

MAINE STATE LEGISLATURE

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THE
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED APRIL 17, 1857;

TO WHICH ARE PREFIXED

THE CONSTITUTIONS

OF THE

UNITED STATES AND OF THE STATE OF MAINE:

WITH AN

APPENDIX.

PUBLISHED BY AUTHORITY OF THE LEGISLATURE.

BANGOR:
WHEELER & LYNDE.

1857.

efficient sureties, and make such order as to costs as they deem reasonable. CHAP. 130.

SEC. 7. If the appellant fails to prosecute his appeal, his recognizance shall be in force for any breach of its conditions without an affirmation of said order, and stand as security for any costs which he is ordered by the court to pay. Consequences, if the appellant fails to prosecute. R. S., c. 169, § 12.

SEC. 8. Any person committed for not recognizing as aforesaid may be discharged by any judge or justice of the peace, on giving the security required. Recognizance may be taken after commitment. R. S., c. 169, § 13.

SEC. 9. Whoever, in the presence of any of the magistrates aforesaid, or any court of record, makes an affray; threatens to kill or beat another, or commit any violence against his person or property; or contends with hot and angry words to the disturbance of the peace, may be ordered, without process or other proof, to recognize to keep the peace and be of good behavior for a term not exceeding three months, and otherwise dealt with as is provided in the preceding sections. When magistrate may require sureties without a formal complaint. R. S., c. 169, § 15.

SEC. 10. Whoever goes armed with any dirk, pistol, or other offensive and dangerous weapon, without just cause to fear an assault on himself, family, or property, on complaint of any person having cause to fear an injury or breach of the peace, may be required to find sureties to keep the peace for a term not exceeding one year, and, in case of refusal, may be committed as provided in the preceding sections. Persons going armed, without reasonable cause. R. S., c. 169, § 16.

SEC. 11. All recognizances taken under this chapter shall be returned to the supreme judicial court on or before the first day of the next term, and there filed by the clerk as of record; and, in any suit thereon, if the forfeiture is found or confessed, the court may remit so much of the penalty, and on such terms, as they think proper. All recognizances to be returned to S. J. Court, and the court may remit the penalty. R. S., c. 169, § 14, 17.

SEC. 12. Any surety in such recognizance may surrender the principal the same as bail in civil cases, and shall thereupon be discharged from all liability for any subsequent breach of the recognizance; and the principal may recognize anew with sufficient sureties for the residue of the term before a justice of the peace, and then be discharged. Sureties on recognizances may surrender their principals, &c. R. S., c. 169, § 18.

CHAPTER 131.

JURISDICTION OF OFFENCES, AND GENERAL PROVISIONS RELATING THERE TO.

JURISDICTION OF CRIMES.

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2. Offences committed near the boundary of two counties, and death in one county from an injury in another.
 3. Death within the state from an injury inflicted on the high seas or without the state.
 4. Acquittal of part of an indictment and conviction of the residue.
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CHAP. 131.

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14. Prosecutions limited to six years, deducting absence from the state.

JURISDICTION OF CRIMES.

Jurisdiction of the S. J. Court, &c.

R. S., c. 166, § 1, 2.

SEC. 1. The supreme judicial court shall have original jurisdiction, exclusive or concurrent, of all criminal offences, except those of which the jurisdiction is conferred by law on municipal and police courts and justices of the peace, and appellate jurisdiction of these.

Offences committed near the boundary of two counties, &c.

R. S., c. 166, § 4, 5.

SEC. 2. When an offence is committed on the boundary between two counties or within one hundred rods thereof; or a mortal wound or other violence or injury is inflicted, or poison administered, in one county whereby death ensues in another, the offence may be alleged in the complaint or indictment as committed, and may be tried, in either.

Death within the state from an injury inflicted without the state.

R. S., c. 166, § 6.
1854, c. 75.

SEC. 3. If a mortal wound or other violence or injury is inflicted, or poison administered, on the high seas or without this state whereby death ensues within this state, such offence may be tried in the county where the death ensues; and if such act is done within and death ensues without this state, such offence may be tried in the county where the act was done, as if death had there ensued.

Acquittal of part of an indictment and conviction of the residue.

R. S., c. 166, § 7.

SEC. 4. When a person, indicted for any offence, is acquitted of a part by the verdict of the jury, and found guilty of the residue thereof, such verdict may be received and recorded by the court; and he may be considered as convicted of the offence, if any, which is substantially charged by such residue, and be punished accordingly, though such offence would not otherwise be within the jurisdiction of said court.

Where an accessory before or after the fact may be tried.

R. S., c. 167, § 5, 7.

SEC. 5. Every accessory, before or after the fact, may be tried in the county having jurisdiction of the principal offence, though the accessory offence was committed on the high seas or without the state; and if the principal offence was committed in one county and the accessory offence in another, the latter may be tried in either.

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SEC. 6. Whoever aids in the commission of any felony, or is accessory thereto before the fact, by counseling, hiring, or otherwise procuring the same, shall be punished in the manner prescribed for the punishment of the principal felon; and such accessory, when a felony is committed within or without the state by his procurement in the state, may be indicted and convicted as an accessory with the principal, or after his conviction, or of a substantive felony, whether the principal is convicted or amenable to justice or not, and punished as aforesaid. Whoever is accessory after the fact to a felony may be indicted, tried, and sentenced, whether his principal has or has not been convicted.

Accessory before the fact punished the same as principal, and convicted with or without him.
29 Maine, 84.
R. S., c. 167, § 3, 4, 7.
1854, c. 74.

SEC. 7. Every person, not standing in the relation of husband or wife, parent or child, to the principal offender, who harbors, conceals, maintains, or assists any principal felon or accessory before the fact, knowing him to be such, with intent that he may escape detection, arrest, trial, or punishment, shall be deemed an accessory after the fact, and shall be punished by imprisonment not more than seven years, and by fine not exceeding one thousand dollars; but in no case shall such punishment exceed the punishment to which the principal felon on conviction would be liable.

Who are accessories after the fact.
R. S., c. 167, § 6.

ATTEMPTS TO COMMIT OFFENCES.

SEC. 8. Whoever attempts to commit any criminal offence, and does any thing towards it, but fails, is interrupted, or prevented in its execution, where no punishment is expressly provided for such attempt, shall be punished, when the offence thus attempted is punishable with death, or imprisonment in the state prison for life, by imprisonment not less than one, nor more than ten years; but in all other cases, by the same kind, but not exceeding one half of the punishment that might have been inflicted, if the offence attempted had been committed.

Attempt with an overt act to commit an offence, how punishable.
R. S., c. 167, § 10.

DEFINITIONS AND ALLEGATIONS.

SEC. 9. The term "felony," when used in any chapter in this title, shall be construed to include every offence punishable with death, or by imprisonment in the state prison.

Definition of "felony."
R. S., c. 167, § 2.

SEC. 10. In an offence in any way relating to real or personal estate, it shall be deemed sufficient and not a variance, if proved at the trial that, when the offence was committed, the actual or constructive possession, or the general or special property in whole or in part of such estate, was in the person or community alleged in the indictment to be the owner thereof.

Of "owner" of property as used in indictments.
R. S., c. 167, § 8.

SEC. 11. When an intent to defraud is necessary to constitute any offence, it shall be sufficient to allege generally in the indictment an attempt to defraud; and if there appears on trial an intent to defraud the United States, any state, county, town, person, or corporation, it shall be sufficient.

General allegation of intent to defraud sufficient.
R. S., c. 167, § 9.

SEC. 12. No indictment or complaint shall be quashed, nor judgment thereon arrested or affected by reason of the omission or mis-statement of the title, occupation, estate, or degree of

Complaints and indictments not to be quashed

CHAP. 131.

the accused; of the name of the city, town, or county, of his residence, or of the words, "feloniously," "force and arms," "against the peace," or "contrary to the form of the statute;" if such omission or mis-statement does not tend to his prejudice.

for omission,
&c.
15 Maine, 122,
476.
R. S., c. 172,
§ 38.

RECOVERY AND APPROPRIATION OF FINES.

Fines and forfeitures to be recovered by indictment, &c.
R. S., c. 167,
§ 13, 14.

SEC. 13. All fines and forfeitures, imposed as a punishment for any offence, or for a violation or neglect of any statute duty, when no other mode is expressly provided, may be recovered by indictment; and when no other appropriation is expressly made by law, shall inure to the state.

LIMITATION OF PROSECUTIONS.

Prosecution limited to six years, deducting absence from the state.
R. S., c. 167,
§ 15.

SEC. 14. When no other limitation is provided by law, no indictment for any offence, except treason, murder, arson, or manslaughter, shall be found after six years from the commission thereof; but any time, during which the offender is not usually and publicly resident in this state, shall not be a part of said six years.

CHAPTER 132.
ELECTION OF MUNICIPAL AND POLICE JUDGES, AND PROCEEDINGS OF MAGISTRATES IN CRIMINAL CASES.
ELECTION OF MUNICIPAL AND POLICE JUDGES.

SEC. 1. Election of municipal and police judges.

CRIMINAL JURISDICTION OF MAGISTRATES.

2. Magistrates administer oaths and may require aid to repress breaches of the peace.
3. Magistrates have jurisdiction of larcenies, value not exceeding ten dollars.
4. Magistrates have jurisdiction of breaches of the peace and violations of law. Not to take cognizance of cases relating to arrest of fugitive slave. Penalty.
5. Magistrates may on complaint cause all offenders to be arrested, tried, or recognized to appear at supreme judicial court.
6. Magistrates must examine on oath into circumstances of alleged offence; may try though fine accrues to their town.
7. Jurisdiction of justices resident in towns where there is a municipal or police court. All warrants to be returnable before any justice of the peace.

MAY ISSUE SUMMONSES FOR WITNESSES AND ALLOW THEIR FEES.

8. When and how summonses may be issued for witnesses, and when they are obliged to attend.
9. No costs allowed to complainants; exceptions. No fees allowed to witnesses in more than one case at the same time.
10. Witnesses may be summoned to attend any court in New England.

WARRANTS FOR SEARCH.

11. Warrants for search, in what cases issued.
12. Contents of a complaint for such a warrant.
13. Warrant, its contents, how directed and served.
14. Search of a dwelling in the night, when authorized.