

MAINE STATE LEGISLATURE

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SEVENTY-EIGHTH LEGISLATURE

HOUSE

NO. 267

House of Representatives, Feb. 13, 1917.

Referred to Committee on Judiciary and five hundred copies ordered printed. Sent up for concurrence.

W. R. ROIX, Clerk.

Presented by Mr. Ames of Stockton Springs.

STATE OF MAINE

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

AN ACT to establish the Knox Municipal Court, within and
for the County of Knox.

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 Knox, which shall be called the Knox
3 Municipal Court, and shall be a court of record with a seal.
4 All original processes issuing from said court shall be un-
5 der the teste of the judge, signed by the recorder and shall
6 have the seal of said court affixed. They may be signed by
7 the judge personally.

Sect. 2. Said court shall consist of one judge, who shall
2 be an inhabitant of the city of Rockland, an attorney at
3 law, and at the time of his appointment he shall be actively
4 engaged in the practice of law; and shall be appointed in the
5 manner and for the term provided by the constitution of
6 this state. The said judge shall enter or cause to be entered
7 on the docket of said court all civil and criminal actions
8 with full minutes of the proceedings in the disposition of
9 the same, which docket shall be at all times open to in-
10 spection, and he shall perform all other duties required of
11 similar tribunals in this state; and copies of the record of
12 said court duly certified by the judge or recorder thereof
13 shall be legal evidence in all courts. Neither said judge or
14 recorder shall act as attorney or counsel in any action or
15 matter within the exclusive jurisdiction of said court.

Sect. 3. A recorder shall be appointed in the manner pro-
2 vided by Article five of Section eight, on the constitution of
3 the state, who shall keep the records of said court, and in
4 case of absence from the court room of said judge, or when
5 the office of judge is vacant, the said recorder shall have
6 and exercise all the powers of the judge and perform all
7 the duties required of said judge by this act, and shall be
8 empowered to sign and issue all papers and processes, and
9 do all acts as fully and with the same effect as the judge
10 could do if he were acting in the premises; and the signa-
11 ture of the recorder as such shall be sufficient evidence of
12 his right to act instead of the judge. Said recorder shall

13 reside in the city of Rockland aforesaid, and shall hold his
14 office as recorder for the term of four years, and shall be
15 an attorney at law in active practice at the time of his ap-
16 pointment.

Sect. 4. Said court shall have original and exclusive
2 jurisdiction as follows: First, of all cases of forcible entry
3 and detainer respecting estates within the county of Knox
4 aforesaid; second, of all criminal offenses and misdemeanors
5 committed in said county of Knox as are by law within the
6 jurisdiction of trial justices; third, of all offenses against
7 the ordinances and by-laws of any of the towns or cities
8 of said Knox county; *provided*, that warrants may be issued
9 by any trial justice in said county upon complaint for of-
10 fenses committed in said county of Knox, but all such war-
11 rants shall be made returnable before said court and no
12 other municipal or police court, and no trial justice shall
13 have or take cognizance of any crime or offense committed
14 in said county of Knox.

Sect. 5. Said court shall have concurrent jurisdiction
2 with the supreme judicial court as follows: first, of all civil
3 actions wherein the debt or damage demanded, exclusive of
4 costs, does not exceed five hundred dollars, in which any
5 person, summoned as trustee resides within the county of
6 Knox, or if a corporation, has an established place of busi-
7 ness in said county, or in which no trustee being named in
8 the writ, any defendant resides within the limits of said
9 county, or if no defendant resides within the limits of this

10 state, any defendant is served with process in said county,
11 or the goods, estate or effects of any defendant are found
12 within said county and attached on the original writ;
13 second, of the assaults and batteries described in Section
14 twenty-six of Chapter one hundred and twenty of the Re-
15 vised statutes; of all larcenies described in Sections one,
16 six, seven and eleven of Chapter one hundred and twenty-
17 two of the Revised Statutes, when the value of the prop-
18 erty is not alleged to exceed thirty dollars; of the offense
19 described in Section twenty-two of Chapter one hundred
20 and twenty-four of the Revised Statutes; of all offenses
21 and crimes described in Sections one and four of Chapter
22 one hundred and twenty-five of the Revised Statutes; of all
23 offenses described in Sections seven, forty-four to sixty-
24 four inclusive, of Chapter one hundred twenty-six of the
25 Revised Statutes; of the offense described in Section five of
26 Chapter one hundred and twenty-seven of the Revised
27 Statutes; of all offenses described in Section one of Chap-
28 ter one hundred and twenty-eight of the Revised Statutes
29 where the value of the property or thing alleged to have
30 been fraudulently obtained, sold, mortgaged, or pledged, is
31 not alleged to exceed the value of thirty dollars; and of all
32 offenses described in Sections two, thirteen, twenty-four,
33 twenty-six and thirty-three of Chapter one hundred and
34 twenty-nine of the Revised Statutes, when the value of the
35 property destroyed or the injury done, is not alleged to
36 exceed thirty dollars; and may punish for either of said

37 crimes or offenses by a fine not exceeding fifty dollars
38 and by imprisonment not exceeding three months, *provided*,
39 that when the offenses described in Section twenty-six of
40 Chapter one hundred and twenty, Section twenty-two of
41 Chapter one hundred and twenty-four, and Sections one
42 and four of Chapter one hundred and twenty-five are of a
43 high and aggravated nature, the judge of said court may
44 cause persons charged with such offenses to recognize with
45 sufficient sureties to appear before the supreme judicial
46 court and in default thereof commit them; third, of all
47 other crimes, offenses and misdemeanors committed in said
48 county which are by law punishable by fine not exceeding
49 fifty dollars, and by imprisonment not exceeding three
50 months.

Sect. 6. Said court shall not have jurisdiction of any
2 civil action wherein the title of real estate according to the
3 pleading or brief statement filed therein by either party, is
4 in question; and all such actions brought in said court shall
5 be removed to the supreme judicial court, or otherwise
6 disposed 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 Section six
9 and seven of Chapter ninety-six of the Revised Statutes.

Sect. 7. Any action, civil or criminal, in which the judge
2 of said court is interested to either of the parties by con-
3 sanguinity, within the sixth degree according to the rules
4 of the civil law, or within the degree of second cousins.

5 but which would otherwise be within the exclusive jurisdic-
6 tion of said court, may be brought before and disposed of
7 by any trial justice in said county, in the same manner as
8 other actions before said trial justices. In any action
9 wherein said judge is so interested or related thereto, by
10 themselves or their attorneys, may in writing consent that
11 said judge shall hear and dispose of the same; or the
12 recorder thereof, if disinterested, or with the written con-
13 sent of the parties, if interested, may hear and dispose of the
14 same in the judge's stead, or such action shall be disposed
15 of as follows: civil actions, wherein the debt or damage
16 demanded, exclusive of costs exceeds twenty dollars shall
17 upon motion, be removed to the supreme judicial court,
18 and all other civil actions, and all criminal actions, shall be
19 removed and entered before any such trial justice within
20 said county as may be agreed upon, in writing, by the
21 parties entering an appearance in such action, or if no trial
22 justice is agreed upon, then before any trial justice in said
23 county selected by said judge; *provided*, that nothing in
24 this section contained shall prevent any civil action wherein
25 the title to real estate is in question from being disposed
26 of in accordance with the provisions of the preceding sec-
27 tion. In any action in which any of the towns in said
28 county is a party or is summoned as trustee, this court shall
29 not lose its jurisdiction by reason of the said judge or
30 recorder being an inhabitant of or owning property in such
31 town; but in any such case the action may, upon written

32 motion of either party, filed before trial, be removed to the
33 supreme judicial court.

Sect. 8. The terms of said court shall be held for the
2 transaction of civil business as follows, to wit: in the place
3 provided in Rockland on the first Tuesday of every month
4 at nine o'clock in the forenoon; and all civil processes shall
5 be made returnable accordingly. For all actions of forcible
6 entry and detainer said court shall be held on each Tues-
7 day at the hour aforesaid.

For the cognizance and trial of criminal actions said court
2 shall be considered as in constant session, and said judge or
3 recorder shall hold such criminal session in such suitable
4 place as shall be deemed by said judge or recorder most
5 practicable, having due regard for the convenience of the
6 parties and expense of hearing; and the necessary expense
7 of the judge or recorder incurred in such hearing shall be
8 paid in addition to his regular salary from the county
9 treasury. In all cases it may be adjourned from time to
10 time by the judge.

Sect. 9. 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 Knox, 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 a time, with-

9 out detriment to any action returnable or pending, and may,
10 in his discretion, adjourn said court without day, in which
11 event all actions returned or pending shall be considered as
12 continued to the next term. No trial justice or justice of
13 the peace shall be disqualified from presiding for the pur-
14 pose mentioned in this section by reason of his being in-
15 terested in any action returnable before or pending in said
16 court.

Sect. 10. 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. 11. 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. 12. All the provisions of the statutes relating to at-
2 tachment of real estate and personal property and the levy
3 of executions shall be applicable to actions brought in this
4 court, and executions on judgments rendered therein. When
5 any action in which real estate is attached shall be finally
6 disposed of in said court, or shall be removed to the
7 supreme judicial court, by appeal or otherwise, the judge of
8 said municipal court shall forthwith certify the disposition
9 or removal thereof to the register of deeds of the county
10 of Knox, who shall make a minute of the disposition or
11 removal upon the record of attachment in said action.

Sect. 13. 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 monthly term after the entry if not otherwise dis-
6 posed of. When a defendant legally summoned fails to
7 enter his appearance by himself or by his attorney before
8 12 o'clock noon, on the first day of the return term, he
9 shall be defaulted; but if he afterwards appear the court
10 may for sufficient reason permit the default to be taken of.
11 Pleas in abatement must be filed on or before the Monday
12 next succeeding the date of the entry of the action. The
13 pleadings shall be the same as in the supreme judicial court
14 and all provisions of law relative to practice and proceed-
15 ings in civil actions in the supreme judicial court, are hereby
16 made applicable and extended to this court except so far
17 as they are modified by the provisions of this act.

Sect. 14. In any defendant, 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,
4 shall, on or before the Monday succeeding the date of entry
5 of said action, file in said court an affidavit that he has a
6 good defense and claims a jury trial and intends in good
7 faith to make such defense, and shall at the same time
8 deposit with the judge or recorder of said court, one dollar
9 and sixty cents, for copies and entry in the supreme judicial
10 court, to be taxed his costs if he prevail, the said action
11 shall at the next regular monthly term of said municipal

12 court, after the entry thereof, be removed into the supreme
13 judicial court for said county and shall be entered at the
14 next ensuing term of the supreme judicial court after such
15 removal; and the judge or recorder of said municipal court
16 shall forthwith cause certified copies of the writ, return of
17 the officer, and all other papers in the case be filed in the
18 clerk's office of the supreme judicial court.

Sect. 15. Exceptions may be allowed and cases certified
2 on an agreed statement of facts, or upon evidence reported
3 by the judge directly to the law court in all civil actions as
4 in the supreme judicial court, and the same shall be entered,
5 heard and determined at the law term thereof as if the
6 same had originated in the supreme judicial court for the
7 county of Knox; and decisions of the law court in all such
8 cases shall be certified to the judge of said municipal court
9 for final disposition with the same effect as in cases orig-
10 inating in said supreme judicial court.

Sect. 16. Said municipal court may render judgment and
2 issue execution, punish for contempt and compel attend-
3 ance, as in the supreme judicial; make all rules and regu-
4 lations not repugnant to law, as may be necessary and proper
5 for the administration of justice promptly; and is clothed
6 with all such lawful power as is necessary for the per-
7 formance of its duties under this act.

Sect. 17. The costs and fees allowed to parties and at-
2 torneys, in all actions in this court, in which the debt or
3 damage recovered, 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 the
6 plaintiff, if he prevail, shall be allowed two dollars for his
7 writ, and the defendant, if he prevail shall be allowed one
8 dollar for his pleadings; and in cases where the amount
9 recovered shall exceed twenty dollars the cost and fees of
10 parties and attorneys shall be the same as in the supreme
11 judicial court, except that the defendant, if he prevail, shall
12 be 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. 18. The judge or recorder may demand and receive
2 the same fees allowed by law to trial justices and clerks
3 of the supreme judicial court for similar services, except
4 that he shall receive for every blank writ signed by him
5 five cents; and shall tax for every warrant issued by him
6 one dollar, and for the entry of each civil action, sixty
7 cents; for the trial of an issue in civil or criminal cases, one
8 dollar for the first day and two dollars for each subsequent
9 day thereafter. The recorder shall keep an account of said
10 fees and pay the same quarterly into the treasury of the
11 county of Knox. The judge of said court shall receive the
12 salary of twelve hundred dollars each year, and the re-
13 corder shall receive the salary of eight hundred dollars per
14 year, to be paid them by the county of Knox, in equal
15 quarterly payments, which shall be in full for their services
16 except as hereinbefore provided.

Sect. 19. The city marshal, the deputy marshal and the
2 police officers of said city of Rockland shall be in attend-
3 ance on said court when requested to do so by the judge
4 or recorder for the purpose of preserving order, and shall
5 execute all legal orders to them directed by the court. Said
6 city of Rockland shall have power and it shall be the duty
7 to raise money to provide suitable room or rooms in which
8 to hold said court, and to furnish same in appropriate man-
9 ner, including stationery, record books, fuel, lights and
10 other things necessary to accommodate said court.

Sect. 21. All acts relative to and creating the police court
2 for the city of Rockland are hereby repealed, but all civil
3 actions which shall at the time this act takes effect be pend-
4 ing in said police court, or be returnable thereto, and all
5 other actions, suits, matters, and things which then may be
6 pending in said police court, and all writs, warrants, recog-
7 nizances and processes returnable to, and which would have
8 had day therein, had not this act been passed, shall there-
9 upon be returnable to, have day in and be fully acted upon
10 by the municipal court established by this act; and the said
11 municipal court shall have full power and authority to grant
12 any execution to carry into effect any judgment rendered in
13 said police court, in the same manner as the said police
14 court might have done had not this act passed.