

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)

Maine
REVISED STATUTES
1964

*Prepared Under the Supervision
of the
Committee on Revision of Statutes*

Being the Tenth Revision of the
Revised Statutes of the State
of Maine, 1964

Volume 1
CONSTITUTION

Titles 1 to 10



Boston, Mass.
Boston Law Book Co.

Orford, N. H.
Equity Publishing Corporation

St. Paul, Minn.
West Publishing Co.

Text of Revised Statutes
Copyright © 1964
by
State of Maine

This is a historical version of the Maine Revised Statutes that may not reflect the current state of the law. For the most current version, go to:

<http://legislature.maine.gov/legis/statutes/>

CHAPTER 13

CLERKS OF JUDICIAL COURTS

Sec.

- 551. Election; tenure.
- 552. Military or naval service.
- 553. Bond.
- 554. Salaries.
- 555. Fee schedule.
- 556. Account for moneys received; depository; accounts verified; deposits in name of court; forfeiture.
- 557. Receipt and discharge of fines and costs voluntarily paid.
- 558. Administration of oaths.
- 559. Completion of records of deceased clerk.
- 560. Duties as to lists of magistrates, discharges of soldiers and seamen; files of state paper.
- 561. Taking illegal fees.
- 562. Deputies; oath and bond; clerk pro tempore.
- 563. Record of civil cases.
- 564. Record of criminal cases; certain convictions not criminal records.
- 565. Examination and correction of records.
- 566. Disposal of money collected by action on clerk's bond.
- 567. No recording officer to be attorney or sue in own court nor draft or aid in drafting paper to be recorded.
- 568. Duties of clerks as to records; fees.

§ 551. Election; tenure

Clerks of the judicial courts shall be elected and notified, their elections determined and vacancies filled in the same manner, and they shall enter upon the discharge of their duties at the same time as is provided respecting county commissioners, but they shall hold their offices for 4 years.

R.S.1954, c. 89, § 95.

§ 552. Military or naval service

Whenever any clerk of court during his term of office shall, in time of war, contemplated war, emergency or limited emergency, enlist, enroll, be called or ordered or be drafted into the military or naval service of the United States or any branch or unit thereof, his status shall continue in the same manner as that provided in Title 30, section 104 for county commissioners, and the temporary vacancy so created shall be filled by the same method as

that provided in said section 104 for county commissioners who have entered said service.

R.S.1954, c. 89, § 96.

§ 553. Bond

Each clerk shall give a corporate surety bond or bonds to the State, to be lodged in the office of the State Auditor, in amounts and form approved by the Chief Justice of the Supreme Judicial and Superior Courts, 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, muni-ments in said office and property of the county as required by law.

R.S.1954, c. 89, § 97.

§ 554. Salaries

The clerks of the judicial courts in the several counties shall receive annual salaries as set forth in Title 30, section 2.

The salaries of the clerks of the judicial courts shall be in full compensation for the performance of all duties required of clerks including those performed by them as clerks of the Supreme Judicial Court, the Superior Court and the county commissioners, or by clerks pro tempore employed by them. The sum provided for the clerk in Lincoln County shall be in full for all such services and in full for services as clerk of Lincoln municipal court, except as provided in section 54. They shall account quarterly under oath to the county treasurer for all fees received by them or payable to them by virtue of the office, except fees collected by them in naturalization proceedings, specifying the items, and shall pay the whole amount of the same to the treasurers of their respective counties quarterly on the 15th days of January, April, July and October of each year.

R.S.1954, c. 89, § 98; 1957, c. 179; 1959, c. 372, § 2.

§ 555. Fee schedule

The fees of clerks of the judicial courts shall be as follows:

For every blank writ of attachment with a summons, or an original summons, 10¢.

Blank writs of replevin with the seal, signature and blank bond, 20¢.

Entry of an action, or entering up and recording the judgment, \$2.

Copies, minimum of \$1, for first 500 words if the writing contains that number and 20¢ for each 100 words or fraction thereof in excess of 500 words.

Recording the complaint in an action for partition, and any order thereon, at the rate of 25¢ a page of 224 words.

Recording petition and proceedings for release of attachment and making copy and certificate, \$2.

Making certificate of dissolution of attachment by judgment for defendant, 50¢.

Entry of a rule of court upon the parties submitting a cause to referees, 25¢.

Proving a deed in court and certifying the same, \$1.

Making certificate of approval by judge, of sale of real estate and price, when husband or wife refuses to release interest and right by descent, \$1.

Authenticating the official signature of a magistrate, 50¢.

Original or other writ of execution in personal matters and filing the same when returned, 50¢.

Writ of possession in real actions, 50¢.

Writ of protection or habeas corpus, 50¢.

Subpoena for one witness or more or with a duces tecum, 10¢.

Recording certificate of discharge of a soldier or seaman from the army or navy of the United States, 25¢ and for a copy of such record, 25¢.

Recording certificate of registration in veterinary surgery, \$1.

For making up the record in a civil action in which equitable relief is sought, the court may allow a further sum, not exceeding \$1 for the first 500 words if the writing contains that number, and 20¢ for each 100 words or fraction thereof in excess of 500 words, to be taxed by the clerk.

For each certificate or copy of judgment or decree, 50¢ for the first page and 25¢ for each additional page which, together with the fees of the register of deeds for recording such certificate or copy, may be taxed in the costs of a civil action.

Warrant to make a partition, \$1.

Process to enforce a lien on personal property, \$2.

Commission to referee, auditor, surveyor or other officer appointed by the court, \$1.50.

Writ of review, \$1.

Every writ and seal other than before-mentioned, \$1.

For filing each warrant for state sales or use tax, \$1.

R.S.1954, c. 89, § 99; 1959, c. 190, § 2; 1961, c. 307; c. 317, § 227; c. 417, § 172.

§ 556. Account for moneys received; depository; accounts verified; deposits in name of court; forfeiture

The clerk shall keep a true and exact account of all moneys which he receives or is entitled to receive for services by virtue of his office and shall pay the same to the county treasurer for use of the county in the manner required by law. All other moneys belonging to the county shall be paid in 30 days after they are received by him. If in either case he neglects to do so, he shall pay 25% interest thereon until paid. The county treasurer shall notify the Treasurer of State of any such known delinquency and the clerk's bond shall then be sued.

Proceeds of all sales of property made under the judgment or decree of the Supreme Judicial Court or of the Superior Court and any and all other sums of money from whatever source derived in civil proceedings coming into the custody of the Supreme Judicial Court or of the Superior Court shall be deposited in such depository as the court having custody of such money shall designate, and shall be withdrawn therefrom upon order of the clerk of courts, countersigned by any Justice of the Supreme Judicial Court or of the Superior Court. Any justice of either of said courts shall designate some proper depository for the funds referred to and such designation shall be minuted on the docket of the court. Clerks of courts in the several counties shall keep a regular record containing the account of such funds showing the deposits and all accumulations thereof and the amounts withdrawn therefrom, specifying the date of such withdrawal and the case to which such matters relate. All deposits shall be in the name of the incumbent clerk of courts as custodian.

Whenever any of said funds are ordered by the court to be paid to a person entitled to same, $\frac{1}{2}$ of the accrued interest, if any, shall be paid to the county treasurer for the use of the county, and the other $\frac{1}{2}$ paid to the claimant unless otherwise ordered by the court. Whenever any of said funds remain unclaimed for 20 years from the date when payable under said court judgment

or decree, the clerk shall obtain an order from the court, under whose judgment or decree said funds were placed in his custody, that a comprehensive abstract of the facts be advertised for 3 weeks successively in a newspaper of general circulation published in the county, and if no one appears to claim said funds within 60 days after date of the last publication, the same shall become forfeited to the county and be paid by said clerk to the county treasurer for the use of the county. That portion of this section providing for the forfeiture of unclaimed funds shall apply to funds held by the clerk of courts for 20 years or more prior to September 16, 1961.

R.S.1954, c. 89, § 100; 1961, c. 110.

§ 557. Receipt and discharge of fines and costs voluntarily paid

The clerk shall receive all fines, forfeitures and bills of costs imposed or accruing to the use of the State when paid or tendered to him before a precept is issued to enforce collection, give discharges therefor and enter them of record.

R.S.1954, c. 89, § 101.

§ 558. Administration of oaths

Clerks of courts may administer oaths required by law unless another officer is specially required to do it.

R.S.1954, c. 89, § 102.

§ 559. Completion of records of deceased clerk

Under direction of the Superior Court, the clerk 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, when approved by the court, is valid.

R.S.1954, c. 89, § 103.

§ 560. Duties as to lists of magistrates, discharges of soldiers and seamen; files of state paper

The clerk shall record the list of magistrates furnished by the Secretary of State in a suitable book. Such record and copies thereof duly attested by him are legal but not conclusive evidence of the due appointment and qualification of all such

officers. He shall record in a book kept for that purpose, properly indexed, certificates of discharge of soldiers and seamen from the army, navy and air force of the United States. 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. He shall preserve and file for public inspection all copies of the state paper forwarded to him by the publisher thereof as required by law.

R.S.1954, c. 89, § 104.

§ 561. Taking illegal fees

A clerk who exacts or receives more than his lawful fees forfeits \$50, to be recovered by indictment.

R.S.1954, c. 89, § 105.

§ 562. Deputies; oath and bond; clerk pro tempore

The clerk of the judicial court in each county shall appoint a deputy clerk whose appointment shall be approved by a resident Justice of the Superior Court or by the Chief Justice of the Supreme Judicial Court. The clerk in each county shall be responsible for all of the official acts of his deputy. Before entering upon his official duties, each deputy shall be sworn and shall give a bond to the clerk, approved by the county commissioners and lodged in the office of the county treasurer, in the sum of \$8,000, conditioned that he will faithfully perform all the duties required of his office. Whenever the clerk is unable to perform the duties of his office, his deputy shall have all the power and perform all the duties of clerk and be subject to the same penalties for any neglect thereof.

The clerk of the judicial court in each county may appoint one or more special deputy clerks to serve at the pleasure of the clerk, whose powers and duties shall be limited to those contained in the certificate of appointment. Each such appointment shall be approved by any Justice of the Superior Court or by the Chief Justice of the Supreme Judicial Court. The clerk in each county shall be responsible for all of the official acts of any special deputy so appointed. Before entering upon his official duties, each special deputy shall be sworn and if the clerk deems it advisable, he shall give bond to the clerk, approved by the county commissioners and lodged in the office of the county treasurer, in the sum of \$8,000, conditioned that he will faithfully perform the duties of his office. Such special deputy shall be paid for each day

of actual service an amount set by the clerk and approved by the county commissioners.

Whenever the office of clerk shall be vacant by reason of death, resignation, removal from the county, failure of choice by election or any other reason, the Chief Justice of the Supreme Judicial Court shall appoint a suitable person to act as clerk who shall be sworn and give such bond as said Chief Justice directs and who shall serve until an appointment is made by the Governor and Council and said appointee has qualified. Whenever a clerk is absent or temporarily unable to perform his duties as clerk and an existing or immediate session of the court renders it necessary, the Chief Justice of the Supreme Judicial Court may appoint a clerk pro tempore who shall be sworn and give such bond as said Chief Justice directs.

R.S.1954, c. 89, § 106; 1961, c. 417, § 172-A; 1963, c. 210, § 2; c. 232.

§ 563. Record of civil cases

After the rendition of final judgment or decree in any civil action, the clerk shall, as soon as may be, make such a record thereof in short form, except in such specific instances as the court by general rule or special order may direct. If either party files a request and tenders the fees therefor, a full, extended record shall be made. The court may establish the form of such short form record and full, extended record.

R.S.1954, c. 89, § 107; 1957, c. 225; 1961, c. 317, § 228.

§ 564. Record of criminal cases; certain convictions not criminal records

In indictments for felonies, clerks shall make extended records of the process, proceedings, judgment and sentence. In other indictments, it is sufficient to record the title of the case, the nature of the indictment, the term when it was found, the proceedings in brief thereon and the judgment and sentence of the court. In criminal prosecutions brought up by appeal from inferior courts, it is sufficient to record the title of the case, the nature and date of the complaint, the name and official character of the judge before whom the case was tried and the sentence appealed from and its date, to be followed by correct minutes of the proceedings and judgment in the appellate court. Such record may be made by microfilm process.

Convictions for violation of the fish and game laws or motor vehicle traffic laws or municipal ordinances where the fine imposed does not exceed \$50 shall not be deemed to constitute a criminal record against any person so convicted. This section shall not exempt any court from filing court abstracts as now required by law.

R.S.1954, c. 89, § 108; 1961, c. 108; 1963, c. 402, § 107.

§ 565. Examination and correction of records

The Chief Justice of the Supreme Judicial Court may cause the records of each clerk to be examined and when found 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.

R.S.1954, c. 89, § 109; 1957, c. 209.

§ 566. Disposal of money collected by action on clerk's bond

The money recovered in such action shall be applied under direction of the court, to complete the deficient records. If more than sufficient, the balance inures to the State. If not sufficient, the balance may be recovered by the Treasurer of State in an action founded on the bond and facts.

R.S.1954, c. 89, § 110; 1961, c. 317, § 229.

§ 567. No recording officer to be attorney or sue in own court nor draft or aid in drafting paper to be recorded

No clerk, register or recording officer of any court of the State shall be attorney or counselor in any civil action or matter pending in such court; neither shall he commence actions to be entered therein, nor draft nor aid in drafting any document or paper which he is by law required to record, in full or in part, under a penalty of not more than \$100, to be recovered by indictment for the benefit of the county.

R.S.1954, c. 89, § 111; 1963, c. 414, § 95.

§ 568. Duties of clerks as to records; fees

All clerks of courts shall receive and safely keep all such records and papers lodged in their offices and give attested copies thereof, for which they shall receive the same fees as a notary. Such copies shall be as valid as if certified by notaries.

R.S.1954, c. 110, § 31.