

# 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.

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1841.

refusing to recognize, as required by the court or magistrate, may be discharged by any judge or justice of the peace, on giving such security, as was required.

SECT. 14. Every recognizance, taken pursuant to the foregoing provisions, shall be transmitted to the district court, on or before the first day of the next ensuing term, and shall there be filed by the clerk, as of record.

SECT. 15. Whoever, in the presence of any magistrate, mentioned in the second section of this chapter, or before any court of record, shall make any affray or threaten to kill or beat another, or commit any violence against his person or property, or shall contend, with hot and angry words, to the disturbance of the peace, may be ordered, without process or any other proof, to recognize for keeping the peace, or being of the good behavior for a term, not exceeding three months, and, in case of refusal, may be committed to prison as before directed.

SECT. 16. Any person, going armed with any dirk, dagger, sword, pistol, or other offensive and dangerous weapon, without a reasonable cause to fear an assault on himself, or any of his family or property, may, on the complaint of any person having cause to fear an injury or breach of the peace, be required to find sureties for keeping the peace for a term, not exceeding one year, with the right of appeal as before provided.

SECT. 17. In a suit, on such recognizance taken in a criminal case, if a forfeiture is found or confessed, the court, on petition, may remit the penalty, or such part of it as they may think proper, on such terms as they may think right.

SECT. 18. Any surety in a recognizance may surrender the principal in the same manner, as if he had been his bail in a civil cause, and, on such surrender, shall be discharged from all liability for any act of the principal after such surrender, which would be a breach of the recognizance; and, upon such surrender, the principal may recognize anew with sufficient surety or sureties for the residue of the term, before any justice of the peace, and shall thereupon be discharged.

### CHAP. 169.

may be taken after commitment.

Return of such recognizance.

When magistrate may require sureties, without a formal complaint, &c.

Persons going armed, without reasonable cause.  
1821, 76, § 1.

Power of court, to remit the penalty of a recognizance.  
1821, 50, § 4.

Sureties on recognizances may surrender their principals as in case of bail in civil actions.

## CHAPTER 170.

### OF THE POWER AND PROCEEDINGS OF JUSTICES OF THE PEACE IN CRIMINAL CASES.

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| <p>SECT. 1. Justices may require aid, on view, without a warrant.</p> <p>2. Their jurisdiction.</p> <p>3. When a justice shall issue his warrant.</p> <p>4. Examination, on trial, of the party accused.</p> <p>5. Of commitment or binding over to a higher court.</p> | <p>SECT. 6. Duty of justices, as to arrests, and examinations into treasons, felonies, &amp;c.</p> <p>7. Trial and sentence within their jurisdiction.</p> <p>8. Respondent may appeal; but required to recognize.</p> <p>9. To carry up copies of the case.</p> |
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<p><b>CHAP. 170.</b> SECT. 10. Proceedings, if he do not prosecute his appeal.</p> <p>11. Summoning of witnesses.</p> <p>12. Justices' power to administer oaths.</p>	<p>SECT. 13. Power to issue search warrants.</p> <p>14. Form of application.</p> <p>15. Form of warrant.</p> <p>16. When search may be made in the night time.</p>
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Justices may require aid, on view, without a warrant.  
1821, 76, § 1.

SECTION 1. Every justice of the peace, may, as a conservator of the peace, upon view of any affray, riot, assault or battery, within his county, without any warrant in writing, command the assistance of any sheriff, deputy sheriff or constable, and of all other persons present, for suppressing the same, and arresting all who are concerned therein, as provided in this chapter.

Their jurisdiction.  
1821, 76, § 2.

SECT. 2. Every justice of the peace, within his county, may punish by fine, not exceeding ten dollars, all assaults and batteries and other breaches of the peace, declared criminal by any statute or town by law, when the offence is not of a high or aggravated nature; and cause to be stayed and arrested all affrayers, rioters, disturbers and breakers of the peace, and all who go armed offensively to the terror of the people, and such as utter threatening speeches, or are otherwise disorderly and dangerous.

When a justice shall issue his warrant.  
1823, 235, § 1.  
16 Pick. 211.

SECT. 3. When complaint shall be made in due form to any justice of the peace, alleging any offence to have been committed, and praying for a warrant to be issued against the person charged, the justice shall carefully inquire of the complainant on oath, into the circumstances of the case; and, if he shall be satisfied that the person charged committed the offence alleged, he shall issue his warrant.

Examination, or trial of the party accused.  
1821, 76, § 1.

SECT. 4. All persons arrested by process, conformable to the provisions of the constitution, for any of the offences before mentioned, shall be examined by the judge or justice before whom they are brought, and may be tried by him; and, if found guilty, may be required to find sureties for keeping the peace, and be further punished by fine, as before provided.

Of commitment, or binding over to a higher court.  
1821, 76, § 1.

SECT. 5. When the offence is of a high and aggravated nature, the persons, thus arrested and in custody, may be committed or bound over for trial to the court, by law having jurisdiction of the case, as is provided in the one hundred and sixty sixth chapter.

Duty of justices, as to arrests, and examinations into treasons, felonies, &c.  
1821, 76, § 1.  
6 Mass. 347.  
11 Mass. 337.

SECT. 6. Every justice shall cause to be arrested, on proper complaint, all persons, found within his county, charged with any offences, and all persons who, after committing any offence within the county, shall escape out of the same. He shall also examine into all treasons, felonies, high crimes and misdemeanors, and commit or bind over for trial, all persons who appear to be guilty thereof.

Trial and sentence within their jurisdiction.  
1821, 76, § 1.

SECT. 7. He may also try all offences within his jurisdiction, committed in his county, and sentence all persons convicted thereof, according to law, notwithstanding there may be a penalty accruing, in whole or in part, to his own town.

Respondent may appeal, but required to recognize.  
1821, 76, § 3.  
1 Greenl. 230.

SECT. 8. Any person, aggrieved at the sentence of any justice of the peace, or judge of a municipal or police court, may appeal therefrom to the next district court, to be holden in the same county; and the justice or judge shall grant the appeal, and order him to recognize in a reasonable sum, not less than twenty dollars, with sufficient sureties for his appearance, and for prosecuting his

appeal; and he shall stand committed till the order is complied with. CHAP. 170.

SECT. 9. He shall be held to produce a copy of the whole process, and of all writings filed before the justice, at the district court. To carry up copies of the case.

SECT. 10. If he shall not prosecute his appeal, and produce the copies as aforesaid, his default shall be noted upon their record; and the court may order the case to be laid before the grand jury, or may issue an attachment against the body of such appellant and bring him into court, and may then affirm the sentence of the justice, with all additional costs. Proceedings, if he do not prosecute his appeal. 1821, 76, § 3.

SECT. 11. Any justice may issue summonses for witnesses to appear before any judicial court or before himself, or any other justice, in any criminal case; but not for witnesses on the part of the state, except to appear before himself, without the consent of the attorney general or county attorney. Summoning of witnesses. 1821, 76, § 6.

SECT. 12. Every justice of the peace may administer oaths in all cases in which an oath may be required, unless a different provision shall be made by law. Justices' power to administer oaths.

SECT. 13. Any justice of the peace, or other magistrate authorized to issue warrants in criminal cases, may, within the limits of his jurisdiction, issue his warrant to search any house or place for property stolen, embezzled, or obtained by false tokens or pretences, or for forged and counterfeit coins, bank bills, or other writings, or for any tools, machines, or materials, used or designed for making the same, or for any dead body, unlawfully disinterred, carried away, and concealed, and in other cases, and for persons, when such search is authorized by law; which search warrant shall be issued according to the principles and provisions in the three following sections, and not otherwise. Power to issue search warrants.

SECT. 14. The application or complaint for a search warrant, made to the justice or magistrate, shall be in writing, signed by the complainant, and verified by his oath or affirmation. It shall specially designate the house or place to be searched, and the owner or occupant thereof, and the person or thing to be searched for, and shall also substantially allege the offence committed in relation to such person or thing, and that the complainant has probable cause to suspect, and does suspect that the same is concealed in the house or place designated as aforesaid. Form of application. 13 Mass. 286.

SECT. 15. Such justice or magistrate shall thereupon issue his warrant, under his hand and seal, and direct the same to a proper officer, or to any other person by name, for service; and it shall contain a recital of all the essential facts alleged in the complaint, and may be made returnable before the justice or magistrate issuing the same, or before any other justice or magistrate, before whom shall also be directed to be brought, the person or thing searched for, if found, and the person in whose possession or custody the same may be found, to be dealt with according to law. Form of warrant.

SECT. 16. Such warrant shall not authorize the person executing it to search any dwelling house in the night time, unless the justice or magistrate shall be satisfied that it is necessary in order to prevent the escape or removal of the person or property to be searched for, and unless such authority shall be distinctly expressed and given in the warrant. When search may be made in the night time.