

MAINE STATE LEGISLATURE

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NEW DRAFT.

SEVENTY-SIXTH LEGISLATURE

SENATE

NO. 587

In Senate, March 22, 1913.

*Reported by Senator Bailey from Committee on Legal Affairs
and ordered printed under joint rules.*

W. E. LAWRY, Secretary.

STATE OF MAINE

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

AN ACT to establish the Lincoln Municipal Court.

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

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

Sect. 2. Said court shall consist of one judge, who shall
2 be an inhabitant of Lincoln county, an attorney at law, and
3 at the time of his appointment he shall be actively engaged

4 in the practice of law; and shall be appointed in the manner
5 and for the term provided by the constitution of this state.
6 The said judge shall enter, or cause to be entered on the
7 docket of said court all civil and criminal actions with full
8 minutes of the proceedings in and disposition of the same,
9 which docket shall be at all times open to inspection, and he
10 shall perform all other duties required of similar tribunals
11 in this state; and copies of the record of said court duly
12 certified by the judge, or recorder thereof shall be legal
13 evidence in all courts. The said judge shall not act as
14 attorney or counsel in any action or matter within the ex-
15 clusive jurisdiction of said court.

Sect. 3. A recorder may be appointed in the manner pro-
2 vided by article five of section eight, of the constitution,
3 who shall keep the records of said court when requested
4 so to do by the judge; and in case of absence from the court
5 room of said judge, or when the office of judge is vacant,
6 the said recorder shall have and exercise all the powers of
7 the judge and perform all the duties required of said judge
8 by this act, and shall be empowered to sign and issue all
9 papers and processes, and do all acts as fully and with the
10 same effect as the judge could do if he were acting in the
11 premises; and the signature of the recorder as such shall
12 be sufficient evidence of his right to act instead of the judge.
13 Said recorder shall reside in the county of Lincoln afore-
14 said and shall hold his office as recorder for the term of
15 four years.

Sect. 4. Said court shall have original and exclusive jurisdiction as follows: First, of all cases of forcible entry and detainer respecting estates within the county of Lincoln aforesaid; second, of all such criminal offenses and misdemeanors committed in said county of Lincoln as are by law within the jurisdiction of trial justices; third, of all offences against the ordinances and by-laws of any of the towns in said Lincoln county; provided, that warrants may be issued by any trial justice in said county upon complaint for offences committed in said county of Lincoln, but all such warrants shall be made returnable before said court and no other municipal or police court, and no trial justice, shall have or take cognizance of any crime or offence committed in said county of Lincoln.

Sect. 5. Trial justices in and for the county of Lincoln shall not have the right to issue writs in civil processes or determine any causes in civil actions in the county of Lincoln, and their rights and jurisdiction in criminal matters are limited in accordance with the preceding section excepting that they may act within the provisions of section seven, eight and ten of this act.

Sect. 6. Said court shall have original jurisdiction concurrent with the supreme judicial court as follows: first, of all civil actions wherein the debt or damage demanded, exclusive of costs, does not exceed two hundred dollars, in which any person, summoned as trustee resides within the county of Lincoln, or, if a corporation, has an established

7 place of business in said county, or in which no trustee be-
8 ing named in the writ, any defendant resides within the
9 limits of said county, or if no defendant resides within the
10 limits of this state, any defendant is served with process in
11 said county, or the goods, estate or effects of any defendant
12 are found within said county and attached on the original
13 writ; second, of the assaults and batteries described in sec-
14 tion twenty-eight of chapter one hundred and nineteen of
15 the revised statutes; of all larcenies described in sections
16 one, six, seven and eleven of chapter one hundred and twen-
17 ty-one of the revised statutes, when the value of the prop-
18 erty is not alleged to exceed thirty dollars; of the offence
19 described in section twenty-one of chapter one hundred and
20 twenty-three of the revised statutes; of all offences and
21 crimes described in section one and four of chapter one
22 hundred and twenty-four of the revised statutes; of all of-
23 fences described in section six and in sections thirty-four
24 and fifty-three inclusive, of chapter one hundred and twen-
25 ty-five of the revised statutes; of the offence described in
26 section five of chapter one hundred and twenty-six of the
27 revised statutes; of all offenses described in section one of
28 chapter one hundred and twenty-seven of the revised stat-
29 utes, when the value of the property or thing alleged to have
30 been fraudulently obtained, sold, mortgaged, or pledged, is
31 not alleged to exceed thirty dollars; and of all offenses de-
32 scribed in sections two, nine, nineteen, twenty-one, and twen-
33 ty-six of chapter one hundred and twenty-eight of the re-

34 vised statutes, when the value of the property destroyed or
35 the injury done, is not alleged to exceed thirty dollars; and
36 may punish for either of said crimes or offences by a fine
37 not exceeding fifty dollars and by imprisonment not exceed-
38 ing three months, provided, that when the offences described
39 in section twenty-eight of chapter one hundred and nine-
40 teen, section twenty-one of chapter one hundred and twen-
41 ty-three, and sections one and four of chapter one hundred
42 and twenty-four, are of a high and aggravated nature, the
43 judge of said court may cause persons charged with such
44 offences to recognize with sufficient sureties to appear be-
45 fore the supreme judicial court and in default thereof com-
46 mit them; third, of all other crimes, offenses and misde-
47 meanors committed in said county which are by law punish-
48 able by a fine not exceeding fifty dollars, and by imprison-
49 ment not exceeding three months, and are not within the
50 exclusive jurisdiction of some other municipal or police
51 court.

Sect. 7. Said court shall not have jurisdiction of any civil
2 action wherein the title to real estate according to the plead-
3 ing 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
9 six 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 the civil law, or within the degree of
5 second cousins, 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 in said county, in the
8 same manner as other actions before said trial justices. If
9 any action wherein said judge is so interested or related to
10 either party, is made returnable before this court, the par-
11 ties thereto, by themselves or their attorneys, may in writing
12 consent that said judge shall hear and dispose of the same;
13 or the recorder thereof, if disinterested, or with the written
14 consent of the parties, if interested, may hear and dispose
15 of the same in the judge's stead, or such actions shall be
16 disposed of as follows: civil actions, wherein the debt or
17 damage demanded, exclusive of costs exceed twenty dol-
18 lars, shall upon motion, be removed to the supreme judicial
19 court, and all other civil actions, and all criminal actions,
20 shall be removed and entered before any such trial justice
21 within said county as may be agreed upon, in writing, by
22 the parties entering an appearance in such action, or if no
23 trial justice is agreed upon, then before any trial justice in
24 said county selected by said judge; provided, that nothing
25 in this section contained shall prevent any civil action where-
26 in the title to real estate is in question from being disposed
27 of in accordance with the provisions of the preceding sec-

28 tion. In any action in which any of the towns in said county
29 is a party or is summoned as trustee, this court shall not
30 lose its jurisdiction by reason of the said judge or recorder
31 being an inhabitant of or owning property in such town;
32 but in any such case the action may, upon written motion
33 of either party, filed before trial, be removed to the supreme
34 judicial court.

Sect. 9. The terms of said court shall be held for the
2 transaction of civil business as follows, to wit: In the court
3 house in Wiscasset on the first Wednesday of every month;
4 all civil processes shall be made returnable accordingly.

For the cognizance and trial of criminal actions said court
6 shall be considered as in constant session, and said judge
7 or recorder shall hold such criminal session in such suitable
8 place as shall be deemed by said judge or recorder most
9 practicable, having due regard for the convenience of par-
10 ties and expense of hearing; and the necessary expense of
11 the judge or recorder incurred in such hearing shall be paid
12 in addition to his regular salary from the county treasury.

In all cases it may be adjourned from time to time by the
14 judge.

Sect. 10. If at any regular or adjourned term of said
2 court to be held for civil business, the judge or recorder is
3 not present at the place of holding said court, within two
4 hours after the time of opening said court, then any trial
5 justice or justice of the peace in the county of Lincoln, may
6 preside for the purpose of entering and continuing actions

7 and filing papers in said court, and may adjourn said court
8 from time to time, not exceeding one week at any one time,
9 without detriment to any action returnable or pending, and
10 may, in his discretion, adjourn said court without day, in
11 which event all actions returned or pending shall be con-
12 sidered as continued to the next term. No trial justice or
13 justice of the peace shall be disqualified from presiding for
14 the purpose mentioned in this section by reason of his being
15 interested in any action returnable before or pending in said
16 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 now provided by law in appeals, from a
4 judgment or sentence of a trial justice.

Sect. 12. Writs and processes issued by said court shall
2 be in the usual forms and shall be served as like precepts
3 are required to be served when issued by trial justices.

Sect. 13. All the provisions of the statutes relating to
2 attachment of real and personal property and the levy of
3 executions shall be applicable to actions brought in this court,
4 and executions on judgments rendered therein; provided,
5 that property may be attached in addition to the ad damnum,
6 sufficient to satisfy costs of the suit, and the writs may be
7 framed accordingly. When any action in which real estate
8 is attached shall be finally disposed of in said court, or shall
9 be removed to the supreme judicial court, by appeal or other-
10 wise, the judge of said municipal court shall forthwith cer-

11 tify the disposition or removal thereof to the register of
12 deeds of the county of Lincoln, who shall make a minute
13 of the disposition or removal upon the record of attachment
14 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, ex-
4 cept actions of forcible entry and detainer at the next reg-
5 ular monthly term after the entry if not otherwise disposed
6 of. 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
9 be defaulted; but if he afterward appear during said term
10 the court may for sufficient cause permit the default to be
11 taken off. Pleas in abatement must be filed on or before
12 the Monday next succeeding the date of the entry of the
13 action. The pleading shall be the same as in the supreme
14 judicial court and all provisions of law relative to practice
15 and proceedings in civil actions in the supreme judicial
16 court, are hereby made applicable and extended to this court
17 except so far as they are modified by the provisions of this
18 act.

Sect. 15. If any defendant is agent or attorney in any
2 civil action in this court in which the debt or damage de-
3 manded or claimed in the writ exceeds twenty dollars, shall,
4 on or before the Monday succeeding the date of entry of
5 said action file in said court an affidavit that he has a good

6 defense to said action, and intends in good faith to make
7 such defense and claims a jury trial, and shall at the same
8 time deposit with the judge or recorder of said court, one
9 dollar and sixty cents, for copies and entry in the supreme
10 judicial court, to be taxed in his costs if he prevail, the said
11 action shall at the next regular monthly term of said muni-
12 cipal court, after the entry thereof be removed into the su-
13 preme judicial court for said county, and shall be entered
14 at the next ensuing term of the supreme judicial court after
15 such removal; and the judge or recorder of said municipal
16 court shall forthwith cause certified copies of the writ, re-
17 turn of the officer, and all other papers in the case to be filed
18 in the clerk's office of the supreme judicial court.

Sect. 16. 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 the
6 supreme judicial court for the county of Lincoln; and de-
7 cisions 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. 17. Said municipal court may render judgment and
2 issue execution, punish for contempt and compel attendance,
3 as in the supreme judicial court; make all such rules and
4 regulations not repugnant to law, as may be necessary and

5 proper for the administration of justice promptly; and is
6 clothed with all such lawful power as is necessary for the
7 performance of its duties under this act.

Sect. 18. The costs and fees allowed to parties and attor-
2 neys, in all actions in this court, in which the debt or dam-
3 age recovered, shall not exceed twenty dollars, and in actions
4 of forcible entry and detainer, shall be the same as allowed
5 in similar actions before trial justices, except the plaintiff
6 if he prevail, shall be allowed two dollars for his writ, and
7 the defendant if he prevail, shall be allowed one dollar for
8 his pleadings; and in cases where the amount recovered
9 shall exceed twenty dollars the costs and fees of parties
10 and attorneys shall be the same as in the supreme judicial
11 court, except that the defendant, if he prevail, shall be
12 allowed two dollars for his pleadings. The fees of wit-
13 nesses in all civil actions in this court shall be the same as
14 in the supreme judicial court.

Sect. 19. The judge of said court may demand and receive
2 the same fees allowed by law to trial justices and clerks of
3 the supreme judicial court for similar services, except that
4 he shall receive for every blank writ signed by him three
5 cents; for the entry of each civil action, fifty cents; and
6 shall tax for every warrant issued by him one dollar; for
7 the trial of an issue in civil or criminal cases, one dollar for
8 the first day and two dollars for each subsequent day actu-
9 ally employed; and said fees for the trial of an issue in civil

10 actions shall be paid by the plaintiff before proceeding with
11 the trial each day, to be taxed in his costs if he prevail.

An accurate account of the fees so received by said judge
13 shall be by him laid before the county commissioners of
14 Lincoln county, and he shall pay the same into the county
15 treasury of said county quarterly on or before the first days
16 of January, April, July and October of each year.

The judge of said court shall receive the salary of seven
18 hundred dollars per year, to be paid him in equal quarterly
19 payments from the county treasury of Lincoln county, which
20 shall be in full for his services as such judge, except as here-
21 inbefore provided.

Said salary shall not be paid until said judge shall have
23 paid into the county treasury all fees so received by him.
24 Said recorder shall receive a salary of two hundred dollars
25 per year.

Sect. 20. Nothing in this act shall be construed to inter-
2 fere with such actions returnable before a trial justice as
3 shall be commenced before this act takes effect, and all said
4 actions shall be disposed of as if this act had not been
5 passed.

Sect. 21. It shall be the duty of the county commissioners
2 of the county of Lincoln to furnish and provide at the ex-
3 pense of the county a court room properly heated and lighted
4 in the court house in Wiscasset, and to provide all books,
5 blanks, and all necessary stationery and supplies required
6 for the use of the Lincoln municipal court in the transaction

7 of the civil and criminal business of said court, including
8 proper books for the record of all cases arising in said court.
9 The records of all cases when completed shall be kept in a
10 fireproof vault in the court house in said Wiscasset.

Sect. 22. All acts or parts of acts conflicting with section
2 twenty-one of this act are hereby repealed.