

MAINE STATE LEGISLATURE

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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. 1265

H. P. 896

House of Representatives, March 17, 1959

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

HARVEY R. PEASE, Clerk

Presented by Mr. Beane of Augusta.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-NINE

AN ACT Relating to the Augusta Municipal Court.

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

Sec. 1. Court reorganized; judge and recorder, duties, powers, salaries, vacancies. The municipal court, as heretofore established at Augusta, in the County of Kennebec, is hereby reorganized as the same court, under the same name, and at the same location. The incumbent official personnel shall continue in office for the remainder of the terms in accordance with the commissions now in force. Said court shall be a court of record and have a seal.

The judge and recorder shall be residents of the County of Kennebec. The judge shall be appointed, and shall give bond in accordance with the Constitution and laws of this State. The recorder shall be appointed by the Governor, with the advice and consent of the Council, for a term of 4 years and shall serve until his successor is appointed and qualified.

The salary of the judge shall be \$3,500 per year and the salary of the recorder shall be \$1,700 per year, to be paid monthly from the treasury of the County of Kennebec.

Whenever the office of judge or recorder is vacant and functions of that office are performed by the qualified judge or recorder, the official so acting shall receive the salary of the vacant office so long as the duties of that office are performed by him.

The judge and recorder shall be members of the Bar. The recorder shall perform such duties as are normally performed by the clerks of the Superior Court so far as applicable. He shall record the doings of the court in civil and

criminal dockets, and he shall keep a separate docket of juvenile delinquency cases. He shall be the custodian of all money paid into court, which he shall account for and pay over as required by law, and shall give bond to the county for the faithful performance of his duties in such sum and with such sureties as the county commissioners shall approve.

The recorder and the judge shall have equal authority in criminal cases to hear and draft complaints, administer oaths, take bail and sign all processes of commitment. All processes issued by the recorder in criminal matters shall bear the seal of the court and be signed by him, and they shall have the same effect as though signed by the judge.

When the judge is absent from the courtroom, or is interested, or if the office of judge is vacant, it shall be the duty of the recorder and he shall have authority to exercise all the powers of the judge. In case of the recorder's absence or of a vacancy in the office of recorder, the judge may appoint a recorder, who shall be sworn by the judge and act during the absence or until the vacancy is filled. If the judge and recorder are both necessarily absent, either may designate some other municipal court judge or justice of the peace, who shall be a member of the Bar, in said county to perform the functions of the court for the time being.

Sec. 2. Jurisdiction. Said court shall have jurisdiction over all matters, civil and criminal, in Kennebec County in accordance with the law governing municipal courts in this State, and shall have jurisdiction over all offenses arising out of the ordinances, by-laws or of any special law of the State relating to any municipality in the county; and in the prosecution thereof, such ordinances, by-laws or special law need not be recited in the complaint or the process, nor the allegations therein be more particular than in prosecution on a public statute. 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 of the recorder acting as judge, under the seal of the court.

Sec. 3. Terms. A civil term of court shall be held the first Monday of each month at 10 o'clock in the forenoon, and shall not be adjourned thereafter until at least 3 days have elapsed. A term shall be held every Monday at 10 o'clock in the forenoon for the entry and trial of actions of forcible entry and detainer, which shall be in order for trial at the return day. Writs shall be filed in court on or before noon of the first day of each term; and no civil action shall be entered thereafter unless by consent of the adverse party and by leave of the court, or unless the court shall allow the same upon proof that the entry was prevented by inevitable accident or for other sufficient causes.

The court shall be in constant session for the issuance of criminal process and for matters pertaining to bail. Hearings on all civil and criminal matters may be held daily except Saturdays, Sundays and legal holidays. All pleadings shall be the same as in the Superior Court. The attachment of real and personal property, and the levy of executions thereon, shall be governed by the provisions of the general statute.

Sec. 4. Removal to Superior Court. In any civil action in which the debt or damage demanded exceeds \$20, the defendant or his attorney may, on or before the first day of the 2nd term of said action, file in court a motion for the removal of said action to the Superior Court, and deposit with the recorder \$2, whereupon the recorder shall cause certified copies of the writ, the officer's return, the defendant's motion and all other papers in the case to be filed immediately in the Superior Court, and shall pay the entry fee thereof. Such action shall then be entered on the docket of the term next succeeding such filing, unless the Superior Court is then in session, in which case the action shall be entered forthwith.

If no motion for removal is filed, said municipal court shall proceed to determine such action, subject to the right of appeal in either party as provided by law.

Civil and criminal cases having issues pertaining to the Federal or State Constitution may be transferred to the Supreme Judicial Court for adjudication upon an agreed statement of facts.

Sec. 5. Accommodations and expenses. The City of Augusta shall continue to provide a suitable place for the holding of said court, and all other expenses thereof shall be paid from the county treasury, including such reasonable clerk hire as the judge and recorder may authorize and approve.

Sec. 6. P. & S. L., 1919, c. 75, §§ 11 - 16, repealed. Sections 11 to 16 of chapter 75 of the private and special laws of 1919, as amended, are hereby repealed.