

MAINE STATE LEGISLATURE

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REVISED STATUTES

OF THE

STATE OF MAINE

1954

1957 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 3

**Place in Pocket of Corresponding
Volume of Main Set**

THE MICHE COMPANY
CHARLOTTESVILLE, VIRGINIA
1957

Chapter 102.

Emergency Municipal Finance Board. Deorganized Towns and Plantations.

Emergency Municipal Finance Board.

Sec. 10. Voluntary compromise settlements.

Such an offer may be made to the state upon obligations due the state, whether arising from taxes, bonds, notes or otherwise by presentation to the treasurer of state; and upon recommendation, certification and approval in the manner prescribed in section 47 of chapter 15-A, the treasurer of state shall thereupon accept and receipt for the sum or sums so offered in full and final settlement, and the balance of any such obligation shall be charged off the books of account of the state.

(1957, c. 340, § 6.)

Effect of amendment. — The 1957 amendment substituted "section 47 of chapter 15-A" for "section 32 of chapter 16" in the second paragraph. Section 12 of such amendatory act provided that it

should be retroactive to July 1, 1957.

As the rest of the section was not changed by the amendment, only the second paragraph is set out.

Deorganized Towns and Plantations.

Sec. 13. Power and authority of state tax assessor.

The state tax assessor shall have the authority to sell or otherwise dispose of any property, the title of which rests in the town at the time of deorganization or may come to the town subsequent to deorganization, provided he shall first obtain written permission from the commissioner of education before disposing of any property formerly used or still being used for school purposes. Such sale or disposal may take place at any time subsequent to deorganization.

When school property is sold, the proceeds shall be expended as described in section 164 of chapter 41 for the benefit of the children in the township where the property is located. The proceeds from all other sales shall be expended as described in the first paragraph of this section. (R. S. c. 90, § 13. 1945, c. 41, § 38; c. 182, § 1; c. 378, § 74. 1957, c. 140, §§ 1, 2.)

Effect of amendment. — The 1957 amendment deleted the word "that" which formerly appeared following the word "provided" in the first sentence of the second paragraph and deleted a former clause as to disposition of pro-

ceeds from sales formerly appearing in the last sentence of such paragraph. Such amendment also added the last paragraph set out above at the end of the section.

As the first paragraph was not changed by the amendment, it is not set out.

Chapter 103.

Supreme Judicial Court.

Supreme Judicial Court; Constitution and General Jurisdiction.

Sec. 4. Salary of justices; expenses; clerical assistance.—The justices of the supreme judicial court shall each receive an annual salary of \$13,000 and the chief justice of the supreme judicial court shall receive an annual salary of \$14,000. Each justice shall be reimbursed by the state for his expenses actually and reasonably incurred in attending meetings and the sessions of the law court, appointed by the chief justice under the provisions of section 11, upon presenta-

tion to the state controller of a detailed statement of such expenses. When any justice of said court holds nisi prius terms of the superior court in any town other than the town in which he resides, or when any hearing of a cause in law or in equity is had before a justice of the supreme judicial court other than one residing in the town where said hearing is had, such justice shall be reimbursed by the state for his expenses actually and reasonably incurred in holding such terms or in attending said hearing, upon presentation to the state controller of a detailed statement of such expenses. The counties wherein such justices reside, have their offices or are holding court shall also receive from the state the expenses necessarily incurred by such justices for postage, stationery, express and telephone tolls. Each justice of said court shall be reimbursed by the state for expenses actually and reasonably incurred by him for clerical assistance, upon presentation to the state controller of an itemized statement of such expenses. (R. S. c. 91, § 4. 1945, c. 6; c. 331, § 1. 1949, c. 342. 1955, c. 472, § 1. 1957, c. 417, § 1.)

Effect of amendments. — The 1955 amendment increased the annual salary of justices from \$11,000 to \$12,000 and that of the chief justice from \$12,000 to \$13,000. The 1957 amendment increased the salary of the justices from \$12,000 to \$13,000 and that of the chief justice from \$13,000 to \$14,000, and carried appropriations for the fiscal years ending in 1958 and 1959.

The 1957 amendment increased the

Sec. 6. Active retired justices.—Any justice of the supreme judicial court, who, having attained the age of 70 years and having served as such justice on either or both the supreme judicial court or of the superior court for at least 7 consecutive years, resigns his said office or ceases to serve at the expiration of any term thereof shall be eligible for appointment as an active retired justice of the supreme judicial court as hereinafter provided. The governor with the advice and consent of the council may upon being notified of the retirement of any such justice under the provisions of this section appoint such justice to be an active retired justice of the supreme judicial court for a term of 7 years from such appointment, unless sooner removed, and such justice may be reappointed for a like term, and such justice so appointed and designated shall thereupon constitute a part of the court from which he has retired and shall have the same jurisdiction and be subject to the same restrictions therein as before retirement, except that he shall act only in such cases and matters and hold court only at such terms and times as he may be directed and assigned to by the chief justice of the supreme judicial court, and said chief justice is empowered and authorized to so assign and designate any such active retired justice of the supreme judicial court as to his services and may direct as to which term of the law court he shall attend, and if the chief justice so orders, he may hear all matters and issue all orders, notices, decrees and judgments in vacation that any justice of the supreme judicial court is authorized to hear or issue, either at law or in equity.

(1955, c. 392, § 1.)

Effect of amendment.—The 1955 amendment inserted in the second sentence the words “and such justice may be reappointed for a like term.” As only the first paragraph was changed by the amendment, the second paragraph is not set out.

Sec. 7-A. Power to prescribe general rules. — The supreme judicial court of Maine shall have the power to prescribe, by general rules, for the trial justices and for municipal and superior courts of Maine, the forms of process, writs, pleadings and motions, and the practice and procedure in civil actions at law. Said rules shall neither abridge, enlarge nor modify the substantive rights of any litigant. They shall take effect 6 months after their promulgation, and thereafter all laws in conflict therewith shall be of no further force or effect.

The supreme judicial court of Maine may at any time write the general rules prescribed by it for cases in equity and those in actions at law so as to secure one form of civil action and procedure for both; provided, however, that in such union of rules the right of trial by jury as at common law and declared by the

constitution of the United States and amendments thereto and by the constitution of the state of Maine and amendments thereto shall be preserved to the parties inviolate. Such united rules shall not take effect until 6 months after their promulgation and thereafter all laws and rules in conflict therewith shall be of no further force or effect. (1957, c. 159.)

Law Court.

Sec. 13. Clerks of terms of law court; duties; compensation; expenses of county.—The chief justice of the supreme judicial court shall, from time to time, designate one or more of the clerks of court or some competent person or persons who shall act as clerks of the law court and receive such reasonable compensation as may be fixed by the chief justice, but which in the aggregate shall not exceed a total sum of \$2,000 per year for all services rendered by such clerks including the issuing of certificates of rescripts. The chief justice or in his absence the senior justice present shall allow to the county in which any law term is held such expense as may be incurred on account of such law term which shall be paid by the state. The dockets of the law court shall be made from time to time and kept as the court may direct. (R. S. c. 91, § 12. 1957, c. 385.)

Effect of amendment.—The 1957 amendment increased the salary from \$1,500 to \$2,000.

Sec. 13-A. Preservation of briefs in law court cases.—The clerk of the supreme judicial court shall preserve 3 complete sets of briefs filed in all cases in the supreme judicial court sitting as a law court. Under the direction of the chief justice these briefs shall be delivered to a qualified person for arrangement in a readily accessible order and shall be delivered to a bindery designated by the chief justice for binding in convenient size and proper labelling; one set shall thereupon be delivered to the law libraries respectively of Cumberland, Kennebec and Penobscot counties for preservation and reference. The expense of binding and transportation shall be paid by the state from the appropriation for expenses of the supreme judicial court. (1955, c. 329.)

Sec. 15. Jurisdiction of law court; disposition of cases; technical errors in pleading and procedure.

I. JURISDICTION AND GENERAL CONSIDERATION.

Applied in *Owl's Head v. Dodge*, 150 Me. 112, 104 A. (2d) 435.

III. CASES "BEFORE THE COURT"

A. On Exceptions.

An exception to be valid must raise a question of law.—If it calls in question the interpretation of a written statement or a written document it must specify in what regard it raises a question of law. The bill of exceptions must show clearly and distinctly that the ruling was not on a question where law and fact are so blended that it is impossible to tell on

which the adverse ruling was based. *Owls Head v. Dodge*, 151 Me. 473, 121 A. (2d) 347.

Bill of exceptions must contain necessary portions of record.

In accord with original. See *Braddock v. McBurnie*, 151 Me. 39, 122 A. (2d) 319.

The law court has jurisdiction over exceptions only when they clearly present the issues to be considered. The bill itself should show the claims and contentions of the parties, and enough of facts, allegations or claims, as to be clearly understood. *Owls Head v. Dodge*, 151 Me. 473, 121 A. (2d) 347.