

# MAINE STATE LEGISLATURE

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E I G H T Y - E I G H T H L E G I S L A T U R E

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Legislative Document

No. 887

S. P. 470

In Senate, March 26, 1937.

Reported by Miss Laughlin from Committee on Judiciary and laid on table to be printed under Joint Rules.

ROYDEN V. BROWN, Secretary.

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S T A T E O F M A I N E

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
THIRTY-SEVEN

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**AN ACT Relating to the Bath Municipal Court.**

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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**P. & S. L., 1834, c. 134, amended.** Chapter 134 of the private and special laws of 1834, as amended, is hereby repealed and the following enacted in place thereof :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 recorder. 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 recorder who shall, while in office, be trial justices. The judge and recorder shall be appointed by the governor, by and with the advice and consent of the council, for a term of 4 years. Both said judge and recorder shall be duly commissioned and qualified. Neither judge nor recorder 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 recorder; salary. Said judge and recorder shall be members of the bar of Sagadahoc county, and shall reside during their continuance in office in said county. The judge of said court shall receive from the county of Sagadahoc an annual salary of \$1450 to be paid to him in quarterly payments. Said recorder shall receive from

the county of Sagadahoc an annual salary of \$500 to be paid to him in quarterly payments. Both salaries shall be in full for all fees and emoluments of their respective offices.'

'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 civil matters and things when a defendant or a person summoned as trustee, resides in the city of Bath, or in the towns of Arrowsic, Georgetown, Phippsburg, West Bath or Woolwich, or a defendant is a non-resident and has personal service therein, or property of a defendant is attached therein, 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 over all such criminal offenses committed within the limits of said city and towns as are cognizable by trial justices. Said court shall have concurrent jurisdiction with the superior court in said county in all personal actions where the debt or damage demanded, exclusive of costs, is not over \$300, and in all actions of replevin 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 resides in the county of Sagadahoc or is a non-resident and has personal service therein or property of a defendant is attached therein. 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 the 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. Criminal jurisdiction. In said county said court shall have such criminal jurisdiction as is now conferred by general law upon municipal courts and concurrent jurisdiction 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. 5. 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 recorder 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 recorder 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 terms 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. 6. 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 provided by law in municipal courts. 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 for his pleadings and other costs as provided by law in municipal courts. 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 when the defendant prevails, the taxable costs shall be the same as in the superior court, except the costs to be taxed for attendance shall be \$3.50 for each term, not to exceed 3 terms unless otherwise allowed by the court.'

'Sec. 7. Appeal 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 first 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. 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.'

'Sec. 8. 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.'

'Sec. 9. Powers and duties. Said court is hereby authorized to administer oaths, render judgments, 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. 10. Fees. The price of blank writs and summonses with the seal of the court, signed by the recorder shall be 4 cents each, 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 teste of said judge, under the seal of said court and signed by the recorder, 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. 11. 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, 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 month for the trial and determination of all other civil processes. Whenever the judge is absent or temporarily unable to attend at any term of said court, the recorder 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 defaulted actions, and may then by proclamation adjourn the court to the next term. In the case of more permanent disability of the judge or his being interested in any suit, or in the case of his continued absence or vacancy in his office, the recorder shall hold said court and perform all the duties of the judge. Every defendant and every person summoned as trustee shall have 24 hours in which to enter his appearance.'

'Sec. 12. 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. 13. Officers. The city marshal of Bath or one of his deputies shall be in attendance on said court when requested to do so by the judge or

recorder, for the purpose of preserving order, and shall execute all legal orders and processes to him directed by the court.'

'Sec. 14. Records. The records of said court and of the formerly existing Bath municipal court shall be deposited with and kept by the recorder, 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 processes 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. It may certify copies of the records of both courts when required and charge reasonable fees therefor, which shall be evidence of the contents of such records in any legal proceedings.'

'Sec. 15. Bond of recorder. The recorder of said court shall give a bond to the county of Sagadahoc at the expense of said county, in such sum and with such surety or sureties as may be approved by the county commissioners of said county.'

'Sec. 16. Temporary absence of judge and recorder. If the judge and recorder are both necessarily absent the judge may designate some trial justice in said county to perform the duties of recorder and if said judge should not so designate a trial justice, the recorder may designate one.'

'Sec. 17. Duties of recorder. Said recorder shall keep the records of said court, may administer oaths, and shall have such powers and perform such duties as are possessed and performed by the recorders under the general law; 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 unable for any reason to hold court or the office shall be vacant, said recorder shall have and exercise the same powers and perform the same duties as said judge is authorized to perform in the transaction of criminal business. All processes issued by said recorder in criminal matters shall bear the seal of said court and be signed by said recorder and have the same authority as if issued and signed by said judge.'

'Sec. 18. Recorder 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 recorder. 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. 19. All fines and fees to be paid to county. All fines and forfeitures and fees of the judge and recorder of said court imposed and collected by said court in all criminal cases and all fees collected by said judge and recorder in civil cases shall be accounted for and paid over quarterly in the manner now provided by law.'

'Sec. 20. 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 law unless inconsistent herewith, and nothing in this act shall be construed to prevent such justices from doing business other than that especially devolving upon said court.'

'Sec. 21. 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 recognizance given before bail commissioners.'