

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

REVISED STATUTES
OF THE
STATE OF MAINE
1954

1961 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 3

Discard Previous Pocket Part Supplement

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1961

York, New Jersey and Pennsylvania shall have provided by legislation or otherwise for the observance of Labor Day on the same day as provided in this act and provided further that on or before January 1, 1961 the governor, after determining that

a majority of the above-named states has provided for the observance of Labor Day on the same day as provided in this act, shall by proclamation proclaim that this act is effective."

Chapter 108. Municipal Courts.

Cross reference.—See c. 108-A, re district courts.

Sec. 2. Qualifications. — No person shall be eligible for appointment as judge or associate judge of any municipal court unless he shall be a member of the bar of this state and a resident of the county in which such court is located. Maintaining his principal office for the practice of law within the municipality or municipal court district for which such court is established will be deemed a compliance with any special residential requirement that may apply to that court. (R. S. c. 96, § 2. 1961, c. 210.)

Effect of amendment.—The 1961 amendment inserted "or associate judge" in the

first sentence and added the second sentence.

Sec. 3. Recorder acting as judge; salary.

In case of the absence, sickness or disqualification of a judge of a municipal court, or in the event of a vacancy in the office of said judge, or at any other time at the request of said judge in order to expedite business, the recorder shall have the same powers as said judge, and shall be ex officio justice of the peace. (R. S. c. 96, § 3. 1955. c. 405, § 45.)

Effect of amendment.—The 1955 amendment added the above paragraph at the end of this section. As the rest of the section was not changed, it is not set out.

Process issued by recorder need not contain a statement accounting for absence of judge under Private and Special Laws 1947,

c. 85, § 1, or under this section, since § 6 provides that the signature of the recorder of the court shall be sufficient evidence of his authority without in any way accounting for the absence of the judge of said court. State v. Fleming, 155 Me. 342, 154 A. (2d) 772.

Sec. 3-A. Associate judges.—From and after the effective date of this act the title "recorder" of any municipal court shall be "associate judge" of the said municipal court, provided said recorder is an attorney at law. (1959, c. 42, § 1.)

Editor's note.—P. L. 1959, c. 42, adding this section, provided in section 2 thereof as follows:

"Sec. 2. Amending clause. All municipal

court charters and provisions of statutes are amended to conform with the provisions of this act."

Sec. 4. Jurisdiction. — A municipal court shall not have jurisdiction in any civil matter unless a defendant resides within the county in which such court is established, or is a nonresident of the state and has personal service within the county, or a party summoned as trustee resides within the county, or property of the defendant is attached within the county in which such court is established; but in case of such personal service, trustee or attachment, such court shall have jurisdiction concurrent with the superior court and with all other municipal courts in the same county wherein it is established of all civil actions in which neither damages in excess of \$600 nor equitable relief is demanded. Any action in which the judge of such municipal court may be interested, either by relationship, as counsel or otherwise, may be brought by such judge before any other court, superior or municipal, in the same county in the same manner and

with like effect as other actions therein. (R. S. c. 96, § 4. 1957, c. 115. 1959, c. 317, § 93.)

Effect of amendments.—The 1957 amendment increased the maximum amount of debt or damages demanded from \$300 to \$600.

The 1959 amendment substituted "neither damages in excess of \$600 nor equitable relief is demanded" for "the debt or damages demanded do not exceed \$600" at the end of the first sentence of this section.

Effective date and applicability of Public Laws 1959, c. 317.—Section 420, chapter

317, Public Laws 1959, provides as follows: "This act shall become effective December 1, 1959. It shall apply to all actions brought after December 1, 1959 and also to all further proceedings in actions at law or suits in equity then pending, except to the extent that in the opinion of the court the application of this act in a particular action pending on December 1, 1959 would not be feasible or would work injustice, in which event the laws in effect prior to December 1, 1959 would prevail."

Sec. 5. Summonses.—Summonses in civil actions before any municipal court may be made returnable at any term thereof, to be held not less than 7 nor more than 65 days from their date. (R. S. c. 96, § 5. 1959, c. 317, § 94.)

Effect of amendment.—The 1959 amendment, effective December 1, 1959, substi-

tuted "Summonses" for "Writs" at the beginning of this section.

Sec. 6. Signature of recorder or clerk; facsimile signatures.—The signature of the recorder or clerk of any municipal court to a complaint, warrant, mittimus, summons, writ or other document, purporting to come from the court of which he is recorder or clerk, shall be sufficient evidence of his authority to issue the same, without in any way accounting for the absence or presence of the judge of said court.

(1959, c. 317, § 95.)

Cross reference.—See note to § 3.

Effect of amendment.—The 1959 amendment, effective December 1, 1959, added "summons" after "mittimus" in the first

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

Sec. 7. Summonses returnable to any municipal court in county.—Summonses issued from any municipal court may be made returnable to any other municipal court in any county, but nothing in this section shall be construed as permitting a defendant in one county to be summoned into a municipal court in another county unless one or more trustees of the principal defendant reside in a county other than the county in which said defendant resides as provided in chapter 114, section 84. (R. S. c. 96, § 7. 1959, c. 317, § 96.)

Effect of amendment.—The 1959 amendment, effective December 1, 1959, substituted "Summonses" for "Writs" at the be-

ginning of this section and made two other minor changes.

Sec. 10. Costs and fees; overcharging costs.—The costs and fees taxed and allowed in all the municipal and trial justice courts shall be as follows:

Costs in civil actions. Costs to parties and attorneys in civil actions shall be: To plaintiffs who prevail:

I. Where the damages recovered amount to \$20 or more;	
Summons	\$3.50
Entry	1.00
Officers' fees for serving summons and writ of attachment, as allowed by the court
Attendance, each term	3.50
Travel, each term	.66
Witness fees, as allowed by the court

II. Where the damages recovered amount to less than \$20 :	
Summons	\$2.00
Entry	1.00
Officers' fees for serving summons and writ of attachment, as allowed by the court
Attendance, each term	2.00
Travel, each term	.66
Witness fees, as allowed by the court
To defendants who prevail :	
Pleadings	\$2.00
Witness fees, as allowed by the court
Attendance, each term	2.00
Travel, each term	.66
To trustees who make disclosure at the return term :	
Disclosure	\$1.00
Attendance, each term	2.00
Travel, each term	.66
Witness fees, as allowed by the court

If the prevailing party actually travels more than 10 miles for the special purpose of attending court in any such action, he may be allowed by the court for every 10 miles so traveled, but not exceeding 40 miles .33.

The allowance for travel and attendance to parties recovering costs shall be limited to 2 terms, except that the court for good and sufficient cause may order allowance for additional terms.

Copies of papers for removal or appeal to the superior court, to be paid by the appellant to the municipal court and taxed in his cost by the superior court if he finally prevails 2.00.

If any attorney at law or other person demands or takes for a writ of attachment with a summons or for an original summons and complaint, returnable before a trial justice, judge or recorder of a municipal court, more than the costs and fees allowed in the preceding paragraphs of this section from the defendant ; or, in the taxation of costs, such justice, judge or recorder taxes or allows more than that sum for the same, he forfeits to the defendant not less than \$5 nor more than \$10, to be recovered in an action, but nothing herein contained shall be so construed as to reduce the fees of municipal courts otherwise established by law.

Every attorney shall pay the municipal court an entry fee of \$1 for each civil action entered. There shall be no charge to any attorney by said court for blank writs or summonses, for issuing any execution, any execution renewal, any writ of possession or for taxing costs.

Fees in criminal cases.

Receiving a complaint and issuing a warrant \$5.00.

The aforesaid fees when received shall be disposed of as provided by the public laws or by the acts establishing the respective courts. (R. S. c. 96, § 9. 1957, c. 334, § 9. 1959, c. 317, § 97.)

Cross reference.—See now c. 146, § 2-A re costs and fees in municipal and trial justice courts.

Effect of amendments. — The 1957 amendment changed the fee for writs (now summonses) from \$3.54 to \$3.50 in subsection I, increased the fees for entries from 50¢ to \$1.00 and deleted the fees for taxing costs in subsections I and II, inserted the last paragraph under the heading "Costs in

civil actions", and deleted former enumerated fees in criminal cases and increased the fee for receiving complaint and issuing warrants from \$1.00 to \$5.00 under the heading "Fees in criminal cases".

The 1959 amendment, effective December 1, 1959, made changes in the first and third items under subsections I and II and in the last and next to last paragraphs under the heading "Costs in civil actions."

Sec. 12. Dismissal of civil cases for want of prosecution. — At the term of each municipal court held next following the first day of October of each year, the judge or recorder shall examine the civil docket and dismiss any case thereon which has been pending for 6 years or more without an entry showing that a final judgment or other order for a definitive disposition has been made. At the same time, the civil docket shall be called, and in all cases which have remained on the docket for a period of 2 years with nothing done thereon shall be dismissed for want of prosecution on motion of any party thereto, including a party named as trustee in the writ, unless good cause be shown to the contrary. (1959, c. 158.)

Chapter 108-A. District Court.

Editor's note.—P. L. c. 386, adding this chapter, provided in § 2 thereof as follows:

“Effective date; transition to new system. Chapter 108-A of the Revised Statutes, as enacted by section 1 of this act, shall take effect 90 days after the adjournment of the Legislature, and the judges provided for in section 9 of said chapter shall be appointed as soon thereafter as the Governor deems advisable. The District Court shall be deemed to be established in a district, within the meaning of this section, on the date when the district judge appointed to such district assumes office.

After the effective date of this act, except as provided in the following paragraphs, no trial justice and no judge, associate judge or recorder of a municipal court shall be appointed or reappointed; but the term of any trial justice and of any judge, associate judge or recorder of a municipal court, holding office at the time of the effective date of this act, which shall expire prior to the establishment of the District Court in the district in which such trial justice resides, or such municipal court is located, is extended until such establishment.

If in a municipal court the office of judge becomes vacant prior to the establishment of the District Court in the district in which such municipal court is located, and there is an associate judge of such court, he shall thereafter, and until the District Court is established in the said district, be paid the same salary as provided for the office of judge of such court. If such court has no associate judge, the Governor may, with the advice and consent of the Council, notwithstanding that such court may already have a recorder, appoint an associate judge of such court to serve until the establishment of the District Court in such district; and such associate judge shall be paid the same salary as provided for the office of judge of such municipal court. Upon the establishment of the District Court in

the said district such municipal court shall cease to exist, and all cases pending in such court and all of its records shall be transferred to the District Court for the division in which such court was located; and all persons then on probation pursuant to order of such municipal court shall be deemed to be on probation under the order of said District Court.

If a trial justice dies or vacates his office prior to the establishment of the District Court in the district in which the residence of such trial justice is located, the Governor may with the advice and consent of the Council appoint an additional recorder of a municipal court in the county of such place of residence, to serve until the establishment of the District Court in such district; and such recorder shall be paid the same salary as was theretofore paid the said trial justice. Upon the establishment of the District Court in said district all cases pending before him and all his records shall be transferred to the District Court for the division in which he resided.

Upon the establishment of the District Court in a district, the judge of a municipal court located in the district whose term has not yet expired shall continue to exercise, concurrently with the District Court, the jurisdiction vested in such municipal court, until after the expiration of his term. Upon such expiration, or upon his office otherwise becoming vacant, after such establishment of the District Court, such municipal court shall cease to exist, and all cases pending in such court and all of its records shall be transferred to the District Court for the division in which such court was located; and all persons then on probation pursuant to order of such municipal court shall be deemed to be on probation under the order of said District Court.

Upon the establishment of the District Court in any district, a trial justice residing in the district whose term has not yet