

MAINE STATE LEGISLATURE

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EIGHTY - EIGHTH LEGISLATURE

Legislative Document

No. 386

S. P. 246

In Senate, February 9, 1937.

Referred to Committee on Judiciary. Sent down for concurrence and 500 copies ordered printed.

ROYDEN V. BROWN, Secretary.

Presented by Senator Sewall of Sagadahoc.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-SEVEN

AN ACT Relating to the Bath Municipal Court.

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

P. & S. L., 1834, c. 134, amended. Chapter 134 of the private and special laws of 1834, as amended, is hereby repealed and the following enacted in place thereof :

'Sec. 1. Judge and clerk. The Bath municipal court shall continue to be a court of record and have and use a seal on all original processes, and consist of 1 judge and a clerk who shall, while in office, be trial justices. The judge shall be appointed by the governor, by and with the advice and consent of the council, for a term of 4 years as provided by Article VI, section 8, of the Maine constitution. The clerk shall be appointed by the governor, by and with the advice and consent of the council, for a term of 4 years and until his successor has been appointed and qualified. Both said judge and clerk shall be duly commissioned and qualified. The present judge shall continue in office until the end of the term for which he is appointed. Neither judge nor clerk shall act as counsel or attorney in any cause, matter or thing which may depend upon or relate to any cause cognizable by said court.

‘Sec. 2. Qualifications of judge and clerk; salary. Said judge and clerk shall be members of the bar of Sagadahoc county, and shall reside during their continuance in office in the city of Bath. The judge of said court shall receive from the county of Sagadahoc an annual salary of \$1800 to be paid to him in quarterly payments. Said clerk shall receive from the county of Sagadahoc an annual salary of \$750 to be paid to him in quarterly payments. Both salaries shall be in full for all fees and emoluments of their respective office.

‘Sec. 3. Jurisdiction. Said court shall exercise jurisdiction over all such matters and things, civil and criminal, within the county of Sagadahoc as trial justices may exercise, and under similar restrictions and limitations, and concurrent jurisdiction with trial justices in cases of forcible entry and detainer in said county and exclusive jurisdiction in all such matters and things when either party interest, or a person summoned as trustee, resides in the city of Bath, or in the towns of Arrowsic, Georgetown, Phippsburg, West Bath and Woolwich; and over all offenses committed against the ordinances and by-laws of said city, or said towns, though the penalty thereof may accrue to said city and said towns; and in the prosecution of any such ordinances or by-laws, or any special laws, of the state relating to said city or said towns, said by-laws, ordinances or special laws need not be recited in the complaint or process, nor the allegations therein be more particular than in prosecutions on a public statute; and over all such criminal offenses committed within the limits of the same as are cognizable by trial justices; and no trial justice, except the clerk of said court, shall take cognizance over any crime or offense committed in said city, or in either of said towns; or any civil action over which said court has exclusive jurisdiction. Said court shall have concurrent jurisdiction with the superior court in all personal actions where the debt or damage demanded, exclusive of costs, is over \$20, and not over \$300, and in all actions of replevin under chapter 110 of the revised statutes of 1930, as amended, when the sum demanded for the penalty, forfeiture or damages, or the value of the goods and chattels replevied does not exceed \$300, and any defendant or any person summoned as trustee residing in the county of Sagadahoc; but this jurisdiction shall not include proceedings under the divorce laws or complaints under the mill act so called, nor jurisdiction over actions in which the title to real estate according to the pleadings or brief statement filed in this case by either party is in question except as provided by sections 6 and 7 of chapter 108 of the revised statutes of 1930, as amended.

‘Sec. 4. Juvenile jurisdiction. Said court shall have exclusive and original jurisdiction over all offenses committed by children under the age of

17, except as otherwise provided by chapter 241 of the public laws of 1931, as amended by chapter 18 of the public laws of 1933.

‘Sec. 5. Criminal jurisdiction. Said court shall have jurisdiction concurrent with the superior court of all crimes and offenses not punishable by imprisonment in the state prison, and may for crimes and offenses impose any of the fines and sentences provided by law to be imposed therefor.

‘Sec. 6. Removal of causes to superior court. If any defendant, in any action in said court where the amount claimed in the writ exceeds \$20, or his agent or attorney, shall, on the return term of the writ, file in said court a motion asking that the said cause be removed to the superior court, and deposit with the clerk the sum of \$2 for copies and entry fee in the superior court, to be taxed in his costs if he prevails, the said action shall be removed into the superior court for said county, and the clerk shall forthwith cause certified copies of the writ, officer’s return and defendant’s motion to be filed in the clerk’s office of said superior court, and shall pay the entry fee thereof; and said action shall be entered on the docket of the following term of said superior court, unless said court shall then be in session, when it shall be entered forthwith and shall be in order for trial at that term. If no motion is filed, the said municipal court shall proceed and determine said action, subject to the right of appeal in either party as now provided by law. The pleadings in such cases shall be the same as in the superior court.

‘Sec. 7. Costs. In any action in which the plaintiff recovers for the penalty, forfeiture, debt or damage not over \$20, or property, the value of which does not exceed that sum, the costs shall be taxed as before trial justices, except that the plaintiff shall have \$2 for his writ. Where the defendant prevails in any action in which the sum claimed in the writ is not over \$20, or property, the value of which does not exceed that sum, he shall recover \$2 for his pleadings, and other costs as before trial justices. In actions where the amount recovered by the plaintiff exclusive of costs, exceeds \$20, or property, the value of which exceeds that sum, or the amount claimed, or the value of the property recovered exceeds \$20 where the defendant prevails, the costs of the parties, trustees and witnesses shall be the same as in the superior court, except the costs to be taxed for attendance shall be \$3.50 for each term, for as many terms as may be allowed by the court.

‘Sec. 8. Appeal and exceptions to superior court. Any person aggrieved at any judgment or sentence of said court may appeal to the

superior court in the same manner as from a judgment or sentence of a trial justice, and all such appeals shall be in order for trial at the 1st term of said appellate court after such appeal is taken. Final judgments in said municipal court may be re-examined in the superior court on a writ of error or on a petition for review, and when the judgment is reversed, the superior court shall render such judgment as said municipal court should have rendered, and when a review is granted it shall be tried in said superior court. A person aggrieved by any of the opinions, directions or judgment in any civil proceedings by said judge of said court, may during the civil term present written exceptions in a summary manner signed by himself or counsel and if found true, they shall be allowed and signed by said judge provided, however, that in all cases such exceptions shall be presented within 30 days after the verdict is rendered or the opinion, direction or judgment is announced in the case in which said opinion, direction or judgment is made; the party raising such exceptions shall deliver a copy of his argument to the opposing party or counsel within 30 days after the allowance of said exceptions, who shall, within 20 days after receiving the same, make reply thereto and deliver the same to the excepting party or counsel who, in turn, shall make reply thereto within 10 days thereafter, and deliver said arguments to the clerk to be certified and delivered with the exceptions to the clerk of the law court at least 10 days before the sitting thereof and to be entered on the docket thereof, and such questions of law shall be considered and decided by the law court as soon as may be in accordance to the practice in said court; the result in either case to be certified by the clerk of the law court to this court, costs to be taxed to the prevailing party.

‘Sec. 9. Attachments. All the provisions of the statutes of this state, relative to the attachment of real and personal property and the levy of executions, shall be applicable to actions in this court, and executions on judgments rendered therein; provided that property may be attached, equal in value to double the addamnum.

‘Sec. 10. Powers and duties. Said court is hereby authorized to administer oaths, render judgments, issue exceptions, certify copies of its records, punish for contempt and compel attendance as in the superior court, and to make all such rules and regulations, not repugnant to law, as may be necessary and proper for the administration of justice and to facilitate its business.

‘Sec. 11. Fees. The price of blank writs and summonses with the seal of the court, signed by the clerk, shall be 4 cents, and all other fees in civil cases shall be the same as are taxable by a trial justice, except as

otherwise herein provided. All writs and processes in civil matters shall be in the name of the state, bear the test of said judge, under the seal of said court and signed by the clerk, be served in time and manner as in case of writs issued by trial justices and made returnable as herein provided and as now provided by law.

‘Sec. 12. Sessions. Said court may adjourn from time to time but shall have terms for the transaction of criminal business, which terms shall commence on the return days of the civil terms as set forth herein, and shall continue to and shall include the days prior to the next civil return day, and said court shall be in session every Monday at 10 o’clock in the forenoon for the entry of civil actions and the entering up of judgments in all defaulted actions and for the trial of actions of forcible entry and detainer and on the 1st and 3rd Mondays of each months for the trial and determination of all other civil process, and whenever the judge is absent or temporarily unable to attend at any term of said court, the clerk may enter new actions returnable at that term, receive and file pleas, motions and other papers cognizable by said court and enter up all judgments in all default actions, and may then by proclamation adjourn the court to the next term. In the case of more permanent disability of or his being interested in any suit, or in the case of his continued absence or vacancy in his office, the court shall notify the chief justice of the supreme judicial court who shall designate a trial justice in said court who upon being duly sworn may hold said court during the continuance of such vacancy or absence or until such disability is removed or to try a suit for which said judge is interested in. Every defendant and every person summonsed as trustee shall have 24 hours in which to enter his appearance.

‘Sec. 13. Court room. Said court shall be held at such place as the city of Bath shall provide in said city, and it shall be the city’s duty to raise money and provide a proper place for said court and its officers and suitably furnish, heat and light the same. All other expenses of said court shall be paid quarterly by the treasurer of the county of Sagadahoc.

‘Sec. 14. Officers. The city marshal or one of his deputies shall be in attendance on said court when requested to do so by the judge, for the purpose of preserving order, and shall execute all legal orders and processes to him directed by the court.

‘Sec. 15. Records. The records of said court and of the formerly existing Bath municipal court shall be deposited with and kept by the clerk, and shall at all times be open to public inspection; and said municipal

court shall have jurisdiction thereof, and full power and authority to issue and remove executions and other process and to carry into effect the judgments and decrees heretofore rendered by the Bath municipal court and to certify and authenticate the records thereof as effectively as if it had not been abolished and shall have reasonable fees granted and certified copies of the records of both courts when required, which shall be evidence of the contents of such records in any legal proceedings.

‘Sec. 16. Bond of clerk. The clerk of said court shall give a bond to the county of Sagadahoc in the sum of \$500 to be approved by the county commissioners of said county. In case of the absence of said clerk, or a vacancy in said office, the judge may appoint a clerk, who shall be sworn by said judge and act during said absence, or until the vacancy is filled.

‘Sec. 17. Temporary absence of judge and clerk. If the judge and clerk are both necessarily absent the judge may designate some trial justice in said county to perform the duties of clerk; and if said judge should not so designate a trial justice, the clerk may designate one.

‘Sec. 18. Duties of clerk. Said clerk shall record the doings of said court, may administer oaths, and shall have such powers and perform such duties as are possessed and performed by the clerks of the superior court; and shall have the power to hear complaints in all criminal matters, accusations in bastardy, draw all complaints and sign all warrants, and make and sign all processes of commitment, but the same shall be heard and determined as now provided by law; but such complaints, accusations, warrants or processes of commitment, drawn and signed by the judge of said court shall be equally valid. Whenever said judge shall be engaged in the transaction of civil business, or be absent from the court room or the office shall be vacant, said clerk shall have and exercise the same powers and perform the said duties which said judge possesses and is authorized to perform in the transaction of criminal business. All processes issued by said clerk in criminal matters shall bear the seal of said court and be signed by said clerk and have the same authority as if issued and signed by said judge.

‘Sec. 19. Clerk to receive all moneys. All fines, penalties and costs paid into the said court upon convictions and sentences in criminal matters, together with all fees allowed by law in the transaction of criminal and civil business, shall be paid to said clerk; provided, that there shall be allowed for every warrant issued, \$1, and for the trial of any issue in criminal cases, \$2, and all other fees in criminal cases shall be the same as are taxable by trial justices.

‘Sec. 20. All fines and fees to be paid to county. All fines and forfeitures and fees of the judge and clerk of said court imposed and collected by said court in all criminal cases and all fees of said judge and clerk shall be accounted for and paid over quarterly into the treasury of said county and said money paid into the treasury of said county shall be for the use of the county except that which by law accrues to the use of the state, city of Bath, or towns in the county.

‘Sec. 21. Trial justices. The several trial justices and justices of the peace in the city of Bath, or either of the towns herein mentioned, shall continue to have and exercise all the power and authority vested in them by the laws of the state of Maine and of the United States; but no such justices, shall except in proceedings in bastardy, exercise any civil or criminal jurisdiction under a penalty of \$20 for each offense, to be recovered by indictment. But nothing in this act shall be construed to prevent such justices from doing any business other than that especially devolving upon said court.

‘Sec. 22. Bail. All recognizances or bail given in said court in compliance with any provision of law to secure the appearance of a respondent in a criminal prosecution, shall continue in force until the case pending against such respondent is finally disposed of either by sentence or the finding of probable cause, and need not be renewed, and the sureties on such recognizances or bail shall be responsible on their original recognizance or bail for the appearance of the principal at any and all times to which the case in which said recognizance or bail was given is continued; provided, however, that this provision shall not apply to bail or recognizances given before bail commissioners.’