

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

---

# SEVENTY-FOURTH LEGISLATURE

---

HOUSE.

No. 59

---

## STATE OF MAINE.

---

IN THE YEAR OF OUR LORD ONE THOUSAND NINE  
HUNDRED AND NINE.

---

AN ACT to amend chapter one hundred and thirty-five of the private and special laws of eighteen hundred and seventy-five, entitled "An Act to establish a municipal court in the city of Auburn."

---

*Be it enacted by the People of the State of Maine, as follows:*

Section 1. Chapter one hundred and thirty-five of the  
2 private and special laws of eighteen hundred and seventy-  
3 five, as since amended, entitled "An Act to establish a  
4 municipal court in the city of Auburn," is hereby further  
5 amended, so that the same, when amended, shall read as  
6 follows:

'Section 1. A municipal court is hereby established in

8 and for the city of Auburn, to be denominated 'municipal  
9 court of the city of Auburn,' which shall be a court of  
10 record and have a clerk and a seal, and consist of one judge,  
11 who shall be a member of the bar of the county of Andros-  
12 coggin, who shall be appointed as provided in the consti-  
13 tution, and who shall be *ex-officio* a justice of the peace and  
14 quorum, and who shall receive from said city, in monthly  
15 payments, an annual salary of fifteen hundred dollars, which  
16 shall be in full for all fees pertaining to his office.

'Sect. 2. Said court shall have jurisdiction as follows:

'I. Exclusive jurisdiction of all offenses against the ordi-  
19 nances or by-laws of said city, and all such other criminal  
20 offenses and misdemeanors committed therein as are cog-  
21 nizable by trial justices; provided, that warrants may be  
22 issued upon complaints for offenses committed in said city  
23 of Auburn by any trial justice or municipal court in said  
24 county, but all such warrants shall be made returnable be-  
25 fore said court, and no trial justice or municipal court shall  
26 take cognizance over any crime or offense committed in  
27 said city where said court has exclusive jurisdiction. In  
28 a prosecution in said court for an offense against any ordi-  
29 nance of the city of Auburn, it shall not be necessary to  
30 recite such ordinance in the complaint, or to set out the  
31 offense more particularly than in a prosecution for an  
32 offense against a public statute. Said court shall have con-  
33 current jurisdiction with trial justices, the municipal court  
34 for the city of Lewiston and the Livermore Falls municipal

35 court, of all like offenses and misdemeanors not herein  
36 placed within its exclusive jurisdiction.

‘II. Original jurisdiction, concurrent with the supreme  
38 judicial court in the county of Androscoggin, of the offenses  
39 described in section twenty-eight of chapter one hundred  
40 and nineteen of the revised statutes, relating to assaults and  
41 batteries; of the offenses described in sections one, six,  
42 seven, eight, nine, ten and twelve of chapter one hundred  
43 and twenty-one of the revised statutes, relating to larcenies,  
44 when the alleged value of the property does not exceed  
45 fifty dollars; of the offenses described in section one of  
46 chapter one hundred and twenty-four of the revised stat-  
47 utes, relating to affrays; of the offenses described in sec-  
48 tions one, four and five of chapter one hundred and twenty-  
49 seven of the revised statutes, relating to frauds and false  
50 pretenses, when the alleged value of the property fraudu-  
51 lently obtained, mortgaged, sold, removed or concealed does  
52 not exceed fifty dollars, or when the amount of which any  
53 innkeeper or boarding-house keeper has been defrauded  
54 does not exceed fifty dollars; and on conviction may punish  
55 for either of said offenses by fine not exceeding one hun-  
56 dred dollars and by imprisonment in the county jail for  
57 not more than six months; also of the offense described  
58 in section six of chapter one hundred and twenty-five of  
59 the revised statutes, relating to fornication; of the offenses  
60 described in section five of chapter one hundred and twenty-  
61 six of the revised statutes, relating to gambling on railroad

62 cars and steamboats; of the offenses described in section  
63 thirty-one of chapter one hundred and twenty-nine of the  
64 revised statutes, relating to non-resident tramps; and on  
65 conviction may punish for either of said offenses as therein  
66 provided; also of all other criminal offenses not required  
67 by the constitution or by statute to be answered for on  
68 indictment and in which the maximum penalty provided  
69 is by imprisonment not exceeding one year or by fine not  
70 exceeding one hundred dollars, unless the same are deemed  
71 by the court to be of a high or aggravated nature, and on  
72 conviction may punish for any such offense by imprison-  
73 ment in the county jail for not more than six months and  
74 by fine not exceeding one hundred dollars.

'Any person convicted of an offense or misdemeanor with-  
76 in the jurisdiction of said court may be placed upon pro-  
77 bation, and the case against any such convicted person may  
78 be continued for sentence, or the sentence may be imposed  
79 and mittimus stayed for any period and on any terms the  
80 court deems best. The court may place any such convicted  
81 person in care of the marshal or deputy marshal of the  
82 city of Auburn for such time and upon such conditions as  
83 may seem proper. If the sentence is to pay a fine and  
84 to stand committed until the same is paid, the fine may  
85 be paid to said marshal or deputy marshal at any time  
86 during the period of probation, and such probationer shall  
87 thereby be discharged. Said marshal or deputy marshal  
88 shall pay over the sum received to the clerk of said court.

‘III. Exclusive original jurisdiction of all civil actions  
90 in which the debt or damages demanded do not exceed  
91 twenty dollars, and both parties or one of the parties and  
92 a person summoned as trustee reside in the city of Auburn,  
93 including actions or prosecutions for penalties in which said  
94 city is interested, and actions of forcible entry and detainer  
95 arising therein. Said court shall have concurrent jurisdic-  
96 tion with trial justices in said county of all other civil  
97 actions and such other civil proceedings as are by law  
98 within their jurisdiction; provided, that any civil action in  
99 which the judge or clerk is interested, but which otherwise  
100 would be within the exclusive jurisdiction of such court,  
101 may be brought in and disposed of by the municipal court  
102 for the city of Lewiston in the same manner and with like  
103 effect as other actions therein.

‘IV. Original jurisdiction concurrent with the supreme  
105 judicial court, the municipal court for the city of Lewis-  
106 ton and the Livermore Falls municipal court, of all civil  
107 actions in which the debt or damages demanded exceed  
108 twenty dollars, but do not exceed three hundred dollars,  
109 and the defendant or a party summoned as trustee resides  
110 within the county of Androscoggin. Any action in which  
111 the debt or damages demanded exceed twenty dollars  
112 brought in said court shall be removed by order of the  
113 judge into the supreme judicial court, on motion of the  
114 defendant, filed at the return term, if he files therewith,  
115 at the same time, an affidavit that he believes he has a

116 good defense to said action, in whole or in part, and in  
117 good faith intends to make such defense, and deposits with  
118 the clerk the fee of the clerk of the court above for enter-  
119 ing said action therein; and when such removal has been  
120 ordered, the clerk shall file in the supreme judicial court  
121 at its next term in the county an attested copy of the  
122 writ in such action and of said motion and affidavit, and  
123 order of court thereon, and pay to the clerk of said court  
124 the fee for entering the same, for which services he shall  
125 receive the same fees allowed for the necessary copies in  
126 actions carried up by appeal, to be paid to him by the  
127 defendant and recovered by said defendant with his costs,  
128 if he prevail in the suit.

‘Sect. 3. Said court shall be held on the fourth Tuesday  
130 of every month for the transaction of civil business, and  
131 upon every Tuesday for the entry, trial and determination  
132 of actions of forcible entry and detainer. When held for  
133 civil business it may be adjourned from time to time by  
134 the judge, but it shall be considered as at all times in  
135 session for the cognizance of criminal actions. When any  
136 civil term of said court has been finally adjourned, the  
137 judge may, by agreement of parties to any civil action  
138 pending therein, hear and determine the same in vacation,  
139 as of the last day of the preceding term, and subject to  
140 the same right of appeal as in cases tried in term time.

‘Sect. 4. All writs and processes commenced in said court  
142 shall be of the usual forms, and all such writs and all

143 other precepts and processes, civil or criminal, issued by  
144 said court, shall bear teste of the judge, or if the office  
145 of judge is vacant, of the clerk, under seal of said court,  
146 and be signed by the judge or by the clerk, and be of  
147 equal validity when signed by either. All writs may be  
148 made returnable at any term of said court to be held not  
149 less than seven nor more than seventy days from their  
150 date, and service thereof may be made at any time not  
151 less than seven days before the return day thereof, except  
152 that when any defendant or trustee named in any such  
153 writ is a corporation, service upon such corporation must  
154 be made at least thirty days before the return day.

'Sect. 5. All actions in said court shall be entered on  
156 the first day of the term at which they are returnable, and  
157 not afterwards except by special permission, and then upon  
158 such terms as the court may impose. When a defendant  
159 legally served fails to appear during the first two days  
160 of the return term, he may be defaulted and the charge  
161 in the declaration taken to be true; but if he afterwards  
162 appear during the term, the court may permit the default  
163 to be taken off. If the plaintiff fails to enter his action,  
164 the defendant may at the return term enter a complaint  
165 setting forth the facts, and shall be entitled to costs.  
166 Pleas in abatement must be filed on or before the second  
167 day of the term.

'Sect. 6. In actions of forcible entry and detainer, the  
169 defendant's pleading in bar shall be the general issue,



170 with a brief statement of any special matters of defense,  
171 and must be filed upon the return day, or the defendant  
172 shall be defaulted, unless the court enlarge the time, for  
173 which it may impose terms. In any other actions therein  
174 the pleadings in bar may be the same as required in the  
175 supreme judicial court, and must be filed on or before the  
176 second day of the next monthly term after entry, or the  
177 defendant shall be defaulted, unless the plaintiff consents  
178 to an extension of the time, or the court for good cause,  
179 with or without terms at its discretion, allows such exten-  
180 sion. All actions of forcible entry and detainer, and any  
181 other action in which either party shall have given written  
182 notice to the adverse party ten days before the return  
183 day that he desires a trial at the first term, shall be in  
184 order for trial at the return term, and so remain until  
185 tried or otherwise disposed of, unless continued by con-  
186 sent, or on motion of either party for good cause, in which  
187 latter case the court may impose reasonable terms, but all  
188 other actions not defaulted or otherwise finally disposed  
189 of, shall be continued as of course, and be in order for  
190 trial at the next term.

‘Sect. 7. Said court shall have authority to administer all  
192 necessary oaths or affirmations; to hear and determine civil  
193 causes before it, and to render judgment therein, and issue  
194 execution upon the same, such execution, except when  
195 otherwise provided by law, to have the same force and  
196 be satisfied in the same manner as like executions issued

197 by the supreme judicial court; to compel the attendance  
198 of witnesses, and punish persons duly summoned as wit-  
199 nesses, if they refuse or neglect to attend; to issue com-  
200 missions to take depositions, as in the supreme judicial  
201 court; to make and enforce such rules and regulations not  
202 repugnant to law, as may be necessary therein for the  
203 prompt administration of justice; and all the provisions  
204 of law relating to proceedings and practice in the supreme  
205 judicial court, and to the attachment of real and personal  
206 estate, the taxation of costs, the rendition of judgments  
207 and the issuing, service, satisfaction and return of exe-  
208 cutions shall be extended to and apply to said municipal  
209 court and to proceedings therein, except so far as such  
210 application may be modified by the provisions of this act.

‘Sect. 8. Any party may appeal from a judgment or sen-  
212 tence of said court to the supreme judicial court, in the  
213 same manner and subject to the same conditions as from  
214 a judgment or sentence of a trial justice.

‘Sect. 9. Exceptions may be alleged and cases certified  
216 on agreed statements of facts, or upon evidence reported  
217 by the judge, in all civil cases, as in the supreme judicial  
218 court, and the same shall be entered, heard and determined  
219 at the next law term held at Augusta or Portland, or by  
220 agreement of parties, may be certified at once to the chief  
221 justice of the supreme judicial court, and when so certi-  
222 fied, to be argued in writing on both sides within thirty  
223 days; and the supreme judicial court, sitting as a court

224 of law, shall have the same jurisdiction of all questions  
225 of law arising on said exceptions, statements and reports,  
226 as if they had originated in the supreme judicial court  
227 for the county of Androscoggin; and all provisions of  
228 law and rules of the supreme judicial court relative to  
229 the transfer of actions and other matters from the supreme  
230 judicial court for said county, shall apply to the transfer  
231 of actions from said municipal court to said law court.  
232 Decisions of the law court on all matters from said municipi-  
233 pal court shall be certified to the judge of said municipal  
234 court with the same effect as in cases originating in the  
235 supreme judicial court in said county.

'Sect. 10. Actions pending in this court may be referred  
237 to one referee, in the same manner as in the supreme  
238 judicial court; and on report of the referee to said municipi-  
239 pal court, judgment may be rendered in the same manner  
240 and with like effect as in the supreme judicial court. This  
241 section shall not apply to actions within the jurisdiction  
242 of trial justices. Fees of the referee shall be approved  
243 by the judge and certified and paid as in the supreme  
244 judicial court.

'Sect. 11. Nothing in this act shall be construed to give  
246 said court any authority exceeding that of trial justices  
247 to hear and determine any civil action in which the title  
248 to real estate, according to the pleadings or brief state-  
249 ment filed therein by either party, is in question. But all  
250 such actions brought therein shall be removed to the su-

251 preme judicial court in the county, or otherwise disposed  
252 of, as provided in section three of chapter eighty-five of  
253 the revised statutes.

‘Sect. 12. The clerk of said court shall be a citizen of  
255 said Auburn and a member of the bar of the county of  
256 Androscoggin, and shall be appointed by the governor, by  
257 and with the advice and consent of the council, for a term  
258 of four years; and he shall be sworn, and give bond to  
259 the treasurer of said city of Auburn, in the sum of one  
260 thousand dollars, to be approved by the judge of said  
261 court.

‘Sect. 13. The clerk of said court shall receive an annual  
263 salary of twelve hundred dollars, with three hundred dol-  
264 lars additional for clerk hire, from said city of Auburn, to  
265 be paid to him in monthly payments, which said sums shall  
266 be in full compensation for the performance of all duties  
267 required of said clerk by law. He shall account quar-  
268 terly, under oath, to wit, on the first days of January,  
269 April, July and October of each year, to the treasurer of  
270 said city of Auburn, for all fees received by him by virtue  
271 of his office, and shall pay the whole amount of the same  
272 to the treasurer of said city, quarterly, on the days afore-  
273 said.

‘Sect. 14. The clerk, with the approval of the judge, may  
275 appoint a deputy clerk, who shall be a justice of the peace  
276 residing in the county of Androscoggin, to be paid out  
277 of the clerk’s salary, and for all whose official acts the

278 clerk is responsible. Such deputy clerk shall be sworn  
279 by said judge or clerk. Whenever the clerk is unable to  
280 perform the duties of his office, said deputy shall have all  
281 the powers and perform all the duties of clerk. Such  
282 appointment may be revoked and a new appointment made.

‘Sect. 15. It shall be the duty of said clerk to attend the  
284 sessions of said court held for civil business and during  
285 all criminal proceedings before it, and keep a record of  
286 its doings; and he may administer oaths and affirmations,  
287 and shall have all such other powers and perform all such  
288 other duties, relative to proceedings in said court, in all  
289 matters, civil or criminal, within its jurisdiction, as clerks  
290 of the supreme judicial court have and perform relative  
291 to like proceedings in that court. He may receive crimi-  
292 nal complaints and accusations in bastardy and issue war-  
293 rants thereon, to be returned before said court, and shall  
294 make and sign all subpoenas and all processes of commit-  
295 ment issued thereby, but any such warrant or other pre-  
296 cept signed and issued by the judge shall be equally valid.  
297 Should the judge of said court be absent or should a  
298 vacancy occur in the office of judge thereof, said clerk,  
299 during such absence or vacancy, shall have all the powers  
300 and discharge all the duties of said judge in relation to  
301 the criminal business of said court.

‘Sect. 16. Should the judge be prevented by any cause  
303 from attending at the time designated for holding any  
304 civil term of said court, the clerk shall enter all actions

305 then returnable, and all pleas, motions, disclosures, ac-  
306 counts in set-off and other papers then filed, and adjourn  
307 the court to a day certain, not beyond the third day there-  
308 after. On that day, if the judge is still absent, the clerk  
309 shall, by public proclamation, adjourn the court without  
310 day; but shall first record default and enter up judgment  
311 in all actions of the term not answered to by the defend-  
312 ants except trustee actions, and in all trustee actions not  
313 answered to by the defendants, or by the trustees therein  
314 named and summoned, and also by consent of the parties  
315 in any continued action cognizable at such term, and shall  
316 continue all other actions; provided, that all continuances  
317 of actions of forcible entry and detainer in said court,  
318 whether by the clerk as above provided, or by order of  
319 the judge when present, shall be only to the next term at  
320 which such actions are cognizable. In case a vacancy  
321 should occur in the office of judge, any civil term of said  
322 court during such vacancy shall be adjourned by the clerk  
323 from time to time, not more than three days at any one  
324 time, without transacting any other business, and without  
325 detriment to any action or proceeding pending therein,  
326 until such vacancy is filled.

'Sect. 17. The costs and fees taxable in criminal prose-  
328 cutions shall be as follows:

'Complaint and warrant, one dollar.

'Entering complaint, swearing witnesses, filing papers and  
331 certifying costs to the county commissioners, seventy-five

332 cents.

'Trial of an issue, two dollars for each day.

'Taxing costs and recording judgment, forty cents.

'For each mittimus and each recognizance, twenty-five  
336 cents.

'For each subpoena, ten cents.

'For making and recording each libel of intoxicating  
339 liquors, fifty cents.

'For each order to destroy such liquors, or to deliver the  
341 same to the sheriff of the county, or to restore the same  
342 to the claimant, twenty-five cents.

'Posting copies of libel and monition and making returns,  
344 one dollar.

'All other fees in criminal matters shall be at the same  
346 rates as are allowed by law to trial justices for like ser-  
347 vices.

'Sect. 18. The costs and fees taxable in civil proceedings  
349 shall be as follows:

'For every blank writ, except writ of replevin, four cents.

'Blank writ of replevin, with the seal, signature and blank  
352 bond, eight cents.

'Entry of an action and recording judgment, sixty cents.

'Acknowledging satisfaction of a judgment on the record,  
355 ten cents.

'Taxing costs, twenty-five cents.

'Recognizance to prosecute an appeal, including principal  
358 and sureties, twenty-five cents.

'Commission to take deposition, one dollar.

'Rule of reference, one dollar.

'All other fees in civil proceedings shall be at the same  
362 rates as are allowed by law to trial justices for like ser-  
363 vices, except that no trial fee shall be taxed in such civil  
364 proceedings.

'Said costs and fees are to be paid by the party at whose  
366 instance the services were performed and taxed with the  
367 costs of such party if he prevails in the suit.

'Sect. 19. The costs and fees allowed to parties, attorneys  
369 and witnesses in all civil actions in said court, in which  
370 the amount recovered does not exceed twenty dollars, in-  
371 cluding actions of forcible entry and detainer, shall be  
372 the same allowed by trial justices in like actions before  
373 them, except that the plaintiff, if he prevail, shall be  
374 allowed two dollars for his writ, and the defendant, if  
375 he prevail, two dollars for his pleadings; but in actions  
376 in which the amount recovered exceeds twenty dollars,  
377 the costs and fees, including travel and attendance, shall  
378 be the same as allowed in the supreme judicial court in  
379 like actions, except that the defendant, if he prevail, shall  
380 be allowed two dollars for his pleadings, and that wit-  
381 nesses shall be allowed one dollar per day, and travel as  
382 in other cases.

'Sect. 20. The clerk of said court shall receive all fines,  
384 forfeitures and costs paid into court in criminal proceed-  
385 ings, and shall pay over all witness fees and officers' fees



386 to the persons to whom they were allowed, when called  
387 for, if called for within one year. All fines and forfeit-  
388 ures received by him and all witness and officers' fees  
389 so received, but not seasonably called for, he shall account  
390 for and pay over at the time and in the manner required  
391 by law, but no account required by this section shall be  
392 deemed sufficient unless approved and signed by the judge.

'Sect. 21. It shall be the duty of the city of Auburn to  
394 provide a suitable court-room, conveniently situated and  
395 appropriately fitted up and furnished, in which to hold  
396 said court, and keep the same in proper condition for use,  
397 and also to provide for said court an appropriate seal, and  
398 all blanks, blank books, dockets, stationery, and other things  
399 necessary in the transaction of his business, and said city  
400 shall have authority to raise money for that purpose, and  
401 for the payment of the salaries herein provided. The city  
402 marshal, or deputy marshal, or one of the police officers  
403 of said city shall be in attendance on said court at its  
404 sessions, for the purpose of preserving order and executing  
405 all legal orders and processes to him directed by the court.

'Sect. 22. Trial justices are hereby restricted from exer-  
407 cising any jurisdiction in the city of Auburn over any  
408 matter or thing, civil or criminal, except such as are with-  
409 in the jurisdiction of justices of the peace and quorum,  
410 and except that they may issue warrants on complaints  
411 for criminal offenses to be returned before said municipal  
412 court.'

Sect. 2. The present judge and clerk of said court shall  
2 continue in office until the end of their respective terms.

Sect. 3. All acts and parts of acts inconsistent with this  
2 act are hereby repealed.





STATE OF MAINE.

---

HOUSE OF REPRESENTATIVES,

Augusta, Feb. 2, 1909.

Tabled pending reference to a committee by Mr. WING  
of Auburn and ordered printed.

E. M. THOMPSON, *Clerk.*