

MAINE STATE LEGISLATURE

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JUDICIARY

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CHAPTER 1

SUPREME JUDICIAL COURT

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SUBCHAPTER I

CONSTITUTION AND GENERAL JURISDICTION

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§ 1. Constitution of the court

The Supreme Judicial Court, as heretofore established, shall consist of a Chief Justice and 5 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.

The Chief Justice shall be the head of the Judicial Department of the State. In the event of his disability for any cause, the senior associate, not under disability, shall perform any and all of his duties.

R.S.1954, c. 103, § 1.

§ 2. Appointment of additional justices

Whenever the Chief Justice of the Supreme Judicial Court or, in the event of his disability, any associate justice thereof has reason to believe that any Justice of the Supreme Judicial or Superior Court is totally and permanently disabled by reason of physical or mental incapacity and because thereof is unable to perform the duties of his office, he shall cause a commission of 3 competent disinterested members of the medical profession to make due inquiry and examination into the facts and report thereon to the Supreme Judicial Court. Upon receiving said report, he shall thereupon call a meeting of said court and submit to them the report of said medical commission. The court shall thereupon, upon said report and such other evidence as they may deem necessary, if any, determine the facts in relation thereto. If said court find that said Justice of the Supreme Judicial or Superior Court is permanently and totally disabled by reason of physical or mental incapacity and because thereof is unable to perform the duties of his office, the Chief Justice shall certify said fact to the Governor and Council. Upon receipt of such certificate from the court, the Governor and Council shall make due inquiry into the matter and, if they confirm the finding of said court, the Governor with the advice and consent of the Council shall appoint an additional Justice of the Supreme Judicial or Superior Court, as the case may be.

R.S.1954, c. 103, § 2.

§ 3. When vacancies shall not be filled

No vacancy in the Supreme Judicial or Superior Court caused by the death or expiration of the term of said incapacitated justice shall be filled, if thereby the number of justices qualified and

capable of acting would be in excess of that otherwise provided by law as constituting said court.

R.S.1954, c. 103, § 3.

§ 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 section 53, 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 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.1954, c. 103, § 4; 1955, c. 472, § 1; 1957, c. 417, § 1; 1959, c. 370, § 1; 1961, c. 317, § 318; 1963, c. 391, § 1.

§ 5. Compensation of justices upon retirement

Any Justice of the Supreme Judicial Court who resigns his office or ceases to serve at the expiration of any term thereof, after attaining the age of 70 years and after having served as a justice on either the Supreme Judicial Court or the Superior Court, or both, for at least 7 consecutive years, shall receive annually during the remainder of his life, whether or not he is appointed an Active Retired Justice as provided in section 6, an amount equal to $\frac{3}{4}$ of the salary which was being paid to him at the termination of his service, to be paid in the same manner as the salaries of the justices of said court are paid. Such justice shall terminate his

service before his 71st birthday, unless he be a justice who has attained or hereafter shall attain the age of 70 years during his continuance in office as such justice under an appointment made prior to August 6, 1949, in which case to be entitled to compensation as provided he shall terminate his service before his 72nd birthday. Any justice, who continues to serve until or after the birthday applicable to the termination of his service, shall waive his right to the compensation mentioned and make no claim therefor at the termination of his service. The right of any justice drawing such compensation to continue to receive it shall cease immediately if he acts as attorney or counsellor in any action or legal proceeding in which the State is an adverse party or has any interest adverse to the person or persons in whose behalf he acts.

If such justice dies in office, or has heretofore died in office, his widow, upon reaching the age of 60 and as long as she remains unmarried, shall annually be entitled to $\frac{3}{8}$ of his salary at the time of his death.

Any Justice of the Supreme Judicial Court who prior to his retirement age is unable, by reason of failing health, to perform his duties as such justice may, upon petition to or by order of the Supreme Judicial Court and approved by a majority of the Justices of the Supreme Judicial Court, be retired prior to his retirement age and when so retired he shall receive the same benefits as he would have received had he retired at full retirement age, and such retirement shall terminate his service.

If such justice dies having terminated his service and having become entitled to compensation as provided in this section, his widow, having reached the age of 60 and as long as she remains unmarried, shall annually be entitled to $\frac{1}{2}$ of the retirement compensation such justice received.

R.S.1954, c. 103, § 5.

§ 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 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.

This section shall apply to the present and former justices of said court. Such justice shall within one year after attaining the age of 70 years, and serving as such justice for at least 7 consecutive years, cease to serve as such justice.

R.S.1954, c. 103, § 6; 1955, c. 392, § 1; 1961, c. 317, § 319.

§ 7. General jurisdiction; control of records

The Supreme Judicial Court may exercise its jurisdiction according to the common law not inconsistent with the Constitution or any statute, and may punish contempts against its authority by fine and imprisonment, or either, and administer oaths. It has general superintendence of all inferior courts for the prevention and correction of errors and abuses where the law does not expressly provide a remedy and has control of all records and documents in the custody of its clerks. Whenever justice or the public good requires, it may order the expunging from the records and papers on file in any case which has gone to judgment of any name or other part thereof unnecessary to the purpose and effect of said judgment. It may issue all writs and processes, not within the exclusive jurisdiction of the Superior Court, necessary for the furtherance of justice or the execution of the laws in the name of the State under the seal of said court, attested by any justice not a party or interested in the suit and signed by the clerk.

R.S.1954, c. 103, § 7.

§ 8. Power to prescribe general rules

The Supreme Judicial Court 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 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. 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.

§ 9. 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.

§ 10. Facsimile signature of clerk

A facsimile of the signature of the clerk of the Supreme Judicial Court imprinted by or at his direction upon any writ, summons, subpoena, order or notice or order of attachment, except executions and criminal process, shall have the same validity as his written signature.

R.S.1954, c. 103, § 8.

SUBCHAPTER II**LAW COURT**

Sec.

51. Constitution of court; concurrence required.
52. Justice not to sit in review of case tried before him.
53. Sessions.
54. Clerks; duties; compensation; expenses of county.
55. Preservation of briefs.
56. Messenger in Cumberland County.
57. Jurisdiction; disposition of cases; technical errors in pleading and procedure.

§ 51. Constitution of 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.1954, c. 103, § 9; 1959, c. 317, § 67; 1961, c. 317, § 320.

§ 52. Justice not to sit in review of case tried before him

No justice shall sit in the law court upon the hearing of any cause tried before him nor take any part in the decision thereof.

R.S.1954, c. 103, § 10.

§ 53. Sessions

For the purpose of the law court the State shall constitute one district. The court shall hold 8 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 1st of each year.

R.S.1954, c. 103, § 11.

§ 54. Clerks; 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.1954, c. 103, § 13; 1957, c. 385.

§ 55. Preservation of briefs

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.

§ 56. 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.1954, c. 103, § 14; 1963, c. 307; c. 414, § 114.

§ 57. Jurisdiction; 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.1954, c. 103, § 15; 1959, c. 317, § 69; c. 378, § 67; 1961, c. 317, §§ 321, 322.