

MAINE STATE LEGISLATURE

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SEVENTY-SEVENTH LEGISLATURE

HOUSE

NO. 240

House of Representatives, Feb. 18, 1915.

Ordered, That five hundred copies be printed and that the same be referred to the Committee on Judiciary.

Committee on Reference.

Presented by Mr. Connellan of Portland.

STATE OF MAINE

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

AN ACT relating to the establishment of a Superior Court in the counties of Cumberland, Kennebec, Androscoggin, Penobscot and Aroostook.

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

Section 1. Superior Courts shall be established in the 2 counties of Cumberland, Kennebec, Androscoggin, Penob- 3 scot and Aroostook, in accordance with the provisions here- 4 inafter contained in this act.

Sect. 2. Said courts shall consist of one Chief Justice, two 2 associate justices, and one special associate justice of so- 3 briety of manners and learned in the law, who shall be

4 appointed, and commissioned and qualified according to the
5 constitution.

Sect. 3. Upon this act taking effect a chief justice shall
2 be appointed to serve for a term of seven years, one asso-
3 ciate justice to serve for a term of five years, one associate
4 justice to serve for a term of three years, and one special
5 associate justice to serve for a term of seven years, and
6 thereafter all reappointments or appointments of successors
7 of said justices shall be for terms of seven years each.

Sect. 4. The compensation of said justices shall be as
2 follows:

The chief justice shall receive the sum of five thousand
4 dollars per annum: each associate justice shall receive the
5 sum of four thousand dollars per annum; and the special
6 associate justice shall receive twelve dollars per diem, and
7 the actual expenses incurred by him when he shall have been
8 called upon by chief justice to preside over any court, and
9 said special associate justice's account for services and ex-
10 penses shall be approved by the chief justice.

Section 5. The chief justice and associate justices shall
2 each annually preside over nine terms of court to be held
3 as follows, viz., nine terms of court in the County of Cum-
4 berland, five terms in the county of Kennebec, four terms
5 in the county of Androscoggin, five terms in the county of
6 Penobscot and four terms in the county of Aroostook.

Sect. 6. Within said counties said superior courts shall
2 have exclusive jurisdiction of all appeals from municipal,

3 police, district and trial justice courts; exclusive original
4 jurisdiction of divorce and of actions of scire facias on
5 judgments and recognizances not exceeding five hundred
6 dollars; of bastardy trials, and of all other civil actions at
7 law not exclusively cognizable by municipal, police and dis-
8 trict courts, and trial justices, where the damages demanded
9 do not exceed five hundred dollars, except complaints for
10 flowage, real actions and actions of trespass quare clausum
11 and concurrent original jurisdiction of actions of trespass
12 quare clausum and of proceedings in habeas corpus; and
13 of all other civil actions at law where the damages exceed
14 five hundred dollars, except complaints for flowage and real
15 actions, and such jurisdiction in special matters as is now
16 conferred upon either of the superior courts by statute.

Sect. 7. The jurisdiction of criminal cases which the su-
2 preme judicial court now has in the counties of Kennebec,
3 Androscoggin, Penobscot and Aroostook shall be taken from
4 said supreme judicial court and conferred upon the superior
5 court in each of said counties.

Sect. 8. In the County of Cumberland said court shall be
2 held for civil business on the first Tuesdays of every month
3 except June, July and August, but the criminal business of
4 said court shall be transacted at the terms held on the first
5 Tuesdays of January, May and September together with
6 civil business: In the County of Kennebec said court shall
7 be held at Augusta on the second Tuesday of January and
8 the first Tuesdays of April and September, and at Water-

9 ville on the second Tuesdays of June and November; but
10 the criminal business of said court shall be transacted at
11 the terms held on the second Tuesday of January and the
12 first Tuesdays of April and September, together with civil
13 business: In the County of Androscoggin said court shall
14 be held at Auburn on the second Tuesdays of January,
15 April, September and November for the transaction of civil
16 business, but the criminal business of said court shall be
17 transacted at the terms held on the second Tuesdays of Jan-
18 uary, April and September together with civil business: In
19 the County of Penobscot said court shall be held at Bangor
20 for the transaction of civil business on the first Tuesdays
21 of January, March, May, September and November; but
22 the criminal business of said court shall be transacted at the
23 terms held on the first Tuesdays of January, May and Sep-
24 tember together with civil business: In the County of Aroos-
25 took said court shall be held for transaction of civil business
26 at Houlton on the second Tuesdays of April and November
27 and at Caribou on the first Tuesdays of February and Sep-
28 tember; but the criminal business of said court shall be
29 transacted at the terms held at Houlton on the second Tues-
30 days of April and November together with civil business.

Sect. 9. The justices shall establish a seal for the court in
2 each county; all writs and processes issuing from any supe-
3 rior court shall be in the name of the state, of the usual
4 forms, bearing the teste of the chief justice under the seal
5 of said court; they shall be signed by the clerk of courts

6 of the county where issued and obeyed and executed
7 throughout the state, and may be made returnable in the
8 superior court of any other county in which the actions
9 might be legally brought.

Sect. 10. The clerk for the time being of the supreme
2 judicial court in each of said counties is also clerk of the
3 superior court thereof. He shall appoint a deputy, ap-
4 proved by the chief justice of the superior court, who shall
5 act as clerk thereof whenever said court and the supreme
6 judicial court are both in session in such county. And
7 whenever said clerk of the supreme judicial court is absent,
8 or the office is vacant, the presiding justice of the superior
9 court may appoint a clerk for his court during such absence,
10 or until an appointment is made by the Governor and Coun-
11 cil or by the supreme judicial court.

Sect. 11. The sheriff of each of said counties shall attend
2 the superior court thereof unless the supreme judicial court
3 is in session in such county, in which case he shall specially
4 designate a deputy, approved by the justice of such superior
5 court, so to attend. And whenever it happens that such jus-
6 tice is prevented from attending at the time and place at
7 which such court by law or by adjournment ought to be
8 held, said sheriff or such deputy shall, by oral proclamation,
9 adjourn said court from day to day, until such justice at-
10 tends.

Sect. 12. Venires for grand jurors to serve at said supe-
2 rior courts shall be issued at least forty days before the first

3 Tuesday of September, annually, and such jurors shall serve
4 at every term of said courts for the transaction of criminal
5 business throughout the year. Traverse jurors shall be
6 drawn and returned to serve at the several terms of said
7 courts as in the supreme judicial court, except that the
8 same jurors may be required by the justice presiding to
9 serve for two successive terms.

Sect. 13. If the plaintiff in either of said superior courts
2 desires a jury trial, he must indorse the same upon his writ
3 at the time of entry. The defendant shall, within fourteen
4 days after entry, file his pleadings, and if the plaintiff has
5 not demanded a jury, the defendant must indorse on his
6 plea his demand for a jury, if he desires one. But when-
7 ever by accident or mistake the plaintiff fails to indorse on
8 his writ at the time of entry a request for a jury trial, or if
9 the defendant by accident or mistake fails to indorse upon
10 his plea, when filed, a demand for a jury, the court may, on
11 motion of either party, at its discretion order a trial by jury
12 in the cause. Whenever a jury is so demanded by either
13 party, or ordered by the court, the clerk shall enter the fact
14 on the docket, and all other cases, except appeals, shall be
15 tried by the justice without the intervention of a jury, sub-
16 ject to exceptions in matters of law, in term time, or if both
17 parties desire, in chambers. When a defendant, legally
18 served, does not appear by himself or attorney within the
19 first three days of the term, he shall be defaulted as in the
20 supreme judicial court. If the defendant does not file his

21 pleadings as hereinbefore provided, he shall be defaulted on
22 the first day of the next term after entry, unless the court
23 for good cause grants leave to file a plea or otherwise law-
24 fully disposes of the action. All actions duly answered to
25 shall be in order for trial at the next term after entry, and
26 shall be so tried, except for good cause. Appeals shall be
27 entered by the appellant as in the supreme judicial court, and
28 shall be in order for trial at the first term.

Sect. 14. Exceptions may be alleged as in the supreme ju-
2 dicial court and shall together with all cases upon agreed
3 statement of facts, upon report and motions for new trials,
4 be certified as provided in section forty-four of this chapter.
5 And all exceptions arising in cases within the exclusive ju-
6 risdiction of any of said superior courts may be certified
7 at once by the justice thereof to the chief justice of the su-
8 preme judicial court, and shall, when so certified, be argued
9 in writing on both sides within thirty days thereafter, un-
10 less the justice of such superior court for good cause en-
11 larges the time, and exceptions so certified shall be consid-
12 ered and determined by the justices of the supreme judicial
13 court, as soon as may be. Decisions of the law court on all
14 exceptions and questions from said superior courts shall be
15 certified to the clerk of any of said superior courts with
16 the same effect as in cases originating in the supreme judi-
17 cial court in the county.

Sect. 15. When a demurrer to a declaration is overruled,
2 the defendant, notwithstanding he excepts, may plead anew
3 within such time as the justice orders, but in all cases where

4 exceptions are alleged by the defendant, the action shall,
5 notwithstanding, remain upon the docket of the superior
6 court and be proceeded with as if no exceptions had been
7 taken, until the case is in such a condition that the overrul-
8 ing of said exceptions will finally dispose of it. And the
9 action shall then be transferred to the law court, or certified
10 to the chief justice thereof, as hereinbefore provided for the
11 hearing and determination of all exceptions arising in any
12 stage of the case.

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

Sect. 17. Said superior courts may administer all neces-
2 sary oaths, render judgment and issue execution, punish for

3 contempt and compel attendance, as in the supreme judicial
4 court; and said chief justice and said associate justices may
5 make all such rules and regulations, not repugnant to law,
6 as may be necessary and proper for the administration of
7 justice promptly and without delay; and the provisions of
8 law relative to the jurisdiction of the supreme judicial court
9 in each of said counties over parties, the arrest of persons,
10 attachment of property, the time and mode of service of
11 precepts, proceedings in court, the taxation of costs, the ren-
12 dition of judgments, the issuing, service and return of exe-
13 cutions, and all other subjects, apply to any of said superior
14 courts in all respects, except so far as they are modified
15 by this chapter; and any of said superior courts is clothed
16 as fully as the supreme judicial court, with all the powers
17 necessary for the performance of all its duties.

Sect. 18. Final judgments in said superior courts may be
2 re-examined in the supreme judicial court on a writ of
3 error, or on petition for review, and when the judgment is
4 reversed, the supreme judicial court shall render such judg-
5 ment as the superior court should have rendered, and when
6 a review is granted, it shall be tried in said supreme judicial
7 court, which has the same power to grant writs of super-
8 sedeas of executions issued from said superior courts, as it
9 has of executions issued from the supreme judicial court.

Sect. 19. Whenever a judge of a superior court, by rea-
2 son of illness, death or other cause, is prevented from hold-
3 ing his court, any other judge of a superior court or any

4 justice of the supreme judicial court by order of the chief
5 justice, shall hold the same. And during a vacancy in the
6 office of justice of any of the superior courts, all writs is-
7 sued from the office of the clerk thereof, shall bear teste of
8 the senior associate justice of the superior court. Whenever
9 the justice of any of the superior courts is disqualified by
10 interest, relationship or other lawful cause from trying any
11 cause pending in his said court, said case shall thereupon be
12 transferred to the docket of the supreme judicial court for
13 the county, and be disposed of in said court according to
14 law.

Sect. 20. All exceptions or questions arising in any way
2 during the trial of criminal cases in any of said superior
3 courts, shall be transferred to the law docket of the supreme
4 judicial court and have day therein, and if said exceptions
5 are sustained, or a new trial is ordered, the cause shall be
6 remanded to such superior court for trial. Motions for a
7 new trial in criminal cases tried in any of the superior courts
8 shall be heard and finally determined by the justice thereof.

Sect. 21. The jurisdiction of the supreme judicial court
2 for the trial of civil and criminal cases in the counties of
3 Cumberland, Kennebec, Androscoggin, Penobscot and
4 Aroostook, is limited in conformity to the foregoing pro-
5 visions.

Sect. 22. During the fourth week in December in each
2 year the chief justice shall make a list of assignments of
3 himself and the associate justices to the terms of court in
4 the several counties over which they are to preside during

5 the next year following: and he may, at any time, assign the
6 special associate justice to preside over any term of court
7 when the chief justice or an associate justice is not available
8 therefor through illness or otherwise: and he may order a
9 special session of the court to be held in any of said coun-
10 ties and be presided over by himself, one of said associate
11 justices, or said special associate justice, if deemed by him
12 necessary in order to expedite the business of the court.
13 Said chief justice may transfer cases from the supreme judi-
14 cial court in any of said counties on petition of parties, or in
15 order to expedite the business of the court, or on motion of
16 the justice of the supreme judicial court for sufficient cause.

Sect. 23. Any justice of said superior court may appoint
2 a stenographer to report the proceedings thereof who shall
3 be an officer of the court and be sworn to a faithful dis-
4 charge of his duty. He shall take full notes of all oral testi-
5 mony, and other proceedings in the trial of causes, including
6 the charge of the justice and all comments and rulings of
7 said justice in the presence of the jury during the progress
8 of the trial, as well as all statements and arguments of coun-
9 sel addressed to the court, and furnished for the use of the
10 court or any party interested, a fair, legible, long hand or
11 typewritten copy or so much of his notes as may be re-
12 quired. He shall also furnish a copy of so much of the evi-
13 dence and other proceedings taken by him, as any party to
14 the trial requests, on payment therefor by such party, at
15 the rate of ten cents for every hundred words. The stenog-

16 rapher appointed by the chief justice shall also perform
17 such other official and clerical services as may be required
18 by him by the chief justice in term time or vacation.

Sect. 24. The chief justice and associate justices shall ap-
2 point messengers for their respective courts, who shall re-
3 ceive a per diem pay of three dollars per day for each and
4 every day of service as such messenger, their bills to be ap-
5 proved by the justice.

Sect. 25. The chief justice and associate justices shall,
2 as may be necessary, make and adopt such rules to govern
3 the practice and procedure in said superior courts as are
4 not inconsistent with law.

Sect. 26. All business and cases pending before the supe-
2 rior courts of Cumberland and Kennebec counties shall be
3 transferred to the dockets of the superior courts of said
4 counties established by this act. And all business and cases
5 of which said superior courts are given exclusive jurisdic-
6 tion by this act shall be transferred from the dockets of the
7 supreme judicial court in each of said counties to the dock-
8 ets of said superior courts.

Sect. 27. All acts and parts of acts at present governing
2 or relating to superior courts, which are not inconsistent
3 herewith shall be in full force and effect.

Sect. 28. All acts and parts of acts relating to the exist-
2 ence of superior courts in Cumberland and Kennebec coun-
3 ties and inconsistent herewith are hereby repealed.