

# MAINE STATE LEGISLATURE

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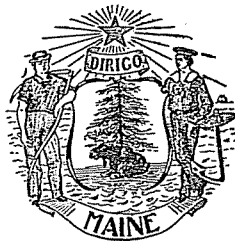
THE  
REVISED STATUTES

OF THE  
STATE OF MAINE,

PASSED SEPTEMBER 1, 1903, AND TAKING EFFECT JANUARY 1, 1904.

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## TITLE EIGHT.

Judicial Courts, County Commissioners, and Officers connected  
with them.

CHAP. 79. Supreme judicial court. Attorney general. Reporter. Superior courts.

80. County commissioners.

81. Clerks of courts. County attorneys. Attorneys at law.

82. Sheriffs and their deputies. Jails. Coroners. Constables.

## CHAPTER 79.

SUPREME JUDICIAL COURT. ATTORNEY GENERAL. REPORTER.

SUPERIOR COURTS.

SUPREME JUDICIAL COURT. ORGANIZATION, JURISDICTION AND POWERS.

Constitution  
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R. S., c. 77, § 1.  
73 Me., 224.  
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its records  
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of former  
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R. S., c. 77, § 3.

Affidavit in  
abatement.  
R. S., c. 77, § 4.  
76 Me. 423.

Writs, and  
how attested.  
R. S., c. 77, § 5.

SEC. 1. The supreme judicial court shall consist of a chief justice and seven associate justices, learned in the law and of sobriety of manners, who shall be conservators of the peace throughout the state, and may act in any case, although the county in which they reside or own property is interested therein.

SEC. 2. The court has cognizance of all offenses and misdemeanors, and of civil actions between party and party and between the state and individuals, legally brought before it; may render judgment and award execution thereon; 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 in civil and criminal cases.

SEC. 3. 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; control of all records and documents in the custody of its clerks, including those of former courts whose jurisdiction it has, and the powers of its clerks are the same respecting all of them; and it may establish and cause to be recorded rules not repugnant to law, respecting the modes of trial and conduct of business in suits at law and in equity. (a)

SEC. 4. The affidavit required by rule VI, of said court, to pleas or motions in abatement, may be made at any time before entry of the action or before filing the same.

SEC. 5. It may issue writs of error, certiorari, mandamus, prohibition, quo warranto and all writs and processes necessary for the furtherance of justice, or the execution of the laws, in the name of the State of Maine, under the seal of said court, attested by any justice not a party or interested in the suit, and signed by the clerk. (b)

(a) 43 Me., 176; 53 Me., 88, 110; 57 Me., 23; 67 Me., 433; 77 Me., 238; 83 Me., 286.

(b) See c. 40, §§ 23, 31; 41 Me., 17, 55; 53 Me., 88; 67 Me., 433; 70 Me., 328; 77 Me., 239; 81 Me., 544.

## EQUITY POWERS.

SEC. 6. It has jurisdiction as a court of equity, in the following cases: (a)

Its equity powers.  
R. S., c. 77, § 6.  
1891, c. 91.

I. For the foreclosure of mortgages of real and personal property, and for redemption of estates mortgaged. (b)

53 Me., 63.

II. For relief from forfeiture of penalties to the state, from forfeitures in civil contracts and obligations, and in recognizances in criminal cases.

III. To compel the specific performance of written contracts, and to cancel and compel the discharge of written contracts, whether under seal or otherwise, when full performance or payment has been made to the contracting party. (c)

See c. 78, § 50;  
c. 113, §§ 8,  
9, 12.

IV. For relief in cases of fraud, trust, accident or mistake. (d)

V. In cases of nuisance and waste. (e)

VI. In cases arising out of the law providing for the application of receipts and expenditures of railroads by trustees in possession under mortgage.

See c. 52, § 59.  
76 Me., 274.

VII. In cases of partnership, and between partners or part owners of vessels and of other real and personal property to adjust all matters of the partnership and between such part owners, compel contribution, make final decrees, and enforce their decrees by proper process in cases where all interested persons, within the jurisdiction of the court, are made parties. (f)

R. S., c. 77, § 6,  
¶ vi., § 7.  
See c. 35, § 10;  
c. 33, § 5.

VIII. To determine the construction of wills and whether an executor, not expressly appointed a trustee, becomes such from the provisions of a will; and in cases of doubt, the mode of executing a trust, and the expediency of making changes and investments of property held in trust. (g)

See c. 70, § 9;  
c. 73, § 12.

IX. In suits for re-delivery of goods or chattels taken or detained from the owner, and secreted or withheld, so that the same cannot be replevied, and in bills in equity, by creditors, to reach and apply in payment of a debt, any property, right, title or interest, legal or equitable, of a debtor, or debtors, which cannot be come at to be attached on writ, or taken on execution in a suit at law, and any property or interest conveyed in fraud of creditors. (h)

R. S., c. 77, § 6,  
¶ x.  
1891, c. 53.  
See c. 114, § 32.

X. In cases where the power is specially given by statute, and for discovery when a discovery may be lawfully required according to the course of chancery proceedings.

R. S., c. 77, § 6,  
¶ viii.  
See c. 38, § 5.  
43 Me., 674.  
53 Me., 441.

(a) 7 Me., 231; 8 Me., 322; 17 Me., 141, 294, 407; 18 Me., 210; 19 Me., 127, 366, 434; 20 Me., 271; 21 Me., 257, 276; 22 Me., 196, 209, 515; 23 Me., 48, 109, 178, 270, 451; 24 Me., 47; 25 Me., 282, 345, 381, 537; 29 Me., 276, 496; 31 Me., 96; 32 Me., 402, 483; 33 Me., 224, 534; 34 Me., 144, 372; 36 Me., 52, 124, 583; 37 Me., 269, 310; 40 Me., 246; 41 Me., 119; 50 Me., 239; 59 Me., 79; 72 Me., 281.

(b) See c. 92, § 29; 59 Me., 35, 77; 75 Me., 268; 83 Me., 293; 86 Me., 59.

(c) 40 Me., 132; 42 Me., 40; 46 Me., 41; 47 Me., 315; 63 Me., 99; 84 Me., 198; 85 Me., 434; 95 Me., 224; 97 Me., 400.

(d) See c. 4, § 83; c. 66, § 67; c. 70, §§ 16-18; c. 76, § 14; c. 78, § 15; 43 Me., 211; 44 Me., 216; 45 Me., 131; 49 Me., 366; 57 Me., 510; 60 Me., 183; 61 Me., 514; 62 Me., 58, 522; 67 Me., 220; 69 Me., 497; 71 Me., 570; 73 Me., 33; 74 Me., 589; 96 Me., 41.

(e) See c. 22, §§ 1, 17; c. 97, § 7; 60 Me., 194.

(f) 52 Me., 57; 62 Me., 114; 64 Me., 465; 73 Me., 75; 78 Me., 150.

(g) 49 Me., 302; 57 Me., 143, 524; 59 Me., 330, 481; 62 Me., 541; 64 Me., 493; 66 Me., 101, 535; 68 Me., 35, 381; 69 Me., 289; 70 Me., 210; 80 Me., 594; 82 Me., 80; 84 Me., 555; 85 Me., 133; 86 Me., 134; 97 Me., 523.

(h) 71 Me., 70; 73 Me., 570; 76 Me., 447; 77 Me., 474; 78 Me., 249; 79 Me., 230; 84 Me., 326, 495; 90 Me., 380; 92 Me., 268; 96 Me., 43.

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See c. 4, § 40  
55 Me., 65.  
56 Me., 37.  
60 Me., 127.  
80 Me., 134.  
85 Me., 49.  
87 Me., 89.  
92 Me., 531.  
93 Me., 501.

Jurisdiction  
between part-  
ners and part  
owners, does  
not affect  
rights of per-  
sons not par-  
ties to suit.  
R. S., c. 77, § 7.

—partners or  
co-tenants

XI. When counties, cities, towns, school districts, village or other public corporations, for a purpose not authorized by law, vote to pledge their credit or to raise money by taxation or to exempt property therefrom, or to pay money from their treasury, or if any of their officers or agents attempt to pay out such money for such purpose, the court shall have equity jurisdiction on petition or application of not less than ten taxable inhabitants thereof, briefly setting forth the cause of complaint.

XII. And has full equity jurisdiction, according to the usage and practice of courts of equity, in all other cases where there is not a plain, adequate and complete remedy at law. (a)

SEC. 7. The court has jurisdiction of cases mentioned in paragraph seven of the preceding section, notwithstanding persons interested not within the jurisdiction of the court, are not made parties; but, in such cases, no decree affects the right of any person not a party to the suit, unless he voluntarily becomes a party before final decree, except as hereinafter provided. In all such cases, the court has jurisdiction, if the case requires it, over all property of the partnership or co-tenancy within the state, and the other partners or co-tenants, out of the jurisdiction, may

(a) 58 Me., 137; 69 Me., 303; 71 Me., 554, 570; 73 Me., 244; 74 Me., 234, 588; 75 Me., 268; 77 Me., 69, 95; 86 Me., 57.

Note. Jurisdiction in equity is also conferred upon the supreme judicial court in the following cases:

- To restrain violation of c. 4, §§ 38, 39.
- To fix rate of interest on trust funds used by cities or towns, c. 4, § 83.
- To determine rights of claimants to elective office, c. 6, § 70.
- To decree forfeiture of charter of corporation for non-payment of franchise tax, c. 8, § 22.
- To protect property dedicated to pious uses, c. 16, § 33.
- To restrain and abate nuisances, c. 22, §§ 1-19.
- To restrain unlawful acts of agent appointed to build road, c. 23, § 40.
- To close city or town liquor agency, c. 29, § 32.
- In cases of limited partnerships, c. 35, § 105.
- In certain cases of loss of or damage to property on shipboard, c. 38, § 5.
- To restrain unlawful use of trade-marks and names, c. 40, §§ 21, 32.
- In cases of reduction of capital stock of corporations, c. 47, § 42.
- To value minority stock in corporations, c. 47, § 57.
- To decree dissolution of corporations, c. 47, § 78.
- To enforce stockholders' liability, c. 47, §§ 89, 93.
- To appoint receivers of savings banks, c. 48, § 44.
- To reduce deposits of savings banks, c. 48, § 45.
- To restrain payment of deposits in savings banks, c. 48, § 49.
- To enforce accounts due loan and building associations, c. 48, § 69.
- To enforce law relating to foreign loan and building associations, c. 48, § 78.
- To order assessment on stockholders of trust and banking companies to restore impaired capital, c. 48, § 87.
- To confirm assessment in mutual fire insurance companies, c. 49, § 36.
- To appoint receivers of domestic insurance companies, c. 49, § 68.
- To appoint receivers of property of foreign insurance companies doing business in this state, c. 49, § 88.
- To appoint receivers of casualty insurance companies doing business upon the assessment plan, c. 49, §§ 124, 126.
- To appoint receivers of fraternal beneficiary associations, c. 49, §§ 140, 151.
- To restrain unlawful appropriation of proceeds of railroad stock, c. 51, § 20.
- To enforce construction by railroad companies of cattle guards, passes and farm crossings, c. 51, § 33; payment of damages by railroad companies, c. 51, § 38; repairs of railroad bridges and crossings, c. 51, § 68.
- To enforce compliance with order of railroad commissioners to make repairs, c. 51, § 55; to stop running trains, c. 51, § 56; as to transportation of passengers and freight, c. 51, § 58; as to erection and maintenance of stations, c. 51, § 63.
- To appoint receivers when railroad company fails to operate its road, c. 52, § 19.
- To compel payment by lessee of judgment against owner of leased road, c. 52, § 34.
- To affirm election of trustees under railroad mortgages, c. 52, § 36.
- In cases relating to foreclosure and redemption of railroad mortgages, c. 52, §§ 59, 61.
- To decree dissolution of railroad corporations, c. 52, § 64.
- To determine disputes between co-executors and co-administrators, c. 66, § 67; and in certain cases, claims against estates of deceased persons, c. 89, § 21.
- To fill vacancies in trustees, c. 70, §§ 16-18.
- In insolvency cases, c. 72, § 11.
- To enforce agreement relative to disposal of wife's share of proceeds of husband's real estate sold by his guardian, c. 73, § 12.
- In cases of contribution under wills, c. 76, § 14.
- For correction of errors in levies by appraisement, c. 78, § 23; for redemption, c. 78, §§ 28, 53.
- To enforce liens on buildings and lands, c. 93, § 33.
- To restrain use of unsafe dams, c. 94, § 44.
- To ascertain betterments on lands recovered of the state, c. 95, § 17.
- To stay waste, c. 97, § 7.
- To quiet or establish title to land or remove a cloud from the title, c. 106, § 49.
- To restrain lotteries, c. 129, § 21.

See also provisions for change, by amendment, of action at law into proceeding in equity, c. 84, § 14.

protect their interests by coming in at any time as parties to the bill; but, if there is no such property within the state, the jurisdiction of the court is limited to the adjustment of accounts and compelling contribution between the parties over whom the court has jurisdiction.

SEC. 8. The court has jurisdiction of cases mentioned in paragraph nine of section six, notwithstanding the fact that the property sought to be reached and applied is in the hands, possession or control of the debtor independently of any other person, or that it is not within the state, or that it is of uncertain value, *provided*, the value can be ascertained by a sale or appraisal, or by any means within the ordinary procedure of the court, or that it cannot be reached and applied until a future time.

SEC. 9. In such suit the interest of a co-partner in the partnership property may be reached and applied to the payment of the plaintiff's debt; *provided, however*, that unless the plaintiff's debt is in judgment, the business of the partnership shall not be interfered with by injunction or otherwise, farther than to restrain the withdrawal of any portion of the debtor's share or interest therein, until the plaintiff's debt is established; and *provided further*, that if either co-partner shall give to the plaintiff a sufficient bond with sureties approved by the clerk, conditioned to pay to the plaintiff the amount of his debt and costs, within thirty days after the same is established, the court shall proceed no further therein save to establish the debt; and any injunction previously issued shall be dissolved upon the filing of such bond. But no provision of paragraph nine of section six, or of this section, or of section eight shall be so construed as to reach and apply in payment of a debt, any property exempted by sections thirty-eight and thirty-nine of chapter seven, sections five, six, seven and nineteen of chapter twenty, and by chapter eighty-three.

SEC. 10. The court by majority, shall appoint masters in chancery, not more than five in a county, and make all needful rules relating to proceedings before them. Such masters shall be sworn, and hold their offices for five years, unless sooner removed by the court; perform the duties pertaining to their offices according to equity practice, and be entitled to the fees therefor allowed by the court. Unless the parties agree upon another person, all cases shall be committed to them.

SEC. 11. Said court shall always be open in each county for equity proceedings, except upon days on which, by law, no court is held, and in the first instance, except as hereinafter provided, all hearings shall be had, all orders and decrees made, and all process issued by a single justice, except on appeal or exceptions as hereinafter provided, and said court shall establish rule-days for the return of subpoenas and the transaction of business relating to equity cases.

SEC. 12. Causes in equity shall be begun by bill of complaint filed in the clerk's office, upon which subpoena shall issue as matter of course returnable on the first day of a term of court for the county where it is filed, or upon a rule-day, which in either case shall be held within sixty days after the filing of such bill, and such subpoena shall be served at least fourteen days before the return day thereof; or, by order of court, such subpoena may be made returnable on any day in or out of term, and be served as directed in such order; or such bill may be inserted in a writ of attachment, upon which property may be attached and which shall be made returnable as writs at common law. In all cases, service shall be made by copy of the subpoena and bill or writ of attachment. The bill of complaint shall state the material facts and circumstances relied on by the plaintiff, with brevity, omitting immaterial and irrelevant matters,

out of jurisdiction of court, rights of, how protected.  
R. S., c. 77, § 8.

Property of debtor out of state, or of uncertain value may be applied.  
1891, c. 38, § 1.

Interest of a co-partner may be applied in payment of plaintiff's debt.  
1891, c. 38, § 2.  
See c. 83, § 64,  
§ xl.

—certain exemptions not affected.  
1891, c. 53.

Masters in chancery, appointment.  
R. S., c. 77, § 9.  
40 Me., 53.  
53 Me., 216, 352.

—tenure.

—duties.

Court always open for equity proceedings.  
R. S., c. 77, § 10.  
75 Me., 417.  
82 Me., 250.  
96 Me., 44.

Causes in equity, how begun, return of subpoena, and service.  
R. S., c. 77, § 11.  
See c. 83, § 61.  
56 Me., 76.  
71 Me., 169.  
77 Me., 140, 499.  
82 Me., 202, 250.

—service, how made.

—bill may be amended.

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Certificate setting forth names, date of bill, description of real estate to be recorded in registry of deeds.  
1893, c. 301, § 2.  
94 Me., 322.  
See § 30; c. 11, § 18; c. 83, § 61; c. 117, §§ 4, 18.

Bill, how verified.  
R. S., c. 77, § 12.

Bill of discovery, and answers thereto.  
R. S., c. 77, § 13.

When defendant shall appear.  
R. S., c. 77, § 14.

—proceedings in case of default.  
95 Me., 305.

Defense, how and when to be made.  
R. S., c. 77, § 15.  
78 Me., 88.  
95 Me., 305.

—proceedings on default.

—form of answer.

Replication, when to be filed.  
R. S., c. 77, § 16.

Time for hearing upon bill and demurrer.  
R. S., c. 77, § 17.  
1893, c. 156, § 1.  
90 Me., 399.

and may be amended or reformed at the discretion of the court, with or without terms, at any time before final decree is entered in said cause.

SEC. 13. No action commenced by bill in equity not inserted in a writ of attachment, in which the title to real estate is involved, is effectual against any person not a party thereto or having actual notice thereof, until a certificate, setting forth the names of the parties, the date of the bill and the filing thereof, and a description of the real estate in litigation as described in said bill, duly certified by the clerk of courts in and for the county where said bill is pending, is recorded in the registry of deeds in the county or district in which such real estate is situated.

SEC. 14. Verification by the oath of a party for whose benefit the bill sets forth that it is prosecuted, is equivalent to such verification by the plaintiff.

SEC. 15. If discovery is sought, it may be by bill, with or without interrogatories annexed thereto, for the purpose of such discovery. Answers thereto shall be made within thirty days after the return day of such bill, or within such time as the court orders, and questions arising thereon shall be determined by the rules established by said court as herein provided, and in the absence thereof, by the rules applicable to bills of discovery in equity procedure.

SEC. 16. When process is made returnable at any regular term, the defendant shall appear within the first three days thereof; otherwise on the return day of such process; and in default thereof, on motion of the plaintiff in writing, the bill shall be taken pro confesso, as matter of course, at the expiration of ten days after the filing of such motion, but such decree for good cause shown, on motion of the defendant, may be opened within ten days after it is made, and in such case the court shall fix the time for making a defense.

SEC. 17. Defense shall be made by answer, plea or demurrer, within thirty days after the time for appearance has elapsed, or within the time ordered by the court, as provided in the preceding section; but for good cause shown the court may in either case enlarge the time therefor. In default of such defense the bill shall be taken, pro confesso, as matter of course on motion of plaintiff in writing, filed on any day after such default, and served on the defendant. But such decree may be opened, on motion of defendant within ten days thereafter, as provided in said section. All answers shall be signed by the defendant and sworn to by him, if the plaintiff in his bill asks for an answer upon oath, otherwise it may be signed by the defendant, his agent or attorney, but in such case it has no effect as evidence, except to cast the burden of proof upon the plaintiff.

SEC. 18. The plaintiff shall file a replication within fifteen days after notice has been served on him or his counsel that answer or plea has been filed, but such time may be enlarged on such terms as the court orders, or the bill may be dismissed for want of prosecution, on motion filed by defendant at any time after said fifteen days, or at the expiration of the time ordered by the court for filing such replication.

SEC. 19. When a demurrer is filed, the court upon motion of either party, may set the cause for hearing upon bill and demurrer at any time. When a plea or answer is filed, the court, upon the motion of the plaintiff, may set the cause for hearing upon bill and plea, or answer at any time. When a replication is filed, the court, upon the motion of either party, may set the cause for hearing upon bill, answer or plea and evidence, but such hearing shall not be had until after sixty days from the filing

of the replication. When a jury trial is ordered it shall be had at the next jury term after such sixty days. Any time fixed for hearing or trial may be extended for good cause shown.

SEC. 20. At any hearing or trial in equity, the evidence may be presented wholly or partly by oral testimony, or by depositions. When oral testimony is used, it shall be reduced to writing by the stenographer, certified by him, and filed with the depositions, for use in case of appeal.

SEC. 21. The justice before whom such hearings are had, has full power to decide any motion or cause so heard, and shall make and enter such order and decree, as seems just and proper to him, and in accordance with the established principles of equity jurisprudence, subject to appeal and exceptions as hereinafter provided. (a)

SEC. 22. From all final decrees of such justice, an appeal lies to the next term of the law court. Said appeal shall be claimed by an entry on the docket of the court from which the appeal is taken, within ten days after such decree is signed, entered and filed, and notice thereof has been given by such clerk to the parties or their counsel. The appellant shall enter such appeal, and furnish written or printed copies of the case on the first day of said law term, and for good cause shown, the law court may enlarge the time for furnishing such copies. Such appeals shall be heard at the term to which they are taken, unless otherwise agreed, or the law court shall for good cause, order a further time for the hearing thereof, and shall on such appeal, affirm, reverse or modify the decree of the court below, or remand the cause for further proceedings, as it deems proper. All cases in which appeals or exceptions are taken from a final decree, shall remain on the docket of the court below, marked "law," and decree shall be entered therein by a single justice, in accordance with the certificate and opinion of the law court. (b)

SEC. 23. When an appeal is taken from a final decree, any justice may also make such order for the appointment of receivers, for injunction and prohibition, or for continuing the same in force, and such other orders as are needful for protection of the rights of the parties, or as are usual in equity proceedings in such cases, until the appeal is determined by the law court. Such orders may be modified or annulled by such justice, or by such law court, while the appeal is pending before it.

SEC. 24. An appeal may be claimed and taken in like manner from any interlocutory decree or order, but such appeal shall not suspend any proceedings under such decree or order, or in the cause, and shall not be taken to the law court until after final decree. Upon an appeal from a final decree, all previous decrees and orders are open for revision, reversal or approval.

SEC. 25. Upon a hearing in any cause in equity, the justice hearing the same may report the cause to the next term of the law court, if he is of the opinion that any question of law is involved, of sufficient importance or doubt to justify the same, and the parties agree thereto. The cause shall be entered and copies furnished by the plaintiff and shall be heard and decided by said law court in like manner and with like results as is herein provided in case of appeals.

SEC. 26. If any party intending to appeal, by accident or mistake, fails to do so, within the time limited therefor, he may within thirty days after the entry of the decree apply to any justice for leave to take such appeal, which may be granted on such terms as appear just and equitable.

How testimony may be taken.  
R. S., c. 77, § 18.  
1893, c. 156, § 2.

Justice shall decide cause, subject to appeal.  
R. S., c. 77, § 19.  
1893, c. 156, § 3.

Appeal to next term of law court, how to be claimed, and when heard.  
R. S., c. 77, § 20.  
1901, c. 246, § 1.

—law court shall affirm, reverse or modify decree of court below, or remand for further proceedings.

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

Justice may make orders for protection of rights of parties, while an appeal is pending.  
R. S., c. 77, § 21.

Appeal from interlocutory decree.  
R. S., c. 77, § 22.  
80 Me., 100.  
90 Me., 467.  
95 Me., 253.  
96 Me., 44.

Justice may report cause to the next term of law court.  
R. S., c. 77, § 23.  
1901, c. 246, § 2.  
10 Me., 417.  
78 Me., 337.  
82 Me., 250.  
83 Me., 190.

Justice may grant further time for appeal, in certain cases.  
R. S., c. 77, § 24.

(a) 75 Me., 417; 79 Me., 41; 88 Me., 359.

(b) 78 Me., 337; 81 Me., 141; 82 Me., 203; 83 Me., 193; 88 Me., 359.



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Aggrieved party may take exceptions to rulings of justice.  
R. S., c. 77, § 25.  
78 Me., 337.  
80 Me., 100.  
88 Me., 359.  
99 Me., 21.  
90 Me., 468.  
95 Me., 253.

—justice shall give separate findings of law and fact.

—other proceedings not suspended.

Date of order and decree.  
R. S., c. 77, § 26.  
32 Me., 204.

Process to enforce final decree shall not issue for ten days after entry, unless appeal is waived.  
R. S., c. 77, § 27.

Judgment, divesting person of real estate, not effectual unless certified and recorded in registry of deeds.  
1893, c. 301, § 3.  
94 Me., 322.  
See c. 11, § 18;  
c. 117, §§ 4, 18.

What proceedings may be had, out of the county in which the cause is pending, on notice to adverse party.  
R. S., c. 77, § 28.

Evidence in court below, how to be reported.  
R. S., c. 77, § 29.

—no witnesses heard orally before law court.

Issues of fact may be tried by jury.  
R. S., c. 77, § 30.  
65 Me., 447.  
75 Me., 417.  
80 Me., 175.

—a single justice may confirm or set aside verdicts.

SEC. 27. Either party aggrieved may take exceptions to any ruling of law made by a single justice, the same to be accompanied only by such parts of the case as are necessary to a clear understanding of the questions raised thereby. Such exceptions shall be claimed on the docket within the time allowed for appeal, and shall be made up, allowed and filed in the time provided therefor, unless further time is granted by the court, or by agreement of parties. In all other respects, such exceptions shall be taken, entered in the law court, and there heard and decided like appeals, with the same power in the single justice to make orders for injunction and prohibition, and the protection of the rights of the parties; and in the law court, to make orders and decrees pending the same and upon decision thereof; *provided*, that no question of fact is open to the law court on such exceptions. And upon request of either party, the justice hearing the cause shall give separate findings of law and fact. The allowance and hearing of exceptions shall not suspend the other proceedings in the cause.

SEC. 28. Every order and decree shall bear date upon the day on which it is filed and entered, and the day of such filing and entering shall be entered by the clerk upon the docket and on the decree.

SEC. 29. No process for enforcement of a final decree save for the appointment of receivers, for injunction or prohibition, or for continuing the same, shall issue within ten days from the entry of such decree, unless all parties waive an appeal by entry on the clerk's docket, or by writing filed in the cause, or consent in like manner to the issue thereof.

SEC. 30. No judgment or decree divesting any person of title to real estate shall be effectual against any person not a party to the action in which such judgment or decree is rendered, and persons not having actual notice thereof, unless a copy of such judgment or decree or so much thereof as relates to the title to such real estate, duly certified by the clerk of courts in and for the county where said judgment or decree is rendered, is, within thirty days after the rendering of such judgment or decree, duly recorded in the registry of deeds in the county or district in which such real estate is situated.

SEC. 31. Any hearing on a motion for an interlocutory decree or order may be had, or such order or decree passed, out of the county in which the cause is pending, on notice thereof to the adverse party. And the justice hearing the same shall transmit to the clerk of the county where the cause is pending any order or decree made at such hearing, but no trial before a jury upon issues framed therefor or final hearing of the cause, shall be had out of the county where the bill is pending, without consent of parties.

SEC. 32. All evidence before the court below, or an abstract thereof, approved by the justice hearing the case, shall on appeal be reported. No witnesses shall be heard orally before the law court as a part of the case on appeal, but the court may, in such manner and on such terms as it deems proper, authorize additional evidence to be taken when the same has been omitted by accident or mistake, or discovered after the hearing.

SEC. 33. The court may, in its discretion and upon application of either party, frame issues of fact in equity causes, to be tried by a jury in the county where such cause is pending. A single justice may confirm any verdicts rendered upon such issues, and enter appropriate decrees thereon, or he may set aside such verdicts, and render such decrees as equity requires, as if such issues had not been framed. In all causes where such issues are framed and tried, an appeal may be taken, and exceptions had

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to rulings of law, as hereinbefore provided, and upon such appeal or exception, the law court may confirm or set aside the verdicts rendered in the cause, or order a new trial of such issues, and make such disposal of the case as equity demands. All such appeals and exceptions shall be taken, heard and determined as provided by this chapter.

SEC. 34. Writs of seizin or execution, and all other processes appropriate to causes in equity, may be issued by the court, to enforce its decrees.

SEC. 35. Preliminary injunctions may be granted by a single justice in term time or in vacation, upon the plaintiff filing a bond with sufficient sureties conditioned to pay all damages and costs caused thereby, if he is finally found not entitled to such injunction, unless a single justice, on motion to dissolve the same and hearing on the merits thereof, refuses to dissolve it. Such damages and costs shall be awarded by the court on motion, but if not so awarded before final decree, they may be determined in a suit on such bond. Such injunction may also be granted to either party on hearing, without bond, upon oral evidence, depositions or affidavits, and upon such notice and with such time for pleading, evidence and hearing as the court directs. No preliminary injunction shall be granted to either party unless his pleadings contain an application therefor; but an injunction may be granted pending the suit, in proper cases, upon motion and hearing. Perpetual injunctions may be granted by the court or any justice thereof making final decree. (a)

SEC. 36. Whenever a party complains in writing, and under oath, that the process, decree or order of court, which is not for the payment of money only, has been disregarded or disobeyed by any person, summary process shall issue by order of any justice, requiring such person to appear on a day certain and show cause why he should not be adjudged guilty of contempt, and such process shall fix a time for answer to the complaint, and may fix a time for a hearing on oral testimony, depositions or affidavits, or may fix successive times for proof, counter proof and proof in rebuttal, or the time for hearing and manner of proof may be subsequently ordered upon the return day or thereafter. The court may, for good cause, enlarge the time for such hearing. If the person so summoned does not appear as directed, or does not attend the hearing at the time appointed therefor, as enlarged, or if, upon hearing, he is found guilty of such disregard or disobedience, he shall be adjudged in contempt, and the court may issue a capias to bring him before it to receive sentence, and may punish him by such reasonable fine or imprisonment as the case requires. The court may allow such offender to give bail to appear at a time certain, when such punishment may be imposed, if he continues in contempt. But when a second time found guilty of contempt in disregarding or disobeying the same order or decree, no bail shall be allowed. When such person purges himself of his contempt, the justice may remit such fine or imprisonment or any portion thereof. No appeal lies from any order or decree for such punishment, nor shall exceptions thereto be allowed, save upon questions of jurisdiction, nor in any case shall such exceptions suspend the enforcement of any such order or decree, unless the court so directs.

SEC. 37. When a justice deems any exceptions allowed by him, or any appeal in a proceeding in equity, frivolous and intended for delay, he may so certify on the motion of the party not excepting, and such exceptions

—appeal may be taken, and exceptions had.

Writs of seizin or execution, etc., may issue.  
R. S., c. 77, § 31.

Preliminary injunctions may be granted plaintiff.  
R. S., c. 77, § 32.

—granted to either party, if court directs.

—perpetual injunctions.

Summary process shall issue by order of court, when decree is disobeyed.  
R. S., c. 77, § 33.  
49 Me., 399.  
60 Me., 334

—proceedings, and punishment for contempt.

—bail.

—no appeal; exceptions.

Justice may, on motion, certify exceptions to

(a) 42 Me., 127; 49 Me., 322, 398; 54 Me., 404; 55 Me., 551; 60 Me., 194, 336; 81 Me., 305; 87 Me., 187.

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be frivolous  
and intended  
for delay,  
and transmit  
them to the  
chief justice.  
R. S., c. 77, § 34.

—proceedings.  
83 Me., 406.

Absent  
defendant  
not served  
with process,  
shall have  
review within  
one year.  
R. S., c. 77, § 35.

—proceedings.

—when  
review may  
be granted,  
on petition.

—proviso.

Revisory  
power of  
court, save  
on appeal,  
not abridged.  
R. S., c. 77, § 36.

Court shall  
make rules  
for practice in  
equity cases.  
R. S., c. 77, § 37.  
82 Me., 250.

Five or more  
justices sit as  
a court of  
law; when  
less suffice.  
R. S., c. 77, § 38.  
41 Me., 17.  
45 Me., 153.  
57 Me., 510, 540.

—verdict to  
stand, unless  
majority con-  
cur in grant-  
ing new trial.

Justice shall  
not sit in  
review of  
own rulings.  
1895, c. 140.

Sessions of  
law court.  
R. S., c. 77, § 39.  
1901, c. 246, § 3.

—annual ses-  
sions of all  
justices.

and appeal and the record connected therewith shall be transmitted to the chief justice, and be argued in writing on both sides within thirty days thereafter, unless the justice transmitting the same, 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 courts of the county where the cause is pending; and if the decision is adverse to the party taking such appeal or exceptions, treble costs may be allowed the prevailing party.

SEC. 38. In case of any decree, an absent defendant whose property has been attached and who does not appear by the record to have been served with process within the state and has made no appearance before final process, shall have a review within one year after final decree as of right, with stay or supersedeas of such process. The defendant may in such case apply to any justice by petition setting forth the grounds for such review, whereupon, if such justice orders reasonable notice to the other party to appear at a time and place named therein, to show cause why such review should not be granted, when such review is granted, the justice may prescribe the time in which the defendant's defense shall be made. Reviews may also be granted on petition, when- ever, by fraud, accident or mistake, and without fault of the party against whom the decree was ordered, justice has not been done; *provided*, that the petition therefor is filed within six years after final decree; and notice may be ordered and served with like rights of stay or supersedeas as herein provided. Upon granting the review, the court may fix a time within which the next proceeding shall be had.

SEC. 39. Nothing herein contained abridges the power of the court to hold all interlocutory orders and decrees subject to revision, at any time before final decree, except when they have been decided on appeal.

SEC. 40. The court shall make all proper rules for the regulation of equity practice necessary to simplify proceedings, discourage delays and lessen the expense of litigation, and it has full power for that purpose; but no rule of court now existing is repealed hereby, except so far as it is inconsistent herewith.

## LAW COURT.

SEC. 41. When sitting as a court of law to determine questions of law, arising in suits at law and in equity, and in criminal trials and proceedings, the court shall be composed of five or more of the justices, who shall hear and determine such questions by the concurrence of five members; but when any of them cannot act in a case by reason of interest or other dis- qualification, a majority of the others is sufficient; and in any civil action in which there is a subsisting verdict, if a majority 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 order judgment on the verdict.

SEC. 42. No justice shall sit in the law court upon the hearing of any cause tried before him, in which any of his rulings and findings are the subject of review, nor take any part in the decision thereof.

SEC. 43. For the purposes of the law court the state shall constitute one district. The sessions of the court as a law court, shall be holden at Augusta on the second Tuesday of December, at Bangor on the first Tuesday of June and at Portland on the fourth Tuesday of June in each year. Meetings of all the justices shall be held annually at Augusta and

Portland during the law terms, and all undecided questions of law and equity previously submitted shall then be decided.

SEC. 44. At least ten days before the sitting of each term of the law court, the clerks of courts in the several counties of the state, shall certify to the clerk of such term, all cases, pending in the supreme judicial and superior courts in their respective counties, marked "law" and all other matters of which the law court has jurisdiction, except cases in which exceptions or appeals in proceedings in equity have been adjudged frivolous and intended for delay; and they shall be entered on the docket of the law court and shall, together with all other matters therein pending, be in order for argument, determination or continuance in the alphabetical order of counties. *Provided*, that causes marked "law" and all other matters of which the law court has jurisdiction in the counties of Androscoggin, Cumberland, Franklin, Knox, Lincoln, Oxford, Sagadahoc and York shall not be entered or be in order for hearing at the term holden at Bangor, except by consent of both parties; but such causes shall be entered and be in order for hearing at the Portland and Augusta terms.

SEC. 45. The clerks of courts in the counties of Kennebec, Penobscot and Cumberland shall be the clerks of the terms of the law court held in their respective counties and each shall, upon the adjournment of a term thereof holden in his county, transmit to the clerk of the next term all dockets together with all exhibits and documents in his custody relating to pending causes. The dockets of the law court shall be made from time to time and kept as the court may direct.

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

SEC. 46. The following cases only come before the court as a court of law: Cases in which there are motions for new trials upon evidence reported by the justice; questions of law arising on reports of cases; bills of exceptions; agreed statements of facts; cases, civil or criminal, presenting a question of law; all questions arising in equity cases; motions to dissolve injunctions issued after notice and hearing or continued after a hearing; questions arising on writs of habeas corpus, mandamus and certiorari, when the facts are agreed on, or are ascertained and reported by a justice. They shall be marked "law" on the docket of the county where they are pending, and there continued until their determination is certified by the clerk of the law court to the clerk of 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 suits, briefly stating the points therein decided, to be filed therein, which rescript shall be certified by the clerk of the law court to the clerk of courts of the county where the action is pending, and to the reporter of decisions; and if no further opinion is written out, the reporter shall publish in the next volume of reports thereafter issued, the case, together with such rescript, if the reporter deems the same of sufficient importance for publication. (a)

(a) 41 Me., 18; 45 Me., 153, 418; 46 Me., 331; 50 Me., 272; 56 Me., 233; 57 Me., 23, 510; 59 Me., 580; 62 Me., 320; 67 Me., 133; 68 Me., 203, 343; 70 Me., 333; 72 Me., 104; 73 Me., 139, 224; 74 Me., 109; 77 Me., 243.

All pending cases marked "law" shall be certified to clerk.  
R. S., c. 77, § 40.  
1901, c. 246, § 4.

—how entered and determined.

—causes in certain counties shall not be heard in Bangor except by consent.

Clerks of the terms of the law court.  
R. S., c. 77, § 41.  
1901, c. 246, § 5.

—duties.

—compensation of clerks.  
1903, c. 18.

Jurisdiction of the law court.  
R. S., c. 77, § 42.  
1901, c. 246, § 6.

—law cases, how to be marked.

—how to be disposed of.

—rescripts.

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Arguments  
in writing.  
R. S., c. 77, § 43.  
1901, c. 246, § 7.  
57 Me., 510.  
85 Me., 129.  
88 Me., 132.

Complaint  
for not  
entering  
cases on law  
docket.  
R. S., c. 77, § 44.  
1901, c. 246, § 8.  
36 Me., 35.

Clerks shall  
enter judg-  
ment on cer-  
tificate, as of  
preceding  
term; attach-  
ments and  
rights to  
disclose,  
preserved.  
R. S., c. 77, § 45.  
68 Me., 203.  
72 Me., 451.  
76 Me., 97.  
79 Me., 358.

—provision,  
where a party  
to a suit dies,  
while action  
is pending  
before law  
court.  
See c. 84, § 51;  
c. 89, §§ 7, 12.

Attachments  
continue in  
certain cases,  
where  
plaintiff dies,  
within thirty  
days after  
judgment in  
his favor.  
R. S., c. 77, § 46.

—if defend-  
ant has been  
arrested,  
proceedings.

Trial terms,  
shall be held  
by one justice  
in each  
county.  
R. S., c. 77, § 47.

SEC. 47. When parties enter an agreement on the docket of a county under cases named in the preceding section, and transmit arguments in writing to the court before or at its next law term, such cases need not be entered on the docket of the law court; and the court may pronounce judgment in any county, and cause it to be certified and entered in the county where it is pending, as of the preceding term.

SEC. 48. When cases mentioned in section forty-six are not entered on the docket of the law court within the first two days of the next law term, the opposite party may, at that term, enter a complaint, briefly setting forth the facts, and the court, if satisfied of the truth thereof, may render judgment in his favor, as in other cases decided by it; and if the case is on exceptions, treble costs shall be awarded from the time when they were filed.

SEC. 49. 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, and execution may issue as of that term; but attachments then in force continue for thirty days after the next term in that county; and if the defendant was arrested on mesne process and gave bond to disclose after judgment, he may do so after said next term without breach of his bond. *Provided*, that where a party to a suit dies while the action is pending before the law court, and no suggestion of such 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 supreme judicial court may, in term time or vacation, order such action to be brought or carried forward on such county docket to a subsequent term of the court in such county, in order that such death may be suggested upon the docket, and the proper parties entitled to defend or prosecute such suit may enter their appearance therein, and that the judgment in said action may be entered up at such subsequent term, in accordance with such certificate from the law court.

SEC. 50. When a plaintiff dies before the expiration of thirty days from the rendition of judgment in his favor, or before the expiration of thirty days after the next term of court in the county where the action was pending, in cases where a certificate of decision, provided for in this chapter, is received by the clerk of courts of said county, in vacation, and no suggestion of such 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 ninety days after the next term of the court in that county; and if the defendant was arrested on mesne process, and gave bond to disclose after judgment, he may do so after said next term without breach of his bond.

## TRIAL COURTS.

SEC. 51. For the trial of civil actions and of persons accused of offenses, and for the transaction of all other business, except cases named in section forty-six, the court shall be held annually by one justice, at the following places and times; and the justices shall so hold said terms, under the direction of the chief justice, that their services shall be divided to each county as equally as may be.

Note. Jurisdiction is specially conferred upon the supreme judicial court in the following cases:

In condemnation proceedings by U. S., c. 2, § 12.

To appoint commissioners to locate public lots, c. 7, §§ 12 and 20; c. 16, §§ 60 to 63.

Upon appeal from county commissioners assessing road tax, c. 9, § 56; from assessors on application for abatement of taxes, c. 9, § 79; from municipal officers ordering removal of dangerous building, c. 22, § 28; from municipal officers upon applications for license of stationary engines, c. 22, § 19.

In the county of Androscoggin, at Auburn, on the third Tuesdays of January, April and September:—

Aroostook, at Houlton, on the third Tuesdays of April and September for civil and criminal business, and at Caribou on the first Tuesday of December for civil business only. At every said April term, the court upon the completion of the business conveniently triable therein at said Houlton, shall adjourn to Caribou to there complete such civil business pending in said court as ought to be and may be more conveniently there tried and heard; and the jurors in attendance at said court, except grand jurors, may be required to attend such adjournment, or may be discharged, or new jurors summoned as the circumstances may require:—

Cumberland, at Portland, on the second Tuesdays of January, April and October, for civil business:—

Franklin, at Farmington, on the first Tuesday of February, third Tuesday of May, and the fourth Tuesday of September; the May term shall be held without a grand jury and with but one 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 municipal courts and trial justices 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:—

Hancock, at Ellsworth, on the third Tuesday of January, and the second Tuesdays of April and October. The term held on the third Tuesday of January shall be for the transaction of civil business only and no grand jury shall be in attendance. Unless otherwise ordered by some justice of the court, either in term time or vacation, one traverse jury only shall be in attendance for the trial of causes, and venires for jurors shall be issued by the clerk in accordance with this section:—

Of the application of county funds by county treasurers, c. 12, § 6.  
In cases arising under the law governing appeals from decisions of the county commissioners, railroad commissioners and municipal officers relating to ways c. 23, §§ 8, 10, 11, 20, 21, 29, 46, 52; c. 94, § 41.  
To establish a common field, c. 26, § 35.  
Of proceedings to drain marsh lands, c. 26, § 43.  
Of complaints to charge kindred for support of paupers, c. 27, § 18; of overseers against master for abuse of child, c. 27, § 23.  
To enforce penalties for neglect to maintain fishways, c. 32, § 42.  
Of appeals from orders of insurance commissioner, c. 49, §§ 90, 153; from county commissioners relating to damages for lands taken by railroads, c. 51, § 36; from decisions of railroad commissioners as to crossings and bridges, c. 51, § 77; on locations of street railroads, c. 53, § 7.  
Of actions on awards of municipal officers for damages caused by construction of electrical lines, c. 55, § 18; of appeals in such cases, § 21; and on locations in plantations, etc., § 17.  
Of applications to restore to parents custody of children, c. 61, § 49; of application for support of wife and children, c. 63, § 7.  
Of probate appeals, c. 65, §§ 28-34; c. 68, §§ 12-18; to approve rules and blanks of courts of probate and insolvency, c. 65, § 43; to inspect records of register, c. 65, § 24.  
To appoint administrators under certain conditions, c. 66, § 20; of appeals from courts of insolvency, c. 72, § 10.  
To authorize sales of real estate of deceased persons, c. 73, §§ 2, 13, 19.  
To authorize sales of real estate subject to contingent remainders, c. 75, § 4; to order deed to be recorded, c. 75, § 30.  
To approve sale, when husband or wife refuses to join in deed, c. 77, § 17.  
Of appeals from trial justices, c. 85, §§ 17-20; c. 96, § 8; c. 98, § 6; c. 100, § 9.  
In cases relating to partition of real estate, c. 90.  
Of petition for review, c. 91.  
To settle title to real estate encumbered by undischarged mortgage, c. 92, § 34.  
To order sale of vessel attached for lien, c. 93, § 11.  
To enforce liens on buildings, lands, wharves and piers, c. 93, § 40.  
In proceedings to recover damage for fowage, c. 94; of complaints in bastardy, c. 99, § 3.  
In cases of forfeited goods, c. 100, § 5.  
To release an insane person under arrest or imprisoned, c. 101, § 38.  
Of applications for writ of replevin of the person, c. 103, § 1.  
Of summary proceedings to quiet title to land, c. 106, § 47.  
Over cutting and sale of wood and timber, c. 111.  
To release on habeas corpus, person wrongfully detained in insane hospital, c. 144, § 33.

—Androscoggin.

—Aroostook.  
1893, c. 173.  
1897, c. 230.

—April term  
adjourned to  
Caribou.

—Cumberland.

—Franklin.  
1901, c. 253, § 1.  
95 Me., 452.

—Hancock.  
1889, c. 199.

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—Kennebec.

Kennebec, at Augusta, on the first Tuesday of March, and the third Tuesday of October, for civil business:—

—Knox.  
1903, c. 3.

Knox, at Rockland, on the first Tuesday of January, first Tuesday of April, and the third Tuesday of September:—

—Lincoln.

Lincoln, at Wiscasset, on the fourth Tuesdays of April and October:—

—Oxford.  
1901, c. 137.  
—Penobscot.

Oxford, at Paris, on the second Tuesdays of March and October:—

Penobscot, at Bangor, on the first Tuesdays of January, April and October, for civil business, and on the first Tuesday of February and the second Tuesday of August, for criminal business:—

—Piscataquis.  
1897, c. 258.

Piscataquis, at Dover, on the last Tuesday of February and third Tuesday of September:—

—Sagadahoc.  
1901, c. 253, § 3.

Sagadahoc, at Bath, on the first Tuesday of April, third Tuesday of August and the fourth Tuesday of December:—

—Somerset.  
1901, c. 253, § 4.  
60 Me., 363.

Somerset, at Skowhegan, on the third Tuesdays of March and September, and the fourth Tuesday of December:—

—Waldo.  
1897, c. 284.

Waldo, at Belfast, on the first Tuesday of January, and the third Tuesdays of April and September:—

—Washington.  
1897, c. 312.

Washington, at Machias, on the second Tuesdays of January and October, and at Calais on the fourth Tuesday of April:—

—York.  
1901, c. 253, § 5.

York, at Saco, on the first Tuesday of January, and at Alfred on the first Tuesday of May and the third Tuesday of September.

Legal  
holidays.  
R. S., c. 77, § 48.  
1891, c. 19.  
78 Me., 502, 532.

SEC. 52. No court shall be held on Sunday, on any day designated for the annual fast or thanksgiving, or for the choice of presidential electors, the thirtieth day of May, fourth day of July, the first Monday of September, the day of the state election, or on Christmas day; and when the time fixed for a term of said court falls on either of said days, it shall stand adjourned until the next day, which shall be deemed the first day of the term for all purposes.

When justice may try  
cases alone.  
R. S., c. 77, § 49.  
5 Me., 140.  
65 Me., 81.  
92 Me., 79.

SEC. 53. The justice presiding at such terms shall decide any cause without the aid of a jury, when the parties enter upon the docket an agreement authorizing it.

When justice does  
not attend,  
court shall be  
adjourned;  
proceedings.  
R. S., c. 77, § 50.  
56 Me., 425.

SEC. 54. When no justice attends on the day for holding a court, the sheriff, or in his absence, the clerk, shall by oral proclamation in the courthouse and by notice posted on the door thereof, adjourn the court from day to day until a justice attends, and, in case of necessity, without day; and when so adjourned, actions brought for that term shall be entered by the clerk, and they, with all actions on the docket, shall be continued to the next term.

Exceptions,  
in civil and  
criminal  
cases.  
R. S., c. 77, § 51.

SEC. 55. When the court is held by one justice, a party aggrieved by any of his opinions, directions or judgments, in any civil or 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; but if he deems them frivolous and intended for delay, he may so certify on motion of the party not excepting; and 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 thirty 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. This section applies to exceptions filed in any criminal proceedings in either of the superior courts. If the justice disallows or fails to sign and return the exceptions, or alters any statement therein, and either party is aggrieved, the truth of the exceptions presented may be established before the supreme judicial court sitting as a

—proceedings,  
if they  
are deemed  
frivolous.—this section  
applies to  
superior  
courts.

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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. (a)

SEC. 56. When a dilatory plea is overruled and exceptions taken, the court shall proceed and close the trial, and the action shall then be continued and marked "law," subject to the provisions of the preceding section. (b)

SEC. 57. In all cases taken to the law court for argument and decision, except appeals by attorneys at law from judgments of court rendered against them on information, all copies of the case, abstracts containing the substance of all the material facts, pleadings and documents on which the parties rely, may either be printed or fairly and legibly written on good paper.

SEC. 58. In each case argued before the law court counsel shall file with the clerk of the court where such case is heard, three copies of their respective briefs, if printed, and the clerk, at the expense of his county, shall cause the same to be bound in three equal volumes of convenient size, properly paged, indexed and labeled, and shall deposit one each of said volumes in the respective county law libraries at Augusta, Bangor and Portland.

SEC. 59. Interest shall be allowed on verdicts and amounts reported by referees to be due, from the time of finding such verdicts or making such reports to the time of judgment. (c)

—how exceptions may be established.  
1893, c. 174, § 1.

Trial to proceed when dilatory pleas are overruled.  
R. S., c. 77, § 52.

Copies, in law cases, may be printed or written.  
R. S., c. 77, § 53.  
See c. 81, § 41.

Counsel shall file three copies of brief in all cases argued before law court.  
1901, c. 195.

Interest on verdicts and awards.  
R. S., c. 77, § 54.

## ATTORNEY GENERAL.

SEC. 60. The attorney general, when practicable, shall attend all terms of the law court, and all trials of persons indicted for treason or murder, on notice from the clerk, and give all proper instructions to county attorneys when he is absent, and at other times.

SEC. 61. When a criminal prosecution, in which he appears, is continued, he shall cause the witnesses in behalf of the state to recognize to appear at the next term, unless otherwise directed by the court, and may procure the attendance of a witness living out of the state deemed by him material in procuring an indictment or conviction; and the court shall allow such witness a reasonable compensation beyond his legal fees.

SEC. 62. The attorney general may, by himself or through the several county attorneys or other officers of the state, employ such detectives or other persons, offer rewards or use other means that he may deem advisable, for the detection, arrest and apprehension of persons who commit crime in this state.

SEC. 63. For said purpose the sum of fifteen hundred dollars shall be appropriated each year, and so much thereof as may be necessary, may be expended under the direction of the attorney general. The governor and council may draw their warrants from time to time, for the expenditure

To attend law courts and instruct county attorneys.  
R. S., c. 77, § 55.  
See c. 81, § 17.

Cause witnesses to recognize, and procure attendance of those out of the state.  
R. S., c. 77, § 56.

May employ detectives.  
1901, c. 162, § 2.  
See c. 139, § 8.

Appropriation.  
1901, c. 162, § 1.

—expenses, how paid.  
1901, c. 162, § 3.

(a) 41 Me., 18; 45 Me., 154, 418; 49 Me., 401; 56 Me., 25, 249; 57 Me., 292; 58 Me., 233; 60 Me., 464; 62 Me., 321; 64 Me., 176, 210; 65 Me., 81; 67 Me., 231, 387, 444; 74 Me., 109, 212; 77 Me., 243; 86 Me., 295; 92 Me., 79.

(b) 53 Me., 541; 65 Me., 367; 67 Me., 38; 71 Me., 28; 80 Me., 100; 91 Me., 577; 93 Me., 556; 95 Me., 134.

(c) 36 Me., 22; 50 Me., 338; 53 Me., 515.



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Make annual report.  
R. S., c. 77, § 57.  
See c. 81, § 19.

Shall not receive pay from prosecutor.  
R. S., c. 77, § 58.

Reporter; appointment, and tenure of office.  
R. S., c. 77, § 59.  
72 Me., 543, 565.

Duties.  
1901, c. 256, § 2.

—price of reports.

—size and style of volume.

Reports shall be copyrighted in the name of the state.  
1901, c. 256, §§ 3, 4.

—all profits shall be paid over to the treasurer of state.

of said sum, upon the presentation of bills properly avouched by the attorney general.

SEC. 64. The attorney general shall, annually, on the first day of December, make a report to the governor and council of the amount and kind of official business done by him, and by the several county attorneys during the year preceding, stating the number of persons prosecuted, their alleged offenses, the results and the punishments awarded, with any useful suggestions.

SEC. 65. He shall not receive any fee or reward, from or in behalf of any prosecutor, for official services, or, during the pendency of a prosecution, be engaged as counsel or attorney for either party in a civil action depending essentially on the same facts.

## REPORTER OF DECISIONS.

SEC. 66. The governor, with the advice and consent of the council, shall, in case of a vacancy, appoint a person learned in the law, to be reporter of the decisions of the law court, who shall hold his office during the pleasure of the executive.

SEC. 67. The reporter of decisions shall, by his personal attendance when practicable, or by the best other means in his power, prepare correct reports of all legal questions argued, reporting the cases more or less at large according to his judgment of their importance. He shall publish at least one volume yearly, and furnish the usual number of current copies to the state and to the public at a price of one dollar and seventy-five cents a volume. The volume shall be of the average size of volume eighty-three, Maine reports, and be equal thereto in paper, printing, binding, general finish and quantity of printed matter.

SEC. 68. Each volume of said reports shall be entered by the secretary of state with the librarian of congress and copyrighted in the name of the State of Maine, and the manuscript and copyright thereof shall belong to the state. All profits arising from the publication and sale of said reports and advance sheets thereof by said reporter shall be accounted for and paid over by him to the treasurer of state on the first Monday in December in each year. After ceasing to hold office the reporter shall prepare and publish all unpublished cases argued while in office.

Note. Attorney General shall prosecute treasurer of state for misconduct in office, c. 2, § 57; shall assist in making inventory in case of vacancy in office of treasurer of state, § 72; shall prosecute registers of deeds for misconduct, c. 11, § 11; disqualified to be county treasurer, c. 12, § 5; shall institute proceedings to protect property dedicated to pious uses, c. 16, § 33; shall enforce penalty for failure to allege former conviction, c. 29, § 61.

As to corporations in general, shall enforce penalties for neglect of corporation or officers to make returns, c. 47, §§ 27, 28; shall discontinue action upon compliance with law and payment of costs, § 29; may excuse corporations from filing returns, § 31; shall prosecute for violations of law regulating savings banks, c. 48, § 51; shall be notified of proceedings for distribution of deposit of foreign loan and building association, § 77; shall examine and approve certificate of organization, c. 47, § 8; shall approve form of notice of hours of labor, c. 40, § 49; also form of certificate of age of minor laborer, § 55.

As to insurance companies, shall prosecute for violations of law relating to foreign surety companies, title and credit insurance companies, c. 49, § 118; shall institute proceedings against companies transacting the business of casualty insurance on the assessment plan, for violation of law, § 124.

As to railroads, shall prosecute corporation wilfully neglecting to make returns, c. 51, § 49; shall take charge of proceedings to enforce compliance with order of railroad commissioners to make repairs, § 55; shall prosecute corporation violating certain provisions for safety on railroads, c. 51, § 51; c. 52, § 72; c. 53, § 20; shall take charge of proceedings against company for failure to operate road, c. 52, § 19; shall file information in nature of quo warranto against railroad corporation assigning its charter, or leasing its road without consent of legislature, § 30.

Shall prosecute sheriff for failure to file bond, c. 82, § 5; county treasurer for failure to report to him, c. 137, §§ 14, 15.

May file information against unworthy attorney, c. 81, § 37; for recovering seizin by the state in lands, c. 95, §§ 2, 5, 9, 11, 14, 17.

Entitled to notice of certain proceedings on habeas corpus, c. 101, § 15; of poor debtor's proceedings on judgment in favor of the state, c. 114, § 83.

Shall institute proceedings against lotteries, c. 129, § 21.

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SEC. 69. The reporter shall furnish free of charge the judges of the supreme judicial and superior courts with one copy each of advance sheets; he shall also be entitled to twenty-five copies, free of expense, for current exchanges with the reporters of other states, law school libraries, the attorney general, and heads of departments.

He shall furnish advance sheets free to all judges.  
1901, c. 256, § 5.

## THE SUPERIOR COURT FOR THE COUNTY OF CUMBERLAND.

SEC. 70. The superior court established at Portland, within and for the county of Cumberland, shall consist of one justice, an inhabitant of said county, of sobriety of manners and learned in the law, who shall be appointed, commissioned and qualified according to the constitution, and shall reside during his continuance in office, in Portland.

Superior court for Cumberland county.  
R. S., c. 77, § 62.  
—qualification of justice.

SEC. 71. Within said county, said superior court has exclusive jurisdiction of civil appeals from municipal and police courts and trial justices; exclusive original jurisdiction of actions of scire facias on judgments and recognizances not exceeding five hundred dollars; of bastardy trials, and of all other civil actions at law not exclusively cognizable by municipal and police courts and trial justices, where the damages demanded do not exceed five hundred dollars, except complaints for flowage, real actions and actions of trespass quare clausum; and concurrent original jurisdiction of actions of trespass quare clausum, and of proceedings in habeas corpus; and of all other civil actions at law where the damages exceed five hundred dollars, except complaints for flowage and real actions.

Jurisdiction.  
R. S., c. 77, § 63.  
57 Me., 154.  
60 Me., 463.

SEC. 72. Said court shall be held for civil business on the first Tuesdays of every month, except June, July and August; 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.

Civil and criminal terms.  
R. S., c. 67, § 64.  
64 Me., 530.

SEC. 73. Actions shall be made returnable at one of the three terms next begun and held after the commencement thereof.

Writs, when returnable.  
R. S., c. 67, § 65.

## THE SUPERIOR COURT FOR THE COUNTY OF KENNEBEC.

SEC. 74. The superior court established at Augusta, within and for the county of Kennebec, shall consist of one justice, an inhabitant of said county, of sobriety of manners and learned in the law, appointed, commissioned and qualified according to the constitution.

Superior court for Kennebec.  
R. S., c. 67, § 66.  
—qualification of justice.

SEC. 75. Within said county, said superior court has exclusive jurisdiction of civil appeals from municipal and police courts, and trial justices, exclusive original jurisdiction of actions of scire facias on judgments and recognizances not exceeding five hundred dollars; of bastardy trials, and of all other civil actions at law not exclusively cognizable by municipal and police courts, and trial justices, where the damages demanded do not exceed five hundred dollars, except complaints for flowage, real actions and actions of trespass quare clausum; and concurrent original jurisdiction of proceedings in habeas corpus, and libels for divorce.

Jurisdiction.  
R. S., c. 77, § 67.  
1891, c. 104, § 1.  
73 Me., 514.  
91 Me., 141.

SEC. 76. Said court shall be held at Augusta on the second Tuesday of January, and the first Tuesdays of April and September, and at Waterville on the second Tuesdays of June and November; but the criminal business of said county shall be transacted at the terms held on the second Tuesday of January and the first Tuesdays of April and September, together with civil business. The judge of said court may continue any case pending in said court without costs, when in his judgment justice

Terms.  
R. S., c. 77, § 68.  
1901, c. 172.  
85 Me., 122.

—judge may continue cases for trial in Waterville or Augusta.  
1889, c. 271, § 4.

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City of Waterville may provide accommodations for court.  
1889, c. 271, § 5.

Writs, when returnable.  
R. S., c. 77, § 69.  
77 Me., 170.  
85 Me., 122.

Seal: form of writs and processes, and how issued.  
R. S., c. 77, § 70.  
1887, c. 2.

Clerk.  
R. S., c. 77, § 71.  
See c. 116, § 5.

—clerk may appoint deputy.

—vacancy, how filled.

Sheriff or deputy to attend court.  
R. S., c. 77, § 72.

Grand jurors.  
R. S., c. 77, § 73.  
—traverse jurors.

Proceedings, if jury trial is desired by plaintiff or defendant.  
R. S., c. 77, § 74.  
57 Me., 38.  
60 Me., 43.  
63 Me., 87, 152.

—all other cases, save appeals, to be tried by justice.

may require it, in order to give the parties in interest opportunity to try any such case in either Waterville or Augusta in said county.

SEC. 77. The city of Waterville may provide a building and furnish suitable accommodation, for holding the superior court in said city, and may raise by assessment or loan, and appropriate a sufficient sum of money for the purpose of providing said accommodation for the said court.

SEC. 78. Actions shall be made returnable at one of the next two terms begun and held after the commencement thereof.

## GENERAL PROVISIONS APPLICABLE TO BOTH OF THE SUPERIOR COURTS.

SEC. 79. Each justice of a superior court shall establish a seal for his said court; all writs and processes issuing from any superior court shall be in the name of the state, of the usual forms, bearing the teste of the justice thereof under the seal of said court; they shall be signed by its clerk and obeyed and executed throughout the state, and may be made returnable in the superior court of any other county in which the action might be legally brought.

SEC. 80. The clerk for the time being of the supreme judicial court in each of said counties is also clerk of the superior court thereof. He shall appoint a deputy approved by the justice of such superior court, who shall act as clerk thereof whenever said court and the supreme judicial court are both in session in such county. And whenever said clerk of the supreme judicial court is absent, or the office is vacant, such justice may appoint a clerk for his court during such absence, or until an appointment is made by the governor and council, or by the supreme judicial court.

SEC. 81. The sheriff of each of said counties shall attend the superior court thereof unless the supreme judicial court is in session in such county in which case he shall specially designate a deputy, approved by the justice of such superior court, so to attend. And whenever it happens that such justice is prevented from attending at the time and place at which such court by law or by adjournment ought to be held, said sheriff or such deputy shall, by oral proclamation, adjourn said court from day to day, until such justice attends.

SEC. 82. Venires for grand jurors to serve at said superior courts shall be issued at least forty days before the first Tuesday of September, annually, and such jurors shall serve at every term of said courts for the transaction of criminal business throughout the year. Traverse jurors shall be drawn and returned to serve at the several terms of said courts as in the supreme judicial court, except that the same jurors may be required by the justice presiding to serve for two successive terms.

SEC. 83. If the plaintiff in either of said superior courts desires a jury trial, he must indorse the same upon his writ at the time of entry. The defendant shall, within fourteen days after entry, file his pleadings, and if the plaintiff has not demanded a jury, the defendant must indorse on his plea his demand for a jury, if he desires one. But whenever by accident or mistake the plaintiff fails to indorse on his writ at the time of entry a request for a jury trial, or if the defendant by accident or mistake fails to indorse upon his plea, when filed, a demand for a jury, the court may, on motion of either party, at its discretion order a trial by jury in the cause. Whenever a jury is so demanded by either party, or ordered by the court, the clerk shall enter the fact on the docket, and all other cases, except appeals, shall be tried by the justice without the intervention

of a jury, subject to exceptions in matters of law, in term time, or if both parties desire, at chambers. When a defendant, legally served, does not appear by himself or attorney within the first three days of the term, he shall be defaulted as in the supreme judicial court. If the defendant does not file his pleadings as hereinbefore provided, he shall be defaulted on the first day of the next term after entry, unless the court for good cause grants leave to file a plea or otherwise lawfully disposes of the action. All actions duly answered to shall be in order for trial at the next term after entry, and shall be so tried, except for good cause. Appeals shall be entered by the appellant as in the supreme judicial court, and shall be in order for trial at the first term.

SEC. 84. Exceptions may be alleged as in the supreme judicial court and shall together with all cases upon agreed statement of facts, upon report and motions for new trials, be certified as provided in section forty-four of this chapter. And all exceptions arising in cases within the exclusive jurisdiction of either of said superior courts may be certified at once by the justice thereof to the chief justice of the supreme judicial court, and shall, when so certified, be argued in writing on both sides within thirty days thereafter, unless the justice of such superior court for good cause, enlarges the time, and exceptions so certified shall be considered and determined by the justices of the supreme judicial court, as soon as may be. Decisions of the law court on all exceptions and questions from said superior courts shall be certified to the clerk of either of said superior courts with the same effect as in cases originating in the supreme judicial court in the county.

SEC. 85. When a demurrer to a declaration is overruled, the defendant, notwithstanding he excepts, may plead anew within such time as the justice orders, but in all cases where exceptions are alleged by the defendant, the action shall, notwithstanding, remain upon the docket of the superior court and be proceeded with as if no exceptions had been taken, until the case is in such a condition that the overruling of said exceptions will finally dispose of it. And the action shall then be transferred to the law court, or certified to the chief justice thereof, as hereinbefore provided for the hearing and determination of all exceptions arising in any stage of the case.

SEC. 86. The supreme judicial court, sitting as a court of law, has the same jurisdiction of all questions of law, motions for new trials, and questions arising on reports or agreed statements of facts originating in either superior court, as if they had originated in the supreme judicial court; and said law court has the same jurisdiction of all questions and motions certified thereto from either superior court as hereinbefore provided. And all provisions of law and rules of the supreme judicial court relative to the transfer of actions and other matters from the supreme judicial court for said county, or from its docket to the docket of said law court, and all provisions of law and rules regulating proceedings in such cases, and the effects of such proceedings apply to the transfer of actions from either of the superior courts or the dockets thereof to said law court, and to the proceedings in such cases and the effect thereof, except so far as they are inconsistent with the foregoing provisions.

SEC. 87. Said superior courts may administer all necessary oaths, render judgment and issue execution, punish for contempt and compel attendance, as in the supreme judicial court; make all such rules and regulations, not repugnant to law, as may be necessary and proper for the administration of justice promptly and without delay; and the provisions

—order of trials.

—appeals, how entered.

Exceptions.  
R. S., c. 77, § 75.  
1901, c. 246, § 9.  
59 Me., 198.  
67 Me., 77.  
90 Me., 274.

—cases certified upon agreed statements, when to be determined.

—decision shall be certified to clerk.

Demurrer overruled, defendant may plead anew.  
R. S., c. 77, § 76.

—actions to remain on docket until finally disposed of  
93 Me., 557.

Jurisdiction of law court over questions of law.  
R. S., c. 77, § 77.  
1901, c. 246, § 10.  
63 Me., 121.

—transfer of actions to law court.

Authority of court.  
R. S., c. 77, § 78.

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of law relative to the jurisdiction of the supreme judicial court in each of said counties over parties, the arrest of persons, attachment of property, the time and mode of service of precepts, proceedings in court, the taxation of costs, the rendition of judgments, the issuing, service and return of executions, and all other subjects, apply to each of said superior courts in all respects, except so far as they are modified by this chapter; and each of said superior courts is clothed as fully as the supreme judicial court, with all the powers necessary for the performance of all its duties.

Final judgments may be re-examined in supreme court; proceedings. R. S., c. 77, § 79.

SEC. 88. Final judgments in said superior courts may be re-examined in the supreme judicial court on a writ of error, or on petition for review, and when the judgment is reversed, the supreme judicial court shall render such judgment as the superior court should have rendered, and when a review is granted, it shall be tried in said supreme judicial court, which has the same power to grant writs of supersedeas of executions issued from said superior courts, as it has of executions issued from the supreme judicial court.

In case of illness, etc., of judge of superior court, other judges may hold court. R. S., c. 77, § 80. 1893, c. 277.

SEC. 89. Whenever a judge of a superior court, by reason of illness, death or other cause, is prevented from holding his court, any other judge of a superior court or any justice of the supreme judicial court by order of the chief justice, shall hold the same. And during a vacancy in the office of justice of either of the superior courts, all writs issued from the office of the clerk thereof, shall bear teste of any one of the justices of the supreme judicial court. Whenever the justice of either of the superior courts is disqualified by interest, relationship or other lawful cause from trying any cause pending in his said court, said case shall thereupon be transferred to the docket of the supreme judicial court for the county, and be disposed of in said court according to law.

—teste of writs in case of vacancy.

—cases transferred to supreme court, when justice is disqualified.

Criminal jurisdiction. R. S., c. 77, § 81. 56 Me., 491. 60 Me., 507.

SEC. 90. The original and appellate jurisdiction in all criminal matters in said counties of Cumberland and Kennebec, and all powers incident thereto, originally exercised by the supreme judicial court, but heretofore conferred upon and exercised by said superior courts, are continued, except as provided in section two of chapter one hundred and thirty-two.

Exceptions in criminal cases, when to be heard. R. S., c. 77, § 82. 1901, c. 246, § 11. 80 Me., 62.

SEC. 91. All exceptions or questions arising in any way during the trial of criminal cases in either of said superior courts, shall be transferred to the law docket of the supreme judicial court and have day therein, and if said exceptions are sustained, or a new trial is ordered, the cause shall be remanded to such superior court for trial. Motions for a new trial in criminal cases tried in either of the superior courts, shall be heard and finally determined by the justice thereof.

See § 55.

Jurisdiction of S. J. C. limited. R. S., c. 77, § 83.

SEC. 92. The jurisdiction of the supreme judicial court for the trial of civil and criminal cases in the counties of Cumberland and Kennebec, is limited in conformity to the foregoing provisions.

## NATURALIZATION.

Jurisdiction of applications for naturalization. 1893, c. 310. 88 Me., 209.

SEC. 93. The supreme judicial and superior courts shall respectively have jurisdiction of applications for naturalization. No other court established by this state shall entertain any primary or final declaration or application made by or in behalf of an alien to become a citizen of the United States, or entertain jurisdiction of the naturalization of aliens.