

# MAINE STATE LEGISLATURE

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**CHAPTER 311**  
**TAXATION OF COSTS**

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**§ 1501. Prevailing party**

In all actions, the party prevailing recovers costs unless otherwise specially provided. If, after a verdict, the party in whose favor the jury found carries the case into the law court and the decision there is against him, he recovers no costs after the verdict but the party prevailing in the law court recovers costs accruing after verdict.

R.S.1954, c. 113, § 155.

**§ 1502. Parties and attorneys**

Costs allowed to parties and attorneys in civil actions shall be as follows: To parties recovering costs in the Supreme Judicial or Superior Courts, 33¢ for every 10 miles' travel and \$3.50 for attendance at each term until the action is disposed of, unless the court otherwise directs.

Costs for travel shall be taxed for the prevailing party in civil actions according to the distance of said party or his attorney who resides nearest to the place of trial, unless said prevailing party or his attorney who resides farthest from said place of trial actually travels the greater distance for the special purpose of attending court in such cause, in which case costs shall be taxed for the last-named distance, and when the action is in the name of an indorsee and the plaintiff is the prevailing party, such costs for travel shall be taxed according to the distance of the attorney, payee or indorsee who is nearest to the place of trial, unless the attorney, payee or indorsee residing the greater distance from said place of trial actually travels such greater distance for the special purpose of attending court in said cause. No costs for travel shall be allowed for more than 10 miles' distance from any District Court nor more than 40 miles' distance from any other court, unless the plaintiff prevailing actually travels a greater distance or the adverse party, if he recovers costs, by himself, his agent or attorney in fact travels a greater distance for the special purpose of attending court in such cause.

For a power of attorney, 50¢; and for the plaintiff's complaint, 50¢ in the Superior Court, but no fee for a power of attorney shall be taxed before any District Court. For an issue in law or fact, there shall be allowed for an attorney's fee, \$2.50 in the Supreme Judicial or Superior Courts. A fee of \$5 shall be taxed in the plaintiff's costs for making up a conditional judgment under section 6252.

In cases of forcible entry and detainer, parties shall be allowed the same costs as in ordinary civil actions.

A party summoned as trustee and required to attend court and make a disclosure shall be entitled to costs as follows: If the claim sued for does not exceed \$20 such trustee shall be entitled to travel and attendance and 25¢ for the oath; and if the claim sued for exceeds \$20 such trustee shall be entitled to \$2.50 in addition to the above fee and when required to attend court for further examination such trustee shall be entitled to travel and attendance.

In all District Courts the amount of costs allowed in civil actions shall depend upon the amount recovered and not upon the ad damnum in the writ. The allowance for travel and attendance to parties recovering costs in District Courts shall be limited to 2 terms, except that the court may, for good and sufficient cause, order such allowance for additional terms.

No costs shall accrue, be taxed or allowed for any precept required in legal proceedings unless the same shall issue from and bear the indorsement of an attorney at law.

The allowance for travel and attendance to parties recovering costs in the Superior Court shall be limited to 2 terms and every other term at which a trial is had. The court may for good and sufficient cause order such allowance for additional terms in all actions before it. No referee shall allow costs in any proceedings in excess of the above provisions.

R.S.1954, c. 113, § 156; 1959, c. 317, § 194; 1961, c. 317, §§ 379, 380; 1963, c. 402, §§ 177–179; c. 414, § 129.

### **§ 1503. Appeals in condemnation proceedings**

In all proceedings for the estimation of damages for the taking of lands or other property under any general or special law, if the owner of the land, after an award made by the county commissioners, enters an appeal therefrom and fails to obtain a final judgment for an amount greater than the amount of the said award with interest thereon to the date of said judgment, he shall be subject to costs accruing after the date of said first award and the amount thereof may be applied in reduction of the sum required to be paid by said judgment.

R.S.1954, c. 113, § 157.

### **§ 1504. Plaintiff appealing favorable judgment**

When a plaintiff appeals from a judgment of a District Court in his favor and does not recover in the appellate court a greater sum as damages, he recovers only a quarter of the sum last recovered for costs.

R.S.1954, c. 113, § 158; 1963, c. 402, § 180.

### **§ 1505. Replevin actions**

In actions of replevin commenced in the Superior Court, when the jury finds that each party owned a part of the property, they shall find and state in their verdict the value of the part owned by the plaintiff when replevied without regard to the value as estimated in the replevin bond. If such value does not exceed \$20, the plaintiff recovers for costs only  $\frac{1}{4}$  part of such value.

R.S.1954, c. 113, § 159.

**§ 1506. Improper action in Superior Court,  $\frac{1}{4}$  costs; report of referees, full costs allowed**

In actions commenced in the Superior Court, except those by or against towns for the support of paupers, if it appears on the rendition of judgment that the action should have been commenced before a District Court, including actions of replevin where the value of the property does not exceed \$20, the plaintiff recovers for costs only  $\frac{1}{4}$  part of his debt or damages. On reports of referees, full costs may be allowed unless the report otherwise provides.

R.S.1954, c. 113, § 160; 1963, c. 402, § 181.

**§ 1507. Damages reduced by counterclaim, full costs**

When a counterclaim is filed and the plaintiff recovers not exceeding \$20, he is entitled to full costs if the jury certify in their verdict that the damages were reduced to that sum by reason of the amount allowed on the counterclaim.

R.S.1954, c. 113, § 161; 1959, c. 317, § 195.

**§ 1508. Costs of evidence not increased by multiple damages**

When a party recovers double or treble costs, the fees of witnesses, depositions, copies and other evidence are not doubled or trebled.

R.S.1954, c. 113, § 162.

**§ 1509. Petitions for relief**

On application of a private person for relief from a judgment or for a writ of certiorari, mandamus or quo warranto, or like process, the court may or may not allow costs to a person appearing on notice as defendant.

R.S.1954, c. 113, § 163; 1959, c. 317, § 196.

**§ 1510. Plaintiff's action dismissed; costs to defendant**

When a plaintiff's action is voluntarily or involuntarily dismissed, the defendant recovers costs against him, and in all actions, as well as those of qui tam as others, the party prevailing is entitled to his legal costs.

R.S.1954, c. 113, § 164; 1959, c. 317, § 197.

**§ 1511. Action in name of State by individual**

When an action is brought in the name of the State for the benefit of a private person, his name and place of residence shall be indorsed on the summons. If the defendant prevails, judgment for his costs shall be rendered against such person and execution issued as if he were plaintiff.

R.S.1954, c. 113, § 165; 1959, c. 317, § 198.

**§ 1512. State liable in civil action**

When a defendant prevails against the State in a civil action, judgment for his costs shall be rendered against it and the treasurer of the county shall pay the amount on a certified copy of the judgment. The amount shall be allowed to him in his account with the State.

R.S.1954, c. 113, § 166; 1961, c. 317, § 381.

**§ 1513. Travel fees not taxable for State**

When the State recovers costs in a civil action no fees shall be taxed for the travel of an attorney.

R.S.1954, c. 113, § 167; 1961, c. 317, § 382.

**§ 1514. Divers actions or division of account only one bill of costs**

When a plaintiff brings divers actions which might have been joined in one against the same party and which are first in order for trial at the same term of court, or divides an account which might all have been sued for in one action and commences successive actions upon parts of the same or brings more than one action on a joint and several contract, he shall not recover costs nor have execution running against the body of the same defendant, in more than one such action, unless the court, after notice to the defendant and hearing, shall otherwise direct.

R.S.1954, c. 113, § 174; 1959, c. 317, § 200.

**§ 1515. If execution available, no costs in action on judgment**

A plaintiff shall not be allowed costs in an action on a judgment of any tribunal on which an execution could issue when such action was commenced, except in trustee process.

R.S.1954, c. 113, § 175; 1961, c. 317, § 383.

**§ 1516. Travel in actions by a corporation**

In actions of a corporation, its travel is computed from the place where it is situated, if local, otherwise from the place where its business is usually transacted, not exceeding 40 miles, unless its agent actually travels a greater distance to attend court.

R.S.1954, c. 113, § 176.

**§ 1517. Power of court**

The power of the court to require payment of costs or to refuse them as the condition of amendment or continuance is not affected by this Title.

R.S.1954, c. 113, § 177.

**§ 1518. Plea of bankruptcy; no costs**

When a defendant pleads a discharge in bankruptcy or insolvency obtained after the commencement of the action, he recovers no costs before the time when the certificate was produced in court.

R.S.1954, c. 113, § 178; 1961, c. 317, § 384.

**§ 1519. Hearing on costs; appeals**

When an action is dismissed or defaulted, or judgment rendered on a verdict, or a report of referees is accepted, either party on application to the court within 10 days thereafter may have the costs recoverable taxed by the clerk and passed upon by the court, and any party aggrieved by the decision may appeal therefrom; but if no application is made, the clerk shall determine the costs and either party dissatisfied with his taxation may appeal to the court, from whose decision no appeal shall be taken, and all attachments shall continue in force for 60 days after such appeal is decided. The costs shall be taxed within 30 days from the rendition of judgment.

R.S.1954, c. 113, § 179; 1959, c. 317, § 201.

**§ 1520. Costs for creditor where debtor not discharged**

If a debtor fails in an application for a discharge from arrest or imprisonment, the creditor shall recover his costs as in actions before a District Court, and the judges shall issue execution therefor; but no such failure shall prevent his obtaining a discharge

at any future examination, except as provided in sections 3154 and 3719.

R.S.1954, c. 120, § 71; 1963, c. 402, § 196.

**§ 1521. Disclosure proceedings**

The judge or disclosure commissioner shall be entitled to a fee of \$5. The petitioner shall be entitled to a fee of \$5 in every case. The fees of officers shall be the same as for service of other process of similar nature. The petitioner may, if the judge or disclosure commissioner authorizes it, procure an officer to be in attendance during the proceedings, and the fees for such attendance shall be the same as for attendance in the District Courts. The fees of the judge, disclosure commissioner and officers shall be paid by the petitioner and in all cases, shall be added to the costs on the judgment and execution and taxed in detail thereon by the judge or disclosure commissioner. Whenever the petitioner recovers costs or costs and fees against the judgment debtor, either on hearing, default or otherwise, the magistrate shall tax such costs or costs and fees in detail and make a record thereof, and under his hand and official seal shall indorse upon or annex to the execution in force at the time of disclosure, hearing or default, a certificate certifying that the petitioner has recovered costs or costs and fees and stating therein, in detail, the costs or costs and fees recovered, and also the date of such recovery. A copy of said certificate shall be indorsed upon or annexed to every subsequent execution issued upon the same judgment, or upon any judgment founded thereon. Costs or costs and fees recovered, taxed and certified, shall be deemed a part of the original judgment for costs recovered against the judgment debtor.

R.S.1954, c. 120, § 42; 1963, c. 179; c. 402, § 194.