws of eighteen hundred and ninety-three,  
relating to the Bangor Municipal Court.

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

SECTION 1. Chapter four hundred and seventy-two of  
2 the Special Laws of eighteen hundred and ninety-three  
3 are hereby amended so as to read as follows:

Section 1. The Bangor Municipal Court shall continue  
5 to be a court of record and have and use a seal on all  
6 original processes, and consist of one judge and a clerk  
7 who shall be appointed, commissioned and qualified in the  
8 same manner as now provided by law and the constitution

9 for the appointment and qualification of the judge and  
10 clerk thereof. The present judge and the clerk shall con-  
11 tinue in office until the end of the terms for which they  
12 were respectively appointed. Neither shall act as coun-  
13 sel or attorney in any cause, matter or thing, which may  
14 depend upon or relate to any cause cognizable by said  
15 court.

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 either party interested,  
9 or a person summoned as trustee resides in Penobscot  
10 county; and over all offences committed against the ordi-  
11 nance and by-laws of the city of Bangor, though the  
12 penalty therefor may accrue to said city; and in the  
13 prosecutions on any such ordinances or by-laws, or any  
14 special law of the state relating to said city, such by-law,  
15 ordinance, or special law need not be recited in the com-  
16 plaint or process, nor the allegations therein be more  
17 particular than in prosecutions on a public statute; and  
18 over all such criminal offences committed within the limits  
19 of the same as are cognizable by trial justices; and no  
20 trial justice or justice of the peace shall take cognizance

21 over any crime or offence committed in said city, or any  
22 civil action over which said court has exclusive jurisdic-  
23 tion; and concurrent jurisdiction with the supreme judi-  
24 cial court in all personal actions where the debt or damage  
25 demanded, exclusive of costs, is over twenty dollars and  
26 not over five hundred dollars, and in all actions of re-  
27 plevin under chapter ninety-six of the Revised Statutes,  
28 when the sum demanded for the penalty, forfeiture or  
29 damages, or the value of the goods or chattels replevied  
30 does not exceed five hundred dollars; but this jurisdiction  
31 shall not include proceedings under the divorce laws or  
32 complaints under the mill act, so called, nor jurisdiction  
33 over actions in which the title to real estate according to  
34 the pleadings filed in the case by either party is in ques-  
35 tion except as provided in chapter ninety-four, sections  
36 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 all offences not required by the constitution or any  
4 statute to be answered for on a presentment or indictment  
5 of a grand jury, and may punish for said offences by a fine  
6 not exceeding one hundred dollars, and imprisonment less  
7 than one year; and of all other offences over which such  
8 jurisdiction is or may be 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 dol-  
3 lars, or his agent or attorney shall, on the return term of  
4 the writ, file in said court a motion asking that said cause

5 be removed to the supreme judicial court, and deposit  
6 with the clerk the sum of two dollars for copies and entry  
7 fee in said supreme court, to be taxed in his costs if he  
8 prevails, the said action shall be removed into the supreme  
9 judicial court for said county, and the clerk shall forth-  
10 with cause certified copies of the writ, officer's return and  
11 defendant's motion to be filed in the clerk's office of said  
12 supreme court, and shall pay the entry fee thereof; and  
13 said action shall be entered on the docket of the term next  
14 preceding said filing, unless said court shall then be in  
15 session, when it shall be entered forthwith, and shall be  
16 in order for trial at the next succeeding term. If no such  
17 motion is filed, the said municipal court shall proceed and  
18 determine said action, subject to the right of appeal in  
19 either party as now provided by law. The pleadings in  
20 such cases shall be the same as in the supreme judicial  
21 court.

SECT. 5. In any action in which the plaintiff recovers  
2 for the penalty, forfeiture, debt or damage not over twenty  
3 dollars, or property, the value of which does not exceed  
4 that sum, the costs shall be taxed as before trial justices,  
5 except that the plaintiff shall have two dollars for his  
6 writ.

Where the defendant prevails in any action in which the  
8 sum claimed in the writ is not over twenty dollars, or  
9 property, the value of which does not exceed that sum, he  
10 shall recover two dollars for his pleadings, and other  
11 costs as before trial justices. In actions where the

12 amount recovered by the plaintiff, exclusive of costs,  
13 exceeds twenty dollars, or property, the value of which  
14 exceeds that sum, or the amount claimed, or the value of  
15 the property recovered exceeds twenty dollars where the  
16 defendant prevails, the costs of the parties, trustees and  
17 witnesses, shall be the same as in the supreme judicial  
18 court, except the costs to be taxed for attendance shall be  
19 two dollars and fifty cents for each term, for as many  
20 terms as may be allowed by the court.

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 sentence  
4 of a trial justice, and all such appeals shall be in order for  
5 trial at the first term of said appellate court after such  
6 appeal is taken. Final judgments in said municipal court  
7 may be re-examined in the supreme judicial court on a  
8 writ of error or on a petition for review, and when the  
9 judgment is reversed, the supreme judicial court shall  
10 render such judgment as said municipal court should have  
11 rendered, and when a review is granted it shall be tried  
12 in said supreme judicial court.

Questions of law, upon exceptions to the ruling of the  
14 court on agreed statement of facts, or on facts found by  
15 the court, shall be certified by the clerk to the chief  
16 justice of the supreme judicial court, with arguments of  
17 counsel—if such have been delivered to him—within  
18 sixty days after such exceptions have been allowed by the  
19 court. The party raising such questions shall deliver a

20 copy of his argument to the opposing counsel within  
21 thirty days thereafter, who shall within twenty days after  
22 receiving the same make reply thereto and deliver the  
23 same to the counsel for the moving party, who shall in  
24 turn make reply thereto within ten days thereafter, and  
25 deliver said arguments to the clerk to be delivered with  
26 the exceptions to the chief justice as aforesaid. And  
27 such questions of law shall be considered and decided by  
28 the law court as soon as may be; or, if the parties so  
29 agree of record, such questions shall be certified to the  
30 next law term for the eastern district, to be entered on  
31 the docket thereof, and argued and determined according  
32 to the practice in said court: The result in either case  
33 to be certified by the clerk of said law court to this  
34 court; costs to be taxed to the prevailing party.

SECT. 7. All the provisions of the statutes of this  
2 State, relative to the attachment of real and personal  
3 property and the levy of executions, shall be applicable  
4 to actions in this court, and executions on judgments  
5 rendered therein; *provided*, that property may be at-  
6 tached, equal in value to double the ad damnum. Actions  
7 may be referred, and judgment on the referee's report  
8 may be rendered in the same manner and with the same  
9 effect as in the supreme judicial court, except that the  
10 referee's fees shall not be paid by the county, but taxed  
11 as costs.

SECT. 8. Said court is hereby authorized to administer  
2 oaths, render judgments, issue executions, certify copies of

3 its records, punish for contempt and compel attendance as  
4 in the Supreme Judicial Court, and to make all such rules  
5 and regulations, not repugnant to law, as may be necessary  
6 and proper for the administration of justice and to facilitate  
7 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 as  
4 are taxable by a trial justice, except as otherwise provided  
5 in sections four and five. All writs and processes in civil  
6 matters shall be in the name of the State, bear the test of  
7 said judge, under the seal of said court, and signed by the  
8 clerk, be served in time and manner as now provided by  
9 law in case of writs issued by trial justices and made  
10 returnable at one of the five terms next begun and held  
11 after the commencement of the action, and be obeyed and  
12 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 business  
4 shall be held on the first and third Mondays of each month  
5 at ten o'clock in the forenoon, except the month of  
6 August; *provided, however,* that said court shall be held  
7 on every Monday of each month, except the month of  
8 August, for the entry and trial of actions of forcible entry  
9 and detainer, and judgment in such actions may be  
10 entered on the day when the same are defaulted, or heard  
11 and determined; and whenever the judge is absent, or



12 temporarily unable to attend at any term of said court,  
13 the clerk may enter new actions returnable at that term,  
14 receive and file pleas, motions, and other papers cog-  
15 nizable by said court, and enter up judgment in all  
16 defaulted actions, and may then, by proclamation, adjourn  
17 the court to a day certain, or to the next term; *provided*,  
18 *however*, that said court shall not, during the month of  
19 August, be open for the trial of any civil action. In case  
20 of the more permanent disability of the judge, or his  
21 being interested in any suit, or in the case of his contin-  
22 ued absence or a vacancy in his office, the clerk shall  
23 notify any justice of the Supreme Judicial Court, who  
24 shall designate a trial justice in said county, who upon  
25 being duly sworn may hold said court during the continu-  
26 ance of such vacancy or absence, or until such disability  
27 is removed, or try any suit in which said judge may be  
28 interested.

SECT. 11. Said court shall be held at such place as the  
2 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, which  
6 is hereby fixed at fifteen hundred dollars per annum. All  
7 other expenses of said court, except the item relating to  
8 the clerk's salary provided for in section fourteen of this  
9 act, shall be paid from the treasury of the County of  
10 Penobscot.

SECT. 12. The city marshal or one of his deputies shall  
2 be in attendance on said court when requested to do so by  
3 the judge, for the purpose of preserving order, and shall  
4 execute all legal orders and processes to him directed by  
5 the court. Constables of the city of Bangor are hereby  
6 authorized and empowered to make attachments on, and  
7 serve all civil processes, within said city, returnable to  
8 and issuing out of said court.

SECT. 13. The records of said court and of the Police  
2 Court formerly existing in said Bangor shall be deposited  
3 with and kept by the clerk; and said Municipal Court  
4 shall 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 in  
12 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 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, and, in addition thereto five  
6 hundred dollars from the city of Bangor, in quarterly pay-  
7 ments. The fees in all civil causes are to be paid to said

8 city. In case of the absence of said clerk, or vacancy in  
9 said office, the judge may appoint a clerk, who shall be  
10 sworn by said judge and act during said absence, or till  
11 the 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 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 if  
20 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 and civil business, shall be paid to said clerk ;  
5 *provided*, that there shall be allowed for every warrant  
6 issued, one dollar, and for the trial of an issue in criminal  
7 cases, two dollars, and all other fees in criminal cases shall  
8 be the 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. 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. 20. 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  
9 municipal court in the town of Dexter, are hereby  
10 repealed.

SECT. 21. This act shall take effect when approved.

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We approve the foregoing amendments to chap. 472 Special  
Laws of 1893.

Chas. A. Bailey, County Attorney; M. Laughlin, C. F.  
Woodard, John F. Robinson, D. F. Davis, Peregrine White,  
Henry L. Mitchell, Albert W. Paine, Henry W. Mayo, H.  
J. Chapman, B. C. Additon, A. L. Simpson, Charles H.  
Bartlett, Thos. H. Wentworth, E. C. Ryder, A. H. Harding,  
F. W. Eastman, Martin & Morse, P. H. Gillin, J. E. Estes,  
A. J. Merrill, James H. Burgess, F. A. Floyd, H. B. Pierce,  
Hiram J. Preble, Bertram L. Smith.

CITY OF BANGOR,  
IN BOARD OF MUNICIPAL OFFICERS.

*Resolved*, That the municipal officers offer no objection to an amendment proposed to the Municipal Court Act by the Legislature, establishing the salary of the Judge of said Court at a sum not exceeding \$1,500.00, and the Clerk of said Court at a sum not exceeding \$500.00 per annum in addition to the amount now paid by the County; all civil fees of each of said officers to be turned into the city treasury.

IN BOARD OF MUNICIPAL OFFICERS,

December 26th, 1894.

Passed.

VICTOR BRETT, City Clerk.

BANGOR, December 26, 1894.

Approved.

F. O. BEAL, Mayor.

A true copy.

Attest: VICTOR BRETT, City Clerk.

STATE OF MAINE.

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HOUSE OF REPRESENTATIVES, }  
January 11, 1895. }

Reported from the Committee on Legal Affairs by Mr. LANE of  
Augusta, and ordered printed and recommitted.

W. S. COTTON, *Clerk.*