

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

STATE LAW LIBRARY

Transmitted by Director of Legislative Research pursuant to joint order.

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

Legislative Document

No. 1227

H. P. 859

House of Representatives, March 12, 1959

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

HARVEY R. PEASE, Clerk

Presented by Mr. Dennett of Kittery.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-NINE

AN ACT Revising the Charter of the Yorkshire Municipal Court.

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

P. & S. L., 1911, c. 279, amended. Chapter 279 of the private and special laws of 1911, as amended, is further amended to read as follows :

‘Sec. 1. Court; judge; associate judge. The Yorkshire municipal court shall continue to be a court of record for the Towns of North Berwick, Berwick, South Berwick, Kittery, Eliot and York, in the County of York, said towns constituting a municipal district, which shall continue to be denominated and styled “The Yorkshire Municipal Court”, and which shall continue to have a seal. Said court shall consist of one judge who shall, at the time of his appointment, have resided within the said municipal district for at least 2 consecutive years immediately preceding said appointment, and who shall have been a member of the bar in York County for at least 5 years, and shall reside, during his continuance in said office, within the limits of the said municipal district, and who shall be appointed, qualified and hold his office as provided in the Constitution. He shall be, ex officio, a justice of the peace for the State, and have and exercise a concurrent authority and jurisdiction with municipal courts over all matters and things by law within their jurisdiction throughout the County of York, and such authority and jurisdiction additional thereto as is hereinafter conferred upon him by this act.

The Governor, by and with the advice and consent of the Council, shall appoint an associate judge of said court, who at the time of his appointment shall meet the same requirements provided for the appointment of a judge for said court. He shall keep the records of said court when requested to do so by the

judge, and the associate judge shall have and exercise all the powers of judge, and perform all the duties required of the judge by this act at the direction of the judge or if the judge shall be incapacitated or if the office of judge shall be vacant, and shall be empowered to sign and issue all processes and papers and do all acts as fully and with the same effect as the judge could do were he acting in the premises, and the signature of the associate judge as such shall be sufficient evidence of his right to act instead of the judge without any recital of the provisions of this act authorizing him to act. When the office of judge is vacant, the associate judge shall be entitled to a salary at the same rate as the salary of the judge during said vacancy only. He shall be ex officio a justice of the peace throughout the State, and hold his office for 4 years. If the judge or associate judge should remove from said district during his term within the office, he shall thereby vacate his office.

Sec. 2. Jurisdiction. Said court shall have additional jurisdiction as follows:

I. Exclusive jurisdiction of all such criminal offenses and misdemeanors committed within the said municipal district as are cognizable by municipal courts under the provisions of law which govern municipal courts in this State;

II. Concurrent jurisdiction with trial justices and municipal courts in the County of York of all like offenses and misdemeanors, not herein placed within its exclusive jurisdiction;

III. Exclusive jurisdiction over all offenses committed against the ordinances and by-laws of the several towns of said municipal district;

IV. The court may administer all necessary oaths, render judgment and issue execution, punish for contempt and compel attendance as is done in the Superior Court. All writs and processes shall be in the name of the State and bear the teste of the judge or associate judge, under the seal of the court.

Sec. 3. Procedure; pleading. All actions shall be entered, by delivery to the judge presiding at the return day for said action, not later than 9 o'clock in the forenoon on said return day. Trials shall not be assigned for the first day of any term save by consent of both parties. Any party may appear on the first day of a term, and by motion show cause for a continuance, which the judge may grant with or without terms, as he deems right, or he may refuse.

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 disposed of finally, unless continued by consent or on motion of either party for good cause shown, in which latter case the court may impose such terms as it deems reasonable. In actions of forcible entry and detainer brought in said court, the defendant's pleading shall be a general issue with a brief statement of any special matters of defense, and must be filed upon the first day of the return term before the court shall adjourn, or the defendant shall be defaulted unless the court enlarge the time, for which it may impose terms. Actions in which one party has given to the other 5 days' written notice that a trial will be demanded at the return term, on proving such notice, shall be in order for trial at such term, but all other actions, except actions of forcible entry and detainer, shall be continued as of course to the next term. When a defendant legally

served, fails to enter his appearance, by himself or his attorney, before the adjournment of court on the first day of the return term, he may be defaulted, but if he afterward appears, the court may for sufficient cause permit the default to be taken off. A default cannot be taken off after the first term without consent of the plaintiff, unless the judge shall make a special order to that effect after notice to and an opportunity for a hearing for the plaintiff.

Pleas and motions in abatement must be filed before adjournment of court on the first day of the term to which the action is returnable. The defendant may file his pleadings in bar, which shall be the general issue with a brief statement of special matters of defense, if he have any at any time after the writ is entered, and must file them before he can ask that a day be set for trial. If at any term the plaintiff files a motion asking that the defendant be ordered to file his pleadings, the judge shall order the defendant to file them accordingly, and shall notify the defendant thereof in such a manner as he deems proper. If the defendant in such case does not file his pleadings on or before the first day of the next term, he shall be defaulted, unless the court for good cause enlarge the time for which it may impose reasonable terms.

Sec. 4. Removal of actions. Final judgments of said municipal court in any civil action shall not be subject to re-examination in the Superior Court, except upon a writ of error, if the court shall have notified each party to said action to notify the court in writing prior to trial that he reserves the right to petition the Superior Court for review. Such reservation by a party shall entitle either party to such action to petition the Superior Court for review.

Sec. 5. Review; writ of error; petition for review; questions of law. Final judgments in said municipal court may be re-examined in the Superior Court on a writ of error or on a petition for review, except as hereinbefore provided, and when the judgment is reversed, the Superior Court shall render such judgment as said municipal court should have rendered, and when a review is granted it shall be tried in said Superior Court. When any party to a civil action shall cause said action to be removed to the Superior Court, said party shall deposit with the municipal court the sum of \$2 for certified copies of the writ, officer's return and motions; thereupon, the municipal court shall promptly cause said copies, together with all other original documents and exhibits filed in such action, to be transmitted to the Superior Court where it shall be entered upon the docket for the next succeeding term. Questions of law, upon exceptions to the ruling of the court on agreed statement of facts, or on facts found by the court, shall be certified by the presiding justice to the clerk of the Supreme Judicial Court, with arguments of counsel, if such have been delivered to him, within 60 days after such exceptions have been allowed by the court. The party raising such questions shall deliver a copy of his argument to the opposing counsel within 30 days thereafter, who shall within 20 days after receiving the same make reply thereto and deliver the same to the counsel for the moving party, who shall in turn make reply thereto within 10 days thereafter, and deliver said arguments to the clerk to be delivered with the exceptions to the clerk of the Supreme Judicial Court, as aforesaid. Such questions of law shall be considered and decided by the law court as soon as may be; or, if the parties so agree of record, such questions shall be certified to the next law term, to be entered on the

docket thereof, and argued and determined according to the practice in said court, the result in either case to be certified by the clerk of said law court to this court; costs to be taxed to the prevailing party.

Sec. 6. Reference. Actions may be referred, and judgment on the referee's report may be rendered in the same manner and with the same effect as in the Superior Court.

Sec. 7. Terms of court. Said court may adjourn from time to time but shall be considered in constant session for the trial of criminal offenses; and for the transaction of civil business, a term of this court shall be held on the first and 3rd Wednesdays of each month at 9 o'clock in the forenoon, except the month of August; provided, however, that said court shall be held on the first and 3rd Wednesdays of each month, for the entry and trial of actions of forcible entry and detainer, and judgments in such actions may be entered on the day when the same are defaulted or heard and determined. A term, for civil purposes, shall begin at 9 o'clock in the forenoon of the return day and shall end when adjourned by the judge presiding, who shall make an appropriate entry on the docket.

Sec. 8. Court. All civil process shall be made returnable to South Berwick and on return days court shall be held at the courtroom provided by said town. To better provide for the needs of the court, the County of York shall provide, and said county shall have a duty to raise and appropriate money to provide adequate and suitable quarters for said court and its officers and to suitably furnish, heat, light and maintain the same and to provide all other things necessary for the transaction of its business. Said county is further empowered to acquire or lease suitable premises in said district and to provide adequate quarters containing a courtroom, office space and necessary appurtenances and furnishings. All fines and forfeitures received by said court after the first day of January, A.D., 1960, shall be paid to and retained by said county until said county shall have been reimbursed for the actual expense of providing said premises, quarters and furnishings. After such reimbursement, fines and forfeitures shall be disposed of according to law; provided, however, that such reimbursement shall not exceed the sum of \$15,000.

For the purpose of transacting criminal business, said court may be held in any town in the district.

Sec. 9. Salaries. The annual salaries of the judge and associate judge of said court are hereby fixed at \$5,000 and \$3,000, respectively, to be paid monthly from the treasury of the County of York. Nothing contained in this act shall affect the terms of office of the present judge or the recorder, except that the recorder shall be considered the associate judge for the purposes of this act.

Sec. 10. Trial justices. Any trial justice appointed to said office and exercising jurisdiction in any of the towns of said district prior to the first day of January, A.D., 1958, shall, until the expiration of the term of his appointment, be for all purposes, except succession to the office of judge, ex officio, an associate judge of the Yorkshire municipal court; provided, however, that the salary of such trial justice shall be \$3,000.