

MAINE STATE LEGISLATURE

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N I N E T Y - S E C O N D L E G I S L A T U R E

Legislative Document

No. 964

H. P. 1315 House of Representatives, February 28, 1945.

Transmitted by revisor of statutes pursuant to joint order

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

HARVEY R. PEASE, Clerk.

Presented by Mr. Gay of Damariscotta.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-FIVE

AN ACT Relating to the Lincoln Municipal Court.

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

Sec. 1. P. & S. L., 1913, c. 239, § 1, amended. Section 1 of chapter 239 of the private and special laws of 1913 is hereby amended to read as follows:

'**Sec. 1. Lincoln municipal court established.** A municipal court is hereby established in and for the county of Lincoln which shall be called the Lincoln municipal court, and shall be a court of record with a seal. All original processes issuing from said court shall be under the teste of the judge, or if the office of judge is vacant, of the ~~recorder~~ **clerk** thereof, and signed by the judge, or ~~recorder~~ **clerk** thereof, and shall have the seal of said court affixed.'

Sec. 2. P. & S. L., 1913, c. 239, § 2, amended. The 2nd sentence of section 2 of chapter 239 of the private and special laws of 1913 is hereby amended to read as follows:

'The said judge shall enter, or cause to be entered on the docket of said court all civil and criminal actions with full minutes of the proceedings in and disposition of the same, which docket shall be at all times open to inspection, and he shall perform all other duties required of similar tri-

bunals in this state; and copies of the record of said court duly certified by the judge, or ~~recorder~~ clerk thereof shall be legal evidence in all courts.'

Sec. 3. P. & S. L., 1913, c. 239, § 3, repealed and replaced. Section 3 of chapter 239 of the private and special laws of 1913, as amended, is hereby repealed and the following enacted in place thereof:

'Sec. 3. Clerk; duties and authority. The clerk of courts of the county of Lincoln shall act as clerk of the Lincoln municipal court, shall have authority to sign writs and executions issuing from said court, shall keep and have charge of all records of said court and shall make and attest copies of all records and documents filed in said court, when such copies are required. He shall also have authority to issue and receive complaints, issue warrants in criminal cases, continue both civil and criminal matters, fix bail and admit respondents to bail.'

Sec. 4. P. & S. L., 1913, c. 239, § 8, amended. Section 8 of chapter 239 of the private and special laws of 1913, as amended by section 7 of chapter 296 of the public laws of 1939, is hereby further amended to read as follows:

'Sec. 8. Procedure if judge is interested, etc. Any action, civil or criminal, in which the judge of said court is interested or related to either of the parties by consanguinity or affinity, within the sixth degree according to the rules of the civil law, or within the degree of second cousins, but which would otherwise be within the exclusive jurisdiction of said court, may be brought before and disposed of by any trial justice in said county, in the same manner as other actions before said trial justices. If any action wherein said judge is so interested or related to either party, is made returnable before this court, the parties thereto, by themselves or their attorneys, may in writing consent that said judge shall hear and dispose of the same; ~~or the recorder thereof, if disinterested, or with the written consent of the parties, if interested, may hear and dispose of the same in the judge's stead,~~ or such actions shall be disposed of as follows: civil actions, wherein the debt or damage demanded, exclusive of costs exceed \$20, shall upon motion, be removed to the superior court, and all other civil actions, and all criminal actions, shall be removed and entered before any such trial justice within said county as may be agreed upon, in writing, by the parties entering an appearance in such action, or if no trial justice is agreed upon, then before any trial justice in said county selected by said judge; provided, that nothing in this section contained shall prevent any civil action wherein the title to real estate is in question from being disposed of in accordance with the provisions of the preceding section. In any

action in which any of the towns in said county is a party or is summoned as trustee, this court shall not lose its jurisdiction by reason of the said judge ~~or recorder~~ being an inhabitant of or owning property in such town; but in any such case the action may, upon written motion of either party, filed before trial, be removed to the superior court.'

Sec. 5. P. & S. L., 1913, c. 239, § 9, amended. Section 9 of chapter 239 of the private and special laws of 1913, as amended, is hereby further amended to read as follows:

'Sec. 9. Terms of court, when held; for criminal actions, court shall be considered as in constant session. Said court shall be held at Wiscasset at 10 o'clock in the forenoon on the 1st and 3rd Wednesdays of each month, for the entry, trial and determination of civil actions of all kinds that may lawfully be brought before it, and it may be adjourned from time to time by the judge, at his discretion.

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

Sec. 6. P. & S. L., 1913, c. 239, § 10, repealed and replaced. Section 10 of chapter 239 of the private and special laws of 1913 is hereby repealed and the following enacted in place thereof:

'Sec. 10. Proceedings in case of vacancy or absence of judge. In case of a vacancy in the judgeship, absence of the judge, or inability of the judge to hold court, the judge of a municipal court in an adjoining county may hold court. The compensation and expenses of the judge from such other county shall be paid from the salary of the judge of the Lincoln municipal court, upon approval of the county commissioners of Lincoln county.'

Sec. 7. P. & S. L., 1913, c. 239, § 15, amended. Section 15 of chapter 239 of the private and special laws of 1913, as amended by section 7 of chapter 296 of the public laws of 1939, is hereby further amended to read as follows:

'Sec. 15. When debt or damage exceeds \$20, civil action may be entered in superior court. If any defendant is agent or attorney in any civil action

in this court in which the debt or damage demanded or claimed in the writ exceeds \$20, shall, on or before the Monday succeeding the date of entry of said action file in said court an affidavit that he has a good defense to said action, and intends in good faith to make such defense and claims a jury trial, and shall at the same time deposit with the judge or ~~recorder~~ clerk of said court, \$1.60, for copies and entry in the superior court, to be taxed in his costs if he prevail, the said action shall at the next regular monthly term of said municipal court, after the entry thereof be removed into the superior court for said county, and shall be entered at the next ensuing term of the superior court after such removal; and the judge or ~~recorder~~ clerk of said municipal court shall forthwith cause certified copies of the writ, return of the officer, and all other papers in the case to be filed in the clerk's office of the superior court.'

Sec. 8. P. & S. L., 1913, c. 239, § 19, amended. The 3rd and 4th paragraphs of section 19 of chapter 239 of the private and special laws of 1913, as amended, are hereby further amended to read as follows:

'The judge of said court shall receive the salary of ~~\$1,100~~ \$1,800 per year, to be paid him in equal quarterly payments from the county treasury of Lincoln county, which shall be in full for his services as such judge, except as hereinbefore provided.

Said salary shall not be paid until said judge shall have paid into the county treasury all fees so received by him. ~~Said recorder shall receive a salary of \$400 per year.'~~

Sec. 9. P. L., 1925, c. 11, repealed. Chapter 11 of the public laws of 1925 is hereby repealed.

Sec. 10. Effective date. This act shall take effect at the expiration of the term of the present recorder of the Lincoln municipal court.