

MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 2243

S. P. 712

In Senate, February 23, 1976

Referred to Committee on Appropriations and Financial Affairs. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Collins of Knox.

Cosponsor: Senator Clifford of Androscoggin.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SIX

**AN ACT to Clarify Certain Laws Relating to the Funding and Operation of
the Superior and Supreme Judicial Courts.**

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

Sec. 1. 4 MRSA § 4, last 2 sentences, as last repealed and replaced by PL 1975, c. 383, § 1, and as amended by PL 1975, c. 408, § 3, are repealed and the following enacted in place thereof:

Each justice of said court shall be reimbursed by the State for expenses actually and reasonably incurred by him for clerical assistance, postage, stationery, express and telephone tolls, and any other reasonably necessary expenses, upon presentation to the State Controller of an itemized statement of such expenses. The Chief Justice of the Supreme Judicial Court or his designee may prescribe regulations for the submission of such itemized statements through his office and for the advance approval by him of such other reasonably necessary expenses.

Sec. 2. 4 MRSA § 102, last sentence, as last amended by PL 1975, c. 383, § 2 and by PL 1975, c. 408, § 8-A, is repealed and the following enacted in place thereof:

Section 4, relating to reimbursement of Justices of the Supreme Judicial Court for expenses incurred by them, shall apply to Justices of the Superior Court, including reimbursement for expenses incurred in employing clerical assistance but the Chief Justice of the Supreme Judicial Court or his designee may specify by order a maximum amount to be expended by any justice for such clerical assistance.

Sec. 3. 4 MRSA §§ 115-117, as enacted by PL 1975, c. 383, § 4, are repealed.

Sec. 4. 4 MRSA § 115, first ¶, as enacted by PL 1975, c. 408, § 12, is amended by adding at the end the following new sentence:

The county commissioners in each county shall continue to provide for the use of the Supreme Judicial and Superior Courts such quarters, facilities, furnishings and equipment in existing county buildings as were in use on January 1, 1976, without change.

Sec. 5. 4 MRSA § 117, as enacted by PL 1975, c. 408, § 12, is amended to read:

§ 117. Other expenses of the court

Within the limits of the funds and appropriations available to the Superior and Supreme Judicial Courts, the Chief Justice of the Supreme Judicial Court or his designee may authorize the expenditure of funds for such other expenses and capital improvements as are reasonably necessary for the efficient operation of ~~and~~ the courts.

Sec. 6. 4 MRSA § 163, sub-§ 4, as last repealed and replaced by PL 1975, c. 408, § 13 and by PL 1975, c. 383, § 4-A, is repealed and the following enacted in place thereof:

4. Balance to State. The balance remaining in the District Court Fund after paying or setting aside the sums described in this section shall accrue to the State.

Sec. 7. 4 MRSA § 551, as last repealed and replaced by PL 1975, c. 408, § 21, is repealed.

Sec. 8. 4 MRSA § 551, 2nd sentence, as enacted by PL 1975, c. 254, § 1, is repealed as follows:

~~County clerks shall be compensated in accordance with Title 30, section 2~~

Sec. 9. 4 MRSA § 551, 3rd sentence, as enacted by PL 1975, c. 254, § 1, is amended to read:

~~Other clerks~~ **Clerks** and clerical assistants shall be compensated as determined by the Chief Justice.

Sec. 10. 4 MRSA § 554, as last repealed by PL 1975, c. 254, § 3, and as amended by PL 1975, c. 383, § 6 and by c. 408, § 23, is repealed and the following enacted in place thereof:

§ 554. Accounting by clerks

Clerks of the Judicial Court shall account quarterly under oath to the State Auditor for all fees received by them or payable to them by virtue of the office, except fees collected by them in naturalization proceedings and for those portions of fees collected for passports which are payable to the United States Government specifying the items and shall pay the whole amount of the same to the Treasurer of State at such times and in such manner as the Chief Justice shall from time to time specify.

Sec. 11. 4 MRSA § 556, first and last ¶¶, as amended by PL 1975, c. 383, § 7 and by PL 1975, c. 408, § 24, are repealed and the following enacted in place thereof:

The clerk shall keep a true and exact account of all moneys which he receives or is entitled to receive for services by virtue of his office as clerk of the Superior or Supreme Judicial Courts and shall pay the same to the Treasurer of State. All other moneys belonging to the county or State respectively shall be paid in 30 days after they are received by him. If in either case he neglects to do so, he shall pay 25% interest thereon until paid. Upon the county treasurer's or Treasurer of State's notice of any such delinquency, the clerk's bond shall then be sued.

Whenever any of these funds are ordered by the courts to be paid to a person entitled to same, $\frac{1}{2}$ of the accrued interest, if any, shall be paid to the Treasurer of State, and the other $\frac{1}{2}$ paid to the claimant unless otherwise ordered by the court. Whenever any of these funds remain unclaimed for 20 years from the date when payable under the court judgment or decree, the clerk shall obtain an order from the court, under whose judgment or decree these funds were placed in his custody, that a comprehensive abstract of the facts be advertised for 3 weeks successively in a newspaper of general circulation published in the county, and if no one appears to claim these funds within 60 days after date of the last publication, the same shall become forfeited to the State and be paid by the clerk to the Treasurer of State. That portion of this section providing for the forfeiture of unclaimed funds shall apply to funds held by the clerk of courts for 20 years or more prior to September 16, 1961.

Sec. 12. 4 MRSA § 562, as last repealed by PL 1975, c. 254, § 4 and as amended by PL 1975, c. 383, §§ 8 and 9 and by c. 408, § 25, is repealed.

Sec. 13. 4 MRSA § 652, as repealed and replaced by PL 1975, c. 383, § 12, is repealed.

Sec. 14. 14 MRSA § 1252, last ¶, as amended by PL 1975, c. 383, § 13 and as repealed and replaced by PL 1975, c. 408, § 29, is repealed and the following enacted in place thereof:

Salaries shall be paid by the State in monthly payments on the last day of each month, and their expenses shall be paid from time to time by the State on bills approved by the Chief Justice of the Supreme Judicial Court or his designee.

Sec. 15. 14 MRSA § 1255, last ¶, as amended by PL 1975, c. 383, § 14 and as repealed and replaced by PL 1975, c. 408, § 30, is repealed and the following enacted in place thereof:

With the approval of the Chief Justice of the Supreme Judicial Court or his designee, the jury commissioners may employ or engage an executive secretary such as the clerk of courts or other qualified person to assist the commissioners in carrying out their functions. Any such person shall receive such compensation as may be established by the Chief Justice or his designee and

actual necessary expenses incurred in the performance of his duties, to be paid by the State.

Sec. 16. 15 MRSA § 1941, as amended by PL 1975, c. 383, § 15 and as repealed and replaced by PL 1975, c. 408, § 31, is repealed and the following enacted in place thereof:

§ 1941. Duties of clerks as to bills of costs and certificates of fines

Clerks of court shall attest duplicate copies of all bills of costs allowed therein and certificates of all fines and forfeitures imposed and accruing to the State at such intervals as the Chief Justice of the Supreme Judicial Court or his designee may direct, and deliver one of these copies and certificates to the Chief Justice and retain one in his office. After approval by the Chief Justice or his designee, one of these copies and certificates shall be forwarded to the Treasurer of State and the treasurer shall pay the witness fees and other proper expenses noted thereon.

Sec. 17. 15 MRSA § 1981, first 2 ¶¶, as last amended by PL 1975, c. 383, § 17 and by c. 408, § 32, are repealed and the following enacted in place thereof:

Sheriffs, jailers and constables who by virtue of their office receive any fines, forfeitures or bills of costs, shall forthwith pay them to the Treasurer of State.

If any such officer neglects to pay over such fine, forfeiture or costs for 30 days after the receipt thereof; or if he permits any person, sentenced to pay such fine, forfeiture or bill of costs and committed to his custody, to go at large without payment, unless by order of court, and does not within 30 days after the escape pay the amount thereof to the Treasurer of State, he forfeits to the State double the amount. The Treasurer of State shall give notice of such neglect to the Attorney General, who shall sue therefor in a civil action in the name of such treasurer.

Sec. 18. 15 MRSA § 2033, as amended by PL 1975, c. 383, § 21, and by c. 408, § 34, is repealed and the following enacted in place thereof:

§ 2033. Treasurer's annual report to court

The Treasurer of State shall, on or before the 20th day of November, annually, make a report to the Supreme Judicial Court and Attorney General showing the amount paid out of his office during the year ending on the first day of said November for costs of prosecutions in the Superior Court; to grand jurors and traverse jurors in terms of court held for criminal business; and the amount received from fines, costs and forfeitures in these courts from judges, jailers and other officers.

The county treasurer shall, on or before the 20th day of November, annually, make a report to the Supreme Judicial Court and Attorney General showing the amount paid out of his office during the year ending on the first day of said November for costs of prosecutions in the Superior Court; upon bills of costs allowed by county commissioners for support of prisoners in jail; and to grand jurors and to traverse jurors at terms of court held for criminal busi-

ness; and the amount received from fines, costs and forfeitures in these courts from judges, jailers and other officers.

Neglect to make and forward such a report is a breach of his official bond, and for every day of such neglect he forfeits \$5 to the State, and the Attorney General shall bring an action on such treasurer's official bond to recover such forfeiture.

The obligation of county treasurers under this section shall continue, after the effective date of this Act, with respect to moneys received by them during that portion of the year prior to the effective date of this Act; and thereafter, only with respect to such moneys as continue to be paid out or received for the benefit of the county.

Sec. 19. 27 MRSA § 222, first sentence, as amended by PL 1975, c. 383, § 23 and by c. 408, § 36 is repealed and the following enacted in place thereof:

The treasurer of each library association, under the direction of the trustees, shall apply all moneys received of the Treasurer of State, and all bequests and gifts, to form a law library under the appointed regulations.

Sec. 20. 27 MRSA § 224, first and last ¶¶, as last repealed and replaced by PL 1975, c. 383, § 24 and by c. 408, § 37, are repealed and the following enacted in place thereof:

The Treasurer of State shall pay annually to the treasurer of the Law Library Associations of the several counties for the uses and benefits of the county law libraries as follows:

The treasurer of each Law Library Association shall account to the State Auditor for all receipts and disbursements made under this section. All such receipts and disbursements shall be subject to audit.

Sec. 21. 30 MRSA § 2, first ¶, as last amended by PL 1975, c. 383, § 25 and by c. 408, § 38, is repealed and the following enacted in place thereof:

The county commissioners, county treasurers and their deputies, sheriffs, registers of deeds, judges of probate and registers of probate in the several counties shall receive annual salaries from the county treasury in weekly or monthly payments as follows, except that the district attorneys and their assistants shall receive annual salaries from the State Treasury in monthly payments on the last day of each month in a sum which will, in the year's aggregate, most nearly equal the annual salary, as follows, and no other fees, costs or emoluments shall be allowed them, except as hereinafter provided:

Sec. 22. 30 MRSA § 2, last 2 ¶¶, as last repealed and replaced by PL 1975, c. 383, § 26 and as amended by PL 1975, c. 408, §§ 39 and 40, are repealed and the following enacted in place thereof:

The salaries mentioned in this section shall be in full compensation for the performance of all official duties by those officers and judges. County commissioners shall allow to the officers, excepting clerks of courts, all office expense, clerk hire and travel which are necessary, just and proper to the performance

of their official duties. Without limiting the generality of the foregoing, they shall allow to sheriffs the costs of boarding, guarding and transporting prisoners, whether awaiting trial, during trial or after conviction, and whether acting within or outside the county.

All fees and charges of whatever nature, except charges for the publication of notices required by law, which may be payable to any county officer, except clerks of court, shall be payable by them to the county treasurer for the use and benefit of the county, but preserving the right of sheriffs and their deputies to receive fees for the service of civil process and of sheriffs and their deputies not on a salary or per diem basis to receive fees for service of criminal process, and no county officer shall receive a private benefit from the labor of any person in the employ of the county. The fee payable to clerks of courts shall be payable by them as elsewhere provided by law; or in the absence of express provision, to the State. Fees chargeable by sheriffs and their deputies for service of civil process shall be collected by them exclusively from the litigants. Fees chargeable by sheriffs and deputies not on salary or per diem for service of criminal process shall be approved by the respective district attorneys, and paid by the respective county treasurers.

Sec. 23. PL 1975, c. 408, § 22 is repealed as follows:

Sec. 22. Intent. ~~It is the intent of the Legislature that clerks of the judicial courts shall continue in office until the expiration of their present terms~~

STATEMENT OF FACT

The purpose of this bill is to correct certain inconsistencies in the public laws of 1975 relating to the funding and operation of the Superior and Supreme Judicial Courts.