

# MAINE STATE LEGISLATURE

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SEVENTY-SEVENTH LEGISLATURE

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HOUSE

NO. 89

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*House of Representatives, Feb. 5, 1915.*

*Ordered, That five hundred copies be printed and that the same be referred to the Committee on Judiciary.*

*Committee on Reference.*

*Presented by Mr. Woodman of Auburn.*

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STATE OF MAINE

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

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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," as amended by chapter one hundred and eighty-six of the Private and Special Laws of the same year, chapter fifty-one of the Private and Special Laws of eighteen hundred and eighty-one, and chapter one hundred and fifty-two of the Private and Special Laws of eighteen hundred and ninety-one, chapter sixty-two of the Private and Special Laws of eighteen hundred and ninety-five, and chapter two hundred and twenty-nine of the Private and Special Laws of nineteen hundred and three.

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

Section 1. 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," as amended by chapter one hundred and eighty-six of the private and special laws of the same year, chapter fifty-one of the private and special laws of eighteen hundred and eighty-one and chapter one hundred and fifty-two of the private and special laws of eighteen hundred and ninety-one, chapter sixty-two of the private and special laws of eighteen hundred and ninety-five, and chapter two hundred and twenty-nine of the private and special laws of nineteen hundred and three, is hereby further amended so that the same, when amended, shall read as follows:

Section 1. A municipal court is hereby established in and for the city of Auburn, to be denominated the municipal court of the city of Auburn, which shall be a court of record and have a clerk and a seal, and consist of one judge, appointed as provided in the constitution, who shall be a citizen of Auburn and a member of the bar of the County of Androscoggin, and who shall be, ex-officio, a justice of the peace and of the quorum, and have and exercise concurrent authority and jurisdiction with trial justices over all matters and things by law within their jurisdiction, and such authority and jurisdiction additional thereto as is conferred upon him by this act, and who shall receive from said city an annual salary of eighteen hundred dollars, to be paid to him in monthly payments.

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

I. Exclusive jurisdiction of all offenses against the ordi-  
30 nances or by-laws of said city, and all such other criminal  
31 offenses and misdemeanors committed therein as are cog-  
32 nizable by trial justices; and concurrent jurisdiction with  
33 trial justices in the county of Androscoggin of all like of-  
34 fenses and misdemeanors not herein placed within its ex-  
35 clusive jurisdiction, when committed in any town or city  
36 in said county except Lewiston.

II. Exclusive original jurisdiction of all civil actions  
38 wherein the debt or damages demanded do not exceed  
39 twenty dollars, and both parties, or any plaintiff, and a  
40 person summoned as a trustee, reside in the city of Auburn,  
41 including prosecutions for penalties in which said city is  
42 interested, and actions of forcible entry and detainer aris-  
43 ing therein; and concurrent jurisdiction with trial justices  
44 in said county of all other civil actions and other civil pro-  
45 ceedings cognizant by them, not within the exclusive juris-  
46 diction of said court or of the municipal court of the city  
47 of Lewiston; provided, that any civil action, in which the  
48 judge or clerk is interested, but which otherwise would be  
49 within the exclusive jurisdiction of said court, may be  
50 brought in and disposed of by the Lewiston municipal court  
51 in the same manner and with like effect as other actions  
52 therein.

III. Original jurisdiction concurrent with the supreme  
54 judicial court, of the offenses described in sections one,

55 six, seven, eight and ten of chapter one hundred and twenty-  
56 one of the revised statutes, when the alleged value of the  
57 property exceeds ten, but does not exceed fifty dollars; of  
58 the offenses described in section twenty-eight of chapter one  
59 hundred and nineteen of the revised statutes; of the of-  
60 fenses described in sections one and four of chapter one  
61 hundred and twenty-seven of the revised statutes, when the  
62 alleged value of the property fraudulently obtained, mort-  
63 gaged or sold, or fraudulently removed or concealed, does  
64 not exceed fifty dollars, and on conviction may punish for  
65 either of said offenses by fine not exceeding one hundred  
66 dollars and by imprisonment in the county jail not more  
67 than six months; of the offense described in section nine  
68 of chapter one hundred and twenty-seven of the revised  
69 statutes; of the offense described in chapter ninety-nine of  
70 the public laws of nineteen hundred and five, relating to  
71 the fraudulent issue and use of transfer tickets upon public  
72 conveyances; of the offense described in section one of chap-  
73 tre two hundred and fourteen of the public laws of nine-  
74 teen hundred and thirteen, relating to the defrauding of  
75 owners or keepers of garages; and also of the offense de-  
76 scribed in section six of chapter one hundred and twenty-  
77 five of the revised statutes, and on conviction may punish  
78 therefor by fine not exceeding fifty dollars and by imprison-  
79 ment in the county jail not more than thirty days; and also  
80 of the offenses described in section six of chapter one  
81 hundred and forty-two of the revised statutes, and on con-

82 viction may sentence therefor to imprisonment in the county  
83 jail not more than sixty days; and of the offenses described  
84 in sections thirty-one and thirty-three of chapter one hun-  
85 dred and twenty-nine of the revised statutes.

IV. Original jurisdiction concurrent with the supreme  
87 judicial court and the municipal court of the city of Lew-  
88 iston, of all civil actions in which the debt or damages de-  
89 manded, exceed twenty dollars, but do not exceed three  
90 hundred dollars and the defendant or a party summoned  
91 as trustee resides within the county of Androscoggin; pro-  
92 vided, however, that any action wherein the debt or damage  
93 demanded exceeds twenty dollars, brought in said court,  
94 shall be removed by order of the judge into the supreme  
95 judicial court, on motion of the defendant, filed at the re-  
96 turn term, if he files therewith, at the same time an affi-  
97 davit that he believes he has a good defense to said action,  
98 in whole or in part, and in good faith intends to make such  
99 defense, and deposits with the clerk the fee of the clerk  
100 of the court above for entering said action therein; and  
101 when such removal has been ordered, the clerk shall file  
102 in the supreme judicial court at its next term in the county,  
103 an attested copy of the writ in such action and of said  
104 motion and affidavit, and order of court thereon, and pay  
105 to the clerk of said court the fee for entering the same,  
106 for which services he shall be entitled to the same fees  
107 allowed for the necessary copies in actions carried up by  
108 appeal, to be paid to him by the defendant and recovered  
109 by him with his costs, if he prevail in the suit.

‘Sect. 3. Nothing in the foregoing section shall be construed to give said court any authority exceeding that of trial justices to hear and determine any civil action in which the title to real estate, according to the pleadings or brief statement filed therein by either party, is in question, but all such actions brought therein shall be removed to the supreme judicial court in the county, or otherwise disposed of as provided in section three of chapter eighty-five of the revised statutes.

‘Sect. 4. The clerk of said court shall be a citizen of said Auburn and a member of the bar of the county of Androscoggin, and shall be appointed by the governor, by and with the advice and consent of the council, for a term of four years; and he shall be sworn, and give bond to the county as required by law. In case of the absence of said clerk from court, or should a vacancy occur in the office of clerk, the judge may appoint a clerk, pro tempore, who shall be sworn by said judge, and act during such absence, or until such vacancy be filled. Said clerk shall receive from said city an annual salary of twelve hundred dollars and an annual allowance of four hundred dollars for clerk hire, to be paid to him in monthly payments.

‘Sect. 5. It shall be the duty of said clerk to attend the sessions of said court held for civil business and during all criminal proceedings before it, and keep a record of its doings; and he may administer oaths and affirmations,

137 and shall have all such other powers and perform all such  
138 other duties, relative to proceedings in said court, in all  
139 matters, civil or criminal, within its jurisdiction, as clerks  
140 of the supreme judicial court have and perform relative  
141 to like proceedings in that court. He may receive crimi-  
142 nal complaints and accusations in bastardy and issue war-  
143 rants thereon, to be returned before said court and shall  
144 make and sign all subpoenas and all processes of com-  
145 mitment issued thereby, but any such warrant or other  
146 precept signed and issued by the judge shall be equally  
147 valid. Should the judge of said court be absent or should  
148 a vacancy occur in the office of judge thereof, said clerk,  
149 during such absence or vacancy, shall have all the powers  
150 and discharge all the duties of said judge in relation to  
151 the criminal business of said court.

‘Sect. 6. Said court shall have authority to administer  
153 all necessary oaths or affirmations; to hear and determine  
154 civil causes before it, and to render judgment therein, and  
155 issue execution upon the same, such execution, except when  
156 otherwise provided by law, to have the same force and  
157 be satisfied in the same manner as if issued by the su-  
158 preme judicial court; to compel the attendance of wit-  
159 nesses, and punish persons duly summoned as witnesses,  
160 if they refuse or neglect to attend; to make and enforce  
161 such rules and regulations not repugnant to law, as may  
162 be necessary therein for the prompt administration of jus-  
163 tice; and all the provisions of law relating to proceedings



164 and practice in the supreme judicial court, and to the  
165 attachment of real or personal estate, the taxation of costs,  
166 the rendition of judgments and the issuing, service, satis-  
167 faction and return of executions shall be extended to and  
168 apply to said municipal court and to proceedings therein.  
169 except so far as such application may be modified by the  
170 provisions of this act.

‘Sect. 7. Writs in civil actions commenced in said court  
172 shall be in the usual forms and all such writs and all other  
173 precepts and processes, civil or criminal, issued by said  
174 court, shall bear teste of the judge under seal of said  
175 court, and be signed by the judge or by the clerk, and be  
176 of equal validity when signed by either. All such writs  
177 shall be made returnable at a term held not less than  
178 seven nor more than sixty-five days from their date, and  
179 service thereof may be made at any time not less than  
180 seven days before the return day thereof, except that when  
181 any defendant or trustee named in any such writ is a  
182 corporation, service upon such corporation must be made  
183 at least thirty days before the return day. In a prose-  
184 cution in said court for an offense against any ordinance  
185 of the city of Auburn, it shall not be necessary to recite  
186 such ordinance in the complaint, or to set out the offense  
187 more particularly than in a prosecution for an offense  
188 against a public statute.

‘Sect. 8. Said court shall be held on the fourth Tuesday  
190 of every month for the entry, trial and determination of

191 civil actions of all kinds that may lawfully be brought  
192 before it, and for the transaction of other civil business,  
193 and upon each other Tuesday for the entry, trial and de-  
194 termination of actions of forcible entry and detainer only,  
195 at ten o'clock in the forenoon, at such suitable place with-  
196 in the city of Auburn as said city shall provide. When  
197 held for civil business it may be adjourned from time to  
198 time by the judge, but it shall be considered as at all times  
199 in session for the cognizance of criminal actions. The  
200 municipal officers of said city shall designate one of its  
201 police officers to be in attendance on said court at its  
202 sessions for the purpose of preserving order and exe-  
203 cuting all legal orders and processes to him directed by  
204 the court.

·Sect. 9. Should the judge be prevented by any cause  
206 from attending at the time designated in the foregoing  
207 section for holding monthly or civil term of said court,  
208 the clerk shall enter all actions then returnable, and all  
209 pleas, motions, disclosures, accounts in set off and other  
210 papers then filed, and adjourn the court to a day certain,  
211 not beyond the third day thereafter. On that day, if the  
212 judge is still absent, the clerk shall, by public proclama-  
213 tion, adjourn the court without day; but shall first record  
214 default and enter up judgment in all actions of the term  
215 not answered to by the defendants except trustee actions,  
216 and in all trustee actions not answered to by the defend-  
217 ants, or by the trustees therein named and summoned, and

218 also by consent of the parties in any continued action  
219 cognizable at such term, and shall continue all other ac-  
220 tions; provided, that all continuances of actions of forcible  
221 entry and detainer in said court, whether by the clerk  
222 as above provided, or by order of the judge when pres-  
223 ent, shall be only to the next term, weekly or monthly,  
224 at which such actions are cognizable. In case a vacancy  
225 should occur in the office of the judge, any civil term of  
226 said court occurring during such vacancy, shall be ad-  
227 journed by the clerk from time to time, not more than  
228 three days at any one time, without transacting any other  
229 business, and without detriment to any action or proceed-  
230 ing pending therein until such vacancy is filled.

‘Sect. 10. All actions in said court shall be entered on  
232 the first day of the term at which they are made return-  
233 able and not afterwards except by special permission.  
234 When a defendant legally served fails to appear during  
235 the first two days of the return term, he may be defaulted  
236 and the charge in the declaration taken to be true; but  
237 if he afterwards appear during the term, the court may  
238 permit the default to be taken off. Pleas in abatement  
239 must be filed on or before the second day of the term.

‘Sect. 11. In actions of forcible entry and detainer brought  
241 in said court, the defendant’s pleading in bar shall be the  
242 general issue with a brief statement of any special mat-  
243 ters of defense, and must be filed within the first two days  
244 of the return term, or the defendant shall be defaulted,  
245 unless the court enlarge the time, for which it may impose

246 terms. In any other actions therein the pleadings in bar  
247 may be the same as required in the supreme judicial court,  
248 and must be filed on or before the second day of the next  
249 monthly term after entry, or the defendant shall be de-  
250 faulted, unless the plaintiff consents to an extension of  
251 the time or the court for good cause, with or without terms  
252 at its discretion, allows such extension. All actions of  
253 forcible entry and detainer, and any other action in which  
254 either party shall have given written notice to the adverse  
255 party ten days before the return day that he desires a  
256 trial at the first term, shall be in order for trial at the  
257 return term, and so remain until tried or otherwise finally  
258 disposed of, unless continued by consent, or on motion  
259 of either party for good cause, in which latter case the  
260 court may impose reasonable terms, but all other actions  
261 not defaulted or otherwise finally disposed of, shall be  
262 continued as of course, and be in order for trial at the  
263 next term.

'Sect. 12. Any party may appeal from a judgment or  
265 sentence of said court to the supreme judicial court, in  
266 the same manner and subject to the same conditions as  
267 from a judgment or sentence of a trial justice.

'Sect. 13. The costs and fees allowed to parties, attor-  
269 neys and witnesses in all civil actions in said court, in  
270 which the debt or damage demanded does not exceed twen-  
271 ty dollars, including actions of forcible entry and detainer,  
272 shall be the same allowed by trial justices in like actions

273 before them, except that the plaintiff, if he prevail, shall  
274 be allowed two dollars for his writ, and the defendant, if  
275 he prevail, two dollars for his pleadings, but in actions  
276 in which the debt or damage demanded exceeds twenty dol-  
277 lars, the costs and fees shall be the same as allowed in the  
278 supreme judicial court in like actions, except that the de-  
279 fendant, if he prevail, shall be allowed two dollars for his  
280 pleadings, and that witnesses shall be allowed one dollar per  
281 day, and travel as in other cases.

‘Sect. 14. No fees shall be allowed or taxed for said  
283 judge in any civil action or proceeding in said court; and  
284 none shall be taxed for him in any criminal action or  
285 proceeding therein for any service, the fee for which is  
286 to be allowed the clerk as provided in section fifteen, but  
287 for any other services in criminal matters, the same fees  
288 shall be allowed for him and at the same rates as are al-  
289 lowed by law to trial justices for like services, except that  
290 his fee for a complaint and warrant shall be one dollar,  
291 and for the trial of a complaint or of a libel of intoxi-  
292 cating liquors, two dollars for the first day and one dollar  
293 for every additional day engaged therein, all of which  
294 fees shall inure to the city of Auburn, and be paid to the  
295 treasurer of said city, whose receipt shall be a sufficient  
296 voucher for such payment.

‘Sect. 15. The clerk of said court shall tax for his services  
298 in a civil action the same fees, the trial fee excepted,  
299 allowed by law to trial justices, for like services and at

300 the same rates, except that the fee for entering, filing and  
301 recording an action shall be sixty cents and for taxing  
302 costs twenty-five cents, said fees to be paid to him by the  
303 party at whose instance the services are performed, and  
304 taxed with the costs of such party if he prevails in the  
305 suit. For his services in criminal proceedings there shall  
306 be taxed seventy-five cents for entering complaint, swear-  
307 ing witnesses, filing papers, and certifying costs to the  
308 county commissioners, forty cents for taxing the costs and  
309 recording judgment, ten cents for each subpoena, twenty-  
310 five cents for each mittimus and each recognizance, fifty  
311 cents for making and recording each libel of intoxicating  
312 liquors, and twenty-five cents for each order to destroy  
313 or to restore such liquors, said fees to be taxed in the  
314 bills of costs, and unless paid into court, to be allowed by  
315 the county commissioners, and paid by the county treas-  
316 urer. All fees of said clerk as aforesaid in civil and crim-  
317 inal actions shall inure to the city of Auburn and shall be  
318 paid to the treasurer of said city, whose receipt shall be  
319 a sufficient voucher for such payment.

‘Sect. 16. The clerk shall receive all fines, forfeitures and  
321 costs paid into said court in criminal proceedings, and shall  
322 pay over to the parties or witnesses the fees allowed to  
323 them, if called for within one year, except the fees of the  
324 judge and clerk, which together with all fees received for  
325 his services in civil actions he shall account for and pay  
326 over to the treasurer of the city of Auburn during the

327 month following that in which the same are received. All  
328 fines and forfeitures and all fees so received and not sea-  
329 onably called for, he shall account for and pay over at the  
330 time and in the manner required by law, but no account  
331 required by this section shall be deemed sufficient unless  
332 approved and signed by the judge.

'Sect. 17. It shall be the duty of the city of Auburn to  
334 provide a suitable court room, conveniently situated and  
335 appropriately fitted up and furnished, in which to hold  
336 said court, and keep the same in proper condition for use,  
337 and also to provide for said court an appropriate seal, and  
338 all blanks, blank books, dockets, stationery and other things  
339 necessary in the transaction of its business; and said city  
340 shall have authority to raise money for that purpose and  
341 for the payment of the salaries of the judge and clerk.

'Sect. 18. Trial justices are hereby restricted from exer-  
343 cising any jurisdiction in the city of Auburn over any  
344 matter or thing, civil or criminal, except such as are within  
345 the jurisdiction of justices of the peace and quorum and  
346 except that they may issue warrants on complaints for  
347 criminal offenses, to be returned before said municipal  
348 court.'

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

Sect. 3. This act shall take effect when approved.