

MAINE STATE LEGISLATURE

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NEW DRAFT.

SEVENTY-FOURTH LEGISLATURE

SENATE.

No. 357

STATE OF MAINE.

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

AN ACT to amend an act relating to the police court for the
City of Rockland.

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

Section 1. Chapter one hundred and fourteen of the pri-
2 vate and special laws of the year nineteen hundred and three
3 is hereby amended by inserting after the word 'judge' in
4 the sixth line of section one, the words "also" a recorder who
5 shall be a citizen of Knox County, to be appointed by the
6 Governor, by and with the consent of the Council, commis-
7 sioned and qualified in the manner provided by law,' so that
8 said section as amended shall read as follows:

‘Section 1. There is hereby established in the city of Rock-
10 land, a court to be denominated the police court for the city
11 of Rockland, to consist of one judge, who shall be appoint-
12 ed, commissioned and qualified in the manner provided by
13 the constitution of this State, and be a citizen of said city,
14 and so continue while he remains in office. Also one re-
15 corder who shall be a citizen of Knox County, to be ap-
16 pointed by the Governor, by and with the consent of the
17 Council, commissioned and qualified in the manner pro-
18 vided by law. Said police court shall be a court of record
19 with a seal to be affixed to all original processes issued there-
20 from. The present judge shall continue in office until the
21 end of the term for which he was appointed.’

Sect. 2. Section two of said chapter is hereby amended
2 by striking out ‘judge’ in the first line and inserting ‘court;’
3 by adding ‘concurrent’ before ‘jurisdiction’ in the second
4 line; by striking out all after ‘justices’ in the fourth line to
5 ‘and’ in the seventh line; by striking out from the seven-
6 teenth line the words ‘one hundred dollars’ and by insert-
7 ing in place of same the words ‘three hundred dollars;’ by
8 striking out from the nineteenth line the words ‘one hundred
9 dollars’ and by inserting in place of same the words ‘three
10 hundred dollars’ and by striking out from the twenty-first
11 line the words ‘one hundred dollars’ and by inserting in place
12 of same the words ‘three hundred dollars,’ so that said sec-
13 tion as amended shall read as follows :

‘Section 2. Said court shall, except where interested, exer-
15 cise concurrent jurisdiction over all such matters and things,
16 civil and criminal, within the County of Knox, as justices of
17 the peace or trial justices; and exclusive jurisdiction in all
18 such matters and things where both parties interested, or the
19 plaintiff and the person or persons summoned as trustees,
20 shall be inhabitants of or residents in said city; and said
21 court shall also have exclusive jurisdiction over all such crim-
22 inal offenses committed within the limits of said city, as are
23 cognizable by justices of the peace or trial justices, and un-
24 der similar restrictions and limitations. And said court
25 shall have concurrent jurisdiction with the supreme judicial
26 court in all personal actions where the debt or damage de-
27 manded, exclusive of costs, is over twenty dollars and not
28 over three hundred dollars, and in all actions of replevin
29 when it appears that the sum demanded for the penalty, for-
30 feiture, or damages does not exceed three hundred dollars
31 or that the property in the beasts or other chattels is in ques-
32 tion and the value thereof does not exceed three hundred
33 dollars and either defendant, or the person summoned as
34 trustee is resident in Knox County; but this jurisdiction shall
35 not include proceedings under the divorce laws or complaints
36 under the mill act, so called, nor jurisdiction over actions in
37 which the title to real estate according to the pleadings filed
38 in the case by either party is in question except as provided
39 in chapter ninety-four, sections six and seven of the revised

40 statutes. If any defendant, in any action in said court where
41 the amount claimed in the writ exceeds twenty dollars, or his
42 agent or attorney shall, on the return day of the writ, file in
43 said court a motion asking that said cause be removed to the
44 supreme judicial court and deposit with the judge the sum of
45 two dollars for copies and entry fee in said supreme court,
46 to be taxed in his costs if he prevails, the said action shall be
47 removed into the supreme judicial court for said county, and
48 the judge shall forthwith cause certified copies of the writ,
49 officers return and defendant's motion to be filed in the
50 clerk's office of the supreme judicial court, and shall pay the
51 entry fee thereof; and said action shall be entered on the
52 docket of the term next preceding said filing, unless said
53 court shall then be in session, when it shall be entered forth-
54 with, and shall be in order for trial at the next succeeding
55 term. If no such motion is filed, the said police court shall
56 proceed and determine said action, subject to the right of ap-
57 peal in either party as hereinafter provided. The pleadings
58 in such case shall be the same as in the supreme judicial
59 court. In any action in which the plaintiff recovers not
60 over twenty dollars debt or damage, the costs to be taxed
61 shall be the same as before trial justices, except that the
62 plaintiff shall have two dollars for his writ. Where the de-
63 fendant prevails in any action in which the sum claimed in
64 the writ is not over twenty dollars, he shall recover two dol-
65 lars for his pleadings and other costs as before trial jus-

66 tices. In actions where the amount recovered by the plain-
67 tiff, exclusive of costs, exceeds twenty dollars, or the amount
68 claimed exceeds twenty dollars, where the defendant pre-
69 vails, the costs of parties, trustees and witnesses shall be
70 the same as in the supreme judicial court, except the costs
71 to be taxed for attendance shall be two dollars and fifty
72 cents for each term, not exceeding three terms, and for trial
73 of issue, eighty cents. All the provisions of the statutes of
74 this State relative to the attachment of real and personal
75 property and the levy of executions, shall be applicable to ac-
76 tions in this court, and executions on judgments rendered
77 therein. Actions may be referred and judgments on the
78 referees' report may be rendered in the same manner and
79 with the same effect as in the supreme judicial court.

Sect. 3. Section six of said chapter is hereby amended by
2 inserting in the sixth line, after the word 'judge,' the words
3 'or recorder,' so that said section as amended shall read as
4 follows:

'Section 6. The several justices of the peace in said city
6 shall continue to have and exercise all the power and au-
7 thority vested in them by the laws of the United States; but
8 no justice of the peace, nor any trial justice of said Knox
9 County, shall exercise any civil or criminal jurisdiction other-
10 wise, except as hereinafter provided, unless in civil cases
11 where the said judge or recorder is interested, under a pen-
12 alty of twenty dollars for each offense, to be recovered by

13 indictment in any court proper to try the same; but nothing
14 in this act shall be construed to prevent said justices of the
15 peace or trial justices, administering oaths, taking acknowl-
16 edgements of deeds and other writings, acting as arbitra-
17 tors or referees, or doing any business other than that espe-
18 cially devolving upon said court.'

Sect. 4. Section eight of said chapter is hereby amended
2 by striking from the first line thereof the word 'judge' and
3 inserting in place of same the word 'recorder,' so that said
4 section as amended shall read as follows:

'Section 8. The recorder of the police court in the city of
6 Rockland shall render an account of, and pay over all fines
7 and forfeitures by him received upon convictions and sen-
8 tences before said court, to the treasurer of the county of
9 Knox within six months after he receives the same, and for
10 any neglect, he shall forfeit and pay in each instance, double
11 the amount, to be recovered in an action of debt in the name
12 of the county treasurer.'

Sect. 5. Section nine of said chapter is hereby amended
2 by striking from the tenth line the word 'judge' and insert-
3 ing in place of same the word 'recorder;' by inserting in the
4 thirteenth line, after the word 'judge' the words 'or recorder'
5 and by striking out all of said section following the word
6 'justices' in the seventeenth line and inserting in place there-
7 of the following: "The price of blank writs and summonses
8 with the seal of the court and signed by the recorder, shall

9 be three cents; for every warrant issued in criminal cases
10 there shall be allowed one dollar. All writs and processes
11 in civil matters shall be in the name of the State, bear the
12 tests of the judge, under the seal of said court, and signed
13 by the recorder, be served in time and manner as now pro-
14 vided by law in cases of writs issued by trial justices and
15 be obeyed and executed throughout the State. The record-
16 er shall keep an account of said fees and pay the same quar-
17 terly into the treasury of the county of Knox," so that said
18 section as amended shall read as follows:

'Section 9. Said police court shall be holden on the first
20 Tuesday of each month, at nine o'clock in the forenoon, for
21 the transaction of civil business, except for actions of forci-
22 ble entry and detainer which shall be held on each Tuesday
23 at the hour aforesaid, and all civil processes shall be made re-
24 turnable accordingly; said court shall be considered in con-
25 stant session for the trial of criminal offenses; and said court
26 may be adjourned from time to time at the discretion of the
27 judge or recorder. Said court to be held at such place as
28 such city shall provide for that purpose. It shall be the duty
29 of the recorder of said court to make and keep the records
30 of said court, or cause the same to be done and to perform
31 all other duties required of similar tribunals; the copies of
32 the records of said court, duly certified by the judge or re-
33 corder shall be legal evidence in any court of this State. The
34 fees in all cases, civil and criminal before said court, except

35 as provided in section two of this act, shall be the same as
36 are now taxable by justices of the peace or trial justices.
37 The price of blank writs and summonses with the seal of the
38 court and signed by the recorder, shall be three cents; for
39 every warrant issued in criminal cases there shall be allowed
40 one dollar. All writs and processes in civil matters shall be
41 in the name of the State, bear the tests of the judge, under
42 seal of said court, and signed by the recorder, be served in
43 time and manner as now provided by law in cases of writs
44 issued by trial justices and be obeyed and executed through-
45 out the State. The recorder shall keep an account of said
46 fees and pay the same quarterly into the treasury of the
47 county of Knox.'

Sect. 6. Section ten of said chapter is hereby amended by
2 striking out all of said section after the word 'city' first ap-
3 pearing in the third line and inserting in place thereof the
4 words "the recorder may perform all acts and duties apper-
5 taining to said court during the continuance of such vacancy
6 and when such vacancy occurs all the proceedings and busi-
7 ness pending in said court shall stand continued to the first
8 Tuesday of the month next after such vacancy shall be filled.
9 Whenever said judge shall be engaged in the transaction of
10 civil business or be absent from the court room or the office
11 shall be vacant, said recorder shall have and exercise the
12 same powers and perform the same duties which said judge
13 possesses and is authorized to perform in the transaction of

14 criminal business. All processes issued by said recorder in
15 criminal matters shall bear the seal of said court and be
16 signed by said recorder and have the same authority as if is-
17 sued and signed by said judge,” so that said section as
18 amended shall read as follows :

‘Section 10. When the office of judge of said court shall
19 be vacant in consequence of resignation death or the re-
20 moval of the judge’s residence from said city, the recorder
21 may perform all acts and duties appertaining to said court
22 during the continuance of such vacancy and when such va-
23 cancy occurs all the proceedings and business pending in
24 said court shall stand continued to the first Tuesday of the
25 month next after such vacancy shall be filled. Whenever
26 said judge shall be engaged in the transaction of civil busi-
27 ness or be absent from the court room or the office shall be
28 vacant, said recorder shall have and exercise the same pow-
29 ers and perform the same duties which said judge possesses
30 and is authorized to perform in the transaction of criminal
31 business. All processes issued by said recorder in criminal
32 matters shall bear the seal of said court and be signed by said
33 recorder and have the same authority as if issued and signed
34 by said judge.’

Sect. 7. Section eleven of said chapter is hereby amended
2 by striking from the seventh and eighth lines the words
3 “any person that the judge may appoint” and inserting in
4 place thereof the words “the recorder,” and by striking out

5 all of said section after the word "necessary" in the ninth
6 line and in place thereof inserting the following, "in case of
7 sickness or other necessary absence of both judge and re-
8 corder, the criminal jurisdiction of said court shall devolve
9 upon the trial justices of said city, if it have any, or if not,
10 upon the trial justices of the adjoining towns and all pro-
11 ceedings instituted during that time shall be finally deter-
12 mined by the trial justices before whom the same are insti-
13 tuted, subject to regular right of appeal," so that said section
14 as amended shall read as follows:

'Section 11. In case of sickness, absence from the city or
16 other disability of the judge to attend at the regular times
17 of holding said court for the transaction of civil business as
18 provided in section nine, the said court shall stand adjourned
19 until the next term, and so from term to term, without cost
20 to either party, until the judge is able to attend; and during
21 such sickness, absence or other disability the recorder may
22 enter actions at the regular term and make such entries under
23 them as necessary. In case of sickness or other necessary
24 absence of both judge and recorder, the criminal jurisdiction
25 of said court shall devolve upon the trial justices of said
26 city, if it have any, or if not, upon the trial justices of the
27 adjoining towns and all proceedings instituted during that
28 time shall be finally determined by the trial justices before
29 whom the same are instituted, subject to regular right of
30 appeal.'

Sect. 8. Section twelve of said chapter is hereby amended
2 by striking out the words "The writs and processes in civil
3 actions, issued from said court, shall be the same as now
4 provided by law, and shall be served in time and manner as
5 now provided by law in case of writs issued by trial jus-
6 tices, and be obeyed and executed throughout the State, and,"
7 and by inserting after the word 'judge' in the twentieth line
8 the words 'or recorder,' so that said section as amended shall
9 read as follows:

'Section 12. The costs and fees allowed to parties and
11 attorneys in actions in this court shall be the same as al-
12 lowed by law in actions before trial justices except as other-
13 wise provided in this act. Said judge is hereby authorized
14 to administer oaths, render judgment, issue executions, cer-
15 tify copies of its records, punish for contempt and compel at-
16 tendance, and to make all such rules and regulations not re-
17 pugnant to law as may be necessary and proper for the ad-
18 ministration of justice and to facilitate its business, and the
19 provisions of law relating to practice and proceedings in the
20 aforesaid matters in the supreme judicial court in civil cases,
21 are hereby extended to said court as far as applicable; and
22 all acts relating to courts and judicial proceedings are here-
23 by modified so as to give full effect to this act. The city
24 marshal, the deputy marshal and the police officers of said
25 city shall be in attendance on said court when requested to
26 do so by the judge or recorder for the purpose of preserving

27 order, and shall execute all legal orders to them directed
28 by the court.'

Sect. 8. Section thirteen of said chapter is hereby amend-
2 ed by striking out, after the word 'from' in the sixth line, the
3 words 'said city' and by inserting in place thereof the words
4 'the County of Knox,' and by striking out, after the word
5 'of' in the eighth line, the word 'eight' and inserting in place
6 thereof the word 'twelve,' and by striking out, from the
7 ninth line, after the word 'office,' the words 'except copies,'
8 and by inserting in the ninth line, after the word 'judge'
9 the words 'or recorder,' so that said section as amended shall
10 read as follows:

"Section 13. Said city of Rockland shall have power and
12 it shall be its duty to raise money to provide suitable room
13 or rooms in which to hold said court, and to furnish same
14 in an appropriate manner, including stationery, record books,
15 fuel, lights and other things necessary to accommodate said
16 court. The judge of said court shall receive from the Coun-
17 ty of Knox, in quarter-yearly payments, at the close of each
18 quarter, an annual salary of one thousand dollars, which
19 shall be in full for all fees pertaining to said office, and the
20 judge or recorder of said court shall not act as counsel or at-
21 torney in any case within the exclusive jurisdiction of said
22 court, nor in such matter or thing which may depend on or
23 have relation to any case, matter or thing which has been
24 or is pending in said court.'

Sect. 9. Section fourteen of said chapter is hereby amend-

2 ed by striking out all of said section and in place thereof in-
3 serting the words "the Governor, by and with the consent
4 of the Council shall appoint a recorder of said court who
5 shall be a resident of Knox County and an attorney-at-law,
6 who shall qualify in the manner provided by law and who
7 shall give bond to the county of Knox in the sum of five
8 hundred dollars to be approved by the county commissioners
9 of said county. Said recorder shall be appointed for the
10 term of four years and shall receive a salary of five hundred
11 dollars per year to be paid quarterly from the treasury of
12 said county of Knox. The recorder may administer oaths.
13 He shall keep the records of said court. The signature of
14 the recorder, as such, shall be sufficient evidence of his right
15 to act instead of the judge in accordance with the provisions
16 of this act or with the provisions relating to trial justices not
17 conflicting with this act,' so that said section as amended
18 shall read as follows:

'Section 14. The Governor, by and with the consent of the
20 council shall appoint a recorder of said court who shall be
21 a resident of Knox County and an attorney-at-law, who shall
22 qualify in the manner provided by law and who shall give
23 bond to the county of Knox in the sum of five hundred dol-
24 lars to be approved by the county commissioners of said
25 county. Said recorder shall be appointed for the term of
26 four years and shall receive a salary of five hundred dollars
27 per year to be paid quarterly from the treasury of said coun-
28 ty of Knox. The recorder may administer oaths. He shall

29 keep the records of said court. The signature of the re-
30 corder, as such, shall be sufficient evidence of his right to act
31 instead of the judge in accordance with the provisions of this
32 act or with the provisions relating to trial justices not con-
33 flicting with this act.'

Sect. 10. Section fifteen of said chapter is hereby amend-
2 ed by inserting before said section the words "if the judge
3 and recorder are both necessarily absent, the judge may des-
4 ignate some trial justice in said county to perform the duties
5 of recorder and if such judge does not so designate a trial
6 justice the recorder may appoint one," so that said section as
7 amended shall read as follows:

'Section 15. If the judge and recorder are both necessarily
9 absent, the judge may designate some trial justice in said
10 county to perform the duties of recorder and if such judge
11 does not so designate a trial justice the recorder may appoint
12 one. Any trial justice of said city, if it has any, and if not,
13 of either of the adjoining towns, may take cognizance of any
14 action, matter or thing within the jurisdiction of a trial jus-
15 tice, wherein the judge of said court or recorder is a party
16 interested.'

Sect. 11. Section nineteen of said chapter is hereby
2 amended by striking out all of said section and inserting in
3 place thereof the words "when this act shall take effect all
4 writs and processes if otherwise properly brought, made
5 returnable to terms of court held hereunder, shall be valid,"
6 so that said section as amended shall read as follows:

‘Section 19. When this act shall take effect all writs and
8 processes if otherwise properly brought, made returnable to
9 terms of court held hereunder, shall be valid.’

Sect. 12. Section twenty is hereby added to read as fol-
2 lows:

‘Section 20. Said court shall be known as the Municipal
4 as well as the Police Court for the City of Rockland, and all
5 general laws using either designation shall be applicable
6 thereto.’

STATE OF MAINE.

IN SENATE,

March 5, 1909.

Reported by Mr. HAMILTON from Committee on Legal
Affairs and laid on table to be printed under joint rules.

F. G. FARRINGTON, *Secretary*.