

MAINE STATE LEGISLATURE

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REVISED STATUTES
OF THE
STATE OF MAINE
1954

1963 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

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THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
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Chapter 105.

Board of Bar Examiners. Attorneys at Law.

Sections 25-29. Central Register of Attorneys.

Admission to Practice Law.

Sec. 1. Board for examination of applicants; tenure; compensation; meetings.—The board of examiners for the examination of applicants for admission to the bar, as heretofore established and hereinafter in this chapter called the “board,” shall be composed of 5 competent lawyers of the state; 1 member of said board shall be appointed annually by the governor on the recommendation of the chief justice of the supreme judicial court and shall hold office for the term of 5 years beginning on the 1st day of September of each year. Vacancies occurring from death, resignation, removal or inability to act shall be filled in like manner for the unexpired term. Such board shall hold at least 2 sessions annually at such times and places in the state as the supreme judicial court shall direct, for the purpose of examining all applicants for admission to the bar, as to their legal learning and general qualifications to practice in the several courts of the state as attorneys and counselors at law and solicitors and counselors in chancery. Upon such examination being had, the board shall issue to each applicant who shall pass the required examinations and satisfy all other requirements of this chapter a certificate of qualification stating the standing of the applicant and recommending his admission to the bar. The members of the board shall elect from their number a secretary and shall make such rules and regulations relative to said examination as to them may seem proper. The president of said board shall be the member whose term of office soonest expires. Three members of said board shall constitute a quorum for the transaction of business.

(1963, c. 369, § 1.)

Cross references.

See Editor’s note to § 5.

Effect of amendment.—The 1963 amendment divided the third sentence into two sentences and rewrote the present fourth sentence, the principal change being the

addition of the words “and satisfy all other requirements of this chapter.”

As the rest of the section was not affected by the amendment, only the first paragraph is set out.

Sec. 2. Outside attorneys to practice after 6 months residence; fee.

Any such applicant, when making application for such certificate of good moral character and of fitness to practice law, shall pay to the board a fee of \$150, all or any part of which may be used by said board to defray the expense of investigation of such applicant.

(1961, c. 157.)

Effect of amendment.—The 1961 amendment increased the fee in the second paragraph from \$100 to \$150.

As the rest of the section was not affected by the amendment, only the second paragraph is set out.

Sec. 4. Further qualifications; examination; fee; grade of standing.

—Each applicant, unless heretofore qualified, before taking examination for admission to the bar of this state shall produce to said board satisfactory evidence of good moral character and of having received a preliminary education sufficient to entitle him to admission as a member in good standing of the 3rd year class of Bates College, Bowdoin College, Colby College or the University of Maine, or any other college or university approved by said board, as a candidate for the degree of Bachelor of Arts, Science, Education or Business Administration. Such preliminary education shall be proved by a certificate of the satisfactory completion of 2 years’ work as a candidate for such degree at one or more

of such colleges or universities or by a certificate of admission as a candidate for such degree to the third year class of any such college or university. Any applicant may register with said board at any time by filing with said board a certificate stating his name, address, age and the date on which the study of law is commenced, and at the same time may submit to the board the proof of preliminary education, which proof shall be at once acted upon by the board and the result of such action communicated to the applicant.

In addition to the foregoing requirements, each applicant shall produce to the said board satisfactory evidence that he has been a bona fide resident of the state for 6 months prior to the examination which he seeks to take and that he has graduated from a law school approved by said board, provided that any person otherwise qualified may qualify to take the bar examinations upon proof that he has studied law in an office of some attorney in the state of Maine for 3 years prior to September 1, 1963, or that he has studied law for a continuous period of at least 6 months in such law office prior to September 1, 1963, and in an approved law school for a combined period of 3 years or he has successfully completed $\frac{2}{3}$ of the requirement for graduation from a law school approved by said board, and thereafter has pursued the study of law in the office of some attorney within the state of Maine for at least one year. When an applicant shall have satisfied said board that all of the foregoing requirements have been fulfilled, said applicant shall pay a fee to be fixed by said board of not more than \$35 and shall then be required to submit to a written examination which shall be prepared by said board, and an oral examination by said board, if deemed necessary. Any applicant who receives a grade of 70% or better as an average of all of the examinations given and who has satisfied all of the requirements and qualifications set forth in this chapter shall be entitled to the certificate of qualification mentioned in section 1. (R. S. c. 93, § 4. 1947, c. 53. 1951, c. 66, § 2. 1963, c. 369, §§ 2, 3.)

Cross reference.—See Editor's note to § 5.

Effect of amendment.—The 1963 amend-

ment added "unless heretofore qualified" near the beginning of the first sentence and rewrote the last paragraph.

Sec. 5. Repealed by Public Laws 1963, c. 369, § 4.

Editor's note.—Section 5 of c. 369, P. L. 1963, repealing this section, provides that "If any person notifies the secretary of the Board of Bar Examiners in writing within 6 months of the effective date of

this act [September 21, 1963] that he intends to rely upon the Revised Statutes, chapter 105, section 5 which is repealed by this act, he may rely on those provisions."

Sec. 8. Persons not admitted forbidden to practice law; cannot recover pay for services.—Unless duly admitted to the bar of this state, no person shall practice law or any branch thereof, or hold himself out to practice law or any branch thereof, within the state or before any court therein, or demand or receive any remuneration for such services rendered in this state. Whoever, not being duly admitted to the bar of this state, shall practice law or any branch thereof, or hold himself out to practice law or any branch thereof, within the state or before any court therein, or demand or receive any remuneration for such services rendered in this state, shall be punished by a fine of not more than \$500 or by imprisonment for not more than 3 months, or by both such fine and imprisonment. The word "person" as used herein shall include a body corporate. This section shall not be construed to apply to practice before any federal court by any person duly admitted to practice therein nor to a person pleading or managing his own cause in court. The supreme judicial court and the superior court shall have concurrent jurisdiction, upon petition of 3 or more members of any bar association within the state or of the attorney general, to restrain violations of this section. In all proceedings under the provisions of this section, the fact, as shown by the records of the clerk of courts in the county in which

a person resides, that such person is not recorded as a member of the bar in such county shall be prima facie evidence that he is not a member of the bar licensed to practice law in the state. The supreme judicial court or any justice thereof, shall have the power to issue a rule requiring any person alleged to have violated any of the provisions of this section to appear on a day fixed and show cause why he should not be adjudged in contempt, and abide the order of such court or justice in the premises, which order shall be served by a copy in hand at least 5 days before the return day. In the event that such court or justice finds said person guilty of violating any of the provisions of this section, the person so adjudged shall be punished by a fine of not more than \$500 or by imprisonment for not more than 3 months, or by both such fine and imprisonment. This power vesting authority in the supreme court, or any member thereof, to punish for contempt is not to supersede any of the other provisions of this section but is in addition to any other remedy provided herein. (R. S. c. 93, § 7. 1961, c. 323, § 323.)

Effect of amendment.—The 1961 amendment deleted “in equity” following “jurisdiction” in the fifth sentence of this section, deleted “in term time or vacation” following

“justice thereof” in the seventh sentence and made other minor changes in the fifth and sixth sentences.

Summary Proceedings for Payment of Collections.

Sec. 10. Summary proceedings against attorney failing to pay money collected.—If an attorney at law receives money or any valuable thing on a claim left with him for collection or settlement and fails to account for and pay over the same to the claimant for 10 days after demand, he is guilty of a breach of duty as an attorney. Such claimant may file in the office of the clerk of the superior court in the county where such attorney resides, a motion in writing under oath setting forth the facts. Thereupon any justice of the superior court shall issue an order requiring the attorney to appear on a day fixed and show cause why he should not so account and pay, and to abide the order of such justice in the premises; which shall be served by copy in hand at least 5 days before the return day. (R. S. c. 93, § 9. 1961, c. 317, § 324.)

Effect of amendment.—The 1961 amendment divided this section into three sentences and substituted “shall issue an or-

der” for “in term time or in vacation shall issue a rule” in the present third sentence.

Sec. 12. Appeal.—Either party may appeal from any ruling or decree of such justice to the law court as in any civil action. (R. S. c. 93, § 11. 1961, c. 317, § 325.)

Effect of amendment.—The 1961 amendment rewrote this section.

Removal of Unworthy Attorneys and Resignation of Attorneys.

Sec. 24. Management of causes by parties or counsel.—Parties may plead and manage their own causes in court or do so by the aid of such counsel as they see fit to employ. No person whose name has been struck from the roll of attorneys for misconduct shall plead or manage causes in court under a power of attorney for any other party or be eligible for appointment as a justice of the peace. (R. S. c. 93, § 23. 1959, c. 40. 1963, c. 402, § 139.)

Effect of amendments.—The 1959 amendment struck out the words “not exceeding 2 on a side,” formerly appearing after the word “counsel” in the first clause of this section.

The 1963 amendment divided the section into two sentences and deleted “trial justice or” preceding “justice of the peace”

near the end of the section.

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

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