

# MAINE STATE LEGISLATURE

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Legislative Document

No. 557

H. P. 521

House of Representatives, February 10, 1953.

Referred to Committee on Judiciary. Sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Fuller of Bangor.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FIFTY-THREE

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AN ACT Revising the Charter of the Bangor Municipal Court.

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

**P. & S. L., 1895, c. 211, repealed and replaced.** Chapter 211 of the private and special laws of 1895, as amended, is hereby repealed and the following enacted in place thereof :

‘Sec. 1. Court; judge; recorder. The Bangor 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 1 recorder. Both the judge and the recorder shall be members of the bar and shall reside in the county of Penobscot. The judge shall be appointed pursuant to the constitution and shall give bond in accordance with the laws of the state. The recorder shall be appointed by the governor, with the advice and consent of the council, for a term of 4 years, and shall serve until his successor has been duly appointed and qualified. The recorder shall give bond to the county in such sum and with such sureties as the county commissioners of the county of Penobscot shall approve, conditioned that he will, during his continuance in office, faithfully perform, as the law requires, all his duties. The cost of said bonds shall be paid from the treasury of the county of Penobscot. The present judge and recorder shall continue in office until the end of the terms for which they were respectively appointed.

Sec. 2. Duties. The recorder and the judge shall have equal authority in criminal cases to hear and draft complaints, administer oaths, take bail, and sign all processes of commitment. All processes issued by the recorder in criminal matters shall bear the seal of the court and be signed by him, and they shall have the same effect as though signed by the judge. In case of absence, sickness, disqualification of the judge, or at any other time at the request of said judge in order to expedite business, or in the event of a vacancy in the office of judge, said recorder shall have the same powers as said judge. The duties of the recorder shall include such duties as are performed by clerks of the superior court, so far as applicable. He shall record the doings of the court in civil and criminal dockets, and he shall keep a separate docket of juvenile delinquency cases. He shall be the custodian of money paid into court which he shall account for and pay over as required by law.

Sec. 3. Jurisdiction. This court shall have exclusive jurisdiction over all offenses committed against the ordinances of the city of Bangor, and jurisdiction over all other matters, civil and criminal, in the county of Penobscot, in accordance with the provisions of law which govern municipal courts in this state. The court may administer all necessary oaths, render judgment and issue execution, punish for contempt and compel attendance as is done in the superior court. All writs and processes shall be in the name of the state and bear the teste of the judge or recorder, under the seal of the court. The rules of the superior court, as amended from time to time, that relate to actions at law, and are not limited by the public laws regulating municipal courts or by the provisions of this act, shall be the rules of the Bangor Municipal Court.

Sec. 4. Removal of actions. 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 said cause be removed to the superior court, and deposit with the recorder the sum of \$2 for copies and also deposit the entry fee in said 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 term next preceding the said filing, unless said court shall then be in session, when it shall be entered forthwith, and shall be in order for trial at the next succeeding term. If no such motion is filed, the said municipal court shall proceed and determine said action, subject to the right of ap-

peal in either party as now provided by law. The pleadings in such cases shall be the same as in the superior court.

Sec. 5. Review; writ of error; petition for a review; questions of law. 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. Questions of law, upon exceptions to the ruling of the court on agreed statement of facts, or on facts found by the court, shall be certified by the recorder to the clerk of the supreme judicial court, with arguments of counsel, if such have been delivered to him, within 60 days after such exceptions have been allowed by the court. The party raising such questions shall deliver a copy of his argument to the opposing counsel within 30 days thereafter, who shall within 20 days after receiving the same make reply thereto and deliver the same to the counsel for the moving party, who shall in turn make reply thereto within 10 days thereafter, and deliver said arguments to the clerk to be delivered with the exceptions to the clerk of the supreme court, as aforesaid. And such questions of law shall be considered and decided by the law court as soon as may be; or, if the parties so agree of record, such questions shall be certified to the next law term, to be entered on the docket thereof, and argued and determined according to the practice in said court, the result in either case to be certified by the clerk of said law court to this court; costs to be taxed to the prevailing party.

Sec. 6. Reference. Actions may be referred, and judgment on the referee's report may be rendered in the same manner and with the same effect as in the superior court.

Sec. 7. Writs; rules of court. The price of blank writs and summons with the seal of the court, signed by the recorder, shall be 10c, and all other fees in civil cases shall be the same as is provided by law governing municipal courts in this state or if there is no provision covering a specific fee or fees, such unprovided for fee or fees shall be the same as are taxable by trial justices.

Sec. 8. Terms of court. Said court may adjourn from time to time but shall be considered in constant session for the trial of criminal offenses; and for the transaction of civil business, a term of this court shall be held on the 1st and 3rd Mondays of each month at 10 o'clock in the forenoon, except the month of August; provided, however, that said court shall be held on every Monday of each month, for the entry and trial of actions of

forcible entry and detainer, and judgments in such actions may be entered on the day when the same are defaulted or heard and determined; provided, however, that said court shall not, during the month of August, be open for the trial of any civil action, except that of forcible entry and detainer.

Sec. 9. Court; salaries; clerk hire. Said court shall be held at such place as the city of Bangor shall provide, and said city shall have power and it shall be its duty to raise money to provide a proper place for said court and its officers and suitably furnish, warm and light the same, for which there shall be paid from the county of Penobscot, as rental, in quarterly payments, the sum of \$2,500 annually.

The salaries of the judge and recorder thereof, which are hereby fixed at \$3,750 and \$3,000, respectively, to be paid monthly, with all other expenses of said court, shall be paid from the treasury of the county of Penobscot. In addition thereto there shall be provided the sum of \$4,500 per year for clerk hire, to be paid weekly from said treasury; provided, however, that the county commissioners of said county may, in their discretion, expend a larger amount, upon certification by the recorder of this court as to the necessity for such additional expenditure.

Sec. 10. Police attendance. The chief of the Bangor police department or one of his officers 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. 11. Records of court. The records of said court and of the police court formerly existing in said Bangor shall be deposited with and kept by the recorder; and said municipal court shall have jurisdiction thereof and full power and authority to issue and renew executions and other processes and carry into effect the judgments and decrees heretofore rendered by said police court and to certify and authenticate the records thereof as effectually as if it had not been abolished, and shall, for reasonable fees, grant and certify copies of the records of both courts when required, which shall be evidence of the contents of such records in any legal proceedings.'