

MAINE STATE LEGISLATURE

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NEW DRAFT.

SEVENTY-SECOND LEGISLATURE

SENATE.

No. 250

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND FIVE.

AN ACT to establish the Lincoln County Municipal Court.

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

Section 1. A municipal court is hereby established in the
2 county of Lincoln, which shall be called the Lincoln county
3 municipal court, and shall be a court of record with a seal.
4 All the original processes, issuing from said court, shall be
5 under the teste of the judge, and signed by the judge, and
6 shall have the seal of said court affixed.

Sect. 2. Said court shall consist of one judge, who shall
2 be an inhabitant of the county of Lincoln, and a person
3 learned in the law, and shall be appointed in the manner
4 and for the term provided by the constitution of this State.

5 The said judge shall enter, or cause to be entered, on the
6 docket of said court all civil and criminal actions, with full
7 minutes of the proceedings in and disposition of the same,
8 which docket shall at all times be open to inspection; and
9 copies of the record of said court, duly certified by the judge
10 or recorder thereof, shall be legal evidence in all courts.

Sect. 3. The clerk of courts for the county of Lincoln
2 shall be recorder of said municipal court with power to issue
3 warrants in criminal cases; and said recorder shall without
4 unreasonable delay after the rendition of final judgment
5 make extended records of proceedings in court, in all cases
6 contested by an issue joined before the court. In all other
7 civil cases, it is sufficient to record the names of the parties,
8 date of writ, term of court at which it was entered, date of
9 service or notice to defendants, the time of rendition of
10 judgment, its nature and amount, and the number of the
11 case upon the docket at the judgment term, but upon motion
12 of either party, the court may, if special cause be shown,
13 order a full record in any case. In criminal prosecutions
14 before said court, it is sufficient to record the title of the
15 case, the nature and date of the complaint, and correct min-
16 utes of the proceedings and judgment in said court.

Sect. 4. Said court shall have original jurisdiction as fol-
2 lows: first, of all cases of forcible entry and detainer respect-
3 ing estates in the county of Lincoln; second, of all such
4 criminal offenses and misdemeanors committed in the said
5 county as are by law within the jurisdiction of trial justices;
6 third, of all offenses against the ordinances and by-laws of
7 any of the towns in said county. The judge of said municipi-
8 pal court shall designate one trial justice in each of the
9 towns of Boothbay Harbor, Damariscotta, Waldoboro and
10 Whitefield, who may issue warrants returnable before said
11 municipal court, and no trial justice shall have or take cog-

12 nizance of offenses committed in said county except as
13 otherwise provided in this act.

Sect. 5. Said court shall have original jurisdiction in all
2 such matters, civil and criminal, within the county of Lin-
3 coln, as were by law prior to the passage of this act within
4 the jurisdiction of trial justices, and are not placed within
5 the exclusive jurisdiction of said court by the preceding sec-
6 tion.

Sect. 6. Said court shall have original jurisdiction con-
2 current with the supreme judicial court as follows: first, of
3 all civil actions wherein the debt or damage demanded,
4 exclusive of costs, does not exceed one hundred dollars, in
5 which any person summoned as trustee resides within the
6 county of Lincoln, or, if a corporation, has an established
7 place of business in said county of Lincoln; or in which,
8 if such actions are not commenced by trustee process, any
9 defendant resides in said county, or, if no defendant resides
10 within the limits of this State, any defendant is served with
11 process in said county, or the goods, estate or effects of any
12 defendant are found within said county and attached on the
13 original writ; second, of the assaults and batteries described
14 in section twenty-eight of chapter one hundred and nineteen
15 of the Revised Statutes; of all larcenies described in sec-
16 tions one, six, seven, nine and ten of chapter one hundred
17 and twenty-one of the Revised Statutes, when the value of
18 the property is not alleged to exceed one hundred dollars;
19 of the offense described in section twenty-one of chapter
20 one hundred and twenty-three of the Revised Statutes; of
21 all offenses described in sections one, two and four of chap-
22 ter one hundred and twenty-four of the Revised Statutes;
23 of all offenses described in section six and sections thirty-
24 four to fifty-three inclusive, of chapter one hundred and
25 twenty-five of the Revised Statutes; of the offenses

26 described in sections one, two, five, eight, nine, ten, eleven
27 and twelve of chapter one hundred and twenty-six of the
28 Revised Statutes; of all offenses described in section one
29 of chapter one hundred and twenty-seven of the Revised
30 Statutes, when the value of the property or thing alleged to
31 have been fraudulently obtained, sold, mortgaged or
32 pledged, is not alleged to exceed one hundred dollars; and
33 of all offenses described in chapter one hundred and twenty-
34 eight of the Revised Statutes, when the value of the prop-
35 erty destroyed or injury done is not alleged to exceed one
36 hundred dollars; and may punish for any of said crimes or
37 offenses by fine not exceeding one hundred dollars, or by
38 imprisonment not exceeding six months, provided, that
39 when the offenses described in section twenty-eight of chap-
40 ter one hundred and nineteen, section twenty-one of chapter
41 one hundred and twenty-three, sections one, two and four
42 of chapter one hundred and twenty-four, section one of
43 chapter one hundred and twenty-seven, and chapter one
44 hundred and twenty-eight, and all other crimes not named
45 in this act, are of a high and aggravated nature, the judge
46 of said court may cause persons charged with such offenses
47 to recognize with sufficient sureties to appear before the
48 supreme judicial court, and in default thereof commit them;
49 third, of all other crimes, offenses and misdemeanors com-
50 mitted in said county, which are by law punishable by
51 fine not exceeding one hundred dollars or by imprisonment
52 not exceeding six months.

Sect. 7. Said court shall not have jurisdiction of any civil
2 action wherein the title of real estate, according to the plead-
3 ings or brief statement filed therein by either party, is in
4 question; and all such actions brought in said court shall
5 be removed to the supreme judicial court or otherwise dis-
6 posed of as in like cases before a trial justice; provided,

7 that nothing herein contained shall prevent said court from
8 proceeding in accordance with the provisions of sections six
9 and seven of chapter ninety-six of the Revised Statutes.

Sect. 8. Any action, civil or criminal, in which the judge
2 of said court is interested or related to either of the parties
3 by consanguinity or affinity, within the sixth degree accord-
4 ing to the rules of civil law, or within the degree of second
5 cousin inclusive, but which would otherwise be within the
6 exclusive jurisdiction of said court, may be brought before
7 and disposed of by any trial justice having power to issue
8 warrants under this act, in the same manner as other actions
9 have heretofore been brought and disposed of before any
10 trial justice in said county. If any action wherein said
11 judge is so interested or related is made returnable before
12 this court, the parties thereto, by themselves or their attor-
13 neys, may in writing consent that said judge shall hear and
14 dispose of the same; or such actions shall be disposed of as
15 follows: civil actions wherein the debt or damage demanded,
16 exclusive of costs, exceeds twenty dollars, shall, upon
17 motion be removed to the supreme judicial court for said
18 county; and all other civil actions, and all criminal actions,
19 shall be removed and entered before any such trial justice
20 empowered to act as hereinbefore provided, within said
21 county, as may be agreed upon in writing by the parties
22 entering an appearance in such action, and such trial justice
23 shall have and take cognizance of such action and dispose
24 of the same, as originally returnable before such justice;
25 provided, that nothing in this section shall prevent any civil
26 action wherein the title to real estate is in question, from
27 being disposed of in accordance with the provisions of the
28 preceding section. In any action in which either of the
29 towns in said county is a party, or is summoned as trustee,
30 this court shall not lose its jurisdiction by reason of the said

31 judge or recorder being an inhabitant of or owning property
32 in such town; but in any case the action may, upon written
33 motion of either party, filed before trial, be removed to the
34 supreme judicial court.

Sect. 9. A term of said court shall be held in the court
2 room at the court house in Wiscasset, in said county, on the
3 third Tuesday of each month at ten o'clock in the forenoon
4 for the transaction of civil business. For the cognizance
5 and trial of criminal actions said court shall be considered
6 in constant session. In all cases it may be adjourned from
7 time to time by the judge.

Sect. 10. If at any regular or adjourned term of said court
2 to be held for civil business, the judge or recorder is not
3 present at the place of holding of said court within two
4 hours after the time of opening said court, then any justice
5 of the peace in said county, may preside for the purpose of
6 entering and continuing actions and filing papers in said
7 court, and may adjourn said court from time to time not
8 exceeding one week at any one time without detriment to
9 any action returnable or pending, and may in his discretion,
10 adjourn said court without day, in which event all actions
11 returned or pending, shall be considered as continued to the
12 next term. No justice of the peace shall be disqualified
13 from presiding for the purpose mentioned in this section,
14 by reason of his being interested in any action returnable or
15 pending in said court.

Sect. 11. Any party may appeal from any judgment or
2 sentence of said court, to the supreme judicial court in the
3 same manner as from a judgment or sentence of a trial
4 justice.

Sect. 12. Writs and processes issued by said court shall
2 be in the usual form, and shall be served as like precepts
3 are required to be served when issued from the supreme

4 judicial court. All actions shall be made returnable at
5 either of the next two terms begun and held after the com-
6 mencement thereof.

Sect. 13. All provisions of the statutes relating to the
2 attachment of real and personal property and the levy of
3 executions, shall be applicable to actions brought in this
4 court and executions on judgments rendered therein; pro-
5 vided, that property may be attached in addition to the ad
6 damnum sufficient to satisfy the costs of the suit, and the
7 writs may be framed accordingly. When any action in
8 which real estate is attached shall be finally disposed of in
9 said court, or shall be removed to the supreme judicial court
10 by appeal or otherwise, the judge of said municipal court
11 shall forthwith certify the disposition or removal thereof
12 to the register of deeds of the county of Lincoln, who shall
13 make a minute of the disposition or removal upon the record
14 of the attachment in said action.

Sect. 14. All civil actions in said court shall be entered
2 on the first day of the term and not afterwards, except by
3 special permission; and they shall be in order for trial,
4 except actions of forcible entry and detainer, at the next
5 regular term after the entry if not otherwise disposed of.
6 When a defendant, legally summoned, fails to enter his
7 appearance by himself or by his attorney before twelve
8 o'clock noon on the first day of the return term, he shall be
9 defaulted; but if he afterwards appear during said term the
10 court may for sufficient cause, permit the default to be taken
11 off. The pleadings shall be the same as in the supreme
12 judicial court, and all provisions of law relative to practice
13 and proceedings in civil actions in the supreme judicial
14 court, are hereby made applicable and extended to this
15 court, except so far as they are modified by the provisions
16 of this act.

Sect. 15. Actions pending in this court may be referred
2 in the same manner as in the supreme judicial court, and
3 on report of the referee to said municipal court, judgment
4 may be rendered in the same manner and with like effect as
5 in the supreme judicial court.

Sect. 16. If any defendant, his agent or attorney, in any
2 civil action in this court in which the debt or damages
3 demanded or claimed in the writ exceeds twenty dollars,
4 shall on or before the first day of the second regular term
5 of said court after the entry of said action, file in said court
6 an affidavit that he has a good defense to said action, and
7 intends in good faith to make such defense and claims a
8 jury trial, the said action shall at the regular monthly term
9 of said municipal court after the entry thereof be removed
10 into the supreme judicial court for said county, and shall
11 be entered at the next ensuing term of the supreme judicial
12 court after such removal, and the judge or recorder of said
13 municipal court shall forthwith cause certified copies of the
14 writ, return of the officer, and all other papers in the case
15 to be filed in the office of the clerk of said supreme judicial
16 court.

Sect. 17. Exceptions may be alleged and cases certified
2 on an agreed statement of facts, or upon evidence reported
3 by the judge in all civil actions as in the supreme judicial
4 court, and the same shall be entered, heard and determined
5 at the law term thereof as if the same had originated in
6 the supreme judicial court for said county of Lincoln; and
7 decisions of the law court in all such cases, shall be certified
8 to the judge of said municipal court for final disposition
9 with the same effect as in cases originating in said supreme
10 judicial court.

Sect. 18. Said municipal court may render judgment and
2 issue executions, punish for contempt and compel attend-

3 ance, as in the supreme judicial court; make all such rules
4 and regulations, not repugnant to law, as may be necessary
5 and proper for the prompt administration of justice, and is
6 clothed with all such lawful power as is necessary for the
7 performance of its duties under this act.

Sect. 19. Costs and fees allowed to parties, attorneys and
2 witnesses in all actions in this court, in which the debt or
3 damage demanded shall not exceed twenty dollars, and in
4 actions of forcible entry and detainer, shall be the same as
5 allowed in similar actions before trial justices, except that
6 the plaintiff, if he prevail, shall be allowed two dollars for
7 his writ, and the defendant, if he prevail, shall be allowed
8 one dollar for his pleadings; and in cases wherein the
9 amount demanded shall exceed twenty dollars, the costs and
10 fees of parties, attorneys and witnesses shall be the same as
11 in the supreme judicial court. In all actions wherein the
12 debt or damage demanded exceeds twenty dollars, costs for
13 travel may include costs for constructive travel for not
14 exceeding forty miles, as in the supreme judicial court.

Sect. 20. The judge of said court shall tax, in all criminal
2 proceedings, the same fees allowed by law to trial justices
3 and clerks of the supreme judicial court for similar services.
4 Fees in civil actions shall be as follows: for every blank
5 writ of attachment, four cents; for every blank writ of
6 replevin, eight cents; entry of any action, entering up and
7 recording the judgment whether on a verdict, demurrer,
8 non suit, or default, sixty cents; acknowledging satisfaction
9 of a judgment on a record, eight cents; copies, fifteen cents
10 per page; entry of a rule of court upon the parties submit-
11 ting a cause to a referee, fifteen cents; original or other
12 writ of execution in personal matters, and filing the same
13 when returned, fifteen cents; subpoena for one witness or

14 more, or with a duces tecum, ten cents; opening and filing
15 a disposition, five cents; writ of review, seventy-five cents;
16 writ of scire facias, forty cents; every writ and seal, other
17 than before mentioned, forty cents. Said judge shall
18 account quarterly, under oath, to the county treasurer, for
19 all fees, civil and criminal, received by him, or which he is
20 entitled to receive, specifying the items, shall be responsible
21 for such fees whether collected or not, and shall pay the
22 whole amount of the same to the county treasurer of said
23 county quarterly, on the first days of January, April, July,
24 and October of each year. Said judge shall receive an
25 annual salary of five hundred dollars for his services in all
26 civil and criminal proceedings, the same to be paid to him
27 quarterly from the county treasury of said county. The
28 recorder shall receive one hundred dollars annually, payable
29 quarterly.

Sect. 21. Trial justices are hereby restricted from exer-
2 cising any jurisdiction in said county over any matter or
3 thing, civil or criminal, except such as are within the juris-
4 diction of justices of the peace and quorum, and except as
5 provided in section four of this act, provided, that until a
6 judge of said court shall enter upon the duties of his office,
7 any trial justice shall have and exercise the same jurisdic-
8 tion as though this municipal court had never been estab-
9 lished; as in such case any civil or criminal action made
10 returnable before a trial justice, shall be entered before and
11 finally disposed of by such justice.

Sect. 22. Nothing contained in this act shall be construed
2 to interfere with such actions returnable before a trial jus-
3 tice as shall be commenced before this act takes effect, and
4 all said actions shall be disposed of as if this act had not
5 been passed.

Sect. 23. This act shall take effect when approved.

STATE OF MAINE.

IN SENATE, March 20, 1905.

Reported by Mr. POTTER from Committee on Judiciary and laid on table to be printed under joint rules.

KENDALL M. DUNBAR, *Secretary*