

# MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SEVENTIETH LEGISLATURE

OF THE

STATE OF MAINE

1901.

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1901.

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ested therein; and the court shall in every case appoint a suitable person to appear and act therein as the next friend of all minors, persons not ascertained, and persons not in being, who are or may become interested in such real estate; and the cost of the appearance and services of such next friend, including the compensation of his counsel, to be determined by the court, shall be paid, as the court may order, either out of the proceeds of the sale or mortgage or by the petitioned, in which latter case execution thereof may issue in the name of the next friend.

—a suitable person shall be appointed to act as next friend of all minors, etc.

Trustees shall give bond.

Section 3. Every trustee appointed under section one of this act shall give bond in such form and for such an amount as the court appointing him may order, and he shall receive and hold, invest, or apply the proceeds of any sale or mortgage made by him, for the benefit of the persons who would have been entitled to the real estate if such sale or mortgage had not been made, and the probate court for the county in which such real estate or the greater part thereof is situated shall have jurisdiction of all matters thereafter arising in relation to such trust.

—proceeds how disposed of.

Approved March 21, 1901.

## Chapter 246.

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, R. S., amended.

Section 1. Chapter seventy-seven, revised statutes of Maine is hereby amended as follows:

Section twenty is amended by striking out in the second line thereof the words "next law court to be held in the district where the cause is pending" and insert in place thereof the words 'next term of the law court' so that said section, as amended, shall read as follows:

Appeal to next term of law court, how to be claimed, and when heard.

'Section 20. From all final decrees of such justice, an appeal lies to the next term of the law court. Said appeal shall be claimed by an entry on the docket of the court from which the appeal is taken, within ten days after such decree is signed, entered and filed, and notice thereof has been given by such clerk to the parties or their counsel. The appellant shall enter such appeal, and furnish written or printed copies of the case on the first day of said law term, and for good cause shown, the law court may enlarge the time for furnishing such copies. Such appeals shall be heard at the term to which they are taken, unless otherwise agreed, or the law court shall for good cause, order

—law court shall affirm, revise or modify decree of

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a further time for the hearing thereof, and shall on such appeal, affirm, reverse, or modify the decree of the court below, or remand the cause for further proceedings, as it deems proper. All cases in which appeals or exceptions are taken from a final decree, shall remain on the docket of the court below, marked 'law,' and decree shall be entered therein by a single justice, in accordance with the certificate and opinion of the law court.'

court below, or remand for further proceedings.

—cases shall remain on docket of court below marked 'law.'

Section 2. Section twenty-three is amended as follows: In second and third lines strike out the words "law court held within the district in which it is pending" and insert thereof the words 'term of the law court,' so that said section, as amended, shall read as follows:

Section 23 amended.

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

Justice may report cause to the next term of law court.

—cause, how to be entered, heard and decided.

Section 3. Section thirty-nine is amended to read as follows:

'Section 39. For the purposes of the law court the state shall constitute one district. The sessions of the court as a law court, shall be holden at Augusta on the second Tuesday of December, at Bangor on the first Tuesday of June and at Portland on the fourth Tuesday of June in each year. Meetings of all the justices shall be held annually at Augusta and Portland during the law terms, and all undecided questions of law and equity previously submitted shall then be decided.'

Section 39 amended.

State shall constitute one district.

—when sessions shall be held.

—annual session of all the justices shall be held at Augusta and Portland, to dispose of all undecided cases.

Section 4. Section forty is repealed and the following enacted in place thereof:

'Section 40. At least ten days before the sitting of each term of the law court, the clerks of court in the several counties of the state, shall certify, to the clerk of such term, all cases, pending in the supreme judicial and superior courts in their respective counties, marked 'law' and all other matters of which the law court has jurisdiction, except cases in which exceptions or appeals in proceedings in equity have been adjudged frivolous and intended for delay; and they shall be entered on the docket of the law court and shall, together with all other matters therein pending be in order for argument, determination or continuance in the alphabetical order of counties.

All pending cases marked 'law' shall be certified to clerk 10 days before sitting of term.

—how entered and determined.

Provided that causes marked 'law' and all other matters of which the law court has jurisdiction in the counties of Androscoggin, Cumberland, Franklin, Knox, Lincoln, Oxford, Sagada-

—causes in certain counties shall not be heard

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in Bangor except by consent of both parties. —but shall be heard at Portland and Augusta. Section 41 repealed.

Clerks in the counties of Kennebec, Penobscot and Cumberland shall be the clerks in their respective counties.

—how dockets shall be made and kept.

—compensation of clerks.

—when act shall take effect.

Section 42 amended.

Jurisdiction of the law court.

—law cases how to be marked.

—how to be disposed of.

—rescripts.

hoc and York shall not be entered or be in order for hearing at the term holden at Bangor, except by consent of both parties; but such causes shall be entered and be in order for hearing at the Portland and Augusta terms.'

Section 5. Section forty-one is repealed and the following enacted in place thereof:

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

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

'This act shall take effect September first, nineteen hundred and one, and all actions then pending before the law court in the several districts as now constituted shall be transferred to the docket of said court as herein established.'

Section 6. Section forty-two is amended in the eleventh and sixteenth lines by striking out in each the word "district" and inserting in place thereof the words 'law court' so that said section as amended, shall read as follows:

'Section 42. The following cases only come before the court as a court of law: Cases in which there are motions for new trials upon evidence reported by the justice; questions of law arising on reports of cases; bills of exceptions; agreed statements of facts; cases, civil or criminal, presenting a question of law; all questions arising in equity cases; motions to dissolve injunctions issued after notice and hearing or continued after a hearing; questions arising on writs of habeas corpus, mandamus and certiorari, when the facts are agreed on, or are ascertained and reported by a justice. They shall be marked 'law' on the docket of the county where they are pending, and there continued until their determination is certified by the clerk of the law court to the clerk of the county, and the court shall immediately after the decision of the question submitted to it, make such order, direction, judgment, or decree, as is fit and proper for the disposal of the case, and cause a rescript in all civil suits, briefly stating the points therein decided, to be filed therein, which rescript shall be certified by the clerk of the law court to the clerk of the county where the action is pending, and to the

reporter of decisions; and if no further opinion is written out, the reporter shall publish in the next volume of reports thereafter issued, the case, together with such rescript, if the reporter deems the same of sufficient importance for publication.'

Section 7. Section forty-three is amended by striking out in the third line the words "session for the district" and insert in place thereof the words 'law term,' also in the fourth line by striking out the word "district" and inserting in place thereof the words 'law court' so that said section, as amended, shall read as follows:

Section 43  
amended.

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

Parties, by  
agreement,  
may agree  
in writing  
without  
entering on  
docket.

Section 8. Section forty-four is amended by striking out in second line thereof the word "district" and inserting in place thereof the words 'law court,' so that said section, as amended, shall read as follows:

Section 44  
amended.

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

Complaint  
may be filed  
for not  
entering  
cases on law  
docket and  
how dis-  
posed of.

Section 9. Section seventy-five is amended to read as follows:

'Section 75. Exceptions may be alleged as in the supreme judicial court and shall together with all cases upon agreed statement of facts, upon report and motions for new trials, be certified as provided in section forty of this chapter. And all exceptions arising in cases within the exclusive jurisdiction of either of said superior courts may be certified at once by the justice thereof to the chief justice of the supreme judicial court, and shall, when so certified, be argued in writing on both sides within thirty days thereafter, unless the justice of such superior court for good cause, enlarges the time, and exceptions so certified shall be considered and determined by the justices of the supreme judicial court, as soon as may be. Decisions of the law court on all exceptions and questions from said superior courts shall be certified to the clerk of either of said superior courts with the same effect as in cases originating in the supreme judicial court in the county.'

Section 75  
amended.

Exceptions.

—cases  
certified upon  
agreed state-  
ments when  
to be  
determined.

—decision  
shall be  
certified  
to clerk.

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amended.Jurisdiction  
of law court  
over ques-  
tions of law.—transfer of  
actions to  
law court.Section 82  
amended.Exceptions  
in criminal  
cases when  
to be heard.

Section 10. Section seventy-seven is amended to read as follows:

‘Section 77. The supreme judicial court, sitting as a court of law, has the same jurisdiction of all questions of law, motions for new trials, and questions arising on reports or agreed statements of facts originating in either superior court, as if they had originated in the supreme judicial court; and said law court has the same jurisdiction of all questions and motions certified thereto from either superior court as hereinbefore provided. And all provisions of law and rules of the supreme judicial court relative to the transfer of actions and other matters from the supreme judicial court for said county, or from its docket to the docket of said law court, and all provisions of law and rules regulating proceedings in such cases, and the effects of such proceedings apply to the transfer of actions from either of the superior courts or the dockets thereof to said law court, and to the proceedings in such cases and the effect thereof, except so far as they are inconsistent with the foregoing provisions.’

Section 11. Section eighty-two is amended by striking out in the third line thereof the words “for the district” so that said section, as amended, shall read as follows:

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

Approved March 21, 1901.