

MAINE STATE LEGISLATURE

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Chapter 150.

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Costs Taxable for the State in Criminal Prosecutions. General Provisions.

Sec. 1. Costs taxable for state in criminal prosecutions. — Costs taxable for the state in criminal prosecutions shall be as follows:

For the attorney acting for the state, in all cases in the superior court, \$1.25, unless there is a trial by jury or an issue in law at the law court, in which case there shall be an additional charge of \$1.

For an indictment in the superior court, \$1.25.

For attendance, 33¢ a day, not to extend beyond the 2nd week of any 1 term; but no fees for travel shall be allowed in any case in which the state is a party.

No attendance shall be taxed in cases of defaulted recognizances, other than is taxed in the prosecutions in which they are taken, until the return of a writ of scire facias issued thereon.

In indictments against towns for neglecting to make or repair a way, not tried by the jury, the fees taxed for the state are limited to \$3; and the costs shall not be taxed until the action is finally disposed of.

No fees shall be allowed to complainants before the grand jury against towns for neglecting to make or repair roads; nor to any other witnesses in such cases, unless summoned by the county attorney or grand jury. (R. S. c. 137, § 1.)

Sec. 2. Fines, forfeitures and criminal costs paid to county. — All fines, forfeitures and costs in criminal cases shall be paid into the treasury of the county where the offense is prosecuted, for the use of such county, and all the costs and expenses attending the administration of criminal justice therein shall be paid by said county, unless otherwise specially provided. The superior court shall allow bills of costs accruing therein, but all other costs and expenses in criminal cases shall be audited by the commissioners of the county where they accrued, including actual expenses incurred by county attorneys in the performance of their official duties, payment of which is expressly provided. Any officer, which shall include any sheriff, deputy sheriff, constable or police officer, required in the performance of his duties in connection with the administration of criminal justice to incur expenses for or incidental to interstate travel which are payable by a county pursuant to the provisions of this section shall be entitled to draw on the treasurer of such county in advance on account of such expenses in an amount set forth in a written estimate thereof bearing endorsement of approval thereof by a justice of the superior court. Such officer shall be held accountable to said county for such advance. (R. S. c. 137, § 2. 1953, c. 89.)

This section does not grant general authority to a county attorney for the expenditure of money. *Watts Detective Agency v. Sagadahoc County*, 137 Me. 233, 18 A. (2d) 308.

Employment of detectives not within "actual expenses."—The employment of

detectives cannot be considered as within the scope of "actual expenses incurred by county attorneys," within the meaning of this section. *Watts Detective Agency v. Sagadahoc County*, 137 Me. 233, 18 A. (2d) 308.

Duty of Clerks of Court.

Sec. 3. Duties of clerks as to bill of costs and certificates of fines.—Clerks of court shall attest duplicate copies of all bills of costs allowed therein and certificates of all fines and forfeitures imposed and accruing to the county, before the rising of the court or immediately after, and deliver one of said copies and certificates to the county treasurer and retain one for the use of the county commissioners. (R. S. c. 137, § 3.)

Sec. 4. Duty of clerks to collect fines and costs, or to issue process for collection.—Each clerk of court, in default of payment to him of fines, forfeitures and bills of costs, shall issue warrants of distress, or such other process therefor as the court finds necessary to enforce the execution of any order, sentence or judgment in behalf of the state; deliver them to the sheriff, or to such constable as the county attorney directs, and enter of record the name of the officer and the time when they are delivered to him. (R. S. c. 137, § 4.)

Duty of Trial Justices and Judges of Municipal Courts.

Sec. 5. All fines, costs and forfeitures paid to county treasurer.—Every clerk of a superior court, trial justice and judge or recorder of a municipal court shall render, under oath, a detailed account of all fines, costs and forfeitures upon convictions and sentences before him, on forms prescribed by the state department of audit, and shall pay them into the treasury of the county where the offense is prosecuted on or before the 15th day of the month following the collection of such fines, costs and forfeitures. A certified bill of costs for each case heard in a municipal or trial justice court shall accompany such remittance. The county treasurer, upon approval of the county commissioners, shall pay to the state, town, city or persons any portion of the fines, costs and forfeitures that may be due. Any person who fails to make such payments into the county treasury shall forfeit, in each instance, double the amount so neglected to be paid over, to be recovered by indictment for the persons entitled to such fines, costs and forfeitures, and in default of payment, according to the sentence of the court, such person shall be punished by imprisonment for not more than 6 months. (R. S. c. 137, § 5.)

See c. 146, § 27, re costs in criminal cases.

Sec. 6. Magistrates to give bond for faithful performance of duties; acting without bond.—Every trial justice or judge of a municipal court, before he performs any official act as such justice or judge pertaining to any criminal process or proceeding, shall give bond to the county in such sum and with such sureties as the county commissioners of said county shall approve, conditioned that he will, during his continuance in office, faithfully perform, as the law requires, all his duties relating to the collection and payment over of all fines and forfeitures which may come into his hands by virtue of his office. Such bond shall be held by the county treasurer and enforced for the security of any and all parties entitled to such fines and forfeitures, and a suit on such bond for the benefit of one party shall not bar a suit thereon for the benefit of any other party. Every such justice or judge who shall perform any such official acts before giving such bond forfeits not more than \$100, to be recovered by indictment, but a failure to give such bond shall not render invalid such official acts. (R. S. c. 137, § 6.)

Sec. 7. Trial justices and municipal judges to keep docket of fines and forfeitures.—Every trial justice or judge shall keep a correct docket of all examinations and trials before him of persons accused of offenses, setting forth therein a true account of all fines and forfeitures by him imposed or received up-

on conviction or sentence; and once a year shall deliver or transmit to the county commissioners of his county at one of their regular sessions such docket or a copy thereof, accompanied by his affidavit that he has faithfully complied with the requirements of section 5; and said commissioners shall examine said docket or copies and may summon such justice or judge to appear before them with his original docket and records, by not less than 10 days' written notice served by giving him a copy in hand or by leaving it at his last and usual place of abode. He may be examined on oath relative to his official conduct, and if it is found that he has faithfully observed the official requirements of law he shall be allowed a reasonable compensation for his travel and expenses, to be paid from the county treasury.

If he fails to appear, the commissioners may issue a *capias* and have him brought, with his papers, before them; and if he fails to show reasonable cause for his neglect, he shall pay the expenses of bringing him before the commissioners and they may issue a warrant of distress for collection of the same. (R. S. c. 137, § 7.)

Duty of Sheriffs and Other Officers.

Sec. 8. Officers to pay over to county treasurer fines and costs collected.—Sheriffs, jailers and constables who by virtue of their office receive any fines, forfeitures or bills of costs, except debts and costs received upon executions in favor of the state, shall forthwith pay them to the treasurer of the county in which they accrued.

If any such officer neglects to pay over such fine, forfeiture or costs for 30 days after the receipt thereof; or if he permits any person, sentenced to pay such fine, forfeiture or bill of costs and committed to his custody, to go at large without payment, unless by order of court, and does not within 30 days after such escape pay the amount thereof to the county treasurer, he forfeits to the county double the amount; and the county treasurer shall give notice of such neglect to the county attorney, who shall sue therefor in an action of debt in the name of such treasurer. (R. S. c. 137, § 8.)

Sec. 9. Duty of officers receiving process for recovery of fines.—Every sheriff or other officer to whom any process for the recovery of such fine, forfeiture or costs is committed by the clerk of courts shall, at the next session of the court in the same county, produce a receipt in full for the same or assign a satisfactory excuse for not so doing; and, in case of neglect, the court shall order a prosecution to be commenced therefor by the county attorney. (R. S. c. 137, § 9.)

Sec. 10. Sheriff to deliver notes and securities to treasurer.—Each sheriff, as often as every 3 months, shall deliver to the treasurer of his county all notes or other securities by him taken for fines and costs, on the liberation of poor convicts from prison pursuant to law. (R. S. c. 137, § 10.)

Quoted in *Bates v. Butler*, 46 Me. 387.

Duty of County Treasurers.

Sec. 11. Fees claimed within 3 years.—Sums allowed to any person as fees or for expenses in any criminal prosecution and payable from the county treasury may be claimed by such person of the county treasurer at any time within 3 years after the allowance, and not afterwards. (R. S. c. 137, § 11.)

Sec. 12. Treasurer to exhibit schedule of notes to county commissioners.—A schedule of all notes and securities with the amount due on each, received by the county treasurer from the sheriff pursuant to the provisions of section 10, shall be by him laid before the county commissioners at their next

session, to be filed with the clerk; and the county commissioners, from time to time, shall examine such notes and securities, order the county attorney to take such measures for their collection as they judge expedient or authorize the treasurer to compound and cancel them on such terms as they direct. (R. S. c. 137, § 12.)

Treasurer has no further control of notes after laying them before commissioners.—Under this section if the notes received by the treasurer are not paid after a certain time, the treasurer's duty requires him to lay before the county commissioners the specific amount of the notes to be filed with the clerk. This being done, he seems to have nothing further to do with the notes, unless it is to receive the sum due on any of them, any further than he may receive directions from the county commissioners to compound with any persons who may be liable thereon, or to cancel the same, not according to the discretion of the treasurer, but on such terms as they shall direct. *Bates v. Butler*, 46 Me. 387.

County commissioners have control of notes as to compounding, cancelling, and collecting.—The county commissioners have by this section, the control of the notes so far that they can compound or cancel them through the treasurer according to such terms as they shall direct, or to order the collection by a public officer alone. *Bates v. Butler*, 46 Me. 387.

They must direct how treasurer shall compound and cancel notes.—The power given under this section to commissioners, to authorize the treasurer to "compound" and "cancel" the notes as "they" shall direct, cannot be regarded as identical with an order of the commissioners to the treasurer to "compound on such terms as the best interest of the county may require." *Bates v. Butler*, 46 Me. 387.

And may order only the county attorney to collect them.—If the commissioners think it proper that payment shall be attempted to be enforced against parties liable on such notes, by suit or otherwise, the treasurer has no authority touching such matter, and they have not the power conferred by statute to direct the treasurer to sell and transfer the notes in his discretion; but they may order the county attorney to take such measures for their collection, as they deem expedient. And by the provisions of this section it does not appear that they can employ any other person than the prosecuting officer of the county to do this service. *Bates v. Butler*, 46 Me. 387.

Sec. 13. Treasurer to make annual report to attorney general. — The county treasurer shall, on or before the 20th day of November, annually, make a report to the attorney general showing the amount paid out of his office during the year ending on the 1st day of said November for costs of prosecutions in the superior court; upon bills of costs allowed by county commissioners for support of prisoners in jail; and to grand jurors and to traverse jurors at terms of court held for criminal business; also the amount received from fines, costs and forfeitures in said courts from magistrates, jailers and other officers.

Neglect to make and forward such report is a breach of his official bond, and for every day of such neglect he forfeits \$5 to the state, and the attorney general shall bring an action on such treasurer's official bond to recover such forfeiture. (R. S. c. 137, § 13.)

Cited in *Cumberland County v. Pennell*, 69 Me. 357.

Duty of County Attorneys.

Sec. 14. County attorney to examine records of clerks and treasurers.—County attorneys shall examine the records and files in the offices of clerks and the certificates and accounts in the offices of treasurers, relating to fines, forfeitures and bills of costs accruing to their counties; ascertain, so far as practicable, the cause of any delinquencies in paying over the same; and move the court for all necessary orders and processes to enforce the collection thereof. (R. S. c. 137, § 14.)

Sec. 15. County attorney shall summon delinquent sheriff or other officer before court.—When it appears that any sheriff or other officer is not discharged of any fine, forfeiture or bill of costs committed to him to collect,

the county attorney shall cause him to be summoned and brought before the court that imposed such fine, forfeiture or bill of costs to show a proper discharge or the cause for not collecting the same and paying it over; and such sheriff or other officer shall carry into execution all lawful orders of the court relating to the collection and payment thereof, and shall, by all other means pertaining to his office, promote and enforce the same. (R. S. c. 137, § 15.)