

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)

ONE HUNDRED AND FOURTH LEGISLATURE

Legislative Document

No. 1276

H. P. 992

House of Representatives, March 11, 1969

Referred to Committee on Judiciary. Sent up for concurrence and 1,000 ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Richardson of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-NINE

AN ACT to Integrate Activities of the Probate Court into the Superior Court.

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

Sec. 1. R. S., T. 4, § 105, amended. Section 105 of Title 4 of the Revised Statutes is amended by adding at the end the following new paragraph:

The powers, duties and jurisdiction heretofore given the probate courts of the State are transferred to the Superior Court.

Sec. 2. R. S., T. 4, § 251, repealed and replaced. Section 251 of Title 4 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 251. Appointment; tenure

Registers of probate of the Superior Court shall be appointed by the Chief Justice of the Supreme Judicial Court and shall hold office for 4 years. The register of probate shall be a resident of the county served. Salaries of the registers of probate shall be paid by the county served, in such amount as shall be determined by the Legislature.

All registers, before acting, shall give bond to the treasurer of their county with sufficient sureties, in the sum of \$2,500. Every register, having executed such bond, shall file it in the office of the clerk of the county commissioners of his county, to be presented to them at their next meeting for approval. After the bond has been so approved, the clerk shall record it and certify the fact thereon, and retaining a copy thereof, deliver the original to the register, who shall deliver it to the treasurer of the county within 10 days after its approval, to be filed in his office.

Registers of probate in the several counties shall receive annual salaries as set forth in Title 30, section 2.

The salaries of the registers of probate shall be in full compensation for the performance of all duties required of registers of probate. They may make copies of wills, accounts, inventories, petitions and decrees and furnish the same to persons calling for them and may charge a reasonable fee for such service. Exemplified copies of the record of the probate of wills and the granting of administrations, guardianships and conservatorships, copies of petitions and orders of notice thereon for personal service, appeal copies and the statutory fees for abstracts and copies of the waiver of wills and other copies required to be recorded in the registry of deeds shall be deemed to be official fees for the use of the county.

Nothing in this section shall be construed to change or repeal any provisions of law requiring the furnishing of certain copies without charge.

Sec. 3. R. S., T. 4, § 401, repealed. Section 401 of Title 4 of the Revised Statutes is repealed.

Sec. 4. Effective date; transition. The provisions of this Act, as enacted by sections 1 to 3, shall take effect on January 1, 1970.

After the passage of this Act, except as provided in the following paragraphs, no probate judge or register of probate of a probate court shall be elected or appointed; but the terms of any probate judge or register of probate, holding office at the time of the passage of this Act, which shall expire prior to the transfer of probate jurisdiction to the Superior Court in the county in which such probate judge resides, or such probate court is located, is extended until such transfer is made.

If in a probate court the office of judge becomes vacant prior to January 1, 1970, or thereafter, but prior to transfer of probate jurisdiction to the Superior Court in the county in which such probate court is located, and there is an associate judge of such court, he shall thereafter, and until such transfer in that county, be paid the same salary as provided for the office of judge of such court. If such court has no associate judge, the Governor may, with the advice and consent of the Council, notwithstanding that such court may already have a register of probate, appoint an associate judge of such court to serve until the transfer of probate jurisdiction to the Superior Court in such county; and such associate judge shall be paid the same salary as provided for the office of judge of such probate court. Upon the transfer of probate jurisdiction to the Superior Court in the said county, such probate court shall cease to exist, and all cases pending in such court and all of its records shall be transferred to the Superior Court for the county in which such court was located; and all persons then proceeding in probate pursuant to order of such probate court shall be deemed to be proceeding in probate under the order of said Superior Court.

If a probate judge dies or vacates his office prior to January 1, 1970, or thereafter, but prior to the transfer of probate jurisdiction to the Superior Court in the county in which the residence of such probate justice is located, the Governor may with the advice and consent of the Council, appoint an

additional register of probate in the county of such place of residence, to serve until the transfer of probate jurisdiction, to the Superior Court in such county; and such register of probate shall be paid the same salary as was theretofore paid the said probate judge. Upon the transfer of probate jurisdiction to the Superior Court in said county all cases pending before him and all his records shall be transferred to the Superior Court for the county in which he resides.

Upon the transfer of probate jurisdiction to the Superior Court in a county, the judge of a probate court located in the county whose term has not yet expired shall continue to exercise concurrently with the Superior Court, the jurisdiction vested in such probate court, until after the expiration of his term. Upon such expiration, or upon his office otherwise becoming vacant, after such transfer of probate jurisdiction to the Superior Court, such probate court shall cease to exist, and all cases pending in such court and all of its records shall be transferred to the Superior Court for the county in which such court was located; and all persons then proceeding in probate pursuant to order of such probate court shall be deemed to be proceeding in probate under the order of said Superior Court.

Upon the transfer of jurisdiction to the Superior Court in any county, a probate judge residing in the county whose term has not yet expired shall continue to exercise, concurrently with the Superior Court, the jurisdiction now vested in him, until the expiration of his term. Upon such expiration, or upon his office otherwise becoming vacant after such establishment, all cases pending before him and all his records shall be transferred to the Superior Court for the county in which he resides.

Sec. 5. Amendatory clause. Whenever in the Revised Statutes the words "probate court" or "courts of probate" appear they shall mean Superior Court.

Sec. 6. Amendatory clause. Whenever in the Revised Statutes the words "probate judge" or "judge of probate" appear they shall mean "Superior Court Justice" or "Justice of the Superior Court."