

MAINE STATE LEGISLATURE

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

Legislative Document

No. 402

S. P. 247

In Senate, February 4, 1941.

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

ROYDEN V. BROWN, Secretary.

Presented by Senator Melvin of Androscoggin.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-ONE

AN ACT Creating the Lisbon Municipal Court.

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

Sec. 1. Lisbon Municipal Court established. A municipal court is hereby established in and for the town of Lisbon, in the county of Androscoggin, to be denominated the Lisbon Municipal Court; said court shall consist of one judge, who shall reside during his continuance in said office, in the town of Lisbon, and who shall be appointed, qualified and hold his office as provided in the constitution, and who 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 original jurisdiction of all civil actions wherein the debt or damages demanded do not exceed \$20, and both parties, or any plaintiff, and a person summoned as trustee, reside in the town of Lisbon, 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 the city of Auburn or the municipal court of the city of Lewiston in the same manner and with like effect as other actions therein.

Original jurisdiction concurrent with the superior court and with all other municipal courts in said county in criminal cases to the same extent as now provided by the public laws of the state regarding the jurisdiction of municipal courts.

Original jurisdiction concurrent with 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, but does not exceed \$300 and the defendant or a party summoned as trustee resides within the town of Lisbon; provided, however, that any action wherein the debt or damage exceeds \$20, 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 said court the fee for entering the same, for which services 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. Authority shall not exceed powers of trial justices. Nothing in the foregoing section shall be construed to give said court any authority, exceeding that of trial justices, 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 superior court in the county, or otherwise disposed of as provided in section 3 of chapter 97 of the revised statutes of 1930.

Sec. 4. May administer oaths; adopt seal; powers. 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, and 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 the 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. Writs and processes, form of; return of. 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 writs shall be made returnable and service thereof made as now provided by the public laws of the state.

Sec. 6. Terms; when court may be held; may be adjourned from day to day if judge is absent. 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 lawfully be 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 suitable place as the judge may determine until the town of Lisbon shall provide a court room, 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, and its terms for the transaction of criminal business shall be as provided under the public laws of the state, 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 for civil business, 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 said actions 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 then 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 kept by judge. It shall be the duty of said judge of said court to make and to keep the records thereof or cause the same to be made and kept, and to 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 may be taken to superior court. 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. When actions shall be entered; when defendant fails to appear, may be defaulted; when pleadings may be filed. Actions in said court shall be entered on the 1st day of the term, and not afterwards except by special permission. When a defendant, legally served, fails to enter his appearance, by himself, or his attorney, on the first 3 days of the return term, he may be defaulted, but if he afterwards appear during the term, the court may for sufficient cause permit the default to be taken off. Pleas and motions in abatement must be filed on one of the first 2 days of the term to which the action is returnable. The defendant may file his pleadings in bar, which shall be general issue, with a brief statement of special matters of defense, on the return day of the writ, and must file them on or before the 1st day of the next term, or he shall be defaulted, unless the court, for good cause, enlarge the time, for which it may impose reasonable terms. Actions in which the defendant files his pleadings on the return day, and all actions of forcible entry and detainer seasonably answered to shall be in order for trial at the return term, and shall remain so until tried or otherwise finally disposed of, unless continued by consent, or on motion of either party, for good cause, in which latter case the court may impose such terms as it deems reasonable; but all other actions, unless defaulted or otherwise finally disposed of, shall be continued as of course, and be in order for trial at the next term.

Sec. 10. Pleadings in actions of forcible entry and detainer by defendant, shall be the general issue. In actions of forcible entry and detainer brought in said court, the defendant's pleading in bar shall be the general issue with a brief statement of any special matters of defense, and must be filed within the first 2 days of the return term, or the defendant shall be defaulted unless the court enlarge the time, for which it may impose terms. All actions of forcible entry and detainer, and any other action in which either party shall have given written notice to the adverse party 10 days before the return day that he desires a trial at the first term, shall be in order for trial at the return term, and so remain until tried or otherwise

finally disposed of unless continued by consent, or on motion of either party for good cause, in which latter case the court may impose reasonable terms, but all other actions not defaulted or otherwise finally disposed of, shall be continued as of course, and be in order for trial at the next term.

Sec. 11. Costs and fees taxed and allowed. The costs and fees taxed and allowed shall be the same as set forth in chapter 112 of the public laws of 1937.

Sec. 12. Fees collected to be paid over to county; salary of judge. All fees collected by the court in both civil and criminal cases, except as otherwise provided under the general laws of the state, shall be paid over to the county of Androscoggin. The judge of said court shall receive an annual salary of \$600 in full for all services, payable quarterly on the 1st days of January, April, July and October, from the treasury of Androscoggin county.

Sec. 13. Town shall provide court room, etc. It shall be the duty of said town of Lisbon to provide a suitable court room, conveniently situated and appropriately fitted up and furnished, in which to hold said court, and keep the same in proper condition for use, and also to provide for said court an appropriate seal, and all blanks, blank books, dockets, stationery and other things necessary in the transaction of its business; and said town is hereby authorized to appropriate money therefor.

Sec. 14. Jurisdiction of trial justices, restricted. Trial justices are hereby restricted from exercising any jurisdiction in the town of Lisbon over any matter or thing, civil or criminal, except such as are within the jurisdiction of justices of the peace and quorum and except that they may issue warrants on complaints for criminal offenses, to be returned before said municipal court. Provided that said restrictions shall be suspended until the judge of said court shall enter upon the duties of his office. Nothing in this act shall be construed to interfere with actions which are pending before any trial justice in said town of Lisbon at the time the judge shall enter upon the duties of his office, but all such actions shall be disposed of by such justice as if this act had not passed.

Sec. 15. Inconsistent acts repealed. All acts and parts of acts inconsistent with this act are hereby repealed.