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Central Register of Attorneys.

Sec. 25. Central register of attorneys.—It shall be the duty of the secretary of state to establish and maintain a central register of all persons who have been duly admitted as members of the bar in this state. (1955, c. 446.)

Sec. 26. Preparation.—Said list shall be prepared from information furnished to the secretary of state by the clerk of courts from the several counties, each of whom shall within 3 months after the effective date of sections 25 to 29, inclusive, prepare in writing, certify and mail to the office of the secretary of state, a full, true and complete list of all members of the bar now living who have been admitted in their respective counties. (1955, c. 446.)

Sec. 27. Revision.—It shall likewise be the duty of the clerk of court in each of the several counties to furnish to the secretary of state by registered mail a written certificate setting forth any and all additions to the aforesaid list of members of the bar from his county as well as all deletions by reason of death, resignation, disbarment, suspension or otherwise, and all reinstatements or readmissions not otherwise reported to the secretary of state as and when they occur and thereupon it shall become the duty of the secretary of state, forthwith upon receipt of each amendatory certificate, to revise the central register of attorneys accordingly, to the end that said register may be perpetually maintained with current corrections from each county. A list of persons admitted each year together with the date and place of taking the oath and the date of admission shall be supplied annually to the secretary of the board of bar examiners by the secretary of state. (1955, c. 446.)

Sec. 28. Register as evidence.—If and whenever in any proceeding before any court of civil or criminal jurisdiction within the state of Maine, it becomes an issue as to whether or not any individual is or is not duly admitted to practice law as a member of the bar in the state of Maine, the certificate of the secretary of state as to whether or not his name then appears upon the said central roll or register of attorneys shall be prima facie evidence of the fact. (1955, c. 446.)

Sec. 29. Certificates.—It shall be the duty of the secretary of state upon payment of a fee of $5 to furnish his certificate in respect of any individual as to whether he is or is not recorded as a member of the bar on the said central register except that such certificate shall be furnished without charge to the attorney general, his deputies and assistants and the county attorneys of the several counties for use in connection with their public duties. (1955, c. 446.)

Chapter 106.

Superior Court.

Superior Court; Constitution, General Jurisdiction and Powers.

Sec. 1. Constitution of the court. — The superior court, as heretofore established, shall consist of 9 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 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 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. (R. S. c. 94, § 1. 1953, c. 409, § 1. 1961, c. 415, § 1.)

Effect of amendment.—The 1961 amendment effective on its approval, December 2, 1961, increased the number of justices from 8 to 9.

Sec. 2. Salary; expenses.—Each of the justices of the superior court shall receive an annual salary of $16,500. Chapter 103, section 4, relating to reimbursement of justices of the supreme judicial court for expenses incurred by them shall apply to justices of the superior court, including reimbursement for expenses incurred in employing clerical assistance but which in the aggregate shall not exceed a total sum of $4,500 per year for all such clerical assistance. (R. S. c. 94, § 2. 1945, c. 331, § 2. 1951, c. 403, § 2. 1955, c. 472, § 2. 1957, c. 417, § 2. 1959, c. 364, § 1; c. 370, § 2; c. 378, § 68. 1961, c. 415, § 2. 1963, c. 391, § 2.)

Effect of amendments. — The 1955 amendment increased the annual salary of justices of the superior court from $10,500 to $11,500.

The 1957 amendment increased the salary of the justices from $11,500 to $12,500, and carried appropriations for the fiscal years ending in 1958 and 1959.

Chapter 364, P. L. 1959, substituted "Chapter 103, section 4" for "All provisions of section 4 of chapter 103," substituted "including" for "except that justices of the superior court shall not be entitled to" preceding "reimbursement" near the end of the section and added the language beginning with the words "but which in the aggregate" at the end of the section.

Chapter 370, P. L. 1959, increased the salary of the justices from $12,500 to $13,500 and made the same change at the beginning of the second sentence as had been made by c. 364. Chapter 378, P. L. 1959, effective on its approval, January 29, 1960, re-enacted the section so as to give effect to both chapters 364 and 370.

The 1961 amendment, effective on its approval, December 2, 1961, increased the maximum reimbursement for clerical assistance from $4,000 to $4,500.

The 1963 amendment increased the annual salary of justices of the superior court from $13,500 to $16,500 and carried appropriations for the fiscal years ending in 1964 and 1965.

Sec. 5. Jurisdiction; powers.—The superior court, exclusive of the supreme judicial court, shall have and exercise jurisdiction and have and exercise all of the powers, duties and authority necessary for exercising the jurisdiction in any and all matters either original or appellate, which were, prior to January 1, 1930, within the jurisdiction of the supreme judicial court or any of the superior courts, whether cognizable at law or in equity, except as concurrent jurisdiction is vested in the district court, and except as provided in chapter 107, section 1, provided that it shall have and exercise none of the jurisdiction, powers, duties and authority of the supreme judicial court sitting as a law court. A single justice of the supreme judicial court also shall have and exercise jurisdiction, and have and exercise all of the powers, duties and authority necessary for exercising the same jurisdiction as the superior court, to hear and determine, with his consent, any issue in a civil action in the superior court as to which the parties have no right to trial by jury or in which the right to trial by jury has been waived, except actions for divorce or annulment. (R. S. c. 94, § 5. 1947, c. 16. 1959, c. 317, § 74; c. 378, § 69. 1963, c. 402, § 140.)

Effect of amendments.—Chapter 317, P. L. 1959, added in the first sentence "whether cognizable at law or in equity," eliminated a reference in that sentence to § 2 of c. 107 and added the second sentence. Chapter 378, P. L. 1959, effective on its approval, January 29, 1960, added "issue in a" preceding "civil action" in the second sentence and substituted "as to" for "in" between "superior court" and "which" in that sentence.

The 1963 amendment substituted "district court" for "several municipal courts" in the first sentence.

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 ex-

tent 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."

Application of 1963 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. 6. Repealed by Public Laws 1963, c. 226, § 2.

Sec. 9. Seal; form of summonses, writs and processes; facsimile signature of clerk.—The justices of the superior court shall establish a seal for said court. All summonses, writs and other processes of said court shall be in the name of the state under the seal of said court. They shall be signed by any one of the clerks and obeyed and executed throughout the state. The clerk in any county may sign and issue any such summons, writ or other process for an action in the superior court in any other county in which the action might legally be brought. A facsimile of the signature of the clerks of the superior courts imprinted by or at their direction upon any writ, summons, subpoena, order or notice or order of attachment, except executions and criminal process, shall have the same validity as their written signature. (R. S. c. 94, § 9. 1947, c. 46, § 2. 1959, c. 317, § 75.)

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

Effective date and applicability of Public Laws 1959, c. 317.—See note to § 5.

Sec. 10. Writs when returnable.—All writs of the superior court returnable at a regular term of court in the county of Cumberland shall be made returnable at one of the next 3 terms to be begun and held after the issuing thereof, and in the counties of Androscoggin, Kennebec, Penobscot and York at one of the next 2 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 14 days after issuing thereof. (R. S. c. 94, § 10. 1959, c. 3.)

Effect of amendment.—The 1959 amendment added the county of York to this section.

Sec. 11. Trial terms.

III. Cumberland: At Portland on the 1st Tuesday of every month except July and August; but the criminal business of said county, except as hereinafter provided, shall be transacted at the terms held on the first Tuesdays of January, May and September, together with civil business. After its final adjournment for civil business, any January, May or September term of said court may be kept open for criminal business for such time as the presiding justice may deem expedient, provided it shall be finally adjourned at least 7 days before the convening of the next of whichever January, May or September term ensues chronologically after such final adjournment; and all business having to do with criminal appeal cases, pending indictments and informations may be transacted at Portland at any term begun on the first Tuesday of any month except July and August. Criminal appeal cases from the district court in Cumberland county when appealed or appealed and bailed shall be appealed or appealed and bailed to the very next succeeding, convening term of Cumberland county superior court at Portland. (1955, c. 285. 1957, c. 113. 1959, c. 192. 1963, c. 402, § 141)

IV. Franklin: At Farmington on the 2nd Tuesdays of February, May and October; the May term shall be held without a grand jury and with but 1 traverse jury unless a justice of said court shall otherwise specially order, in which case the clerk shall send venires for the requisite number of traverse jurors and shall summon the grand jury of the preceding term, as the terms of

said order may require. All recognizances from the district court in which parties are held to await the action of the grand jury, made returnable to said May term, shall, when no grand jury is in attendance, be continued to and have day in the next term of the court held in said county. (1963, c. 402, § 142)

VII. Knox: At Rockland on the 2nd Tuesday of February and the 1st Tuesdays of May and October. (1955, c. 203)

IX. Oxford: At Rumford on the 1st Tuesday of February, and at Paris on the 1st Tuesday of October and on the 2nd Tuesday of May. (1955, c. 203)

X. Penobscot: At Bangor on the 1st Tuesdays of January, April, September and November and the criminal business of said county shall be transacted at the terms held on the 1st Tuesdays of January, April and September, together with civil business. All recognizances from the district court in which parties are held to await the action of the grand jury, made returnable to said April term, shall, when no grand jury is in attendance, be continued to and have day in the next term of the court held in said county. (1963, c. 402, § 143)

XVI. York: At Alfred on the first Tuesdays of January, May, September and November, but the criminal business of said county shall be transacted at the terms held on the first Tuesdays of January, May and September, together with civil business. [1955, c. 220. 1959, c. 27]. (R. S. c. 94, § 11. 1945, c. 1. 1949, c. 126. 1951, c. 266, § 112. 1953, c. 166; c. 181, § 1. 1955, cc. 203, 220, 285. 1957, c. 113. 1959, cc. 27, 192. 1963, c. 402, §§ 141-143.)

Effect of amendments. — The first 1955 amendment, effective January 1, 1956, substituted "October" for "November" in subsection VII. It also substituted "February" for "March," "May" for "June" and "October" for "November" in subsection IX. The second 1955 amendment, effective January 1, 1956, changed subsection XVI by substituting "1st Tuesdays of January, May, September and November" for "2nd Tuesday of January and 1st Tuesdays of May and October." The third 1955 amendment, effective on its approval, April 25, 1955, added provisions as to criminal appeal cases and pending indictments in subsection III. The 1957 amendment rewrote subsection III.

The first 1959 amendment added that portion of subsection XVI which follows the word "November." The second 1959 amendment added the words "and informations" after the word "indictments" in the second sentence of subsection III.

The 1963 amendment substituted "the district court" for "municipal courts and trial justice courts" in the last sentence of subsection III and substituted "the district court" for "municipal courts and trial justices" in the last sentence of subsection IV and in the last sentence of subsection X.

Only the subsections changed by the amendments are set out.

Application of amending act.—See note to § 5.

Purpose of subsection II.—The obvious intent and purpose of the legislature in enacting subsection II was that there should be one September term of superior court held annually in Aroostook County; that it was the legislative intendment only to limit the business transacted in Houlton to criminal business and the business transacted in Caribou to civil business, but that the term continued either in one place or the other until final adjournment. State v. Blanchard, 156 Me. 30, 159 A. (2d) 304.

The word "adjournment" in subsection II is not one of fixed but of flexible meaning. State v. Blanchard, 156 Me. 30, 159 A. (2d) 304.

Criminal business in Cumberland county.—For case decided prior to the 1957 amendment to subsection III, see State v. Hoar, 152 Me. 139, 125 A. (2d) 918, involving the question of terms at which criminal business arising from appeals and pending indictments might be transacted in the superior court in Cumberland county.

Applied in Smith v. State, 157 Me. 355, 172 A. (2d) 628.

Sec. 14. Exceptions in criminal cases; motions for new trial; appeals in civil cases.—When the court is held by one justice, a party aggrieved by any of his opinions, directions or judgments in any criminal proceeding may, during the term, present written exceptions in a summary manner signed by himself or counsel, and when found true they shall be allowed and signed by such justice. In all cases, such exceptions shall be presented within 30 days after the verdict

is rendered or the opinion, direction or judgment is announced in the case in which such verdict, opinion, direction or judgment is made; but if the justice deems them frivolous and intended for delay, he may so certify on motion of the party not excepting. Such exceptions may then be transmitted at once by such justice to the chief justice and shall be argued in writing on both sides within 30 days thereafter, unless the presiding justice for good cause enlarges the time, and they shall be considered and decided by the justices of said court as soon as may be and the decision certified to the clerk of the county where the case is pending. The provisions of this section apply to exceptions filed in any criminal proceedings in the superior court. If the justice disallows or fails to sign and return the exceptions or alters any statement therein, in criminal proceedings, and either party is aggrieved, the truth of the exceptions presented may be established before the supreme judicial court sitting as a court of law, upon petition setting forth the grievance, and thereupon, the truth thereof being established, the exceptions shall be heard and the same proceedings had as if they had been duly signed and brought up to said court with the petition. The supreme judicial court shall make and promulgate rules for settling the truth of exceptions alleged and not allowed. All motions for new trials in criminal cases, as against law or evidence, shall be filed during the term at which verdict is rendered, but in no case later than 30 days after verdict rendered.

For all purposes for which an exception has heretofore been necessary in civil cases, it is sufficient that a party, at the time the order or ruling of the court is made or sought, makes known to the court the action which he desires the court to take or his objection to the action of the court and his grounds therefor. If a party has no opportunity to object to a ruling or order, the absence of an objection does not thereafter prejudice him. In any civil case any party aggrieved by any judgment, ruling or order may appeal therefrom to the law court within 30 days or such further time as may be granted by the court pursuant to a rule of court. (R. S. c. 94, § 14. 1959, c. 317, § 76; c. 378, § 70.)

I. GENERAL CONSIDERATION.

Effect of amentments.—Chapter 317, P. L. 1959, effective December 1, 1959, divided the former first sentence into three sentences, deleted "civil or" preceding "criminal" in the present first and fourth sentences, substituted "the justice" for "he" in the present second sentence, deleted "of the supreme judicial court or of the superior court" following "justice" near the beginning of the fifth sentence, deleted "either civil or" preceding "criminal" in that sentence and added the last paragraph. Chapter 378, P. L. 1959, effective on its approval, January 29, 1960, substituted "any party" for "a defendant" in the last sentence.

Intent of Rule 40.—Rule 40 of the revised rules of the superior and supreme judicial courts is intended to provide machinery to accomplish the result contemplated by this section. Petition of Wagner, 155 Me. 257, 153 A. (2d) 619.

The expression "exceptions do not lie" does not always mean that exceptions may not be taken and perfected; it may also mean that exceptions cannot be sustained, since there is a strong distinction between preclusion against the filing of exceptions and success in having them sustained. Petition of Wagner, 155 Me. 257, 153 A. (2d) 619.

The right to except to errors of law is well established when the single justice is sitting as the supreme court of probate. Petition of Wagner, 155 Me. 257, 153 A. (2d) 619.

Applied in State v. Johnson, 150 Me. 172, 107 A. (2d) 537.

III. WHAT RULINGS SUBJECT TO EXCEPTIONS.

A. In General.

Nor do exceptions lie to the exercise of the judge's discretionary power.

When the determination of any question rests in the judicial discretion of the trial court, the exercise of that discretion cannot be reviewed by an appellate court unless it is made to appear that the decision was clearly wrong or that it was based upon some error in law. Young v. Carignan, 152 Me. 332, 129 A. (2d) 216; Petition of Wagner, 155 Me. 257, 153 A. (2d) 619.

Findings of justice in supreme court of probate in matters of fact are conclusive if there is any evidence to support them. Petition of Wagner, 155 Me. 257, 153 A. (2d) 619.

V. SUFFICIENCY OF EXCEPTIONS.

Bill must stand alone.

The bill must be strong enough to stand alone. The court, in considering the exceptions, cannot travel outside of the bill itself. Bradford v. Davis, 150 Me. 420, 114 A. (2d) 244, quoting Jones v. Jones, 101 Me. 447, 64 A. 815.

Formal exceptions are now unnecessary. Neal v. Bowes, 159 Me. 162, 189 A. (2d) 566.

But party must still make known at time of ruling the actions he wants or his objection to the action taken and the grounds therefor. Neal v. Bowes, 159 Me. 162, 189 A. (2d) 566.

A bill of exceptions which does not include the material required by the docket entry is not complete, and therefore, under Maine practice cannot be considered. Bradford v. Davis, 150 Me. 420, 114 A. (2d) 244.

Sec. 15. Motions for new trial on ground of newly discovered evidence.

Applied in State v. Papalos, 150 Me. 370, 113 A. (2d) 624.

Cited in Harrison v. Wells, 151 Me. 75, 116 A. (2d) 134.

Sec. 16. Authority of court.

Power to punish for contempt. — Under the provisions of this section, the superior court has power to punish for contempt. Stern v. Chandler, 153 Me. 62, 134 A. (2d) 550.

However, even in the absence of such a statute, the power of the superior court to punish for contempts is unquestionable. Stern v. Chandler, 153 Me. 62, 134 A. (2d) 550.

Sec. 17. Service of process.—Service of process shall be as prescribed by rule of court. (R. S. c. 94, § 17. 1959, c. 317, § 77.)

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

Effective date and applicability of Public Laws 1959, c. 317.—See note to § 5.

If right to except is reserved.

In accord with 1st paragraph in original. See Ouelette v. Pageau, 150 Me. 159, 107 A. (2d) 500.

The reservation of the right to except should be on the docket. Ouelette v. Pageau, 150 Me. 159, 107 A. (2d) 500.

But judge's certification that exceptions are allowed is conclusive.—If there has been no express reservation and a bill of exceptions is presented to the justice for his signature and the justice is prepared to sign, the opposing party may object to the allowance, and call attention to the docket omission. If the judge, however, signs the bill of exceptions, the certification that exceptions are allowed is conclusive, provided there is nothing in the bill of exceptions itself or in the certificate of the judge to show the contrary. Ouelette v. Pageau, 150 Me. 159, 107 A. (2d) 500.

The law court has no jurisdiction of a motion for a new trial where a case is heard by the single justice. Ouelette v. Pageau, 150 Me. 159, 107 A. (2d) 500.

Cited in Ray v. Lyford, 153 Me. 408, 140 A. (2d) 749.

Sec. 18. Repealed by Public Laws 1959, c. 317, § 78.

Effective date and applicability of Public Laws 1959, c. 317.—See note to § 5.

Sec. 19. Trial to proceed when dilatory pleas overruled. — When a dilatory plea is overruled and exceptions taken in a criminal case, the court shall proceed and close the trial, and the action shall then be continued and marked "law," subject to section 14. (R. S. c. 94, § 19. 1959, c. 317, § 79.)

Effect of amendment.—The 1959 amendment added the words "in a criminal case" after the word "taken" near the beginning of the section and deleted the words "the provisions of," formerly appearing before "section 14" at the end of this section.

Effective date of 1959 amendment.—See note to § 5.

And defendant prematurely entering case, etc.

In accord with 2nd paragraph in original. See State v. Melanson, 152 Me. 168, 126 A. (2d) 278.

Sec. 20. Interest on verdicts and awards.

Applied in Norridgewock v. Hebron, 152 Me. 280, 128 A. (2d) 215.

Naturalization and Citizenship.

Sec. 22. Jurisdiction of complaints for judicial declaration of citizenship.—The superior court shall have jurisdiction to hear and determine complaints of persons alleging themselves to be citizens, resident and domiciled inhabitants of this state and praying a judicial declaration of such citizenship, residence and domicile. Such complaints shall set forth the grounds upon which the application is based, shall be supported by such evidence as the court shall deem necessary and shall be filed, heard and determined in the county in which the plaintiff claims residence. If such plantiff desires a jury trial upon his complaint, he may indorse a request therefor upon the complaint at the time of entry and shall thereupon be entitled to the same. (R. S. c. 94, § 22. 1963, c. 414, § 115.)

Effect of amendment.—Prior to the 1963 amendment the section referred to petitions rather than complaints and to petitioner rather than to plaintiff.

Sec. 23. Notice to attorney general.—Notice of said complaint shall be given to the attorney general by causing an attested copy of the same to be served upon him by an officer qualified to serve civil process, at least 14 days prior to the first day of the term of court at which said complaint is entered and the attorney general may appear and be heard thereon. (R. S. c. 94, § 23. 1963, c. 414, § 116.)

Effect of amendment.—The 1963 amendment substituted "complaint" for "petition" near the beginning and near the end of the section.

Sec. 24. Change of residence.—In the event of a subsequent change of residence on the part of any person so declared to be a citizen of this state, said court shall have jurisdiction and authority upon complaint therefor and like proceedings had to make a judicial declaration of such change of residence, and decree that the former judgment entered in such case shall thereafter be of no force and effect. (R. S. c. 94, § 24. 1963, c. 414, § 117.)

Effect of amendment.—The 1963 amendment deleted "also" preceding "have jurisdiction" and substituted "complaint" for "petition."

Chapter 107.

Concurrent Jurisdiction of Supreme and Superior Courts.

Sections 2 to 37-A. Equity.

Habeas Corpus and Extraordinary Remedies.

Sec. 1. Habeas corpus and extraordinary proceedings.

Cited in State v. Elwell, 156 Me. 193, 163 A. (2d) 342.

Equity.

Secs. 2, 3. Repealed by Public Laws 1959, c. 317, § 80.

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. 4. Equity powers.—The superior court shall have jurisdiction to grant appropriate equitable relief in the following cases: (1959, c. 317, § 81)

VIII. Of actions of interpleader notwithstanding the plaintiff is a common car-