

MAINE STATE LEGISLATURE

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SEVENTY-SEVENTH LEGISLATURE

HOUSE

NO. 944

House of Representatives, March 25, 1915.

*Reported by Mr. Pierce from Committee on Judiciary and
ordered printed under joint rules.*

C. C. HARVEY, Clerk.

STATE OF MAINE

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

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.

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, entitled, "An Act to establish a municipal court in the
4 city of Auburn," as amended by chapter one hundred and
5 eighty-six of the private and special laws of the same year,
6 chapter fifty-one of the private and special laws of eighteen
7 hundred and eighty-one and chapter one hundred and fifty-
8 two of the private and special laws of eighteen hundred
9 and ninety-one, chapter sixty-two of the private and spe-
10 cial laws of eighteen hundred and ninety-five, and chapter
11 two hundred and twenty-nine of the private and special
12 laws of nineteen hundred and three, is hereby further
13 amended so that the same, when amended, shall read as fol-
14 lows:

'Section 1. A municipal court is hereby established in and
16 for the city of Auburn, to be denominated the municipal
17 court of the city of Auburn, which shall be a court of rec-
18 ord and have a clerk and a seal, and consist of one judge,
19 appointed as provided in the constitution, who shall be a
20 citizen of Auburn and a member of the bar of the County
21 of Androscoggin, and who shall be, ex-officio, a justice of
22 the peace and of the quorum, and have and exercise con-
23 current authority and jurisdiction with trial justices over
24 all matters and things by law within their jurisdiction, and
25 such authority and jurisdiction additional thereto as is con-
26 ferred upon him by this act, and who shall receive from

27 said city an annual salary of fifteen hundred dollars, to be
28 paid to him in monthly payments.

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

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

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

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

81 also of the offenses described in section six of chapter one
82 hundred and forty-two of the revised statutes, and on con-
83 viction may sentence therefor to imprisonment in the county
84 jail not more than sixty days; and of the offenses described
85 in sections thirty-one and thirty-three of chapter one hun-
86 dred and twenty-nine of the revised statutes.

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

108 fees allowed for the necessary copies in actions carried up
109 by appeal, to be paid to him by the defendant and recov-
110 ered by him with his costs, if he prevail in the suit.

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

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

‘Sect 5. It shall be the duty of said clerk to attend the
134 sessions of said court held for civil business and during

135 all criminal proceedings before it, and keep a record of
136 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 to
141 like proceedings in that court. He may receive criminal
142 complaints and accusations in bastardy and issue warrants
143 thereon, to be returned before said court and shall make
144 and sign all subpoenas and all processes of commitment
145 issued thereby, but any such warrant or other precept
146 signed and issued by the judge shall be equally valid.
147 Should the judge of said court be absent or should a va-
148 cancy occur in the office of judge thereof, said clerk, dur-
149 ing such absence or vacancy, shall have all the powers and
150 discharge all the duties of said judge in relation to the
151 criminal business of said court.

'Sect. 6. Said court shall have authority to administer all
153 necessary oaths or affirmations; to hear and determine
154 civil causes before it, and to render judgment therein,
155 and issue execution upon the same, such execution, except
156 when otherwise provided by law, to have the same force
157 and be satisfied in the same manner as if issued by the
158 supreme 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 nor 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 at-
165 tachment 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 court,
175 and be signed by the judge or by the clerk, and be of equal
176 validity when signed by either. All such writs shall be
177 made returnable at a term held not less than seven nor
178 more than sixty-five days from their date, and service
179 thereof may be made at any time not less than seven days
180 before the return day thereof, except that when any de-
181 fendant or trustee named in any such writ is a corporation
182 service upon such corporation must be made at least thirty
183 days before the return day. In a prosecution in said court
184 for an offense against any ordinance of the city of Au-
185 burn, it shall not be necessary to recite such ordinance in
186 the complaint, or to set out the offense more particularly
187 than in a prosecution for an offense against a public stat-
188 ute.

‘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 be-
192 fore it, and for the transaction of other civil business, and
193 upon each other Tuesday for the entry, trial and determi-
194 nation of actions of forcible entry and detainer only, at
195 ten o’clock in the forenoon, at such suitable place within
196 the city of Auburn as said city shall provide. When held
197 for civil business it may be adjourned from time to time
198 by the judge, but it shall be considered as at all times in
199 session for the cognizance of criminal actions. The mu-
200 nicipal officers of said city shall designate one of its po-
201 lice officers to be in attendance on said court at its sessions
202 for the purpose of preserving order and executing all legal
203 orders and processes to him directed by the court.

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

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

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

'Sect. 11. In actions of forcible entry and detainer
240 brought in said court, the defendant's pleading in bar shall
241 be the general issue with a brief statement of any special
242 matters of defense, and must be filed within the first two

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

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

‘Sect. 13. The costs and fees allowed to parties, attor-
268 neys and witnesses in all civil actions in said court, in
269 which the debt or damage demanded does not exceed

270 twenty dollars, including actions of forcible entry and de-
271 tainer, shall be the same allowed by trial justices in like
272 actions before them, except that the plaintiff, if he prevail,
273 shall be allowed two dollars for his writ, and the defend-
274 ant, if he prevail, two dollars for his pleadings, but in ac-
275 tions in which the debt or damage demanded exceeds twen-
276 ty dollars the costs and fees shall be the same as allowed in
277 the supreme judicial court in like actions, except that the
278 defendant, if he prevail, shall be allowed two dollars for
279 his pleadings, and that witnesses shall be allowed one dol-
280 lar per day, and travel as in other cases.

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

‘Sect. 15. The clerk of said court shall tax for his serv-
297 ices in a civil action the same fees, the trial fee excepted,
298 allowed by law to trial justices, for like services and at the
299 same rates, except that the fee for entering, filing and re-
300 cording an action shall be sixty cents and for taxing costs
301 twenty-five cents, said fees to be paid to him by the party
302 at whose instance the services are performed, and taxed
303 with the costs of such party if he prevails in the suit. For
304 his services in criminal proceedings there shall be taxed
305 seventy-five cents for entering complaint, swearing wit-
306 nesses, filing papers, and certifying costs to the county
307 commissioners, forty cents for taxing the costs and record-
308 ing judgment, ten cents for each subpoena, twenty-five
309 cents for each mittimus and each recognizance, fifty cents
310 for making and recording each libel of intoxicating liq-
311 uors, and twenty-five cents for each order to destroy or to
312 restore such liquors, said fees to be taxed in the bills of
313 costs, and unless paid into court, to be allowed by the
314 county commissioners, and paid by the county treasurer.
315 All fees of said clerk as aforesaid in civil and criminal
316 actions shall inure to the city of Auburn and shall be paid
317 to the treasurer of said city, whose receipt shall be a suffi-
318 cient voucher for such payment.

‘Sect. 16. The clerk shall receive all fines, forfeitures and
320 costs paid into said court in criminal proceedings, and
321 shall pay over to the parties or witnesses the fees allowed
322 to them, if called for within one year, except the fees of

323 the judge and clerk, which together with all fees received
324 for his services in civil actions he shall account for and
325 pay over to the treasurer of the city of Auburn during the
326 month following that in which the same are received. All
327 fines and forfeitures and all fees so received and not sea-
328 sonably called for, he shall account for any pay over at the
329 time and in the manner required by law, but no account
330 required by this section shall be deemed sufficient unless
331 approved and signed by the judge.

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

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