

MAINE STATE LEGISLATURE

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E I G H T Y - S I X T H L E G I S L A T U R E

Legislative Document

NO. 418

H. P. 841

House of Representatives, Feb. 1, 1933.

Referred to Committee on Judiciary and 500 copies ordered printed.
Sent up for concurrence.

HARVEY R. PEASE, Clerk.

Presented by Mr. Gross of Lisbon.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED THIRTY-
THREE

AN ACT to Establish a Municipal Court in the Town of Lisbon.

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

Section 1. Lisbon Falls Municipal Court established. A municipal court is hereby established in and for the towns of Lisbon and Durham in the county of Androscoggin; same to be denominated the Lisbon Falls Municipal Court; said court shall consist of one judge who shall reside during his continuance in office in one of said towns of Lisbon or Durham; he shall be appointed, qualified and hold his office in accordance with and as provided in the Constitution and revised statutes of the state; he shall be, ex-officio, a justice of the peace and of the quorum, and have and exercise a concurrent authority and jurisdiction with trial justices over all matters and things by law within their jurisdiction and such authority and jurisdiction additional thereto as is conferred upon him by this act.

Sec. 2. Jurisdiction. Said court shall have jurisdiction as follows:
exclusive jurisdiction of all such criminal offenses and misdemeanors committed within said towns of Lisbon and Durham as are cognizable by trial justices;

exclusive jurisdiction of all civil actions wherein the debt or damages do not exceed \$20.00 and both parties or any defendant or a person or corporation summoned as trustee reside in either of the said towns of Lisbon or Durham, including prosecutions for penalties in which either of said

towns are interested, and actions of forcible entry and detainer arising therein, provided, that any civil action in which the judge is interested, but which otherwise would be within the exclusive jurisdiction of said court, may be brought in and disposed of by the municipal court of either the city of Lewiston or the municipal court of the city of Auburn in the same manner and with like effect as other actions therein;

original jurisdiction concurrent with the superior court of the county of Androscoggin of the offenses committed in Lisbon or Durham described in sections 1, 6, 7, 8 and 10 of chapter 131 of the revised statutes of 1930 when the alleged value of the property does not exceed \$50.00; of the offenses described in section 27 of chapter 129 of the revised statutes of 1930; of the offenses described in sections 1 and 5 of chapter 138 of the revised statutes of 1930 when the alleged value of the property fraudulently removed or concealed, does not exceed \$50.00, and on conviction may punish for either of said offenses by fine not exceeding \$100 or by imprisonment in the county jail for not more than 6 months; and also of the offense described in section 7 of chapter 135 of the revised statutes of 1930, and on conviction may punish therefor by a fine not exceeding \$50.00 or by imprisonment in the county jail for not more than 30 days;

original jurisdiction concurrent with the said superior court and the municipal court for the city of Auburn and the municipal court for the city of Lewiston, of all civil actions in which the debt or damage demanded exceeds \$20.00 but does not exceed \$500.00 and the defendant or a party summoned as trustee resides within the towns of Lisbon or Durham; provided, however, that where any action wherein the debt or damage exceeds \$20.00, brought in said court, shall be removed by order of the judge into the superior court, on motion of the defendant, filed at the return term, if he files therewith, at the same time an affidavit that he believes he has a good defense to said action, in whole or in part, and deposits with the judge the fee of the clerk of the court above for entering said action therein; and when such removal has been ordered, the judge shall file in said superior court, at its next term in the county, an attested copy of the writ in such action, and of said motion and affidavit, and pay to the clerk of court the fee of entering the same, for which service he shall be entitled to the same fees allowed for the necessary copies in actions carried up by appeal, to be paid to him by the defendant and recovered by him with his costs, if he prevail in the suit.

Sec. 3. Actions relating to realty titles. Nothing in the foregoing section shall be construed to give said court any authority, exceeding that of a trial justice, to hear and determine any civil action in which the title to real-estate, according to the pleadings or brief statement filed therein by

either party, is in question, but all such actions brought therein shall be removed to the proper court in the county, or otherwise disposed of as provided in the revised statutes.

Sec. 4. Powers of court. Said court shall have authority to administer all necessary oaths or affirmations; to adopt an official seal; to hear and determine civil causes before it, to render judgment therein, and issue execution upon the same; such executions, except when otherwise provided by law, to have the same force and be satisfied in the same manner as if issued by the superior court; to compel the attendance of witnesses, and punish persons duly summoned as witnesses, if they refuse or neglect to attend; to make and enforce such rules and regulations not repugnant to law, as may be necessary therein for the prompt administration of justice; and all provisions of law relating to proceedings and practice in the superior court, and to the attachment of real or personal estate, the taxation of costs, the rendition of judgments and the issuing, service, satisfaction and return of executions, shall be extended to and apply to said municipal court and to proceedings therein, except so far as such application may be modified by the provisions of this act.

Sec. 5. Civil writs. Writs in civil actions commenced in said court shall be in the usual forms, and all such writs and all other precepts and processes, civil or criminal, issued by said court, shall bear teste of the judge under seal of said court and be signed by the judge. All such writs shall be made returnable at one of the next two terms of said court held after 7 days from their date; and service thereof may be made at any time not less than 7 days before the return day thereof, except that when any defendant or trustee named therein is a corporation, service upon such corporation must be made at least 30 days before the return day.

Sec. 6. Court days. Said court shall be held on the 3rd Tuesday of each month for the entry, trial and determination of civil actions of all kinds that may be lawfully brought before it, and for the transaction of other civil business; and upon each other Tuesday for the entry, trial and determination of actions of forcible entry and detainer only, at 10 o'clock in the forenoon, at such place as the judge may determine until a suitable court-room is provided, when the court shall be held therein and all civil processes shall be made returnable accordingly; and it may be adjourned from time to time by the judge, at his discretion, but it shall be considered in constant session for the cognizance of criminal actions. Provided that, if said judge is prevented by any cause from attending at the time said court is to be held, it may be adjourned from day to day by a constable of said Lisbon or a deputy sheriff of the county of Androscoggin without detriment to any action then returnable or pending, until he can attend.

when such action may be entered or disposed of with the same effect as if it were the first day of the term; and it may be so adjourned without day when necessary, in which event, pending actions shall be considered as continued, and actions when returnable may be returned and entered at the next term, with the same effect as if originally made returnable at said term.

Sec. 7. Records. It shall be the duty of said judge of said court to make and keep the records thereof or cause the same to be made and kept, and perform all other duties required of similar tribunals in this state; and copies of said records, duly certified by said judge, shall be legal evidence in all courts.

Sec. 8. Appeals. Any party may appeal from any judgment or sentence of said court, to the superior court, in the same manner as from a judgment or sentence of a trial justice.

Sec. 9. Entries and motions. Actions in said court shall be entered on the first day of the term and not thereafter, except by special permission. All rules of this court with regard to appearance of defendant, default of defendant, pleas and motions in abatement, pleadings, forcible entry and detainer and continuance of cases shall be the same as those applying to the superior court.

Sec. 10. Special actions. All actions of forcible entry and detainer and all other actions in which either party shall have given written notice to the adverse party at least 10 days before the return day that he desires a trial at the first term shall be in order for a trial at the return term, and so remain until tried or otherwise disposed of unless continued by consent, or on motion of either party for good cause, in which case the court may impose reasonable terms, but all other actions not defaulted or otherwise disposed of, shall be continued as of course and be in order for trial at the next term.

Sec. 11. Costs and fees. The costs and fees allowed to parties, attorneys and witnesses in all civil actions in said court in which the debt or damage demanded does not exceed \$20.00, including actions of forcible entry and detainer, shall be the same as allowed by trial justices in actions of like character before them, except that the plaintiff if he prevail shall be allowed \$2.00 for his writ, and the defendant if he prevail shall be allowed \$2.00 for his pleadings; but in actions in which the damage demanded exceeds \$20.00, the costs and fees shall be the same as allowed in the superior court in like actions, except that the defendant, if he prevail, shall be allowed \$2.00 for his pleadings, and the witnesses shall be allowed \$2.00 per day and 10 cents per mile one way for travel.

Sec. 12. Fees of judge. The judge of said court may tax and shall be

allowed for his services in civil actions the same fees, the trial fees excepted, allowed by law for trial justices for like services and at the same rates, except that he shall be allowed for entering and recording an action 60 cents, 25 cents for taxing the costs, and said fees to be paid to him by the party at whose instance the services were performed, and taxed with the costs of such party if he prevail in the suit. For his services in criminal proceedings he shall be entitled to 75 cents for entering complaint, swearing witnesses, filing papers and certifying costs to the County Commissioners, 40 cents for taxing costs and recording, 10 cents for each subpoena, 50 cents for each mittimus and each recognizance, \$1.00 for making and recording each libel of intoxicating liquors, 50 cents for each order to destroy or restore such liquors, such fees to be taxed in the bill of costs, and unless paid into court, to be allowed by the county commissioners, and paid by the county treasurer, as provided by law in relation to other criminal expenses.

Sec. 13. Fines, forfeitures and costs; disposition of. The judge shall receive all fines, costs and forfeitures paid into court in criminal proceedings, and may retain from such costs his own fees, but shall pay over all other fees to the persons to whom they were allowed when called for, if called for within one year. All fines and forfeitures received by him and all fees so received but not seasonable called for, he shall account for and pay over at the same time and in the manner required by law, but no account required by this section shall be deemed sufficient unless verified by oath of the judge.

Sec. 14. Court room. It shall be the duty of the town of Lisbon to maintain a suitable room, conveniently and appropriately situated and furnished in which to hold said court and keep the same in proper condition for use.

Sec. 15. Salary of judge. As payment in full for all services for the trial of cases, both civil and criminal, the judge shall receive an annual salary of \$200.00. This shall be payable to him from the treasurer of Androscoggin county on the first days of April, July, October and January.