

MAINE STATE LEGISLATURE

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NEW DRAFT.

Sixty-Seventh Legislature.

SENATE.

No. 145.

STATE OF MAINE.

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

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.

*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 is 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 while in office be a trial justice, and be
8 appointed by the governor, by and with the advice of the
9 council, and hold his office for the term of four years, and

10 both be duly commissioned and qualified. The present
11 judge and the clerk shall continue in office until the end
12 of the terms for which they were respectively appointed.
13 Neither shall act as counsel or attorney in any cause, mat-
14 ter or thing, which may depend upon or relate to any
15 cause cognizable by said 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 the city of
10 Bangor; and over all offences committed against the ordi-
11 nances 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 offenses committed within the limits
19 of the same as are cognizable by trial justices; and no
20 trial justice except the clerk of said court or justice of the
21 peace shall take cognizance over any crime or offence com-
22 mitted in said city, or any civil action over which said
23 court has exclusive jurisdiction. Said court shall have
24 concurrent jurisdiction with the supreme judicial court in
25 all personal actions where the debt or damage demanded,

26 exclusive of costs, is over twenty dollars and not over
27 three hundred dollars, and in all actions of replevin under
28 chapter ninety-six of the Revised Statutes, when the sum
29 demanded for the penalty, forfeiture or damages, or the
30 value of the goods or chattels replevied does not exceed
31 three hundred dollars; but this jurisdiction shall not
32 include proceedings under the divorce laws or complaints
33 under the mill act, so called, nor jurisdiction over actions
34 in which the title to real estate according to the pleadings
35 filed in the case by either party is in question except as
36 provided in chapter ninety-four, sections six and seven of
37 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
14 next preceding said filing, unless said court shall then be
15 in 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 costs
11 as before trial justices. In actions where the amount
12 recovered by the plaintiff, exclusive of costs, exceeds
13 twenty dollars, or property, the value of which exceeds
14 that sum, or the amount claimed, or the value of the
15 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 shall¹
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 such
27 questions of law shall be considered and decided by the
28 law court as soon as may be; or, if the parties so agree
29 of record, such questions shall be certified to the next law
30 term for the eastern district, to be entered on the docket
31 thereof, and argued and determined according to the
32 practice in said court: The result in either case to be
33 certified by the clerk of said law court to this court;
34 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 ren-
5 dered therein ; provided, that property may be attached,
6 equal in value to double the ad damnum. Actions may
7 be referred, and judgment on the referee's report may be
8 rendered in the same manner and with the same effect as
9 in the supreme judicial court, except that the referee's
10 fees shall not be paid by the county, but taxed 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 cogniza-
15 ble by said court, and enter up judgment in all defaulted
16 actions, and may then, by proclamation, adjourn the court
17 to a day certain, or to the next term; *provided, however*,
18 that said court shall not, during the month of August, be
19 open for the trial of any civil action. In case of the more
20 permanent disability of the judge, or his being interested,
21 in any suit or in the case of his continued absence or a
22 vacancy in his office, the clerk shall notify any justice of
23 the Supreme Judicial Court, who shall designate a trial
24 justice in said county, who upon being duly sworn may
25 hold said court during the continuance of such vacancy or
26 absence, or until such disability is removed, or try any
27 suit in which said judge may be interested.

SECT. 11. Said court shall be held at such place as the
2 city of Bangor shall provide; and said city shall have pow-
3 er, and it shall be its duty to raise money to provide a
4 proper place for said court and suitably furnish the same,
5 and the salary of the judge thereof, is hereby fixed at fif-
6 teen hundred dollars per annum. All expenses of said
7 court, shall be paid from the treasury of the county of
8 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.

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 county of Penobscot in the sum of five
3 hundred dollars to be approved by the commissioners of
4 said county, and shall receive a yearly salary of thirteen
5 hundred dollars from the county of Penobscot, in quar-
6 terly payments. The fees in all civil causes are to be paid
7 to said county. In case of the absence of said clerk, or
8 vacancy in said office, the judge may appoint a clerk, who
9 shall be sworn by said judge and act during said absence,
10 or till 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 desig-
5 nate 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, shall be paid monthly into the county treasury
5 for the use of said county; and all fees of said court, paid
6 after commitment to any jailor, shall be paid by him
7 monthly into said 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.

STATE OF MAINE.

IN SENATE, February 22, 1895.

Mr. DAY of Penobscot offered amendments "A," "B" and "C" to House Document No. 141, and on his motion the bill was laid on the table to be printed with House amendments "A," and "B," and Senate amendments "A," "B," and "C" incorporated.

KENDALL M. DUNBAR, *Secretary.*