

MAINE STATE LEGISLATURE

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Seventieth Legislature.

HOUSE.

No. 95

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND ONE.

AN ACT to fix the time of holding the terms of the Law Court.

*Be it enacted by the Senate and House of Representatives in
Legislature assembled, as follows:*

Chapter 77, Revised Statutes of Maine is hereby amended
2 as follows:

Sect. 20 is amended by striking out in the second line thereof
4 the words "next law court to be held in the district where
5 the cause is pending" and insert in place thereof the words
6 'next term of the law court' so that said section as amended
7 shall read as follows:

'Sect. 20. From all final decrees of such justice, an appeal
9 lies to the next term of the law court. Said appeal shall be
10 claimed by an entry on the docket of the court from which
11 the appeal is taken, within ten days after such decree is
12 signed, entered and filed, and notice thereof has been given

13 by such clerk to the parties or their counsel. The appellant
14 shall enter such appeal, and furnish written or printed copies
15 of the case on the first day of said law term, and for good
16 cause shown, the law court may enlarge the time for furnish-
17 ing such copies. Such appeals shall be heard at the term
18 to which they are taken, unless otherwise agreed, or the law
19 court shall for good cause, order a further time for the hear-
20 ing thereof, and shall on such appeal, affirm, reverse, or
21 modify the decree of the court below, or remand the cause
22 for further proceedings, as it deems proper. All cases in
23 which appeals or exceptions are taken from a final decree,
24 shall remain on the docket of the court below, marked "law,"
25 and decree shall be entered therein by a single justice, in
26 accordance with the certificate and opinion of the law court.'

Sect. 23 is amended as follows :

In second and third lines strike out the words "law court
3 held within the district in which it is pending" and insert in
4 place thereof the words 'term of the law court' so that said
5 section as amended shall read as follows :

'Sect. 23. Upon a hearing in any cause in equity, the
7 justice hearing the same may report the cause to the next
8 term of the law court, if he is of opinion that any question
9 of law is involved, of sufficient importance or doubt to justify
10 the same, and the parties agree thereto. The cause shall be
11 entered and copies furnished by the complainant, and shall
12 be heard and decided by said law court in like manner and
13 with like results as is herein provided in case of appeals.'

Sect. 39 by inserting in place of the present section 39 which
2 is as follows :

"Sect. 39. For the purpose of the law court, the state is
4 divided into three districts, the western, middle and eastern.
5 The first is composed of the counties of Franklin, Oxford,
6 Androscoggin, York and Cumberland; and an annual ses-

7 sion of the court shall be held therein, at Portland, on the
8 third Tuesday of July. The second, of Somerset, Knox,
9 Lincoln, Sagadahoc and Kennebec; and an annual session of
10 the court shall be held therein, at Augusta, on the fourth
11 Tuesday of May. The third, of Aroostook, Washington,
12 Piscataquis, Hancock, Waldo and Penobscot; and an annual
13 session of the court shall be held therein, at Bangor, on the
14 third Tuesday of June. A meeting of all the justices shall
15 be annually held at Augusta during the law term; and all
16 undecided questions of law and equity previously submitted,
17 shall then be decided.”

18 The following :

‘Sect. 39. For the purposes of the law court the state shall
20 constitute one district. The sessions of the court as a law
21 court shall be holden at Augusta on the second Tuesday of
22 December, at Bangor on the first Tuesday of June and at
23 Portland on the fourth Tuesday of June in each year. Meet-
24 ings of all the justices shall be held annually at Augusta and
25 Portland during the law terms and all undecided questions
26 of law and equity previously submitted shall then be decided.’

Sect. 40 repealed; said section is a follows :

“Sect. 40. By consent of parties, any action or other matter
3 which properly comes before the law court, may be entered
4 and heard in either judicial district, and is in order after the
5 regular business of the district is disposed of.”

6 and the following enacted in place thereof :

‘Sect. 40. At least ten days before the sitting of each term
8 of the law court, the clerks of court in the several counties
9 of the state, shall certify to the clerk of such term, all cases,
10 pending in the supreme judicial and superior courts in their
11 respective counties, marked law and all other matters of
12 which the law court has jurisdiction, except cases in which
13 exceptions or appeals in proceedings in equity have been

14 adjudged frivolous and intended for delay ; and they shall be
15 entered on the docket of the law court and shall, together
16 with all other matters therein pending be in order for argu-
17 ment, determination or continuance in the alphabetical order
18 of counties.

Provided that causes marked law in the counties of Andros-
20 coggin, Cumberland, Franklin, Knox, Lincoln, Oxford, Saga-
21 dahoc and York shall not be entered or be in order for hear-
22 ing at the term holden at Bangor, except by consent of both
23 parties ; but such causes shall be entered and be in order for
24 hearing at the Portland and Augusta terms.

Sect. 41 repealed ; said section is as follows :

“Sect. 41. The clerks of the counties of Cumberland, Ken-
3 nebec, and Penobscot, are clerks of the districts including
4 those counties. A docket for the district shall be kept, on
5 which all cases pending on the dockets of the counties within
6 it and marked “law,” and all other cases of which the law
7 court has jurisdiction, shall be entered and heard in the
8 order of the counties as above named.”

9 and the following enacted in place thereof :

‘Sect. 41. The clerks of court in the counties of Kennebec,
11 Penobscot and Cumberland shall be the clerks of the terms of
12 the law court held in their respective counties and each shall,
13 upon the adjournment of a term thereof holden in his county,
14 transmit to the clerk of the next term all dockets together
15 with all exhibits and documents in his custody relating to
16 pending causes. The dockets of the law court shall be made
17 from time to time and kept as the court may direct.

The chief justice or in his absence the senior justice present
19 may allow the several clerks for attendance, not exceeding
20 two and one-half dollars per day, and a reasonable compensa-
21 tion for making dockets, which shall be paid by the State,
22 but no entry fee shall be charged.

This act shall take effect September first, 1901, and all 24 actions then pending before the law court in the several dis-
25 tricts as now constituted shall be transferred to the docket
26 of said court as herein established.'

Sect. 42 of chapter 77, is amended in the eleventh and six-
2 teenth lines by striking out in each the word "district" and
3 inserting in place thereof the words 'law court' so that said
4 section as amended shall read as follows :

'Sect. 42. The following cases only come before the court
6 as a court of law: Cases in which there are motions for new
7 trials upon evidence reported by the justice; questions of law
8 arising on reports of cases; bills of exceptions; agreed state-
9 ments of facts cases, civil or criminal, presenting a question
10 of law; all questions arising in equity cases; motions to dis-
11 solve injunctions issued after notice and hearing, or con-
12 tinued after a hearing; questions arising on writs of habeas
13 corpus, mandamus, and certiorari, when the facts are agreed
14 on, or are ascertained and reported by a justice. They shall
15 be marked "law" on the docket of the county where they are
16 pending, and there continued until their determination is cer-
17 tified by the clerk of the law court to the clerk of the county,
18 and the court shall, immediately after the decision of the
19 question submitted to it, make such order, direction, judg-
20 ment, or decree, as is fit and proper for the disposal of the
21 case, and cause a rescript in all civil suits, briefly stating the
22 points therein decided, to be filed therein, which rescript shall
23 be certified by the clerk of the law court to the clerk of the
24 county where the action is pending, and to the reporter of
25 decisions; and if no further opinion is written out, the
26 reporter shall publish in the next volume of reports thereafter
27 issued, the case, together with such rescript, if the reporter
28 deems the same of sufficient importance for publication.'

Sect. 43 of chapter 77 is amended by striking out in the 2 third line the words "session for the district" and insert in 3 place thereof the words 'law term,' also in the fourth line by 4 striking out the word "district" and inserting in place thereof 5 the words 'law court' so that said section as amended shall 6 read as follows:

'Sect. 43. When parties enter an agreement on the docket 8 of a county under cases named in the preceding section, and 9 transmit arguments in writing to the court before or at its 10 next law term, such cases need not be entered on the docket 11 of the law court; and the court may pronounce judgment in 12 any county, and cause it to be certified and entered in the 13 county where it is pending, as of the preceding term.'

Section 44 of chapter 77 is amended by striking out in 2 second line thereof the word "district" and inserting in place 3 thereof the words 'law court' so that said section as amended 4 shall read as follows:

'Sect. 44. When cases mentioned in section forty-two are 6 not entered on the docket of the law court within the first 7 two days of the next law term, the opposite party may, at 8 that term, enter a complaint, briefly setting forth the facts, 9 and the court, if satisfied of the truth thereof, may render 10 judgment in his favor, as in other cases decided by it; and 11 if the case is on exceptions, treble costs shall be awarded from 12 the time when they were filed.'

Section 75 which is as follows:

"Sect. 75. Exceptions may be alleged as in the supreme 3 judicial court and entered, heard and determined at the law 4 term held in the district, provided, that when the next law 5 term happens to be held in either of the other districts, the 6 justice of the superior court may, on motion of the party not 7 excepting, certify the exceptions to said next law term, if, 8 in his opinion, they are alleged mainly for delay, but the party

9 so moving shall be deemed to waive his right to be heard
10 in opposition to said exceptions, which shall be entered and
11 determined at said next law term without argument by said
12 party and, upon the oral or written argument of the party
13 excepting. Cases certified upon agreed statement of facts,
14 and reports and motions for new trials, shall be entered,
15 heard and determined at the next law term in the district,
16 but any case for the law court may, by agreement of parties,
17 be entered at the next law term held in either district. And
18 all exceptions arising in cases within the exclusive jurisdic-
19 tion of either of said superior courts may be certified at once
20 by the justice thereof to the chief justice of the supreme
21 judicial court, and shall, when so certified, be argued in writ-
22 ing on both sides within thirty days thereafter, unless the
23 justice of such superior court for good cause, enlarges the
24 time, and exceptions so certified shall be considered and
25 determined by the justices of the supreme judicial court, as
26 soon as may be. Decisions of the law court on all exceptions
27 and questions from said superior courts shall be certified to
28 the clerk of either of said superior courts with the same effect
29 as in cases originating in the supreme judicial court in the
30 county.”

31 is amended to read as follows:

‘Sect. 75. Exceptions may be alleged as in the supreme
33 judicial court and shall together with all cases upon agreed
34 statement of facts, upon report and motions for new trials,
35 be certified as provided in section forty of this chapter. And
36 all exceptions arising in cases within the exclusive jurisdic-
37 tion of either of said superior courts may be certified at once
38 by the justice thereof to the chief justice of the supreme judi-
39 cial court, and shall, when so certified, be argued in writing
40 on both sides within thirty days thereafter, unless the justice
41 of such superior court for good cause, enlarges the time, and

42 exceptions so certified shall be considered and determined
43 by the justices of the supreme judicial court, as soon as may
44 be. Decisions of the law court on all exceptions and ques-
45 tions from said superior courts shall be certified to the clerk
46 of either of said superior courts with the same effect as in
47 cases originating in the supreme judicial court in the county.’

Section 77 which is as follows:

“Sect. 77. The supreme judicial court, sitting as a court
3 of law in either district, has the same jurisdiction of all ques-
4 tions of law, motions for new trials, and questions arising on
5 reports or agreed statements of facts originating in the supe-
6 rior court within such district, as if they had originated in
7 the supreme judicial court therein; and said law court sitting
8 in any district has the same jurisdiction of all questions and
9 motions certified thereto from the superior court within
10 either district as hereinbefore provided. And all provisions
11 of law and rules of the supreme judicial court relative to
12 the transfer of actions and other matters from the supreme
13 judicial court for said county, or from its docket to the
14 docket of said law court, and all provisions of law and rules
15 regulating proceedings in such cases, and the effects of such
16 proceedings, apply to the transfer of actions from either of
17 the superior courts or the dockets thereof to said law court,
18 and to the proceedings in such cases, and the effect thereof,
19 except so far as they are inconsistent with the foregoing
20 provisions.”

21 is amended to read as follows:

‘Sect. 77. The supreme judicial court, sitting as a court of
23 law, has the same jurisdiction of all questions of law, motions
24 for new trials, and questions arising on reports or agreed
25 statements of facts originating in either superior court, as if
26 they had originated in the supreme judicial court; and said
27 law court has the same jurisdiction of all questions and

28 motions certified thereto from either superior court as herein
29 before provided. And all provisions of law and rules of the
30 supreme judicial court relative to the transfer of actions and
31 other matters from the supreme judicial court for said
32 county, or from its docket to the docket of said law court,
33 and all provisions of law and rules regulating proceedings in
34 such cases, and the effects of such proceedings apply to the
35 transfer of actions from either of the superior courts or the
36 dockets thereof to said law court, and to the proceedings in
37 such cases and the effect thereof, except so far as they are
38 inconsistent with the foregoing provisions.'

Section 82 is amended by striking out in the third line
2 thereof the words "for the district" so that said section as
3 amended shall read as follows:

'Sect. 82. All exceptions or questions arising in any way
5 during the trial of criminal cases in either of said superior
6 courts, shall be transferred to the law docket of the supreme
7 judicial court and have day therein, and if said exceptions
8 are sustained, or a new trial is ordered, the cause shall be
9 remanded to such superior court for trial. Motions for a
10 new trial in criminal cases tried in either of the superior
11 courts, shall be heard and finally determined by the justice
12 thereof.'

STATE OF MAINE.

IN HOUSE OF REPRESENTATIVES,

AUGUSTA, February 7, 1901.

Tabled pending reference by Mr. CARLETON of Winthrop, and
ordered printed.

W. S. COTTON, *Clerk.*