

# MAINE STATE LEGISLATURE

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THE  
**REVISED STATUTES**

OF THE  
STATE OF MAINE,

PASSED OCTOBER 22, 1840;

TO WHICH ARE PREFIXED

**THE CONSTITUTIONS**

OF THE

*United States and of the State of Maine,*

AND TO WHICH ARE SUBJOINED THE OTHER

PUBLIC LAWS OF 1840 AND 1841,

WITH AN

**APPENDIX.**

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PRINTED AND PUBLISHED IN COMPLIANCE WITH A RESOLVE OF OCTOBER 22, 1840.

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**Augusta:**

PUBLISHED BY WILLIAM R. SMITH & Co., PRINTERS TO THE STATE.

.....  
1841.

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## CHAPTER 152.

### OF THE TAXATION OF COSTS; AND THE COLLECTION AND DISPOSAL OF FINES AND COSTS, IN CRIMINAL PROSECUTIONS.

#### ARTICLE I. OF COSTS TAXED FOR JUSTICES OF THE PEACE, CIVIL OFFICERS AND WITNESSES.

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2. When party is ordered to recognize, justice to receive no fees, unless the grand jury find a bill.
3. Officers to be examined under oath, as to special charges made by them.
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SECT. 37. Judges of municipal and police courts.

ARTICLE 1. OF COSTS TAXED FOR JUSTICES OF THE PEACE, CIVIL OFFICERS AND WITNESSES.

SECTION 1. Where several warrants are issued by any justice of the peace, against one or more defendants, when only one warrant is necessary, no more costs shall be allowed therefor to the justice, than for one complaint and warrant.

Costs to be taxed by the justice only on one complaint and warrant, unless more are necessary.  
1823, 235, § 4.

SECT. 2. When a party, accused before a justice of the peace, has been ordered to recognize to answer before any court, having jurisdiction of the offence, and the grand jury on examination of the evidence before them, shall not find an indictment against such party, the justice shall not be entitled to any fees for his services in the case; and, in no case, shall be tax other or greater fees than are expressly allowed by law.

When party is ordered to recognize, justice to receive no fees, unless the grand jury find a bill.  
1823, 235, § 3.

SECT. 3. The justices of the supreme judicial court, and of the several district courts, and justices of the peace, before whom any criminal prosecution may be pending, shall not allow any charge for aid, or other expenses of the officer, in serving the warrant in such case, other than the stated fees for the officer's service and travel; unless, after examination of the officer under oath, and on such other testimony as they shall think proper, they find reasonable cause to justify such additional charges.

Officers, to be examined under oath, as to special charges made by them.  
1823, 235, § 2.

SECT. 4. Any justice of the peace, when a complaint has been made before him, and a warrant issued thereon, may order such witnesses, as he is satisfied can testify to material facts, and whose testimony is necessary, and no other, to be summoned to attend the examination or trial; and the justice, who shall have cognizance of the case, may order such witnesses only, as he is satisfied are material and necessary, to recognize to appear at any higher court, to which such case may be carried by appeal, or otherwise.

What witnesses the justice may summon and recognize in criminal cases before himself.  
1823, 235, § 1.

SECT. 5. No justice of the peace, except as provided in the preceding section, shall issue summonses for witnesses to appear and give evidence in any criminal suit, unless by the request of the attorney general, or some county attorney; and it shall be expressed in every such summons, that the same is issued by such request.

What witnesses he may summon in other criminal cases.  
1821, 82, § 1.

SECT. 6. When a justice shall issue any summons for a witness, at the request of any person, prosecuted in a criminal suit, it shall be so expressed in the summons; and the witness shall thereby be required to appear and give evidence, upon condition that such party pay him his legal fees.

Witness' fees to be paid in advance, if summoned by party prosecuted.  
1821, 82, § 1.

SECT. 7. No costs shall be allowed by a justice of the peace for the benefit of any complainant, whether as an officer, witness, or in any other capacity; provided, that a police officer or constable, duly qualified, and acting under the authority of a town, or complaining in cases where, by particular provisions of law, it is made his duty to complain, may be allowed his fees as an officer.

No allowance to the complainant in any capacity, unless to persons required officially to complain.  
1823, 235, § 1.  
1836, 227, § 2.

SECT. 8. When any person shall have been summoned as a witness, in more than one criminal prosecution, before a justice of

Only one travel and attendance allowed to witnesses, though

**CHAP. 152.** the peace, on the same day, or at the same term of any judicial court, he shall be allowed pay for travel and attendance only in such one prosecution, as the justice of the court may direct; and in no case shall he be allowed more than one travel, at the same time.

summoned in several cases. 1823, 235, § 4.

When witness' fees for attendance may commence in the supreme judicial court. 1831, 509, § 1, 2.

When the justice may receive the cost, and pay over to those entitled thereto.

Disposal of fees, not called for within a year.

Certain bills of cost to be allowed by the county commissioners. 1825, 303, § 1. 1836, 227, § 1.

If either of the county commissioners be interested judge of the district court to take cognizance thereof.

In cases carried from a justice to a higher court, costs to be certified.

Jurisdiction of supreme judicial court or district court, as to costs. 1821, 82, § 1.

Of expenses of supporting prisoners in jail. 1821, 82, § 8.

**SECT. 9.** No fees, in criminal prosecutions, continued after the first term, shall be allowed to witnesses on the part of the state, until the third day of the term of the supreme judicial court, or of any district court, held in any county in this state, except in the counties of Hancock, Oxford, Franklin, Piscataquis and Aroostook; nor until the second day in either of these excepted counties, unless, in either case, the court shall have expressly required an earlier attendance.

**SECT. 10.** If any person, convicted of any offence before any justice of the peace, be ordered by such justice to pay the costs of prosecution, as part of his sentence, and shall comply with such order, the justice may retain his own fees, and pay over the other fees to the officer, witnesses and other persons thereto entitled.

**SECT. 11.** If such fees, other than the justice's, be not called for within one year, they shall be forfeited to the use of the state, and the justice shall pay over the same to the county treasurer, within such time and under such penalty, as is provided in the twenty second section of this chapter, for the non payment to such treasurer of fines by him received.

**SECT. 12.** Whenever a party accused shall be acquitted by any justice of the peace, or, being convicted, shall not be sentenced to pay costs, or, being sentenced to pay costs, shall not pay them to said justice, the commissioners of the same county may examine and correct all such bills of costs, including the fees of the officer, witnesses and other persons, entitled thereto, and order the same to be paid out of the county treasury; except as is provided in the following section.

**SECT. 13.** Whenever any justice, or any individual interested in such bill of costs, shall be one of the county commissioners for the same county, the district court held in said county shall have the same cognizance of such bill of costs, as the commissioners might otherwise have had.

**SECT. 14.** In all criminal prosecutions, which are carried to any court, by appeal from the decision of a justice of the peace, or where the party accused is committed or required to recognize for his appearance to any court, the costs shall be taxed and certified, with the papers, to the court.

**SECT. 15.** In all criminal prosecutions, lawfully pending in the supreme judicial court, or in any district court, the court may allow and tax such costs for justices, officers, aids, jurors and witnesses, and for other charges, upon such prosecution, and previous to its determination, as are provided by law, whether the person accused be brought to trial or not, or whether he be convicted or acquitted upon trial; and all costs, so taxed, shall be paid out of the county treasury.

**SECT. 16.** The expenses of supporting prisoners, committed by due process of law, and unable to support themselves, in any jail, upon charges or conviction of crimes and offences committed against

the state, shall be refunded by the state; the jailer, in each county, shall render on oath to the county commissioners, at each stated session thereof, an account of all such expenses, stating the time when each prisoner was committed, for what offence, how long held, and, if his term has expired, when discharged, and shall exhibit the warrants of commitment and discharge; and the jailer shall credit all moneys and effects whatever received or to be received of the prisoner, or of other persons on his account; and the court, on due examination into the nature of the accounts, and the ability of the prisoner to refund any part of such expenses, shall order such sums as they think reasonable, to be paid to the jailer, not exceeding one dollar, a week, from the county treasurer.

ARTICLE II. OF THE COLLECTION AND DISPOSAL OF FINES AND COSTS, ACCRUING TO THE STATE, COUNTY OR TOWN.

SECT. 17. The clerk of the judicial courts shall attest and deliver to the county treasurers, copies of all bills of costs allowed by said courts, and certificates of all fines and forfeitures, imposed and accruing to the state or to the county, either before the rising thereof, or as soon after as may be; and shall also deliver to him a separate certificate of all the bills of costs, allowed by said courts, setting down therein the sum total only of each, in order that the same may be charged and used, as a voucher, in his account with the treasurer of the state, as provided in the twenty third section of this chapter. The said clerk shall also return, to the treasurer of the state, a certificate of all fines and forfeitures, imposed to the use of the state in said courts.

Certificates of fines and costs, required from the clerk of the judicial courts. 1821, 82, § 2.

SECT. 18. The clerk of said courts shall receive all fines, forfeitures or bills of costs paid or tendered to him, before the issuing of any process for the collection thereof, and pay over the same to the treasurer of the county; and, in default of such payment made to him, issue warrants of distress or such other process therefor as the court may find necessary to enforce the execution of any order, sentence, or judgment, for or in behalf of the state, and deliver the same to the sheriff, or to such coroner or constable as the attorney general or county attorney shall direct; and shall enter of record the name of the officer, and the time, when the same is delivered to such officer.

Duty of clerks to collect fines and costs, or issue process. 1830, 464, § 1.

SECT. 19. All sheriffs, jailers, constables and coroners, who may, by virtue of their office, receive any fines, forfeitures, or bills of costs, whether such fines and forfeitures accrue to the state or to the county, except debts and costs received upon executions in favor of the state, shall forthwith pay the same to the treasurer of the county, in which the same shall have accrued.

Officers to pay over to county treasurer, fines and costs collected. 1821, 82, § 3.

SECT. 20. If any such officer, receiving such fine, forfeiture or costs, shall, for the space of thirty days after the receipt thereof, neglect to pay over the same, or, if he shall permit 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 law, and shall not within thirty days after such escape pay the amount thereof to the county treasurer, he shall forfeit and pay double the amount; and it shall be the duty of the county treas-

Penalty for their neglect. Treasurer's duty. 1821, 82, § 3.

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urer, to give notice of such delinquency to the county attorney, who shall sue for the same in an action of debt, in the name of such treasurer, to the use of the state or county.

Officers receiving warrants, &c. for collection, to produce receipts to the court, or give a good excuse.  
1821, 82, § 3.

SECT. 21. Every sheriff or other officer, to whom any warrant of distress, or other process shall have been committed for the recovery of any such fine, forfeiture or costs, by the clerk of either of said courts, shall be held at the next session of the same court in the same county, to produce thereto a receipt in full for the same, or to assign a satisfactory excuse for not doing so; in case of delinquency, the court shall order a prosecution to be commenced for the same by the county attorney.

Justices of the peace to account for and pay over fines, &c. to treasurer of county or town, &c.  
1821, 82, § 4.

SECT. 22. Every justice of the peace shall be held to render an account of, and pay over all fines and forfeitures, by him received upon convictions and sentences before him, whether accruing to the state or the county, to the treasurer of the county; and, in cases where they accrue to the town, to the treasurer of the town, within six months after he shall have received the same; in case of any neglect, he shall forfeit and pay, in each instance, double the amount, to be recovered in the same name, as is provided in the twentieth section, in cases where they accrue to the state or county; and, in cases where said fines accrue to the town, in action of debt, by the treasurer of the town.

County treasurer to account with state treasurer.  
1821, 82, § 5.

SECT. 23. The county treasurer shall make out his account of all bills of costs, allowed and taxed against the state by the judicial courts in his county, and give credit for all fines, forfeitures and costs accruing to the state by him received, and pay over the net balance thereof to the state treasurer, if any be due to the state; or, if otherwise, receive such balance from the state treasurer in the manner, and under the penalties, provided in the fourteenth and twentieth sections of chapter, twelve.

Fees allowed to individuals must be claimed within three years.  
1821, 82, § 7.

SECT. 24. All sums, allowed to any person as fees, or for expenses in any criminal prosecution, and which are chargeable to the state, and payable from the county treasury, may be claimed by any such person of the county treasurer, at any time within three years next after the same were taxed and allowed, and not afterwards.

County treasurer to account to the governor, &c. for unclaimed moneys, and for fees allowed the attorneys for the state.  
1821, 82, § 7.

SECT. 25. Every county treasurer in his general account, which he is required to render to be transmitted to the governor and council, pursuant to the twenty third section of chapter, twelve, shall credit the state with all such sums of money remaining unclaimed, as mentioned in the preceding section; and also with all sums taxed in any bill of costs, in a criminal prosecution, for the fees of the attorney general or county attorney, when no other person is entitled thereto; and the amount of such sums shall be deducted from the county treasurer's account against the state.

County treasurer to account to the county for jury fees, and for jailer's charges, &c.  
1821, 82, § 7.

SECT. 26. Every county treasurer shall account with the county for all sums allowed to, or received by him out of the treasury of the state for jury fees, and for jailer's charges, for the maintenance of prisoners.

Fines and costs in justices' prosecutions, how appropriated.

SECT. 27. All fines, imposed by justices of the peace to the use of the state, and all costs, accruing to the state in such prosecutions, shall be paid into the county treasury, to be appropriated

to the payment of sums allowed by the judicial courts, pursuant to the fifteenth section of this chapter; and the county treasurer shall credit his county with the same, instead of the state.

SECT. 28. The sheriff in each county shall, as often at least as every three months, deliver over 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.

SECT. 29. The county treasurer shall, at the next following session of the county commissioners, lay before them a schedule of all such notes, with the amounts due on them, respectively, to be filed with the clerk.

SECT. 30. The commissioners shall, from time to time, examine such notes and securities, and order the county attorney to take such legal measures for their collection by suit or otherwise, as they shall judge expedient; and they may authorize the treasurer to compound with any of the persons liable on such notes or securities, or cancel the same, on such terms as the board shall direct.

SECT. 31. The secretary of state, from time to time, as the governor and council may direct, shall cause the books of the treasurer of the state, and the accounts of the several county treasurers, deposited in the office of the treasurer of the state, to be compared with the returns, made to him pursuant to the provisions of section, thirteen, of chapter, one hundred, from the clerks of the judicial courts, and shall ascertain what fines, forfeitures and bills of costs have not been paid over to the use of the state.

SECT. 32. The secretary of state shall make out separate schedules for each county, of unpaid fines, forfeitures and bills of costs, and make appropriate entries and records thereof, to be kept in his office; and shall transmit such schedules to the attorneys of the respective counties, certifying thereon, that the same appear to be due and unpaid.

SECT. 33. The several county attorneys shall examine the records and files in the offices of clerks in their respective counties, and the certificates and accounts in the offices of the respective county treasurers, relating to fines, forfeitures and bills of costs, accruing to the use of the state, and ascertain, so far as practicable, the causes of any delinquencies, which may appear in paying over the same; and shall move the respective courts for all such orders and processes, as may be deemed necessary, to enforce the collection and payment of the same.

SECT. 34. Whenever any sheriff or other officer shall appear not to be discharged of any such 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, in which the same was imposed, to show a proper discharge for the same, or the cause, why the same is not collected or paid over, as provided in the twenty first section of this chapter.

SECT. 35. The county attorney shall carry into execution all lawful orders of the courts aforesaid, relating to the collection and payment of such fines, forfeitures and bills of costs, and by all other means, pertaining to his office, shall promote and enforce the collection and payment thereof.

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1825, 303, § 1.

Sheriff to deliver over certain securities to the county treasurer.

1830, 464, § 5.

Treasurer to exhibit a schedule of the same to the commissioners.

1830, 464, § 5.

Proceedings of the commissioners thereon.

1830, 464, § 5.

Secretary of state to compare the treasurer's books with the returns of the clerks, &amp;c.

1830, 464, § 3.

Secretary's duty, as to unpaid fines, &amp;c.

1830, 464, § 3.

Proceedings of the county attorney, in reference to delinquents.

1830, 464, § 2, 4.

Same subject.

1830, 464, § 2, 4.

Same subject.

1830, 464, § 2, 4.



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County attorneys to report to the secretary of state. 1830, 464, § 4.

**SECT. 36.** The respective county attorneys, from time to time, when required by the governor and council, shall make out, and transmit to the secretary of state, reports of the results of the investigations by them made, relating to the items mentioned in the schedules, transmitted to them, under the thirty third section of this chapter.

**ARTICLE III. GENERAL PROVISIONS RELATING TO JUDGES OF MUNICIPAL AND POLICE COURTS.**

Judges of municipal and police courts.

**SECT. 37.** All the provisions of this chapter, applicable to justices of the peace, shall be construed, as extending to the judges of any municipal court, or police court, within their respective jurisdictions, with the like obligations, restrictions and penalties.