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Sec. 13. Power and authority of state tax assessor.—Whenever the organization of any town or plantation has been terminated by act of the legislature, the powers, duties and obligations relating to the affairs of said town or plantation shall be vested in the state tax assessor for not more than 5 years. The state tax assessor shall have the authority to sell or otherwise dispose of any property, other than property formerly used or still being used for school purposes, the title of which rests in the town at the time of deorganization or may come to the town subsequent to deorganization. The state tax assessor shall have the power and authority to assess taxes any time after the act terminating the organization of the town or plantation becomes operative by making assessment once a year under the laws now relating to the assessment of state taxes in unorganized territory, and the state tax assessor shall have the same power and authority to enforce the collection of said taxes as is now provided for the collection of state taxes. All moneys received by virtue of said assessment and collection, or disposal of property, shall be applied to the payment of necessary expenses of the state tax assessor in making such assessment, and to the payment of any obligations of said town or plantation outstanding at the time of termination of its organization, and to the payment of state and county taxes assessed against such town or plantation and for the completion of any public works of said town or plantation already begun. When in the best judgment of said state tax assessor final payment of all known accounts against said town, which has been or may be deorganized, has been made, or at the end of said period of 5 years, any funds unexpended, if any exist, shall be deposited by the former town if still in its possession, or by the treasurer of state if in his possession, with the county commissioners as an offset against future road taxes in such deorganized town, as already set forth in chapter 89, section 65. If no road maintenance as described exists in said town, said unexpended funds shall be expended on repairs, maintenance or restoration of such town enterprise as may be designated by the state tax assessor in his capacity as described in this section. (R. S. c. 90, § 13. 1945, c. 41, § 38; c. 182, § 1; c. 378, § 74. 1957, c. 140, §§ 1, 2. 1959, c. 38, § 2.)

Effect of amendments.—The 1959 amendment rewrote this section. The 1957 amendment had made changes in the former second and third paragraphs, both of which were deleted by the 1959 amendment.

Chapter 103.

Supreme Judicial Court.

Supreme Judicial Court; Constitution and General Jurisdiction.

Sec. 4. Salary of justices; expenses; clerical assistance.—The justices of the supreme judicial court shall each receive an annual salary of $17,000, and the chief justice of the supreme judicial court shall receive an annual salary of $18,000. Each justice shall be reimbursed by the state for his expenses actually and reasonably incurred in attending meetings and the sessions of the law court, appointed by the chief justice under the provisions of section 11, upon presentation to the state controller of a detailed statement of such expenses. When any justice of said court holds nisi prius terms of the superior court in any town other than the town in which he resides, or when any hearing of a civil action is had before a justice of the supreme judicial court or the superior court other than one residing in the town where said hearing is had, such justice shall be reimbursed by the state for his expenses actually and reasonably incurred in holding such terms or in attending said hearing, upon presentation to the state controller of a detailed statement of such expenses. The counties wherein such justices reside, have their offices or are holding court shall also receive

from the state the expenses necessarily incurred by such justices for postage, stationery, express and telephone tolls. Each justice of said court shall be reimbursed by the state for expenses actually and reasonably incurred by him for clerical assistance, upon presentation to the state controller of an itemized statement of such expenses. (R. S. c. 91, § 4. 1945, c. 6; 331, § 1. 1949, c. 342. 1955, c. 472, § 1. 1957, c. 417, § 1. 1959, c. 370, § 1. 1961, c. 317, § 318. 1963, c. 391, § 1.)

Effect of amendments. — The 1955 amendment increased the annual salary of justices from $11,000 to $12,000 and that of the chief justice from $12,000 to $13,000.

The 1957 amendment increased the salary of the justices from $12,000 to $13,000 and that of the chief justice from $13,000 to $14,000, and carried appropriations for the fiscal years ending in 1958 and 1959.

The 1959 amendment increased the salary of the justices from $13,000 to $14,000 and of the chief justice from $14,000 to $15,000.

The 1961 amendment substituted "a civil action" for "a cause in law or in equity" and inserted "or the superior court" following "supreme judicial court" in the third sentence of this section.

The 1963 amendment increased the salary of the justices from $14,000 to $17,000 and that of the chief justice from $15,000 to $18,000 and carried appropriations for the fiscal years ending in 1964 and 1965.

Sec. 6. Active retired justices.—Any justice of the supreme judicial court, who, having attained the age of 70 years and having served as such justice on either or both the supreme judicial court or of the superior court for at least 7 consecutive years resigns his said office or ceases to serve at the expiration of any term thereof shall be eligible for appointment as an active retired justice of the supreme judicial court as hereinafter provided. The governor with the advice and consent of the council may upon being notified of the retirement of any such justice under this section appoint such justice to be an active retired justice of the supreme judicial court for a term of 7 years from such appointment, unless sooner removed, and such justice may be reappointed for a like term, and such justice so appointed and designated shall thereupon constitute a part of the court from which he has retired and shall have the same jurisdiction and be subject to the same restrictions therein as before retirement, except that he shall act only in such cases and matters and hold court only at such terms and times as he may be directed and assigned to by the chief justice of the supreme judicial court, and said chief justice is empowered and authorized to so assign and designate any such active retired justice of the supreme judicial court as to his services and may direct as to which term of the law court he shall attend, and if the chief justice so orders, he may hear all matters and issue all orders, notices, decrees and judgments in vacation that any justice of the supreme judicial court is authorized to hear or issue.

(1955, c. 392, § 1. 1961, c. 317, § 319.)

Effect of amendments. — The 1955 amendment inserted in the second sentence the words "and such justice may be reappointed for a like term."

The 1961 amendment deleted "the provisions of" formerly preceding "this section" near the beginning of the last sentence of the first paragraph of this section and deleted "either at law or in equity" formerly appearing at the end of such sentence.

As only the first paragraph was changed by the amendments, the second paragraph is not set out.

Sec. 7-A. Power to prescribe general rules.—The supreme judicial court of Maine shall have the power to prescribe by general rules, for the district and superior courts of Maine, the forms of process, writs, pleadings and motions, and the practice and procedure in civil actions at law. Said rules shall neither abridge, enlarge nor modify the substantive rights of any litigant. They shall take effect on such date not less than 6 months after their promulgation as the supreme judicial court may fix. After their promulgation the supreme judicial

court may repeal, amend, modify or add to them from time to time with or without a waiting period. After the effective date of said rules as promulgated or amended, all laws in conflict therewith shall be of no further force or effect.

The supreme judicial court of Maine may at any time write the general rules prescribed by it for cases in equity and those in actions at law so as to secure one form of civil action and procedure for both; provided, however, that in such union of rules the right of trial by jury as at common law and declared by the constitution of the United States and amendments thereto and by the constitution of the state of Maine and amendments thereto shall be preserved to the parties inviolate. Such united rules shall not take effect until 6 months after their promulgation and thereafter all laws and rules in conflict therewith shall be of no further force or effect. (1957, c. 159, 1959, c. 309. 1963, c. 402, § 138.)

Effect of amendments.—The 1959 amendment, effective May 15, 1959, substituted the present third, fourth and fifth sentences in the first paragraph for the former last sentence thereof, reading "They shall take effect 6 months after their promulgation, and thereafter all laws in conflict therewith shall be of no further force or effect."

The 1963 amendment substituted "for the district" for "for the trial justices and for municipal" in the first sentence.

Application of amending act.—Section 280 of c. 402, P. L. 1963, provides that the act shall apply only to the district court when established in a district and that the laws in effect prior to the effective date of the act shall apply to all municipal and trial justice courts.

Sec. 7-B. Power to prescribe rules in criminal cases.—The supreme judicial court shall have the power and authority to prescribe, repeal, add to, amend or modify rules of pleading, practice and procedure with respect to any and all proceedings through final judgment, review and post-conviction remedy in criminal cases before complaint justices, district courts, superior courts and the supreme judicial court.

Such rules shall take effect on such date not less than 6 months after their promulgation as the supreme judicial court may set. After their promulgation the supreme judicial court may repeal, amend, modify or add to such rules from time to time without a waiting period. After the effective date of said rules as promulgated or amended, all laws in conflict therewith shall be of no further force or effect. (1963, c. 226, § 1.)

Law Court.

Sec. 9. Constitution of law court; concurrence required.—When sitting as a law court to determine questions of law arising in civil actions and in criminal trials and proceedings, the supreme judicial court shall be composed of 5 or more of the justices who shall hear and determine such questions by the concurrence of a majority of the justices sitting and qualified to act. (R. S. c. 91, § 8. 1959, c. 317, § 67. 1961, c. 317, § 320.)

Effect of amendments. — The 1959 amendment struck out the former last sentence of this section, relating to a failure of a majority to concur in granting a new trial in a civil action in which there was a subsisting verdict.

The 1961 amendment substituted "civil actions" for "suits at law or in equity" in this section.

Effective date and applicability of Public Laws 1959, c. 317. — Section 420, chapter 317, Public Laws 1959, provides as follows: "This act shall become effective December 1, 1959. It shall apply to all actions brought after December 1, 1959 and also to all further proceedings in actions at law or suits in equity then pending, except to the extent that in the opinion of the court the application of this act in a particular action pending on December 1, 1959 would not be feasible or would work injustice, in which event the laws in effect prior to December 1, 1959 would prevail."

Sec. 12. Repealed by Public Laws 1959, c. 317, § 68.

Effective date and applicability of Public Laws 1959, c. 317. — Section 420, chapter 317, Public Laws 1959, provides as follows: "This act shall become effective December

1, 1959. It shall apply to all actions brought after December 1, 1959 and also to all further proceedings in actions at law or suits in equity then pending, except to the extent that in the opinion of the court the application of this act in a particular action pending on December 1, 1959 would not be feasible or would work injustice, in which event the laws in effect prior to December 1, 1959 would prevail."

Sec. 13. Clerks of terms of law court; duties; compensation; expenses of 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 $2,000 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. (R. S. c. 91, § 12. 1957, c. 385.)

Effect of amendment. — The 1957 amendment increased the salary from $1,500 to $2,000.

Sec. 13-A. Preservation of briefs in law court cases.—The clerk of the supreme judicial court shall preserve 3 complete sets of briefs filed in all cases in the supreme judicial court sitting as a law court. Under the direction of the chief justice these briefs shall be delivered to a qualified person for arrangement in a readily accessible order and shall be delivered to a bindery designated by the chief justice for binding in convenient size and proper labelling; one set shall thereupon be delivered to the law libraries respectively of Cumberland, Kennebec and Penobscot counties for preservation and reference. The expense of binding and transportation shall be paid by the state from the appropriation for expenses of the supreme judicial court. (1955, c. 329.)

Sec. 14. Messenger in Cumberland county.—Any justice of the supreme judicial court residing in Cumberland county may appoint a messenger who shall receive an annual salary of $3,000 in full compensation for service and attendance to be paid from the county treasury. (R. S. c. 91, § 13. 1963, c. 307; c. 414, § 114.)

Effect of amendments.—Chapter 307, P. L. 1963, rewrote the section. Chapter 414, P. L. 1963, which did not refer or give effect to c. 307, made a change in the language which had been deleted by c. 307.

Sec. 15. Jurisdiction of law court; disposition of cases; technical errors in pleading and procedure.—The following cases only come before the court as a court of law: cases on appeal from the superior court or a single justice of the supreme judicial court; criminal cases in which there are motions for new trials upon evidence reported by the justice; questions of law arising on reports of cases, including, in civil cases, interlocutory orders or rulings of such importance as to require, in the opinion of the justice, review by the law court before any further proceedings in the action; bills of exceptions in criminal cases; agreed statement of facts; cases, civil or criminal, presenting a question of law; all questions arising in cases in which equitable relief is sought; motions to dissolve injunctions issued after notice and hearing or continued after a hearing; questions arising on writs of habeas corpus, mandamus and certiorari. 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 courts 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 actions, 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 courts of the county where the action is pending and to the reporter of decisions. 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.

When the issues of law presented in any case before the law court can be clearly understood, they shall be decided, and no case shall be dismissed by the law court for technical errors in pleading alone or for want of proper procedure if the record of the case presents the merits of the controversy between the parties. Whenever, in the opinion of the law court, the ends of justice require, it may remand any case to the court below or to any justice thereof for the correction of any errors in pleading or procedure. In remanding said case, the law court may set the time within which said correction shall be made and said case reentered in the law court. (R. S. c. 91, § 14. 1959, ch. 317, § 69; c. 378, § 67. 1961, c. 317, §§ 321, 322.)

I. JURISDICTION AND GENERAL CONSIDERATION.

Effect of amendments.—Chapter 317, P. L. 1959, effective December 1, 1959, rewrote the first sentence of this section. Chapter 378, P. L. 1959, effective on its approval, January 29, 1960, added ", in civil cases," preceding "interlocutory orders" in the first sentence.

The 1961 amendment divided the former to two sentences, substituted "actions" for "suits" in the present second sentence of such paragraph and deleted "in term time or vacation" formerly following "justice thereof" in the second sentence of the last paragraph.

Purpose of section.—This section was enacted as part of a plan to bring the statutes into reconciliation with the present rules of civil procedure. State v. Hale, 157 Me. 361, 172 A. (2d) 631.

Section effects no change in review of criminal cases.—This section, which on its face creates a remedy in criminal cases not available prior thereto, was inadvertent and unintended by the legislature. No change in the review of criminal cases was contemplated or intended. State v. Hale, 157 Me. 361, 172 A. (2d) 631.

Prior to 1959, the review of criminal cases by the law court was by exceptions and, in felony cases, by appeal from the denial of a motion for a new trial seasonably addressed to the presiding justice. This section does not change that rule. State v. Hale, 157 Me. 361, 172 A. (2d) 631.

By the insertion of the word "criminal" before the phrase "cases in which there are motions for new trials upon evidence reported by the justice," the legislature had in mind motions for new trial directed to the presiding justice and appeal therefrom as provided by c. 148, § 30. State v. Hale, 157 Me. 361, 172 A. (2d) 631.

Applied in Owl's Head v. Dodge, 150 Me. 112, 104 A. (2d) 435; State v. Blanchard, 156 Me. 30, 159 A. (2d) 304; Tuttle v. State, 158 Me. 150, 180 A. (2d) 608; cert. den., 371 U. S. 879, 83 S. Ct. 151, 9 L. Ed. (2d) 116; Swed v. Inhabitants of Town of Bar Harbor, 158 Me. 220, 182 A. (2d) 664.

Cited in Morton v. Hayden, 154 Me. 6, 142 A. (2d) 37; East Boothbay Water Dist. v. Inhabitants of Town of Boothbay Harbor, 158 Me. 32, 177 A. (2d) 659.

II. "CASES" AND CASES MARKED "LAW."

Effect of marking cases "Law" upon docket of superior court.—Upon the motions for new trial addressed to the law court, a transcript having been filed, the cases were marked "Law" upon the docket of the superior court. This entry by statute effectively terminated the authority of the superior court to do more than continue the cases until their determination by the law court. Nothing remained to be done there except for the clerk of the superior court to certify the cases to the clerk of the law court at least ten days before its next term, a purely ministerial act. White v. Schofield, 153 Me. 79, 134 A. (2d) 755.

III. CASES "BEFORE THE COURT"

A. On Exceptions.

An exception to be valid must raise a question of law.—If it calls in question the interpretation of a written statement or a written document it must specify in what regard it raises a question of law. The bill of exceptions must show clearly and distinctly that the ruling was not on

a question where law and fact are so blended that it is impossible to tell on which the adverse ruling was based. Owls Head v. Dodge, 151 Me. 473, 121 A. (2d) 347.

Bill of exceptions must contain necessary portions of record.

In accord with original. See Braddock v. McBurnie, 151 Me. 39, 122 A. (2d) 319.

The law court has jurisdiction over exceptions only when they clearly present the issues to be considered. The bill itself should show the claims and contentions of the parties, and enough of facts, allegations or claims, as to be clearly understood. Owls Head v. Dodge, 151 Me. 473, 121 A. (2d) 347.

Secs. 16, 17. Repealed by Public Laws 1959, c. 317, § 70.

Effective date and applicability of Public Laws 1959, c. 317. — Section 420, chapter 317, Public Laws 1959, provides as follows: "This act shall become effective December 1, 1959. It shall apply to all actions brought after December 1, 1959 and also to all further proceedings in actions at law or suits in equity then pending, except to the extent that in the opinion of the court the application of this act in a particular action pending on December 1, 1959 would not be feasible or would work injustice, in which event the laws in effect prior to December 1, 1959 would prevail."

Sec. 18. Entry of judgment; attachments; death of party.—In criminal cases the clerk of courts of a county, by virtue of a certificate provided for in this chapter, received in vacation, shall enter judgment as of the preceding term.

In civil cases judgment shall be entered forthwith upon receipt of the certificate of decision from the law court. If the judgment is for the plaintiff, any attachment then in force shall continue for 60 days after entry of such judgment. When a party to an action dies while the action is pending before the law court, and no suggestion of death has been made upon the docket of the county where the action is pending, at the time when the certificate of decision is received by the clerk of courts in such county, any justice of the superior court may order such action to be continued in order that such death may be suggested upon such county docket, and the proper parties entitled to defend or prosecute such action may enter their appearance therein; and such justice may further order that any attachment then in force shall continue for such time in excess of 60 days after entry of judgment as in his discretion he deems necessary to protect the interests of the plaintiff. (R. S. c. 91, § 17. 1959, c. 317, § 71.)

Effect of amendment.—The 1959 amendment rewrote this section.

Effective date and applicability of Public Laws 1959, c. 317. — Section 420, chapter 317, Public Laws 1959, provides as follows: "This act shall become effective December 1, 1959. It shall apply to all actions brought after December 1, 1959 and also to all further proceedings in actions at law or suits in equity then pending, except to the extent that in the opinion of the court the application of this act in a particular action pending on December 1, 1959 would not be feasible or would work injustice, in which event the laws in effect prior to December 1, 1959 would prevail."

Sec. 19. Attachments continue on death of plaintiff.—When a plaintiff dies before the expiration of 60 days from the rendition of judgment in his favor, or before the expiration of 60 days after the clerk of courts in the county where the action is pending receives a certificate of decision from the law court ordering final judgment for the plaintiff, and no suggestion of death has been made upon the docket of said courts, execution may issue as is now provided and all attachments then in force continue for 90 days thereafter. (R. S. c. 91, § 18. 1959, c. 317, § 72.)

Effect of amendment.—The 1959 amendment rewrote this section.

Effective date and applicability of Public Laws 1959, c. 317. — Section 420, chapter 317, Public Laws 1959, provides as follows: "This act shall become effective December 1, 1959. It shall apply to all actions brought after December 1, 1959 and also to all further proceedings in actions at law or suits in equity then pending, except to the extent that in the opinion of the court the application of this act in a particular action pending on December 1, 1959 would not be feasible or would work injustice, in which event the laws in effect prior to December 1, 1959 would prevail."

Sec. 20. Repealed by Public Laws 1959, c. 317, § 73.

Effective date and applicability of Public Laws 1959, c. 317. — Section 420, chapter 317, Public Laws 1959, provides as follows: "This act shall become effective December 1, 1959. It shall apply to all actions brought after December 1, 1959 and also to all further proceedings in actions at law or suits in equity then pending, except to the extent that in the opinion of the court the application of this act in a particular action pending on December 1, 1959 would not be feasible or would work injustice, in which event the laws in effect prior to December 1, 1959 would prevail."

Chapter 104.

Reporter of Decisions.

Sec. 2. Duties.—The reporter of decisions shall prepare correct reports of all legal questions argued and decided, reporting cases more or less at large according to his judgment of their importance. He shall publish periodic advance sheets and at least one volume of Maine Reports yearly, provided he has material enough to make a volume of the size required by this section, and furnish current copies to the state and to the public at a price to be fixed by the governor and council. Each volume shall be of the average size of Maine Reports, and be equal thereto in paper, printing, general finish and quantity of printed matter. The reporter may from time to time as he sees fit, make a written contract in his own name with any person, firm or corporation for the printing, publishing and binding of said reports and shall require such person, firm or corporation to give a good and sufficient bond with good and sufficient sureties, conditioned for the faithful performance of all the terms and conditions of such contract by the person, firm or corporation with whom the reporter makes such contract. Upon receipt of an opinion from the law court the reporter shall prepare a concise abstract thereof in the form of a letter to be immediately distributed to members of the court and such others as the chief justice may direct. In case of a breach of any or all of the conditions of such bond, the reporter may maintain an action on such bond in his own name. In the exercise of any discretionary powers vested in him by this section or by section 15 of chapter 103, the reporter of decisions shall act in accordance with such instructions or advice as may be given to him by the chief justice of the supreme judicial court. (R. S. c. 92, § 2. 1951, c. 57, § 1. 1955, c. 175, § 1. 1957, c. 347, § 1.)

Effect of amendments. — The 1955 amendment inserted in the second sentence the reference to periodic advance sheets and the words "of Maine Reports." It also deleted the words "the usual number of" formerly appearing before the words "current copies."

The 1957 amendment inserted the fourth sentence of this section.

Sec. 4. Repealed by Public Laws 1955, c. 175, § 2.

Sec. 5. Reimbursement for expenses.—The reporter shall be reimbursed by the state for charges actually and reasonably incurred by him for clerk hire, stationery, postage, expressage and incidental expenses, but such reimbursement by the state shall not exceed $3,000 in any one year. (1951, c. 400. 1957, c. 347, § 2. 1963, c. 376, § 1.)

Effect of amendments. — The 1957 amendment increased the maximum reimbursement from $1,500 to $2,000.

The 1963 amendment deleted "to the extent that such charges exceed the amounts he is entitled to retain out of profits to pay the same pursuant to the provisions of section 3" following "expenses" and increased the maximum reimbursement from $2,000 to $3,000.