

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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Published by the Secretary of State, agreeably to Resolves of June 28, 1820, February  
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1855.

PUBLIC LAWS

OF THE

STATE OF MAINE.

1855.

CHAP. 185.

Penalty for neglect.

SECT. 2. If any person upon whom such summons shall be served, on having tendered to him twelve cents for each mile to be traveled to and from such court, and two dollars for each day his attendance may be required, shall unreasonably neglect or refuse to attend and testify at said court, he shall forfeit the sum of two hundred dollars to any person who will sue for the same.

SECT. 3. This act shall take effect and be in force from and after its approval by the governor.

[Approved March 17, 1855.]

Chapter 185.

An act to amend "An act in relation to the affairs of the state prison," approved April first, one thousand eight hundred and fifty-three.

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

Inspectors of state prison, compensation for services.

The inspectors shall be paid one hundred dollars each per annum for their services, from and after January first, one thousand eight hundred and fifty-five, instead of the sum provided in the third section of the act to which this is additional.

[Approved March 17, 1855.]

Chapter 186.

An act to abolish the police court for the city of Bangor, and to establish a municipal court for said city, with enlarged jurisdiction.

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

Municipal court of Bangor established.

SECT. 1. There is hereby established in and for the city of Bangor a court to be denominated the municipal court of Bangor.

—to be a court of record.

SECT. 2. Said court shall be a court of record and have a seal to be affixed to all original processes issuing therefrom.

Judge.

SECT. 3. Said court shall consist of one judge, to be appointed in the manner and for the term provided by the constitution.

—concurrent jurisdiction with justices of the peace and justices of the peace and quorum.

SECT. 4. Said judge shall have concurrent jurisdiction with justices of the peace in all matters, civil and criminal, within the county of Penobscot, and with justices of the peace and quorum in all cases of forcible entry and detainer arising in said county.

SECT. 5. Said judge shall have original and exclusive jurisdiction of all offenses against the ordinances and laws of the city of Bangor, and in all civil actions wherein the amount claimed in damages shall not exceed twenty dollars, in which both parties interested, or the attorney of the plaintiff who made the writ, and the defendant, or in which the plaintiff or his attorney, and the person or persons summoned as trustees, shall be inhabitants of, or residents in said city of Bangor, and in all cases of forcible entry and detainer arising in said city, excepting all actions in which said judge may be interested.

CHAP. 186.
Judge, original
and exclusive
jurisdiction.

SECT. 6. 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 thing 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 to 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 arising 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 Penobscot, of all such offenses arising in said county out of said city.

Same subject.

SECT. 7. 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
sentence boys to
reform school.

SECT. 8. Said judge shall have power to make such rules as may be necessary to regulate and facilitate the business of said court, not in violation of law, 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.

—power to make
by-laws for regu-
lation of business
of court.

SECT. 9. There shall be a recorder of said court 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 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

Recorder.

—bond of.

—to receive and
account for fees.

CHAP. 186.

Recorder shall perform the duties of judge in certain cases.

—power to receive complaints, &c.

—appointment, term of office and salary.

Judge and recorder not to act as counsel.

Right of appeal.

Appellate jurisdiction.

Appellate sessions, time of holding, &c.

yearly. 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 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 and criminal causes; 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 removed. Said recorder shall have power and authority at all times to receive complaints, and to administer to the complainants and to witnesses produced before him, an oath, and to issue warrants on such complaints returnable to said courts.

SECT. 10. Said recorder shall be appointed by the judge of said court, subject to the approval of the mayor and aldermen of said city, and shall hold said office for the term of three years, unless sooner removed by the judge with consent of said mayor and aldermen, and shall receive for his services the sum of five 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 ten 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.

SECT. 11. Any person aggrieved by any judgment or sentence awarded by said judge, or by any justice of the peace, or any justice of the peace and quorum in the county of Penobscot, may appeal therefrom to a jury to be in attendance upon said court, as hereinafter provided, in like manner as from a judgment or sentence awarded by a justice of the peace, or by a justice of the peace and quorum. And said municipal court with a jury shall have exclusive appellate jurisdiction from the judgment of said judge, and concurrent appellate jurisdiction with the supreme judicial court from the judgment of any justice of the peace, or justice of the peace and quorum, in said county of Penobscot.

SECT. 12. Said court shall hold four regular sessions for the purpose of trying cases in which an appeal has been made from the decision of the judge, or a justice of the peace, or a justice of the peace and quorum, to a jury; and one jury of twelve persons shall be in attendance at such sessions on the first Tuesdays of March, June, September and December, in each year. And when an appeal in a civil or criminal case shall be taken from the decision of said judge, he shall have power to cause said jury to be in attend-

ance for the purpose of trying the same at any time after said appeal shall have been taken as hereinafter provided, and all trials of appealed cases by a jury in said court shall be final therein. And no appeal shall be allowed therefrom, or from said judge to the supreme judicial court. The said court, with a jury at said sessions on the first Tuesdays of March, June, September and December, shall have original and exclusive jurisdiction of all civil suits in which both parties are interested, or the attorney of the plaintiff who made the writ and the defendant, or in which the plaintiff and his attorney or the person or persons summoned as trustees shall be inhabitants of or resident in said city, and concurrent jurisdiction with the supreme judicial court in all actions arising in said county of Penobscot, in which neither of the parties shall reside in said city, in which the amount claimed in damages shall not exceed the sum of one hundred dollars, except in both cases, actions of quare clausum and such as concern the title to real estate. The form of writs returnable to said court as provided in this section, 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 shall be served at least fourteen days before the return day thereof. The form of executions on judgments in suits founded on such writs shall be in substance the same as those issued from the supreme judicial court, shall contain like directions and may be levied on real estate in like manner as such executions, and shall be returnable within sixty days from the date. The fees for such executions shall be fifteen cents each. The fees for the entry of such actions, and of appeals, provided for in this section, and other court fees shall be the same as in the supreme judicial court in like cases.

CHAP. 186.
Trials to be final.

Original and
exclusive
jurisdiction.

Concurrent
jurisdiction.

Exceptions.

Form of writs.

--executions.

Fees.

SECT. 13. Said municipal court may grant new trials of cases which have been tried in the same, by a jury in like manner and upon the same terms and conditions as the supreme judicial court is authorized 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. 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.

New trials may
be granted.

Parties may
remove their
cases to the S. J.
court.

SECT. 14. The traverse jurors for said municipal court shall be drawn and returned from the city of Bangor, once in three months, to serve for that time.

Traverse jurors.

CHAP. 186.

Writs of venire
facias.

Jurors, drawing
and empanelling
of.

—may be
returned from
bystanders in
certain cases.

Special juries may
be summoned.

Appeal of
criminal cases,
how prosecuted.

Court for trial of
causes without
jury, time of
holding.

Fees.

The recorder of said court shall issue writs of venire facias in due form directed to the city marshal of said city, upon the receipt of which said marshal shall notify the board of aldermen of said city, to assemble and be present at the draft and selection of the jurors called for; which meeting shall be at least six days before the sitting of said court at its regular quarterly term. And the same rules so far as may be, shall be observed in drawing and empanelling said jurors and in other respects as are laid down in the statutes of the state. And all officers and jurors shall be subject to the provisions and penalties contained in said statutes. But when there shall not be a full jury in attendance at the court, the court shall cause jurors to be returned from the bystanders or city at large, by the marshal or his deputy, to complete the panel. And any person entitled to serve as a juror shall be subject to be drawn as often as once in one year, but not oftener.

SECT. 15. When, in the opinion of the judge, the attendance of the jury shall be necessary for the trial of any case of appeal at any other time than at a regular session for trials by jury, the recorder shall issue a notice to the city marshal, directing him forthwith to summon said jury to be specially in attendance at the time named in said notice, which shall not be less than seven days from the time said jurors are summoned.

SECT. 16. In cases of appeal of any criminal case from the decision of said judge, or a justice of the peace, or justice of the peace and quorum, it shall be the duty of the city solicitor of said city, either by himself or by some other attorney, to attend and prosecute said cause in behalf of the state.

SECT. 17. Said judge shall hold a court weekly for the trial of causes without a jury, on Tuesday, 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.

SECT. 18. 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, except in cases of appeal, when the costs and fees, after the appeal,

shall be the same as in the supreme judicial court. But in no case shall the attorney fee exceed one dollar and fifty cents. CHAP. 186.

SECT. 19. The city of Bangor shall raise and assess moneys for defraying the expenses of the court, and provide a suitable place for holding the same. Expenses of court, how defrayed.

SECT. 20. 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 the said recorder to exhibit the same, and give such information relative thereto as may be required of him from time to time as aforesaid. Records may be inspected by mayor.

SECT. 21. The several justices of the peace in the city of Bangor 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 Bangor, excepting in cases of death, absence, or other disability of the judge, 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 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 would by law, in such cases 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. Any balance that may remain shall be paid into the county treasury. Justices of the peace in the city of Bangor, powers of, &c.

SECT. 22. All actions, suits, matters and things which may be pending in the police court for said city of Bangor, 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 municipal court; and said municipal court shall have full power and authority to grant any execution or other process to carry into effect any judgment rendered by the police court, in the same manner as said police court might have done had not this act been passed. Fines, fees, &c., to be paid into the city treasury.

SECT. 23. The records required to be kept by said court shall be the same as have until now been kept by the police court for the city of Bangor, excepting after an appeal to the jury has been Matters pending, &c., in the police court, how disposed of.

Records, how kept.

CHAP. 186. entered, when records of the subsequent proceeding shall be the same as are required in similar cases in the supreme judicial court.

Jurors' fees.

SECT. 24. The compensation of jurors shall be the usual travel and one dollar for each day's attendance, and the jury fee to be taxed to the appealing party, 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 session.

Scire facias may issue if respondent fail to prosecute appeal.

SECT. 25. In all cases of appeal in criminal cases from the decision of said judge, unless the respondent shall appear at the time and place to which he has recognized and prosecute his appeal, and he and his sureties shall be defaulted, a scire facias may issue against principal and sureties, and upon judgment rendered against them thereon, an execution may issue against the principal and sureties, for penalties and costs. And the executions shall run against the bodies of the principal and sureties, and the principal shall be liable to such imprisonment in the county jail or house of correction as the judge shall order, not exceeding ninety days, on the recorder's certifying the same on the margin of the execution. And in case of the principal serving out the time of his imprisonment at any time within six months from the rendition of said judgment, the sureties shall be liable to pay only the costs in said execution.

Liability of principal and sureties.

This section not to apply to certain recognizances.

The provisions of this section shall not apply to or modify the provisions relating to recognizances of the act entitled "An act to suppress drinking houses and tipping shops," approved [March sixteenth,] eighteen hundred and fifty-five; but the same shall be enforced in said court.

Jurymen on scire facias, damages, &c., how assessed.

SECT. 26. In all cases where judgment has been rendered on scire facias against trustee or otherwise, the damage shall be for the full amount of the damages and costs, or penalty and costs, as the case may be, 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.

Summons, &c., in criminal cases, may run into any county.

SECT. 27. Said municipal 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 Penobscot or of any other county, or either of their deputies, or any constable of the town in which such witness may be.

Trustee writs may run into any county in certain cases.

SECT. 28. When, by a trustee writ, returnable before the municipal court of the city of Bangor, any person is to be summoned as trustee, who is liable to be charged as such, and the defendant resides out of the county of Penobscot and within this State, said

writ may run into any county, and shall be served on the defendant CHAP. 187.
fourteen days at least before its return day.

SECT. 29. All precepts, warrants, venires and processes issued from said municipal court, shall be tested in like manner as similar processes in the supreme judicial court, and shall be made under the seal of the municipal court, and signed by its recorder. Precepts, &c.,
how tested.

SECT. 30. The city marshal, either himself or by one or more deputies or other officer, shall be in attendance at each session of the municipal court, and under its direction. City marshal,
duty to attend
municipal court.

SECT. 31. An act approved March twenty-fifth, eighteen hundred and thirty-nine, entitled "An act to abolish the municipal court of the city of Bangor, and establish a police court for said city," article three of the ninety-eighth chapter of the revised statutes, entitled "police court in Bangor," an act approved March third, eighteen hundred and forty-one, entitled "An act additional to an act to abolish the municipal court of the city of Bangor, and establish a police court for said city," and an act approved March tenth, eighteen hundred and forty-two, entitled "An act additional to the several laws now in force respecting the police court of Bangor," and all acts and parts of acts inconsistent with this act, are hereby repealed. Certain acts
repealed.

SECT. 32. This act shall take effect from and after the first day of June, A. D. eighteen hundred and fifty-five.

[Approved March 17, 1855.]

Chapter 187.

An act to incorporate and endow the Maine State Agricultural Society, and more fully prescribing the powers and duties of agricultural and horticultural societies.

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

SECT. 1. S. L. Goodale, Thomas Mabry, Darius Forbes, E. G. Buxton, Elijah Barrell, Samuel F. Dyke, Ezekiel Holmes, Ephraim Maxim, B. F. Buxton, Nathan Foster, Oliver Gould, B. F. Eastman, James G. Waugh, S. W. Coburn, William Folsom, William G. Clark, Horace McKenney, Lowell Marston, William R. Hersey, John Allen, William D. Dana, J. Wingate Carr, D. A. Fairbanks, their associates, successors and assigns be, and they are hereby created a corporation by the name of the Maine State Agricultural Society, with power by that name to sue and be sued, use a common seal, make by-laws for the management of their affairs, Incorporators.

Corporate nam