

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

THIRTY-FOURTH LEGISLATURE

OF THE

STATE OF MAINE,

1855.

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PUBLIC LAWS

OF THE

STATE OF MAINE.

1855.

Chapter 158.

CHAP. 158.

An act to change the terms of the criminal court in the county of Penobscot.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows :

SECT. 1. So much of the act in the sixteenth section of chapter two hundred and forty-six, passed April ninth, eighteen hundred and fifty-two, as provides for the transaction of criminal business in the county of Penobscot on the last Tuesday of February, the first Tuesday of June, and the last Tuesday of November, is hereby repealed, and the terms of said court shall be holden for the transaction of such business on the first Tuesday of August and the first Tuesday of February in each year instead of the terms and times provided in said sixteenth section.

Supreme court, Penobscot county, terms for criminal business, changed.

SECT. 2. All actions, indictments, petitions, recognizances and all processes of every kind and description, pending in the criminal court in said county, and all actions, indictments, petitions, recognizances and processes of every kind and description, made returnable to said court, shall have day, and be heard at the term to be holden on the first Tuesday of August next.

Actions pending, when returnable, &c.

SECT. 3. This act shall take effect from and after the thirty-first day of March eighteen hundred and fifty-five.

[Approved March 16, 1855.]

Chapter 159.

An act to abolish the municipal court in the city of Portland, and to establish a police court in said city.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows :

SECT. 1. There is hereby established in and for the city of Portland a court to be denominated the police court of Portland, to consist of one judge, to be appointed in the manner and for the term provided in the constitution.

Police court, city of Portland, established.

SECT. 2. Said judge shall have concurrent jurisdiction with justices of the peace in all matters civil and criminal, within the county of Cumberland, and with justices of the peace and quorum in all cases of forcible entry and detainer, and concurrent jurisdiction with the supreme judicial court in all civil actions, except actions of quare clausum and such as concerns the title to real estate where the party defendant, or the person summoned as trustee, resides within said county, and where the amount claimed in dam-

Judge, powers and jurisdiction of.

CHAP. 159. ages does not exceed the sum of one hundred dollars; but all civil actions in which the amount claimed in damages exceeds the sum of twenty dollars, shall be tried by a jury, if either party so elect.

Certain actions may be tried by jury.

Judge to have exclusive jurisdiction in certain cases.

SECT. 3. Said judge shall have original and exclusive jurisdiction in all offenses against the laws and ordinances of the city of Portland, and in all civil actions wherein the amount claimed in damages does not exceed twenty dollars, in which the party plaintiff and his attorney, or the party defendant, or the person or persons summoned as trustee, reside within said city, and in all cases of forcible entry and detainer arising in said city, excepting actions in which said judge may be interested, and in all offenses committed in said city which are by any law or statute within the jurisdiction of a justice of the peace.

—in cases of simple larceny.

SECT. 4. Said judge shall have jurisdiction in all cases of simple larceny, where the property alleged to have been stolen shall not exceed in value the sum of twenty dollars, and of all cases of cheating by false pretences, where the property, money or other things alleged to have been fraudulently obtained shall not exceed in value the sum of twenty dollars, and shall have power to try the same, and in either of said cases may award sentence upon conviction by fine not exceeding twenty dollars, or imprisonment in the county jail, or in the house of correction to hard labor, for a term not exceeding ninety days. He shall have exclusive jurisdiction of all offenses committed in said city which are by any law or statute within the jurisdiction of a justice of the peace, and concurrent jurisdiction with justices of the peace of the county of Cumberland of all such offenses committed in said county out of said city.

—concurrent jurisdiction with justices of the peace.

—power to sentence boys to reform school.

SECT. 5. Said judge shall have power to sentence boys under the age of eighteen years who have been convicted of offenses before said court, to the State Reform School, for such term as he shall deem expedient during the minority of said offender.

—power to make rules for regulation of court, &c.

SECT. 6. Said judge shall have power to make such rules as may be necessary to regulate and facilitate the business of said court; and he may punish for contempt as other courts are authorized to do. And he may alter the forms of writs and other process to make the same consistent with the style, organization and jurisdiction of said court. The form of writs returnable to said court, where the amount claimed in damages exceeds the sum of twenty dollars, shall be, in substance, the same as those returnable to the supreme judicial court. They shall run into any county, and real estate may be attached thereon; and they should be served at least fourteen days before the return day; the form of executions issued on judgments in suits founded on such writs, shall be, in substance,

Writs, form and service of, &c.

the same as those issued from the supreme judicial court; shall CHAP. 159.
contain like directions, and may be levied on real estate, in like
manner, and shall be returnable within sixty days from the date.

SECT. 7. Said judge shall hold four regular terms in each year, Jury terms.
for the purpose of trying cases by a jury, to wit: on the first Tues-
days of January, April, July and October, at each of which terms
there shall be in attendance a jury of twelve persons, to be drawn
and returned from the city of Portland, as near as may be in the
same manner as other traverse jurors are now drawn. Jurors, how
drawn. And in case
there shall not be a full jury in attendance, the court shall cause
jurors to be returned from the bystanders, or from the city at large,
to complete the panel. And the said jurors shall be subject to all
the provisions and penalties of other traverse jurors; but no jurors
shall be compelled to serve oftener than once in each year.

SECT. 8. Said judge may grant new trials of cases which have New trials may
be granted.
been tried in the said court, by a jury in like manner and upon the
same terms and conditions as the supreme judicial court is author-
ized to do; and exceptions may be taken to any decision or direction
of the court in matters of law, in the same manner as they may be
taken in the supreme judicial court. Cases may be
removed to the
S. J. court. And parties may remove their
cases to the supreme judicial court for final decision of the law, in
the same manner they are now authorized to do from the decision
of one judge in the supreme judicial court.

SECT. 9. There shall be a recorder of said court appointed by Recorder,
appointment
and duties of.
the governor, with advice of the council, to hold his office for the
term of four years, whose duty it shall be to make and keep its
records, and perform all the duties which are usually exercised by
clerks of courts. He shall be under oath, and shall give bond to
the city treasurer, with surety or sureties, in such penal sum as
said judge shall determine, conditioned for the faithful performance
of the duties of his office. And it shall be the duty of said recorder
to receive all fees and fines which are or may be by law payable to
said court; and he shall render an account thereof upon oath, and
pay over the same to the city treasurer quarter yearly. —may act as
judge in certain
cases. And in
case of the death of said judge, or whenever he may be necessarily
absent from the city, or shall be prevented by sickness or other
cause, from attending to the duties of his office, the said recorder
shall have the power and perform all the duties of said judge until
another person be appointed, or during such absence or disability,
as the case may be, excepting the trial of issues in civil cases; and
he may adjourn the court, during such absence or disability, from
time to time, until the return of the judge or the disability is

CHAP. 159. removed; and the said recorder shall have power to receive complaints and issue warrants at any time.

Said court to be a court of record.

SECT. 10. Said court shall be a court of record, and shall have a seal, to be affixed to all original processes issuing therefrom.

Time of holding said court.

SECT. 11. Said judge shall hold a court weekly for the trial of causes without a jury, on Monday, at nine of the clock in the forenoon, at such place as shall be provided by the city; and all civil processes shall be made returnable accordingly; and the judge may adjourn the court from day to day, if necessary, and may perform all duties which are usually exercised by justices of the peace, or justices of the peace and quorum; and for the trial of criminal cases, said court may be considered as continually open.

Fees, &c.

SECT. 12. The price of blank writs, with the seal of the court, and signed by the recorder, shall be four cents each. The fees shall be, for a writ to be taxed for the plaintiff, if he prevails, one dollar, and an attorney fee of one dollar, to be taxed by the defendant, if he prevails. In other respects, the fees in civil and criminal cases shall be the same as are taxable by justices of the peace.

Expenses of court, how paid.

SECT. 13. The city of Portland shall raise and assess moneys for defraying the expenses of the court, and provide a suitable place for holding the same.

Court records may be inspected by the mayor.

SECT. 14. The mayor, or such committee as he may appoint for that purpose, may inspect and examine the books, records and papers belonging to said court, and it shall be the duty of said recorder to exhibit the same, and give such information relative thereto as may be required of him from time to time as aforesaid.

Justices of the peace, powers and jurisdiction of.

SECT. 15. The several justices of the peace in the city of Portland shall continue to have and exercise all the power and authority vested in them by the laws of the United States; but no such justice shall exercise any civil or criminal jurisdiction otherwise, under a penalty of twenty dollars for each offense, to be recovered by indictment in any court proper to try the same, for the use of the city of Portland, excepting in cases of death, absence or other disability of the judge and recorder, or in cases in which said judge is interested, when they may exercise the duties usually devolving upon justices of the peace. But nothing in this act shall be construed to prevent said justices from administering oaths, taking acknowledgements of deeds, and other writings, acting as arbiters or referees, or doing any business other than that specially devolving upon said court. All fines and forfeitures of bonds, recognizances or otherwise, and all fees arising out of trials in said court, which

Fines, forfeitures, &c., how disposed of.

would by law, in such trials in the supreme judicial court, be paid into the county treasury, shall be paid into the city treasury, and be applied to the payment of the expenses of said court and the salaries of the recorder and judge; but any excess, after paying the salaries of the officers and the expenses of the court, shall be paid by the city treasurer into the county treasury, for the use of the state. CHAP. 159.

SECT. 16. All actions, suits, matters and things which may be pending in the municipal court for said city of Portland, and all writs, recognizances, executions, warrants and processes returnable, which could have had day therein, had not this act been passed, shall, after this act shall take effect, be returnable to, have day in, and be fully acted on in the police court; and said police court shall have full power and authority to grant any execution or other process to carry into effect any judgment rendered by the municipal court, in the same manner as said municipal court might have done had not this act been passed. Actions, &c.,
pending in the
municipal court,
how disposed of.

SECT. 17. The records required to be kept by said court shall be the same as have until now been kept by the municipal court for the city of Portland. Records, how
kept.

SECT. 18. The compensation of jurors shall be the usual travel and one dollar for each day's attendance, and the jury fee to be taxed, shall be the same as in the supreme judicial court; and the jury shall be paid from the city treasury, by an order thereon from the recorder, at the close of each term. Jurors, compen-
sation of.

SECT. 19. In all cases where judgment has been rendered on scire facias against trustee or otherwise, the damages shall be for the full amount of the damages and costs in the process upon which the scire facias was issued, and it shall appear in the margin of the execution, that the same was issued on a judgment on scire facias. Judgment on
scire facias.

SECT. 20. Said police court shall have power to issue summons and other processes, to procure the attendance of witnesses in the trial and examination of criminal cases, to run into any county, to be served by the sheriff of the county of Cumberland, or any other county, or either of their deputies, or any constable of the town in which such witness may be. Court power to
issue summons.

SECT. 21. When by a trustee writ returnable before the police court of the city of Portland, any person is summoned as trustee, who is liable to be charged as such, and the defendant resides out of the county of Cumberland and within this state, said writ may run into any county, and shall be served on the defendant fourteen days at least before its return day. Trustee writs.

CHAP. 160. SECT. 22. All precepts, warrants, venirees and processes issued from said police court, shall be tested in like manner as similar processes in the supreme judicial court, and shall be made under the seal of the police court, and signed by its recorder.

Precepts, &c.,
how tested.

City marshal
shall attend
court.

SECT. 23. The city marshal, either himself or by one or more deputies or other officers, shall be in attendance at each session of the police court, and under its direction.

Recorder, salary
of.

SECT. 24. Said recorder shall receive for his services the sum of eight hundred dollars per year, to be paid quarter-yearly from the city treasury, and said judge shall receive in full for his services the sum of twelve hundred dollars per year, to be paid quarter-yearly from the city treasury. Neither the judge nor recorder shall act as counsel or attorney in any case within the jurisdiction of said court, nor in any suit, matter or thing which may depend on, or have relation to any cause, matter or thing depending or cognizable in said court.

Judge, salary of.

—not to act as
counsel.

Judge may ap-
point recorder.

SECT. 25. Whenever a vacancy shall occur in the office of recorder of said court, or the recorder shall from any cause be unable to attend to his duties, the judge shall appoint a recorder to hold office till another is appointed by the governor, or the disability is removed.

Municipal court
abolished.

SECT. 26. The municipal court now existing in the city of Portland, is hereby abolished, and the act establishing the same is hereby repealed: *provided, also*, that the municipal court now existing in said city shall continue in force until a judge shall be appointed and qualified under this act.

Proviso.

SECT. 27. This act shall take effect from and after the first day of May, in the year of our Lord one thousand eight hundred and fifty-five.

[Approved March 16, 1855.]

Chapter 160.

An act additional to chapter one hundred and seventy of the revised statutes.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

Magistrates or
officers not
liable, if precept
be in due form
of law.

SECT. 1. Whenever a suit shall have been brought against any magistrate for issuing any warrant, precept or order, or against any officer having authority to serve or execute such warrant, precept or order, for serving or executing the same, it shall be a sufficient