

MAINE STATE LEGISLATURE

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THE
REVISED STATUTES

OF THE
STATE OF MAINE,

PASSED JANUARY 25, 1871;

TO WHICH ARE PREFIXED
THE CONSTITUTIONS

OF THE
UNITED STATES AND OF THE STATE OF MAINE:

WITH AN APPENDIX.

BY AUTHORITY OF THE LEGISLATURE.



PORTLAND:
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CHAP. 79.**CHAPTER 79.**

CLERKS OF COURTS. COUNTY ATTORNEYS, AND ATTORNEYS AT LAW.

CLERK OF THE JUDICIAL COURTS.

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 5. Copies of law cases in which the state is a party, to be furnished the attorney general.
 6. To complete records of deceased clerk; to be valid, when approved by court.
 7. He shall record lists of justices, and copies thereof, evidence. Also discharges of soldiers and seamen, and copies to be evidence when originals are lost. His fees therefor.
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 9. The court may appoint clerk pro. tem. in absence of clerk, who shall be sworn and give bond.
 10. Records to be examined, and when found deficient, to be made or corrected.
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COUNTY ATTORNEYS.

- SEC. 12. County attorneys, their election and tenure of office. Only residents eligible. Removal vacates.
13. He shall attend all trial terms of court, and law court, in absence of attorney general.
 14. He is to enforce the collection of fines and costs; see that officers do their duty in this respect, and annually move county commissioners for examination of their bond. Penalty for neglect of these duties, and how recovered.
 15. To make annual report to attorney general of the business of his office. Penalty for neglect, and how collected.
 16. When he is absent from a term, court to appoint pro. tem., and pay deducted from salary.
 17. Under same restrictions and obligations as attorney general.

ATTORNEYS AT LAW.

- SEC. 18. Court annually to appoint committee to examine attorneys. None admitted till examined, paid duty and taken oath in open court.
19. Parties may manage their causes, and employ not exceeding two counsel, or any person by power of attorney.
 20. Persons not admitted, cannot recover pay.

SUMMARY PROCEEDINGS FOR PAYMENT OF MONEY COLLECTED.

- SEC. 21. If attorney fails to pay over money collected, on written motion, under oath; court to cite him to show cause, to be served five days before hearing.
22. If he appears, to file answer under oath, and court to hear the case; if he does not, motion taken as confessed, and decree accordingly in either case.
 23. Either party may except.
 24. If he does not perform decree, to be imprisoned.
 25. Claimant may sue at common law; debtor not to cite to disclose till been in jail ninety days.

CLERKS OF THE JUDICIAL COURTS.

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SEC. 1. Clerks of the judicial courts shall be elected and notified, their elections determined and vacancies filled; and they shall enter upon the discharge of their duties at the time, and hold their offices for the term of three years, as is provided respecting county commissioners by chapter seventy-eight, and perform all the duties required by law.

Clerks of courts, their election, tenure of office and duties.
R. S. c. 79, § 1.

SEC. 2. Before entering upon the discharge of official duty, each clerk shall be sworn and give bond to the state, to be lodged in the office of its treasurer, approved by the governor and council, in the sum of eight thousand dollars, with two or more sureties, conditioned that he will faithfully perform all the duties of his office, pay over all moneys, and safely keep and immediately deliver all records, files, papers, muniments in said office, and property of the county as required by law.

To be sworn and give bond to the state.
R. S. c. 79, §§ 1, 2.

SEC. 3. He shall keep a true and exact account of all moneys that he receives, or is entitled to receive, for services by virtue of his office, and on the first Wednesday of January annually, render to the treasurer of the county, under oath, a true account thereof, specifying the items from which it accrued, and after deducting a thousand dollars a year and half the amount received over that sum for his own salary, pay over the residue, if any, to him for the use of the county; but all other moneys belonging to the county shall be paid in thirty days after received by him; and if he neglects to do so in either case, he shall pay twenty-five per cent. interest thereon till paid; and the county treasurer shall notify the state treasurer of any such known delinquency, and the clerk's bond shall then be sued.

To keep account of moneys received for services, and pay balance to county treasurer annually; other moneys to be paid in thirty days, or bond sued.
R. S. c. 79, §§ 3, 4.
R. S. c. 115, § 5.

SEC. 4. He shall receive all fines, forfeitures, and bills of costs, arising or imposed to the use of the state, paid or tendered to him before a precept is issued to enforce collection; and give discharges therefor and enter them of record.

Receive and give discharges for fines and costs voluntarily paid.
R. S. c. 79, § 5.

SEC. 5. He shall furnish to the attorney general full copies of all cases described in section seventeen, chapter seventy-seven, in which the state is a party, thirty days before the session of the court of law for that district. When the papers in such cases are not filed more than thirty days before such session, they shall be furnished immediately after they are filed.

Copies of cases of law in which state is a party to be furnished attorney general.
R. S. c. 79, § 7.

SEC. 6. Under the direction of the supreme judicial court, he shall complete unfinished records of a former clerk deceased, when from entries on the dockets and papers on file it sufficiently appears what judgment was rendered. Such record being made and approved by the court shall be deemed valid.

To complete records of deceased clerk; to be valid, when approved by court.
R. S. c. 79, § 8.

SEC. 7. He shall record the list of justices of the peace and other magistrates furnished by the secretary of state, in a book kept for that purpose; and such record, and also copies thereof duly

He shall record lists of justices, and copies thereof, evi-

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dence. Also discharges of soldiers and seamen, and copies to be evidence, when originals are lost. His fees therefor. 1864, c. 264, § 2. 1866, c. 31. See c. 31, § 66.

Penalty for taking more than legal fees. R. S. c. 79, § 9.

Court may appoint a clerk pro tem. in absence of clerk, who shall be sworn and give bond. R. S. c. 79, § 10.

Records to be examined, and when found deficient, made or corrected. R. S. c. 79, § 11.

Disposition of money collected by suit on clerk's bond. R. S. c. 79, § 12.

County attorneys, their election and tenure of office. Only residents eligible. Removal vacates. R. S. c. 79, § 13. 1861, c. 47. He shall attend all trial terms of court, and the law court in absence of attorney general. R. S. c. 79, § 14. Duty respecting sheriff's and coroner's bonds, &c. He is to enforce the collection of fines and costs; see

attested by him, shall be deemed legal, but not conclusive evidence of the due appointment and qualification of all such officers. He shall also record in a book kept for that purpose, properly indexed, certificates of discharge of soldiers and seamen from the army and navy of the United States, for which he shall be entitled to twenty-five cents each; and certified copies from such record, when the originals are lost, shall be evidence in court; and in the absence of other proof, have the same effect as the originals, and only twenty-five cents shall be allowed for such copy.

SEC. 8. A clerk, who exacts or receives more fees, than are allowed by law, forfeits fifty dollars, to be recovered in an action of debt by any person suing therefor to his own use, or by indictment, half to the prosecutor and half to the state.

SEC. 9. When a clerk is absent or the office is vacant, and an existing or immediate session of the court renders the appointment of a clerk necessary, the court may appoint one to supply the vacancy, until an appointment is made by the governor and council, or during such absence, who shall be sworn, and give such bond as the court orders.

SEC. 10. The supreme judicial court shall cause the records of each clerk to be examined at least as often as there is a change of the clerk, and when they are found to be deficient, direct them to be immediately made or corrected, and when such order is not obeyed, the fact of such deficiency shall be certified to the treasurer of state, who shall cause the clerk's bond to be sued.

SEC. 11. The money recovered in such suit shall be applied, under the direction of the court, to complete the deficient records. If more than sufficient, the balance enures to the state. If not sufficient, the balance may be recovered by the treasurer of state in an action on the case founded on the bond and facts.

COUNTY ATTORNEYS.

SEC. 12. The first section of this chapter respecting clerks is applicable to county attorneys, substituting the words "county attorneys" for the words "clerk of the judicial courts." None but a permanent resident of the county, shall hold such office, and removal from it, vacates the office.

SEC. 13. The county attorney shall attend the terms of the court held in his county, and act for the state in all cases in which the state or county is a party or interested, and in the absence of the attorney general from a term in the county or district, perform his duties in cases in the county, and coming from the county to the district under directions from him.

SEC. 14. He shall enforce the collection and payment to the treasurer of the county, of all fines, forfeitures, and bills of costs, that accrue to the state, and the faithful performance of their duties by

sheriffs, coroners, and constables, and give information to the court of their defaults in this respect; and shall annually move the county commissioners at their meeting next following the third Tuesday of June, to examine and consider the sufficiency of the sheriff's and coroners' bonds. If he neglects either of said duties, he forfeits not more than a hundred dollars, to be recovered in an action of debt, in the name of the state treasurer and to the use of the state.

SEC. 15. He shall annually by the twentieth day of November, make such a report to the attorney general of the business done in his office during the year ending on the first day of November, as he is required to make by section twenty-six, chapter seventy-seven, and in case of his failure to do so, he shall forfeit one-half of his salary for the current quarter, to be deducted by the governor and council in drawing his salary warrant unless they are satisfied there was reasonable cause therefor.

SEC. 16. When he does not attend a session of the court, or the office is vacant, the court may appoint an attorney to perform his duties during the session, and allow him a reasonable compensation for his services, to be paid from the treasury of the county, and charged to the state as bills of costs are in criminal cases, and the judge shall notify the treasurer of state, who shall deduct the same from the salary of such county attorney.

SEC. 17. He is under the same restrictions, and obligations to cause witnesses to be recognized as are imposed on the attorney general, by sections twenty-five and twenty-seven of chapter seventy-seven.

ATTORNEYS AT LAW.

SEC. 18. The supreme judicial court shall annually appoint, in each county, an examining committee of three or more, learned in the law; who shall thoroughly examine each applicant for admission to practice law; and if a majority of them are satisfied that he possesses the requisite legal qualifications and a good moral character, they shall give him a certificate thereof; and no person shall be so admitted until he has been examined, produces such certificate, pays the duty required by law, and in open court, takes and subscribes an oath to support the constitution of the United States, and takes the following oath:

"You solemnly swear, that you will do no falsehood, nor consent to the doing of any in court, and if you know of an intention to commit any, you will give knowledge thereof to the justices of the court or of some of them, that it may be prevented; you will not, wittingly or willingly, promote or sue any false, groundless, or unlawful suit, nor give aid or consent to the same; you will delay no man for lucre or malice, but you will conduct yourself in the office of an attorney within the courts, according to the best of your knowledge and discre-

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that officers do their duty in this respect; and annually move county commissioners for an examination of their bonds. Penalty for neglect of these duties, and how recovered. R. S. c. 79, §§ 15, 16.

To make annual report to attorney general of business of his office. Penalty for neglect thereof and how collected. R. S. c. 79, § 17; 1863, c. 168.

When he is absent from a term, court to appoint pro tem. and pay deducted from salary. R. S. c. 79, § 18

Under same restrictions and obligations as attorney general. R. S. c. 79, § 19.

Court annually to appoint a committee to examine applicants. None admitted till examined, paid duty and taken oaths in open court. R. S. c. 79, §§ 21, 22. 1859, c. 121, §§ 1, 2. See c. 122, § 12.

tion, and with all good fidelity, as well to the courts, as your clients. So help you God."

Parties may manage their own causes, or employ not exceeding two counsel, or any person by power of attorney.

R. S. c. 79, § 23.
1859, c. 121, § 3.
1860, c. 134.
33 Me. 357.
36 Me. 339.

Person not admitted, cannot recover pay.
R. S. c. 79, § 24.

If attorney fails to pay over money collected, court on written motion under oath, shall cite him to show cause, to be served five days before hearing.
1859, c. 96, §§ 1, 2.

If he appears, to file an answer under oath, and court to hear the case; if he does not, motion taken as confessed, and decree accordingly in either case.
1859, c. 96, § 3.
Either party may except.
1859, c. 96, § 4.

If he does not perform decree, imprisoned.

1859, c. 96, § 5.
Claimant may sue at common law; debtor not to cite to disclose till in jail ninety days.
1859, c. 96, § 6.

SEC. 19. Parties may plead and manage their own causes in court or by the aid of such counsel, not exceeding two on a side, as they see fit to employ; or by any citizen of good moral character who produces in court a letter of attorney for that purpose.

SEC. 20. No person commencing practice as an attorney or counselor at law in any other state or place, or in any court in this state, without the qualifications, oaths, and payment of the duty aforesaid, shall be entitled to demand or recover any remuneration for his professional services rendered in this state.

SUMMARY PROCEEDINGS FOR PAYMENT OF MONEY COLLECTED.

SEC. 21. 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 ten days after demand, he shall be deemed guilty of a breach of duty as an attorney; and such claimant may file in court in the county where such attorney resides, a motion in writing, under oath, setting forth the facts; and thereupon the court shall issue a rule 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 court in the premises; which shall be served by copy in hand at least five days before the return day.

SEC. 22. If he then appears, he shall file an answer to such motion, under oath, and the court may examine the parties and other evidence pertinent thereto. If he does not appear and answer, the facts set forth in the motion shall be taken as confessed; and in either case, the court shall render such decree as equity requires.

SEC. 23. Either party may allege exceptions to any ruling or decree of the court; and they shall be allowed unless deemed frivolous.

SEC. 24. If the attorney does not perform the decree of the court, he shall be committed for contempt till he does, or is otherwise lawfully discharged; and his name shall be struck from the roll of attorneys.

SEC. 25. The claimant may have his suit at common law against such attorney before filing such motion, or after an adverse decision thereon; and if judgment is recovered against the attorney in either mode, the fact shall be noted on the margin of the execution issued thereon; and when the debtor is arrested thereon, he shall be committed to jail, and no citation to disclose shall be issued till he has been there ninety days.