

MAINE STATE LEGISLATURE

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REVISED STATUTES
OF THE
STATE OF MAINE

1954

1959 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 3

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

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1959

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-

ment to the defendant by postpaid registered or certified mail addressed to the defendant at his last known post-office address, delivery of said notice to be restricted to the defendant in person, and directing the defendant to appear at a time and place of hearing which shall be not less than 14 days from the date said notice is mailed to defendant. A return receipt showing that defendant has received the statement at least 7 days prior to the time set for the hearing shall constitute an essential part of the service. If service is not effected by registered or certified mail, then the court may direct that service on the defendant be completed as in other actions at law at the expense of the plaintiff. (1945, c. 307. 1947, c. 3, § 4; c. 278, § 1. 1949, c. 268; c. 349, § 125. 1957, c. 281, § 2.)

Effect of amendment. — The 1957 amendment inserted the words “or certified” following the word “registered” in both the first and last sentences.

Chapter 110.

Trial Justices. Justices of the Peace. Notaries Public.

Section 14. Actions against Executors or Administrators, etc.

Trial Justices.

Sec. 3. Jurisdiction in civil actions. — Every trial justice may hold a court in his county, as provided in this chapter, and have original and exclusive jurisdiction of all civil actions, including prosecutions for penalties in which his town is interested, when neither damages in excess of \$20 nor equitable relief is demanded, except those in which the title to real estate, according to the pleadings filed in the case of either party, is in question; and except that in those towns in which a municipal court is established, his jurisdiction is restricted to those cases in which jurisdiction was given to justices of the peace, in the act establishing such court, and to cases wherein jurisdiction is given to trial justices in like manner. (R. S. c. 97, § 2. 1959, c. 317, § 98.)

Effect of amendment.—The 1959 amendment substituted “neither damages in excess of \$20 nor equitable relief is demanded” for “the debt or damages demanded do not exceed \$20” and deleted the words “or brief statement,” formerly appearing after the word “pleadings” near the middle of the 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. 4. Summons, form and service; attachment and trustee process. — Civil actions before a trial justice shall be commenced by a summons signed by the justice and returnable before him at a stated time and place not less than 7 nor more than 60 days after the service thereof. The summons, together with a complaint stating in simple and concise language the nature of the case, shall be served in the same manner as process in the superior court. In connection with the commencement of any such action, attachment and trustee process may be used in the manner and to the extent provided by law upon procedure as near to that in the superior court as the nature of the tribunal admits. (R. S. c. 97, § 3. 1959, c. 317, § 99.)

Effect of amendment.—The 1959 amendment, effective December 1, 1959, rewrote this section.