

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

Eighty-fourth Legislature

OF THE

STATE OF MAINE

1929

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PUBLIC LAWS
OF THE
STATE OF MAINE

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the word "ten" in the third and fifth lines of said amended section, and substituting therefor the word 'fifteen,' so that said section as further amended shall read as follows:

'Sec. 37. Shall not exceed \$15,000 annually. The amount to be paid under the provisions of the three preceding sections by the state in any one year, except as herein provided, shall not exceed fifteen thousand dollars, and said sum shall be annually appropriated. The amounts to be appropriated under the provisions of this section shall be cumulative and any part of said sum of fifteen thousand dollars not expended during the year for which it is appropriated shall, at the close of said year, be added to the sums subsequently appropriated, and may be expended in any subsequent year or years.'

Approved March 26, 1929.

Chapter 141.

An Act Relating to the Jurisdiction of the Supreme Judicial and Superior Courts.
Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., c. 82, sec. 1; as amended; relating to the supreme judicial court, further amended. Section one of chapter eighty-two of the revised statutes as amended is hereby further amended so that said section as amended shall read as follows:

'Sec. 1. Constitution of the court. The supreme judicial court shall consist of a chief justice and seven associate justices and such active retired justices as may be appointed and serving on said court, learned in the law and of sobriety of manners.

Any vacancies existing at the time of the passage of this act or occurring thereafter by reason of death, voluntary retirement, or resignation shall remain unfilled until the number of associate justices is reduced to five and thereafter the court shall consist of a chief justice and five associate justices and such active retired justices as may be appointed and serving on said court.'

Sec. 2. R. S., c. 82, sec. 41; relating to constitution of law court, amended. Section forty-one of chapter eighty-two of the revised statutes is hereby amended so that said section, as amended, shall read as follows:

'Sec. 41. Concurrence required in civil cases. When sitting as a law court to determine questions of law, arising in suits at law or in equity, and in criminal trials and proceedings, the supreme judicial court shall be composed of five or more of the justices who shall hear and determine such questions by the concurrence of four members. In any civil action

in which there is a subsisting verdict, if four of the justices qualified to act in the case, after mature consideration and consultation, do not concur in granting a new trial, the court shall render judgment on the verdict.'

Sec. 3. R. S., c. 136, sec. 28; relating to appeal when punishment is imprisonment for life, amended. Section twenty-eight of chapter one hundred and thirty-six of the revised statutes is hereby amended so that said section, as amended, shall read as follows:

'**Sec. 28. Appeal in criminal cases.** If a motion for a new trial in any case, in which a person has been convicted of any offense for which the punishment is imprisonment for life, is denied by the justice before whom the same is heard, the respondent may appeal from said decision to the next law term of the supreme judicial court; and if three justices concur the motion shall be granted. In all other criminal cases amounting to a felony, where like motion is filed and appeal taken to the law court the concurrence of four of the justices shall be necessary to grant such motion, and sentence shall be imposed upon conviction, either by verdict or demurrer.'

Sec. 4. R. S., c. 82, sec. 43; relating to law court, amended. Section forty-three of chapter eighty-two of the revised statutes is hereby amended so that said section as amended shall read as follows:

'**Sec. 43. Sessions of law court.** For the purpose of the law court the state shall constitute one district. The court shall hold eight sessions each year. The time and places of holding the several sessions of the court shall be determined by the chief justice and announced before December first of each year.'

Sec. 5. Powers, duties and jurisdiction of superior courts extended. The powers, duties and jurisdiction of the superior courts of Androscoggin, Cumberland, Kennebec and Penobscot are hereby enlarged as hereinafter provided and extended to all the counties of the state, said courts being hereby united and consolidated into one court hereinafter referred to as the superior court. The justices of the aforesaid four superior courts shall continue as justices of said court by virtue of their present commissions, and three additional justices, learned in the law and of sobriety of manners, shall be appointed, commissioned and qualified as provided in the constitution, so that seven justices shall constitute the membership of said court. The chief justice of the supreme judicial court shall assign the justices of the superior court to hold the trial terms of said court. Whenever in the opinion of the chief justice of the supreme judicial court it becomes necessary, he may designate a justice of the supreme judicial court or any active retired justice of the supreme judicial court or of the superior court to hold a term of said superior court or may designate any of such justices

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or a justice of the superior court to hold one or more sessions thereof separate from the session presided over by the justice holding the regular trial term.

Sec. 6. Trial terms. The trial terms of the superior court shall be held at times and places designated by law.

Sec. 7. Jurisdiction of superior court; supreme court of probate. The superior court shall have and exercise original jurisdiction concurrent with the supreme judicial court in all equity cases and proceedings, and in proceedings in habeas corpus, writs of prohibition, error, mandamus, quo warranto and certiorari; and shall continue to have and exercise exclusive jurisdiction except as concurrent jurisdiction is vested in the several municipal courts in any and all matters either original or appellate now within the jurisdiction of any of the superior courts; and shall have and exercise jurisdiction, exclusive of the supreme judicial court, in all matters at law either original or appellate, in which the supreme judicial court now has jurisdiction, except as herein otherwise provided. It shall have and exercise all of the powers, duties and authority now vested in the supreme judicial court necessary for exercising the jurisdiction vested in the superior court by this act, provided that it shall have and exercise none of the jurisdiction, power, duties and authority of the supreme judicial court sitting as a law court. The justices of the superior court shall establish a seal for said court and all writs and processes therefrom shall be in the name of the state, in the usual form, bearing the teste of any justice of said court, and signed by any one of its clerks. In all places in the statutes where the words "supreme judicial court" are used, the words 'superior court' shall be added or substituted whenever necessary to carry out the provisions of this act. The superior court shall be the supreme court of probate and have and exercise all the powers vested in the supreme court of probate by the provisions of chapter sixty-seven of the revised statutes.

Sec. 8. Retired justices. Any active retired justice of the superior court, whenever the chief justice of the supreme judicial court so orders, may hear all matters and issue all orders, notices and decrees and judgments in vacation that any justice of said superior court is authorized to hear and issue.

Sec. 9. Pending writs. Writs issued after August first, nineteen hundred and twenty-nine and before January first, nineteen hundred and thirty bearing teste of the supreme judicial court or of any one of the superior courts, except such writs as are required to be returnable under existing law previous to the first day of January, nineteen hundred and thirty, shall be made returnable at a term of the superior court having jurisdic-

tion thereof under this act, but not later than the second term of the said court held subsequent to January first, nineteen hundred and thirty and in any event not later than seven months after the issuance of said writ. Any writ made returnable to the supreme judicial court or any superior court after this act shall have taken effect shall be deemed returnable at the first term of the superior court held next in the county having jurisdiction; and if the defendant shall not appear judgment may be withheld until the term of the superior court most nearly corresponding with that of the supreme judicial or superior court to which it was returnable, or further notice may be ordered.

Sec. 10. Salaries. Upon the going into effect of this act, the salary of the chief justice of the supreme judicial court shall be nine thousand dollars per year. The salaries of each of the justices of the superior court shall be seven thousand five hundred dollars per year. All provisions of the statutes relating to reimbursement of justices of the supreme judicial court for expenses incurred by them shall remain in full force and effect, and these provisions shall apply to justices of the superior court excepting that justices of the superior court shall not be entitled to reimbursement for expenses incurred in employing clerical assistance.

Sec. 11. Transfer of pending proceedings. All indictments, informations, actions of scire facias, criminal processes, writs, petitions, libels, appeals from courts of probate, and civil processes of whatsoever nature pending in the supreme judicial court when this act becomes effective, except those of which the supreme judicial court has concurrent jurisdiction with the superior court, shall be transferred upon this act taking full effect, to the docket of the superior court of the respective counties to be heard therein and shall be in order for trial at the first term thereof next to be held after this act taking full effect, and shall have day therein, and all warrants and recognizances, appeals in criminal cases and all criminal processes whatsoever which but for the passage of this act would be returnable to, or which by law would be entered in the supreme judicial court or any one of the superior courts at the next term after January first, nineteen hundred and thirty, shall be returnable to and be entered in the term of the superior court next held in the county where such processes are returnable after said January first, nineteen hundred and thirty, and shall have day therein; and all grand jurors, witnesses, and other parties in any criminal matters, including any person under bail who may be ordered to appear at the next term of the supreme judicial or superior court to be held in either of said counties, shall be required to appear at the next term of the superior court to be held in the same county in which appearance was required.

Sec. 12. Writs returnable. All writs of the superior courts returnable

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at a regular term of court in the county of Cumberland shall be made returnable at one of the next three terms to be begun and held after the issuing thereof, and in the counties of Androscoggin, Kennebec and Penobscot at one of the next two terms to be so begun and held. In all other counties such writs shall be made returnable at the first term of court to be held more than fourteen days after the issuing thereof.

Sec. 13. Clerk of judicial courts shall act as clerk of superior court. The clerk of the judicial courts in any county shall act as the clerk of the superior court in such county. Any deputy clerk, if his appointment has been approved by a resident justice of said superior court or by the chief justice of the supreme judicial court, may, whenever directed by the clerk, act as clerk of the superior court or any or either session thereof in that county. The chief justice of the supreme judicial court shall, from time to time, designate one or more of the clerks of court or some competent person or persons who shall act as clerks of the law court, and receive such reasonable compensation as may be fixed by the chief justice, but which in the aggregate shall not exceed a total sum of fifteen hundred dollars per year for all services rendered by such clerks including the issuing of certificates of rescripts. The chief justice, or in his absence, the senior justice present shall allow to the county in which any law term is held such expense as may be incurred on account of such law term which shall be paid by the state. The dockets of the law court shall be made from time to time and kept as the court may direct. Section forty-five of chapter eighty-two of the revised statutes is hereby repealed.

Sec. 14. Rules of court. The justices of the superior court may adopt rules governing the proceedings in said court, but until such rules are adopted and published the rules of the supreme judicial court shall govern the proceedings unless inconsistent with this act. The supreme judicial court shall take judicial notice of the rules of the superior court.

Sec. 15. Jury trials in equity cases. Whenever a jury trial is ordered in any cause in equity, such trial shall be held in the superior court in the county in which such cause is pending. Following the verdict of the jury a decree shall be made by the presiding justice relating to the issue or issues submitted to the jury. Further action may then be taken by such presiding justice or the cause may be further heard by any justice of the supreme judicial court or of the superior court.

Sec. 16. Conference of justices. The chief justice of the supreme judicial court may from time to time call together the several justices of the superior court at such place as he may appoint for conference as to the conduct and dispatch of judicial business, and interchange of views in matters of practice in said court. In addition to their salaries and

expenses in holding the several terms of court to which they are assigned, the several justices shall be entitled to their actual cash disbursements in attending such conference.

Sec. 17. R. S., c. 87, sec. 167; as amended, relating to stenographers of courts, further amended. Section one hundred and sixty-seven of chapter eighty-seven of the revised statutes as amended is hereby further amended to read as follows:

'Sec. 167. Number and duties. The chief justice of the supreme judicial court may appoint not more than eleven stenographers to serve for a term of seven years, who shall report the proceedings in the supreme judicial court and in the superior court and who shall be officials of the court to which they may from time to time be assigned by the chief justice, and be sworn to the faithful discharge of their duties and each of whom shall receive from the state a salary of three thousand dollars per year. They shall take full notes of all oral testimony, and other proceedings in the trial of causes, either at law or in equity, including the charge of the justice in all trials before a jury, and all comments and rulings of said justice in the presence of the jury during the progress of the trial, as well as all statements and arguments of counsel addressed to the court, and during the trial furnish for the use of the court or either of the parties a transcript of so much of their notes as the presiding justice may direct. They shall also furnish a transcript of so much of the evidence and other proceedings taken by them as either party to the trial requires, on payment therefor by such party at the rate of fifteen cents for every one hundred words. One of said stenographers designated for the purpose shall perform such clerical services as may be required of him by the chief justice who may allow him reasonable compensation for such clerical services for which he shall be reimbursed under chapter seventy-one of the public laws of nineteen hundred and twenty-seven.'

Sec. 18. Messenger. Any justice of the supreme judicial court residing in Cumberland county may appoint a messenger to act at all sessions of the law court in said county and at all equity sessions held in said county, whose compensation shall be the same as, but shall not exceed, the amount now allowed to the messenger for the supreme judicial court.

Sec. 19. P. & S. L., 1905, c. 346, sec. 1; relating to probation officer of Cumberland county, amended. Section one of chapter three hundred and forty-six in the private and special laws of nineteen hundred and five is hereby amended by striking out the words "the judge of the superior court for the county of Cumberland, who" and inserting in place thereof 'a judge of the superior court resident in Cumberland county or by the chief

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justice of the supreme judicial court. Said probation officer' so that said section as amended shall read as follows:

'Sec. 1. Appointment approved by judge of superior court or by chief justice of the supreme judicial court. The judge of the municipal court for the city of Portland shall appoint one person as probation officer, to be approved by a judge of the superior court resident in Cumberland county or by the chief justice of the supreme judicial court. Said probation officer shall act under the direction of said courts. The terms of office of said officer shall be for the period of two years, or until removed by the judge of either of said courts. A record of said appointment and approval and of any such removal shall be made by the clerk of said superior court and said clerk shall notify the county commissioners and the county treasurer of the county of Cumberland of the same.'

Sec. 20. Inconsistent acts repealed. All acts or parts of acts inconsistent herewith are hereby repealed.

Sec. 21. Act effective January 1, 1930. This act shall take effect on January first, nineteen hundred and thirty, except, that on or after August first, nineteen hundred and twenty-nine, justices of the superior court may be appointed and writs may be issued in accordance with the provisions of section nine.

Approved March 26, 1929.

Chapter 142.

An Act Relating to the Salary of the Sheriff of Washington County.

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

R. S., c. 117, sec. 41; as amended; relating to salaries of sheriffs, further amended. Section forty-one of chapter one hundred and seventeen of the revised statutes as amended, is hereby further amended by striking out in the nineteenth line thereof after the word "Washington" the word "fourteen" and inserting in place thereof the word 'eighteen,' so that said line as amended shall read as follows:

Washington county increased. 'Washington, eighteen hundred dollars.'

Approved March 26, 1929.

Chapter 143.

An Act Relating to Rules and Regulations Governing the Issuance of Teachers' Pensions.

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

R. S., c. 16, sec. 175; relating to state superintendent formulating rules,