

# 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

to attend at such time as the court may direct. When, by reason of challenge or other cause, a sufficient number of jurors duly drawn and summoned cannot be obtained for the trial of a cause, the court shall cause jurors to be returned from the bystanders or from the county at large to complete the panel. Such jurors shall be returned by the sheriff or his deputy or such other disinterested person as the court appoints. Grand jurors shall be selected in like manner prior to the first term of the superior court to be held for the transaction of criminal business on or after the 1st day of September annually, and grand jurors shall serve at each criminal term during the year. When the number of grand jurors is reduced by death or otherwise, additional grand jurors may be selected and summoned under direction of the court at any time. (R. S. c. 103, § 3. 1955, c. 405, § 51.)

**Effect of amendment.**—The 1955 amendment repealed and replaced the third, fourth and fifth sentences of this section, so as to correct a typographical error in the original.

**Sec. 8. Fees.**—Grand and traverse jurors attending the superior court and jurors attending on any other occasion prescribed by law shall be allowed \$10 for each day's actual attendance, and 10¢ a mile for their travel out and home once each week, to be paid out of the county treasury. (R. S. c. 103, § 6. 1945, c. 193. 1953, c. 148. 1955, c. 412, § 1.)

**Effect of amendment.**—The 1955 amendment, which was made effective June 1, 1956, increased the fees from \$8 to \$10 a day and from 8¢ to 10¢ a mile and inserted the words "once each week" near the end of the section.

## Chapter 117.

### Depositions.

#### Depositions in General.

**Sec. 1. When depositions used.**—In trials before probate courts, arbitrators, referees under chapter 121, and county commissioners, depositions may, upon order of the tribunal before which the matter is pending and on good cause shown, be taken and used in the manner provided by rule for depositions in the superior court. Depositions or affidavits may also be taken in applications for pensions, bounties or arrears of pay under any law of the United States. (R. S. c. 104, § 1. 1959, c. 317, § 251.)

**Effect of amendment.**—The 1959 amendment rewrote 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 fur-

ther 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."

**Secs. 2-21.** Repealed by Public Laws 1959, c. 317, § 252.

**Effective date and applicability of Public Laws 1959, c. 317.**—See note to § 1.

#### Depositions in Perpetuam.

**Secs. 22, 23.** Repealed by Public Laws 1959, c. 317, § 252.

**Effective date of Public Laws 1959, c. 317.**—See note to § 1.

**Sec. 24. Record in registry of deeds.**—Any deposition to perpetuate testimony taken before action or pending appeal together with the verified petition therefor and certificate of the officer before whom it was taken shall, within 90 days after the taking, be recorded in the registry of deeds in the county where the land or any part of it lies, if the deposition relates to real estate; if not, in the county where the parties or any of them reside. (R. S. c. 104, § 24. 1959, c. 317, § 253.)

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

**Effective date and applicability of Public Laws 1959, c. 317.**—See note to § 1.

**Secs. 25-28.** Repealed by Public Laws 1959, c. 317, § 254.

**Effective date and applicability of Public Laws 1959, c. 317.**—See note to § 1.

## Chapter 119.

### Statute of Frauds. Bulk Sales Act. Conditional Sales. Assignment of Wages. Contracts for Sale of Real Estate.

#### Statute of Frauds.

**Sec. 1. Cases in which promise must be in writing; consideration need not be expressed therein.**

##### I. GENERAL CONSIDERATION.

**Raising defense by demurrer.**—The law is clear in this state that the defense of the statute of frauds may be raised by a demurrer in those cases in which an agreement required by the statute to be in writing is shown by the declaration to have been oral. *Marshall v. Lowd*, 154 Me. 296, 147 A. (2d) 667.

##### II. PROMISE TO ANSWER FOR DEBT, ETC., OF ANOTHER.

###### B. Original and Collateral Promises.

###### 1. In General.

**And in ascertaining to whom credit was extended, etc.**

In accord with original. See *Delaware Feed Stores v. First Auburn Trust Co.*, 151 Me. 372, 120 A. (2d) 223.

**Manner in which account charged, etc.**

In accord with original. See *Delaware Feed Stores v. First Auburn Trust Co.*, 151 Me. 372, 120 A. (2d) 223.

##### IV. CONTRACTS RELATING TO LAND.

###### C. Applicability of Statute to Particular Contracts.

###### 1. In General.

**Contract for sale of timber not within statute.**

In accord with original. See *Marshall v. Lowd*, 154 Me. 296, 147 A. (2d) 667.

###### E. Part Performance.

###### 2. Sufficiency of Acts of Performance.

**Illustrative case.**—The plaintiff having entered upon the premises under what he claims to be a contract, for the purchase of the property, and having met all the terms thereof is entitled to a conveyance, even though that contract was oral. *Bell v. Bell*, 151 Me. 207, 116 A. (2d) 921.

##### V. AGREEMENTS NOT TO BE PERFORMED WITHIN YEAR.

**A contract providing that the vendees shall "have three (3) years from date . . . to remove timber and pulp" is not necessarily a contract "not to be performed within a year."** *Marshall v. Lowd*, 154 Me. 296, 147 A. (2d) 667.

**Sec. 2. No action on contract of minor, unless ratified in writing.**

Provided that any minor 16 years of age or over, who receives aid and assistance from the New England Higher Education Assistance Foundation for the purpose of furthering his higher education in professional, technical, scientific or literary fields in the form of a loan or loans made or guaranteed in full or in part by said foundation, shall have full legal capacity for such purpose to act