

MAINE STATE LEGISLATURE

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N I N E T Y - E I G H T H L E G I S L A T U R E

Legislative Document

No. 1428

H. P. 1000

House of Representatives, March 27, 1957.

Referred to Committee on Judiciary. Sent up for concurrence and 750 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Ross of Bath.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-SEVEN

AN ACT Relating to Municipal Court and Trial Justice Court Costs and Fines.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., c. 15, § 5, amended. The last sentence of section 5 of chapter 15 of the Revised Statutes is hereby amended to read as follows:

'Whenever any fines or penalties are imposed by any court **other than trial justice or municipal courts** in any proceeding in which a member of the State Police is a complainant or a witness, said court may tax costs for such complainant or witness in the usual manner.'

Sec. 2. R. S., c. 22, § 60, amended. Section 60 of chapter 22 of the Revised Statutes, as amended by sections 1 and 2 of chapter 181, chapter 340 and section 49 of chapter 405 all of the public laws of 1955, is hereby further amended by adding at the end thereof a new sentence to read as follows:

'All fines collected for violations of this section shall be paid by the county to the State Highway Commission.'

Sec. 3. R. S., c. 22, § 111, amended. The 1st sentence of section 111 of chapter 22 of the Revised Statutes, as amended by chapter 366 of the public laws of 1955, is hereby further amended to read as follows:

'Any person who violates any provision of section 109 shall be guilty of a misdemeanor on account of each such violation, and for each violation of which convicted shall be punished by a fine and, **except before trial justice and municipal courts**, costs of court which fine and costs of court shall not be suspended. †

Trial justice and municipal courts shall, instead of sentencing a respondent to pay costs, impose a fine upon each conviction \$10 larger than provided in this section. Five dollars of any such fine collected shall be retained by the county and the balance paid by the county to the State Highway Commission. The following fines and costs shall otherwise be imposed:

\$20 and costs of court when the gross weight is in excess of the limits prescribed in section 109, provided such excess is intentional and is 1,000 pounds or over but less than 2,000 pounds, and the above provision as to intent shall apply only to such excess as is less than 2,000 pounds;

\$40 and costs of court when such excess is 2,000 pounds or over but less than 3,000 pounds;

\$80 and costs of court when such excess is 3,000 pounds or over but less than 4,000 pounds;

\$150 and costs of court when such excess is 4,000 pounds or over but less than 5,000 pounds;

\$200 and costs of court when such excess is 5,000 pounds or over but less than 6,000 pounds;

\$250 and costs of court when such excess is 6,000 pounds or over but less than 8,000 pounds;

\$300 and costs of court when such excess is 8,000 pounds or over but less than 10,000 pounds;

Not less than \$350, and costs of court and not more than \$500 and costs of court when such excess is 10,000 pounds or over.'

Sec. 4. R. S., c. 22, § 163, amended. Section 163 of chapter 22 of the Revised Statutes is hereby amended to read as follows:

'Sec. 163. Court jurisdiction. Trial justices in their respective counties shall have original and concurrent jurisdiction with municipal courts and the Superior Court over all prosecutions for violation of the provisions of this chapter. All fines and forfeitures collected under the provisions of this chapter shall accrue to the county where the offense is prosecuted, except that all fines and forfeitures collected for overload violations **and for operating without a license** shall accrue to the general highway fund. **The county shall retain \$5 of each such overload fine collected through any trial justice or municipal court.'**

Sec. 5. R. S., c. 37, § 24, amended. The 1st sentence of the 3rd paragraph of section 24 of chapter 37 of the Revised Statutes, as revised, is hereby amended to read as follows:

'The wardens shall have the authority to serve criminal processes on offenders of the law, and to arrest and prosecute camp trespassers or persons committing larceny from any cottage, camp or other building, and, **except before trial justice or municipal courts**, shall be allowed the same fees as sheriffs and their deputies for like services, all such fees to be paid to the Commissioner. ~~and the~~ **The** wardens shall have the same rights as sheriffs to require aid in executing the duties of their office.'

Sec. 6. R. S., c. 37, § 137, amended. Section 137 of chapter 37 of the Revised Statutes, as revised, is hereby amended to read as follows:

'Sec. 137. Result of court cases reported to Commissioner. Every magistrate or the clerk of the court **except trial justice and municipal courts** before whom any prosecution under the provisions of this chapter is commenced or shall go on appeal, within 20 days after the trial or dismissal thereof, shall report in writing the result thereof and the amount of fines collected, if any, and disposition thereof, to the Commissioner.'

Sec. 7. R. S., c. 38, § 8, amended. The 1st sentence of the 5th paragraph of section 8 of chapter 38 of the Revised Statutes, as revised, is hereby amended to read as follows:

'Except before trial justice and municipal courts, they ~~They~~ shall be allowed the same fees as sheriffs and their deputies for like service, all such fees to be paid to the Commissioner; ~~and the coastal~~ **Coastal** wardens shall have the same right as sheriffs to require aid in executing the duties of their office.'

Sec. 8. R. S., c. 38, § 114, amended. Section 114 of chapter 38 of the Revised Statutes, as revised, is hereby amended by adding at the end thereof a new paragraph to read as follows:

'Except that in the case of either short or long lobsters aforesaid, where the respondent is not sentenced to pay costs of court, the court may, in its discretion, add to the fines provided a sum not to exceed \$10 on each complaint to be included in any fine imposed to cover said costs without taxing such costs and without reference to such costs.'

Sec. 9. R. S., c. 61, § 94, amended. The 1st sentence of section 94 of chapter 61 of the Revised Statutes, as amended by chapter 95 of the public laws of 1955, is hereby further amended to read as follows:

'Whoever is found intoxicated in any street, highway or other public place, or is found intoxicated in a motor vehicle while said motor vehicle is in any street, highway or other public place, shall be punished for the first offense by a fine of not more than \$10 \$20 or by imprisonment for not more than 30 days, or by both ~~such fine and imprisonment~~, and upon any subsequent conviction by a fine of not more than \$50 \$60 or by imprisonment for not more than 90 days, or by both ~~such fine and imprisonment~~, except that in any county where a county farm for the reformation of inebriates has been established, any male person who has been previously convicted of intoxication may be sentenced to such farm for a period of not less than 90 days nor more than 11 months.'

Sec. 10. R. S., c. 108, § 10, amended. Section 10 of chapter 108 of the Revised Statutes is hereby amended to read as follows:

'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:

To plaintiffs who prevail:

Costs in civil actions. Costs to parties and attorneys in civil actions shall be:

I. Where the damages recovered amount to \$20 or more ;		
Writ	\$3.54	\$3.50
Entry	.50	1.00
Officers' fees for serving writ, as allowed by the court	
Attendance, each term		3.50
Travel, each term		.66
Witness fees, as allowed by the court	
Taxing costs	.25	
II. Where the damages recovered amount to less than \$20 ;		
Writ		\$2.00
Entry	.50	1.00
Officers' fees for serving writ, as allowed by the court	
Attendance, each term		2.00
Travel, each term		.66
Witness fees, as allowed by the court	
Taxing costs	.25	
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 with the declaration, 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 of debt, 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 writ entered. There shall be no charge to any attorney by said court for blank

writs, 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	\$1.00	\$5.00
Entering a complaint, swearing witnesses, filing papers and certifying costs to the county commissioners	.75	
Trial of an issue, each day	3.00	
Recognizing parties charged with crimes for appearance at the Superior Court, certifying and returning the same	.50	
Mittimus for the commitment of any person	1.00	
Issuing a subpoena separate from the warrant	.10	
Taxing costs	.25	
Copies of papers for the Superior Court	2.00	

Witnesses in civil and criminal cases :

For each day's attendance	2.00
For each mile's travel going and returning home	.06.

The aforesaid fees when received shall be disposed of as provided by the public laws or by the acts establishing the respective courts.'

Sec. 11. R. S., c. 146, § 2-A, additional. Chapter 146 of the Revised Statutes is hereby amended, by adding thereto a new section to be numbered 2-A, to read as follows :

'Sec. 2-A. Costs and fees in municipal and trial justice courts. The following provisions shall apply to all trial justice courts and municipal courts :

I. Definitions and limitations: This section applies only to costs and fees arising from the criminal proceedings in trial justice courts and municipal courts. When any criminal case is appealed from such court to the Superior Court, the latter may tax and impose costs from its proceeding which may not include any fees or costs arising from the proceedings or arrest in the lower court.

Nothing in this section shall be interpreted to prohibit a court from filing a case upon payment of costs without a conviction.

Nothing in this section shall be interpreted to deprive a law enforcement officer of compensation for his services and expenses, but this section may shift the responsibility for providing such compensation.

The term "law enforcement officer" shall include, a state police officer, game warden, coastal warden, state liquor inspector, sheriff, deputy sheriff, municipal police officer, constable and any person whose duty it is to enforce any criminal law of this State by making arrests.

II. Respondent not to be sentenced to pay costs of court as such: A municipal court or trial justice court may not, in any criminal proceeding, sentence any respondent to pay costs of court as such, but may take the costs into consideration and include in any fine imposed a sum adequate to cover all or any part of them without reference to such costs and without taxing them, provided the maximum fine for the particular offense is not exceeded.

III. Reports and records of costs and fees: Such courts need not tax total costs in a criminal proceeding, but shall tax and itemize witness fees which are payable by the county as provided in this section. A law enforcement officer, when acting as the arresting officer, shall itemize his fees on the warrant return.

The court shall at the end of each month file with the monthly report to the county commissioners an itemized statement of all witness fees and to whom they are payable. The monthly report shall also indicate any other fees due from the county, the amount of any fine imposed and to whom they are payable. All such fines and fees shall be examined and corrected by the county commissioners and they shall order them paid by the county treasurer.

The court need not file a monthly report with the State, and the court need not file a bill of costs in any case for any reason.

IV. Distribution of fees and fines: All fines collected by the court shall be paid to the county monthly. All fines collected, unless the law governing the particular offense provides otherwise, shall accrue to the county where the court is located.

A deputy sheriff shall be paid by the county the fees as are provided under section 150 of chapter 89 unless such deputy is paid a salary in lieu of such fees.

The county shall pay the municipality for reasonable expenses incurred by the latter's law enforcement officers for out of state travel involving a crime for which the law provides for extradition of the offender.

Neither the court nor the county shall be required to pay any fee for the services or expense of any other law enforcement officer before such courts in any criminal proceeding as arresting officer, as an aid, as a witness or in any other capacity.'

Sec. 12. R. S., c. 146, § 8, amended. The 1st and 2nd paragraphs of section 8 of chapter 146 of the Revised Statutes are hereby amended to read as follows:

'Trial justices have jurisdiction of the offenses described in sections 1, 5, 6, 7, 9 and 11 of chapter 132, when the value of the property is not alleged to exceed \$10. ~~they~~ They may punish for the first offense by a fine of not more than \$10 \$20 and by imprisonment for not more than 2 months; and on a 2nd conviction, by a fine of not more than \$20 \$30 and by imprisonment for not more than 6 months.

They have jurisdiction of assaults and batteries, breaches of the peace, and violations of any statute or by-law of a town, village corporation or local health officer, when the offense is not of a high and aggravated nature, and of offenses and misdemeanors, jurisdiction of which is conferred by law, and of all attempts to commit offenses of which they now have jurisdiction by law. ~~and they~~ They may try and punish by a fine of not more than \$10 \$20 or by imprisonment for not more than 30 days, except as otherwise provided for by law.'

Sec. 13. R. S., c. 146, §§ 26, 27 and 29, repealed. Sections 26, 27 and 29 of chapter 146 of the Revised Statutes are hereby repealed.

Sec. 14. R. S., c. 146, § 28, repealed and replaced. Section 28 of chapter 146 of the Revised Statutes is hereby repealed and the following enacted in place thereof:

'Sec. 28. Allowance of costs and fees by the county commissioners. The county commissioners shall examine the monthly reports of trial justice and municipal courts, and the bills of costs of other courts, and correct same regardless of the final disposition of the case, and shall order all fees which are due to officers, witnesses and others to be paid out of the county treasury to the persons entitled thereto; but when one of the county commissioners is the person due to receive such fee, the Superior Court shall examine and correct such fee and shall in like manner order the same to be paid. Should one of the county commissioners be a magistrate then he shall abstain from examining, correcting and ordering payment of such fees or costs which come through his own court, and the remaining county commissioners shall have full power to do so.'

Sec. 15. R. S., c. 149, § 1, amended. The last 2 sentences of section 1 of chapter 149 of the Revised Statutes are hereby amended to read as follows:

'Nothing above in this section shall be construed in any way to affect the right of the court to place the respondent on probation as to both fine and costs and imprisonment. In all cases where a fine is imposed he may be sentenced to pay the costs of prosecution, except before a municipal or trial justice court in which courts he may be sentenced to pay a fine sufficient to cover said costs as provided by section 2-A of chapter 146; and except before trial justice and municipal courts, for violations of the provisions of sections 66, 68, 84 and 89 of chapter 61, and of sections 145 to 152, inclusive, of chapter 100, he shall be sentenced to pay such costs.'

Sec. 16. R. S., c. 150, § 5, amended. The 2nd sentence of section 5 of chapter 150 of the Revised Statutes is hereby repealed as follows:

'A certified bill of costs for each case heard in a municipal or trial justice court shall accompany such remittance.'