

# MAINE STATE LEGISLATURE

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REVISED STATUTES  
OF THE  
STATE OF MAINE

1954

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1959 CUMULATIVE SUPPLEMENT

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ANNOTATED

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IN FIVE VOLUMES

**VOLUME 3**

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**Place in Pocket of Corresponding  
Volume of Main Set**

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THE MICHIE COMPANY  
CHARLOTTESVILLE, VIRGINIA  
1959

**Sec. 52. Appeal found to be frivolous.**—If an appeal to the law court is found by that court to have been frivolous and intended for delay, treble costs may be allowed to the prevailing party. (R. S. c. 95, § 52. 1959, c. 317, § 91.)

**Effect of amendment.**—The 1959 amendment rewrote this section.

**Effective date and applicability of Public Laws 1959, c. 317.**—See note to § 10.

**Secs. 53, 54.** Repealed by Public Laws 1959, c. 317, § 92.

**Effective date and applicability of Public Laws 1959, c. 317.**—See note to § 10.

**Sec. 55. Legal holidays.**—No court shall be held on Sunday or any day designated for the annual Thanksgiving; or for the choice of presidential electors; New Year's day, January 1st; Washington's birthday, February 22nd; the 19th day of April; the 30th day of May; the 4th day of July; the 2nd Monday of September; the day of the state-wide primary election; the day of the state election; the day of any special state-wide election; Veterans day, November 11th; or on Christmas day; and when the time fixed for a term of court falls on any of said days, it shall stand adjourned until the next day, which shall be deemed the 1st day of the term for all purposes. The public offices in county buildings may be closed to business on the above-named holidays. When any one of the above-named holidays falls on Sunday, the Monday following shall be observed as a holiday, with all the privileges applying to any of the days above named. (R. S. c. 95, § 55. 1953, c. 225. 1955, c. 405, § 44. 1959, c. 230, § 3.)

**Effect of amendments.**—The 1955 amendment substituted "Veterans day" for "Armistice day."

The 1959 amendment substituted "2nd Monday of September" for "1st Monday of September" in the first sentence of this section.

**Effective date of Public Laws 1959, c. 230.** — P. L. 1959, c. 230, amending this section, provided in section 5 thereof as follows: "This act shall take effect on January 1, 1961, provided that on or before said date the majority of the following

states, Massachusetts, New Hampshire, Vermont, Rhode Island, Connecticut, New 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.

#### 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.

**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.)

**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:

<b>I. Where the damages recovered amount to \$20 or more ;</b>	
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	....
<b>II. Where the damages recovered amount to less than \$20 ;</b>	
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 subsec-

tion 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 109.

### Small Claims.

**Sec. 1. "Small claim" defined.**—A "small claim" is any right of action cognizable by a court of law not involving the title to real estate in which the debt or damage claimed does not exceed \$50. (1945, c. 307. 1957, c. 44.)

**Effect of amendment.**—The 1957 amendment increased the amount of the claim from \$35 to \$50.

**Sec. 3. Process.**—A plaintiff or his authorized attorney shall state the substance of his claim to the judge, recorder or clerk of the municipal court having jurisdiction thereof who shall briefly record the notice of the claim and set a date for a hearing. The plaintiff or his authorized attorney shall at the same time pay an entry fee of \$3. (1945, c. 307. 1947, c. 3, § 2; c. 278, § 1. 1949, c. 349, § 124. 1957, c. 198, § 1.)

**Effect of amendment.**—The 1957 amendment increased the fee in the second sentence from \$2 to \$3.

**Sec. 4. Fees.**—Of the amount of the entry fee, the judge shall receive \$1. Of the \$2 remaining a sufficient sum shall be applied directly on the registered or certified postage mentioned in section 6 and the balance shall be retained by the clerk or recorder, or in towns where there is no clerk or recorder, by the judge in addition to the \$1 fee mentioned above. (1945, c. 307. 1947, c. 3, § 3; c. 278, § 2. 1951, c. 266, § 113. 1957, c. 198, § 2; c. 281, § 1; c. 429, § 86.)

**Effect of amendments.**—The first 1957 amendment increased the amount of the fee received by the judge from 75¢ to \$1, increased the remaining amount of such fee from \$1.25 to \$2.25 and inserted the words "or certified" preceding the word "postage". The second 1957 amendment, which did not refer to or give effect to the other changes of the first amendment, also inserted the words "or certified". The third 1957 amendment, effective October 31, 1957, reduced the remaining amount from \$2.25 to \$2.00 but otherwise gave effect to the preceding amendments.

**Sec. 5.** Repealed by Public Laws 1957, c. 198, § 3.

**Sec. 6. Notice to defendant.**—The judge shall cause notice of the claim and the substance thereof to be given to the defendant by sending a written state-