

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)

ACTS AND RESOLVES

OF THE

SEVENTY-SIXTH LEGISLATURE

OF THE

STATE OF MAINE

1913

Including Acts and Resolves of the Special Session held
in 1912.

Published by the Secretary of State, agreeably to Resolves of
June 28, 1820, February 18, 1840, and March 16, 1842.

AUGUSTA
KENNEBEC JOURNAL PRINT
1913

PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE

As Passed by the Seventy-Sixth
Legislature

1913

CHAP. 239

Chapter 239.

An Act to Establish the Lincoln Municipal Court.

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

Section 1. 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 thereof, and signed by the judge, or recorder thereof, and shall have the seal of said court affixed.

Section 2. Said court shall consist of one judge, who shall be an inhabitant of Lincoln county, an attorney at law, and at the time of his appointment he shall be actively engaged in the practice of law; and shall be appointed in the manner and for the term provided by the constitution of this state. 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 tribunals in this state; and copies of the record of said court duly certified by the judge, or recorder thereof shall be legal evidence in all courts. The said judge shall not act as attorney or counsel in any action or matter within the exclusive jurisdiction of said court.

Section 3. A recorder may be appointed in the manner provided by article five of section eight, of the constitution, who shall keep the records of said court when requested so to do by the judge; and in case of absence from the court room of said judge, or when the office of judge is vacant, the said recorder shall have and exercise all the powers of the judge and perform all the duties required of said judge by this act, and shall be empowered to sign and issue all papers and processes, and do all acts as fully and with the same effect as the judge could do if he were acting in the premises; and the signature of the recorder as such shall be sufficient evidence of his right to act instead of the judge. Said recorder shall reside in the county of Lincoln aforesaid and shall hold his office as recorder for the term of four years.

Section 4. Said court shall have original and exclusive jurisdiction as follows: First, of all cases of forcible entry and detainer respecting estates within the county of Lincoln aforesaid; second, of all such criminal offenses and misdemeanors committed in said county of Lincoln as are by law within the

Lincoln
municipal
court es-
tablished.

Qualifica-
tions and
duties of
judge.

Duties of
recorder.

—recorder
may per-
form duties
of judge.

Jurisdic-
tion of
court.

jurisdiction of trial justices; third, of all offenses against the ordinances and by-laws of any of the towns of said Lincoln county; provided, that warrants may be issued by any trial justice in said county upon complaint for offenses committed in said county of Lincoln, but all such warrants shall be made returnable before said court and no other municipal or police court, and no trial justice, shall have or take cognizance of any crime or offense committed in said county of Lincoln.

CHAP. 239

—certain warrants may be issued by any trial justice.

Section 5. Trial justices in and for the county of Lincoln shall not have the right to issue writs in civil processes or determine any causes in civil actions in the county of Lincoln, and their rights and jurisdiction in criminal matters are limited in accordance with the preceding section excepting that they may act within the provisions of sections seven, eight and ten of this act.

Limitations of rights of trial justices.

Section 6. Said court shall have original jurisdiction concurrent with the supreme judicial court as follows: first, of all civil actions wherein the debt or damage demanded, exclusive of costs, does not exceed two hundred dollars, in which any person, summoned as trustee resides within the county of Lincoln, or, if a corporation, has an established place of business in said county, or in which no trustee being named in the writ, any defendant resides within the limits of said county, or if no defendant resides within the limits of this state, any defendant is served with process in said county, or the goods, estate or effects of any defendant are found within said county and attached on the original writ; second, of the assaults and batteries described in section twenty-eight of chapter one hundred and nineteen of the revised statutes; of all larcenies described in sections one, six, seven and eleven of chapter one hundred and twenty-one of the revised statutes, when the value of the property is not alleged to exceed thirty dollars; of the offense described in section twenty-one of chapter one hundred and twenty-three of the revised statutes; of all offenses and crimes described in section one and four of chapter one hundred and twenty-four of the revised statutes; of all offenses described in section six and in sections thirty-four to fifty-three inclusive, of chapter one hundred and twenty-five of the revised statutes; of the offense described in section five of chapter one hundred and twenty-six of the revised statutes; of all offenses described in section one of chapter one hundred and twenty-seven of the revised statutes, when the value of the property or thing alleged to have been fraudulently obtained, sold, mortgaged, or pledged, is not alleged to exceed thirty dollars; and of all offenses de-

Original jurisdiction of court.

—PROVISO.

CHAP. 239

scribed in sections two, nine, nineteen, twenty-one, and twenty-six of chapter one hundred and twenty-eight of the revised statutes, when the value of the property destroyed or the injury done, is not alleged to exceed thirty dollars; and may punish for either of said crimes or offenses by a fine not exceeding fifty dollars and by imprisonment not exceeding three months, provided, that when the offenses described in section twenty-eight of chapter one hundred and nineteen, section twenty-one of chapter one hundred and twenty-three, and sections one and four of chapter one hundred and twenty-four, are of a high and aggravated nature, the judge of said court may cause persons charged with such offenses to recognize with sufficient sureties to appear before the supreme judicial court and in default thereof commit them; third, of all other crimes, offenses and misdemeanors committed in said county which are by law punishable by a fine not exceeding fifty dollars, and by imprisonment not exceeding three months, and are not within the exclusive jurisdiction of some other municipal or police court.

When title to real estate is in question court shall not have jurisdiction.

—proviso.

Actions in which judge is interested may be brought before a trial justice.

Section 7. Said court shall not have jurisdiction of any civil action wherein the title to real estate according to the pleading or brief statement filed therein by either party, is in question; and all such actions brought in said court shall be removed to the supreme judicial court, or otherwise disposed of as in like cases before a trial justice; provided, that nothing herein contained shall prevent said court from proceeding in accordance with the provisions of sections six and seven of chapter ninety-six of the revised statutes.

Parties may consent to hearing by the judge.

—or before the recorder.

Section 8. 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 twenty dollars, shall upon motion, be removed to the supreme judicial

CHAP. 239

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 supreme judicial court.

When action shall be removed to supreme judicial court.

when town is a party court has jurisdiction if judge has property in town.

Section 9. The terms of said court shall be held for the transaction of civil business as follows, to wit: In the court house in Wiscasset on the first Wednesday of every month; all civil processes shall be made returnable accordingly.

Terms of court, when held.

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.

—for criminal actions court shall be considered as in constant session.

Section 10. If at any regular or adjourned term of said court to be held for civil business, the judge or recorder is not present at the place of holding said court, within two hours after the time of opening said court, then any trial justice or justice of the peace in the county of Lincoln, may preside for the purpose of entering and continuing actions and filing papers in said court, and may adjourn said court from time to time, not exceeding one week at any one time, without detriment to any action returnable or pending, and may, in his discretion, adjourn said court without day, in which event all actions returned or pending shall be considered as continued to the next term. No trial justice or justice of the peace shall be disqualified from presiding for the purpose mentioned in this section by reason of his being interested in any action returnable before or pending in said court.

Powers of trial justices and of justices of the peace when judge and recorder are both present for two hours after time of opening court.

Section 11. Any party may appeal from any judgment or sentence of said court to the supreme judicial court, in the same

Appeals, how taken.

CHAP. 239 manner as now provided by law in appeals, from a judgment or sentence of a trial justice.

Forms of writs and processes.

Section 12. Writs and processes issued by said court shall be in the usual forms and shall be served as like precepts are required to be served when issued by trial justices.

All provisions of statutes applicable.

Section 13. All the provisions of the statutes relating to attachment of real and personal property and the levy of executions shall be applicable to actions brought in this court, and executions on judgments rendered therein; provided, that property may be attached in addition to the ad damnum, sufficient to satisfy costs of the suit, and the writs may be framed accordingly. When any action in which real estate is attached shall be finally disposed of in said court, or shall be removed to the supreme judicial court, by appeal or otherwise, the judge of said municipal court shall forthwith certify the disposition or removal thereof to the register of deeds of the county of Lincoln, who shall make a minute of the disposition or removal upon the record of attachment in said action.

—proviso.

—removal of actions on real estate shall be certified to register of deeds.

Civil actions, when entered.

Section 14. All civil actions in said court shall be entered on the first day of the term and not afterwards, except by special permission; and they shall be in order for trial, except actions of forcible entry and detainer 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 twelve o'clock noon, on the first 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. Pleas in abatement must be filed on or before the Monday next succeeding the date of the entry of the action. The pleading shall be the same as in the supreme judicial court and all provisions of law relative to practice and proceedings in civil actions in the supreme judicial court, are hereby made applicable and extended to this court except so far as they are modified by the provisions of this act.

—exception.

—when defendant shall be defaulted.

—pleas in abatement.

When debt or damage exceeds twenty dollars civil action may be entered in supreme judicial court.

Section 15. 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 twenty dollars, 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 of said court, one dollar and sixty cents, for copies and entry in the supreme judicial 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 supreme judicial court for said county, and shall be entered at the next ensuing term of the supreme judicial court after such removal; and the judge or recorder 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 supreme judicial court.

CHAP. 239

Section 16. Exceptions may be alleged and cases certified on an agreed statement of facts, or upon evidence reported by the judge in all civil actions as in the supreme judicial court, and the same shall be entered, heard and determined at the law term thereof as if the same had originated in the supreme judicial court for the county of Lincoln; and decisions of the law court in all such cases shall be certified to the judge of said municipal court for final disposition with the same effect as in cases originating in said supreme judicial court.

Excep-
tions and
certifica-
tion of
cases.

Section 17. Said municipal court may render judgment and issue execution, punish for contempt and compel attendance, as in the supreme judicial court; make all such rules and regulations not repugnant to law, as may be necessary and proper for the administration of justice promptly; and is clothed with all such lawful power as is necessary for the performance of its duties under this act.

Court may
render judg-
ment, issue
executions,
punish for
contempt,
etc.

Section 18. The costs and fees allowed to parties and attorneys, in all actions in this court, in which the debt or damage recovered, shall not exceed twenty dollars, and in actions of forcible entry and detainer, shall be the same as allowed in similar actions before trial justices, except the plaintiff if he prevail, shall be allowed two dollars for his writ, and the defendant if he prevail, shall be allowed one dollar for his pleadings; and in cases where the amount recovered shall exceed twenty dollars the cost and fees of parties and attorneys shall be the same as in the supreme judicial court, except that the defendant, if he prevail, shall be allowed two dollars for his pleadings. The fees of witnesses in all civil actions in this court shall be the same as in the supreme judicial court.

Costs and
fees to
parties and
attorneys.

—fees of
witnesses.

Section 19. The judge of said court may demand and receive the same fees allowed by law to trial justices and clerks of the supreme judicial court for similar services, except that he shall receive for every blank writ signed by him three cents; for the entry of each civil action, fifty cents; and shall tax for every warrant issued by him one dollar; for the trial of an issue in civil or criminal cases, one dollar for the first day and two dollars for each subsequent day actually employed; and said fees

Fees of
judge.

CHAP. 240

for the trial of an issue in civil actions shall be paid by the plaintiff before proceeding with the trial each day, to be taxed in his costs if he prevail.

—judge shall keep account of his fees and pay the same to the county treasurer.

An accurate account of the fees so received by said judge shall be by him laid before the county commissioners of Lincoln county, and he shall pay the same into the county treasury of said county quarterly on or before the first days of January, April, July and October of each year.

—Salary of judge.

The judge of said court shall receive the salary of seven hundred dollars 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.

—Salary of judge shall not be paid until fees are paid to treasurer.

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 two hundred dollars per year.

—Salary of recorder.

Section 20. Nothing in this act shall be construed to interfere with such actions returnable before a trial justice as shall be commenced before this act takes effect, and all said actions shall be disposed of as if this act had not been passed.

—This act shall not interfere with prior actions.

County commissioners shall furnish court room, etc.

Section 21. It shall be the duty of the county commissioners of the county of Lincoln to furnish and provide at the expense of the county a court room properly heated and lighted in the court house in Wiscasset, and to provide all books, blanks, and all necessary stationery and supplies required for the use of the Lincoln municipal court in the transaction of the civil and criminal business of said court, including proper books for the record of all cases arising in said court. The records of all cases when completed shall be kept in a fireproof vault in the court house in said Wiscasset.

Inconsistent acts repealed.

Section 22. All acts or parts of acts conflicting with section twenty-one of this act are hereby repealed.

Approved April 12, 1913.

Chapter 240.

An Act for the Assessment of a State Tax for the Year One Thousand Nine Hundred and Thirteen.

Preamble.

Whereas, all taxes upon real and personal property in this state are assessed as of April first and in the greater portion of the municipalities the assessments are completed during the months of April and May of each year, and

Whereas, it is necessary that the warrants for state taxes shall