

# MAINE STATE LEGISLATURE

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

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Legislative Document

No. 990

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H. P. 1160

House of Representatives, February 16, 1939.

On motion of Mr. Weatherbee of Lincoln taken from the table and on further motion same gentleman referred to the Committee on Legal Affairs. Sent up for concurrence and 500 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Weatherbee of Lincoln.

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S T A T E   O F   M A I N E

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I N   T H E   Y E A R   O F   O U R   L O R D   N I N E T E E N   H U N D R E D  
T H I R T Y - N I N E

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**AN ACT Establishing the Lincoln Municipal Court.**

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

**Sec. 1. Municipal court established; judge; recorder.** A municipal court is hereby established in and for the town of Lincoln to be denominated the Lincoln municipal court, which shall be a court of record with a seal. Said court shall consist of 1 judge, who during his continuance in said office shall reside in the town of Lincoln, who shall be appointed, qualified and hold his office as provided by the constitution, and who shall be ex officio, a justice of the peace and quorum authorized to act within and for every county of the state; and of a recorder who shall be appointed by the governor, by and with the advice of the council and shall hold his office for the term of 4 years, and be duly commissioned and qualified. All original processes issuing from said court shall be under the teste of said judge, or of the recorder thereof, and signed by said judge or recorder thereof, and shall have the seal of said court affixed.

**Sec. 2. Jurisdiction.** Said court shall have and exercise a concurrent authority and jurisdiction with trial justices over all matters and things by law within their jurisdiction together with such additional authority and jurisdiction which has been, or hereafter may be, conferred by law

upon municipal courts, but this jurisdiction shall not include proceedings under the divorce laws or complaints under the mill act, so-called, nor jurisdiction over actions, in which the title to real estate, according to the pleadings filed in the case by either party is in question, except as provided in section 3 of chapter 97 of the revised statutes of 1930.

**Sec. 3. Attachment.** All the provisions of the statutes of this state, relative to the attachment of real and personal property, and the levy of executions, shall be applicable to actions in this court, provided that property may be attached equal in value double the ad damnum, and provided also that no execution shall be levied on real estate, unless the debt or damage therein exceed the sum of \$20.

**Sec. 4. Powers, rules and regulations.** Said court is hereby authorized to administer oaths, render judgments, issue executions, certify copies of its records, punish for contempt, and compel attendance as in the superior court, and to make all such rules and regulations, not repugnant to law, as may be necessary for the prompt administration of justice. All writs and processes in civil matters shall be in the name of the state, be served in time and manner as now provided by law in case of writs issued by municipal courts.

**Sec. 5. Certified copies to be made; pleadings.** If any defendant, his agent or attorney, in any civil action, in said court, in which the debt or damage demanded or claimed in his writ exceeds \$20, shall, on the 1st day of the second term of said action file in said court a motion for the removal of said action to the superior court, and deposit with the judge or recorder the sum of \$2 for copies and entry fee in said superior court, the said action shall be removed into the superior court for said county, and the judge or recorder shall forthwith cause certified copies of the writ, officer's return, and defendant's motion and all other papers in the case to be filed in the clerk's office of said superior court, and shall pay the entry fee thereof, and said action shall be entered on the docket of the term next preceding said filing, unless said court shall then be in session in which case, it shall be entered forthwith. If no such motion is filed, the said municipal court shall proceed and determine said action, subject to the right of appeal in either party as now provided by law. The pleading in such cases shall be the same as in the superior court.

**Sec. 6. Terms.** The terms of said court for the transaction of civil business shall be held in the town of Lincoln on the 1st and 3rd Mondays of each calendar month, at 10 o'clock in the forenoon, and said court may adjourn from time to time. All civil actions in said court shall be entered

on the 1st day of the term and not afterward, except by special permission; and they shall be in order for trial, except actions of forcible entry and detainer and at the next regular monthly term after the entry if not otherwise disposed of. When a defendant legally summoned fails to enter his appearance by himself or by his attorney before 12 o'clock noon, on the 1st day of the return term, he shall be defaulted; but if he afterward appear during said term the court may for sufficient cause permit the default to be taken off. Judgment in such actions may be entered on the day when the same are defaulted, or heard and determined; and also, that for the cognizance of criminal offenses, said court shall be considered in constant session. Pleadings shall be the same as in the superior court, and all provisions of law relative to the practice and proceedings in civil actions, in the superior court, except so far as they are modified by the provisions of this act.

**Sec. 7. Vacancies; how filled.** When the judge is absent from the court room, or is interested, it shall be the duty of the recorder and he shall have the authority to exercise all the powers of the judge.

In case of the absence of the recorder, or a vacancy in his said office, the judge may appoint a recorder who shall be sworn by said judge, and act during his absence, or until the vacancy is filled.

**Sec. 8. Powers of recorder.** The recorder shall record the doings of said court and shall have the power to administer oaths; he shall hear complaints and sign warrants, take bail and make and sign processes of commitment, but the same shall be heard and determined as now provided by law; such bail may be taken by the judge, and such complaints, accusations, warrants, and processes of commitment, drawn and signed by the judge of said court, shall be equally valid.

All processes issued by said recorder or said judge in criminal matters shall have the seal of said court and may be signed by said recorder and have the same authority as if issued and signed by said judge.

**Sec. 9. Appeal.** Any party may appeal from any judgment or sentence of said court to the superior court, in the same manner as from a sentence or judgment of a trial justice.

**Sec. 10. Salaries.** The judge of said court shall receive as compensation a salary of \$1200 a year; and the recorder shall receive a salary of \$300 a year to be paid quarterly from the treasury of the county of Penobscot. A condition precedent to the payment of said salaries as aforesaid shall be the rendering by said judge and recorder to the county treasurer, of all fees both civil and criminal, collected by said court for preceding quarter or fractional part thereof.

**Sec. 11. Fines, penalties, costs, fees; exception.** All fines, penalties and costs paid into said court, upon convictions and sentences in criminal matters, together with all fees allowed by law in the transaction of criminal and civil business, shall be paid to said judge or recorder.

**Sec. 12. Payment of fees to county treasury.** All fines and forfeitures and fees of the judge and recorder of said court, imposed and collected by said court, in all criminal cases, and all fees of said judge and recorder of said court in civil and criminal cases received by either or both, shall be accounted for and paid over quarterly into the treasury of said county of Penobscot for the use of said county; and all fees of said court paid after any commitment to any jailer shall be paid by him monthly into said treasury.

**Sec. 13. Expenses; town of Lincoln to provide quarters.** It shall be the duty of the county commissioners of the county of Penobscot, at the expense of the county, to provide all blanks, blank books of record, and dockets necessary in the transaction of its business. It shall be the duty of the town of Lincoln to provide at its expense a suitable court room in said Lincoln, conveniently situated and appropriately fitted up and furnished in which to hold said court, and to keep the same in proper condition for use.

**Sec. 14. Trial justices restricted.** Trial justices are hereby restricted from exercising any jurisdiction in said town of Lincoln over any matter or thing, civil or criminal.

**Sec. 15. Repealing clause.** All acts or parts of acts, inconsistent with this act are hereby repealed or amended to conform to the provisions of this act.