

# MAINE STATE LEGISLATURE

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THE  
REVISED STATUTES

OF THE  
STATE OF MAINE,

PASSED JANUARY 25, 1871;

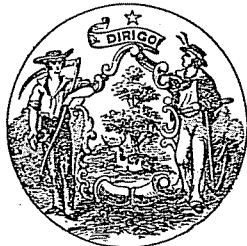
TO WHICH ARE PREFIXED  
THE CONSTITUTIONS

OF THE  
UNITED STATES AND OF THE STATE OF MAINE:

WITH AN APPENDIX.

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BY AUTHORITY OF THE LEGISLATURE.



PORTLAND:  
PUBLISHED BY BAILEY & NOYES.

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

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**CRIMINAL JURISDICTION OF MAGISTRATES.**

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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 re-ognized 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 trial justice.

**MAY ISSUE SUMMONSES FOR WITNESSES AND ALLOW THEIR FEES.**

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20. Costs in cases carried to a higher court to be taxed.

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**ELECTION OF MUNICIPAL AND POLICE JUDGES.**

Election of municipal and police judges. Salaries how paid; jailer to pay court fees paid him.

SEC. 1. The election of judges of municipal and police courts shall be effected and determined in cities as the election of mayor is; and in towns as the election of selectmen is. A plurality shall elect. The clerk shall notify the person elected, who shall be duly sworn,

and commence the discharge of his duties on the Monday following the day of his election. They hold their offices, and vacancies are filled, as provided in the constitution. Their salaries shall be fixed by the municipal officers of their towns, and paid quarterly from the treasuries thereof; and all fees received by them shall be paid quarterly into said treasuries, except where their compensation is fixed by law, by the allowance to them in whole or in part of the fees accruing in their courts. All fees of such courts paid to the jailer, after commitment, shall be paid by him, quarterly, into said treasuries.

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R. S. c. 132, § 1.  
1857, c. 50.  
1858, c. 1, § 1.

## CRIMINAL JURISDICTION OF MAGISTRATES.

SEC. 2. Judges of municipal and police courts and trial justices may administer all oaths required by law, unless another officer is specially required to do it. Upon view of an affray, riot, assault, or battery, within their county, they may, without warrant, command the assistance of a sheriff, deputy sheriff, constable, or person present, to repress the same, and to arrest all concerned therein.

Magistrates may administer oaths and require aid.  
R. S. c. 132, § 2.

SEC. 3. They shall have jurisdiction of the offences described in the first, sixth, seventh, eighth and ninth sections of chapter one hundred and twenty, when the value of the property is not alleged to exceed ten dollars; and may punish for the first offence by fine not exceeding ten dollars, and by imprisonment not more than two months; and on a second conviction, by fine not exceeding twenty dollars, and by imprisonment not more than six months.

Jurisdiction of larcenies when value does not exceed \$10.  
R. S. c. 132, § 3.  
1870, c. 96.  
27 Me. 266.  
37 Me. 130.

SEC. 4. They shall have jurisdiction of assaults and batteries, breaches of the peace, and violations of any statute or by-law of a town, when the offence is not of a high and aggravated nature, and of offences and misdemeanors, jurisdiction of which is conferred by law; and may cause affrayers, rioters, breakers of the peace, and violaters of law, to be arrested; and may try and punish by fine not exceeding ten dollars, and may require them to find sureties for keeping the peace.

Jurisdiction of breaches of the peace and violations of law.  
R. S. c. 132, § 4.

SEC. 5. They shall, on complaint, cause to be arrested persons found within their county charged with offences; and those having committed offences therein who have escaped therefrom; and all persons charged with felonies, offences, and misdemeanors; and when the offence on examination is found to be one not within their jurisdiction for trial, they may cause them to recognize with sufficient sureties to appear before the supreme judicial court, and, in default thereof, commit them.

May, on complaint cause all offenders to be arrested, &c.  
R. S. c. 132, § 5.  
23 Me. 527.

SEC. 6. When complaint is made to them, charging any person with the commission of an offence, they shall carefully examine the complainant and witnesses by him produced, on oath, into the circumstances, and, when satisfied that the person committed the offence, issue a warrant, stating the substance of the charge, for his

Must examine on oath into circumstances of alleged offence, &c.  
R. S. c. 132, § 6.  
3 Me. 51.

CHAP. 132. arrest; and may try those brought before them for offences within their jurisdiction, though the penalty or fine accrues wholly or partly to their town.

10 Me. 473.  
25 Me. 490.  
34 Me. 210.  
Jurisdiction of justices in towns where there is a municipal court, &c.  
R. S. c. 132, § 7.

SEC. 7. A trial justice, residing in a town in which there is a municipal or police court, shall have the same jurisdiction as other trial justices in the county in all matters, the exclusive jurisdiction of which is not conferred on such court. Warrants issued by trial justices shall be made returnable before any trial justice in the county; and any justice, for issuing one not so returnable, shall on indictment and conviction be imprisoned six months and pay the costs of prosecution.

MAY ISSUE SUMMONSES FOR WITNESSES AND ALLOW THEIR FEES.

When and how summons may be issued, &c.  
R. S. c. 132, § 8.  
39 Me. 54.

SEC. 8. A magistrate, named in the second section, when a warrant is issued by him, may cause such witnesses only as he is satisfied can testify to material facts, to be summoned to attend the trial, by inserting their names in the warrant or otherwise; and, when the case is appealed or the person is required to appear before a higher tribunal, may order such witnesses only to recognize for their appearance where the case is to be tried or examined. He may issue summonses for witnesses in criminal cases to appear before any judicial tribunal, at the request of the attorney general, a county attorney, or party accused, and he shall express in the summons at whose request they are summoned; and when summoned for the accused, the witnesses shall not be required to attend without payment or tender of their legal fees.

No costs allowed to complainants; exceptions, &c.  
R. S. c. 132, § 9.

SEC. 9. No costs shall be allowed by such magistrate to complainants in any capacity; but this shall not prevent the allowance of their fees as officers to police officers and constables complaining under authority of their town, or when it is made their duty to do so. No witness shall be allowed in a criminal case for more than one travel, or for travel and attendance in more than one case at the same time before any judicial tribunal.

Witnesses may be required to attend any court in New England, in a criminal case pending.  
R. S. c. 132, § 10.

SEC. 10. When, on affidavit filed, the clerk of any court in a state in New England certifies that there is a criminal case pending in such court, and that a person named is declared to be a material witness therein, a justice of the peace, on such certificate, or on a paper annexed thereto, shall issue a summons requiring such person to appear and testify at such court; and if, upon payment or tender to him of twelve cents a mile to and from such court, and two dollars for each day's attendance required, he unreasonably neglects to attend and testify, he shall forfeit two hundred dollars to any person suing therefor.

## WARRANTS FOR SEARCH.

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SEC. 11. A magistrate may issue warrants to search, within the limits of his jurisdiction, any house or place for property stolen, embezzled, or obtained by false tokens or pretences; or for forged or counterfeit coins, bank bills, or other writings; or for tools, machines, or materials, used or designed for making the same; or for a dead body unlawfully disinterred, carried away, and concealed; and in other cases when such a warrant is authorized by law. Such warrants can be issued only according to the following provisions.

Warrants for search, in what cases issued.  
R. S. c. 132,  
§ 11.

SEC. 12. The complaint for a warrant to search must be made in writing, sworn to and signed by the complainant, specially designate the place to be searched, the owner or occupant thereof, and the person or thing to be searched for, and allege substantially the offence in relation thereto; and that the complainant has probable cause to suspect and does suspect, that the same is there concealed.

Complaint for such a warrant.  
R. S. c. 132,  
§ 12.  
33 Me. 564.

SEC. 13. Such warrant shall recite, by reference to the complaint annexed or otherwise, all the essential facts alleged in the complaint, be directed to a proper officer or to a person therein named, and made returnable like other warrants; and the person or thing searched for, if found, and the person in whose possession or custody the same was found, shall be returned with the warrant before a proper magistrate.

Warrant, its contents, how directed and served.  
R. S. c. 132,  
§ 13.  
25 Me. 490.

SEC. 14. To authorize a dwellinghouse to be searched in the night time, the magistrate must be satisfied that it is necessary to prevent the escape or removal of such person or property, and must in his warrant expressly require it.

Search of a dwellinghouse.  
R. S. c. 132,  
§ 14.

## APPEALS FROM MAGISTRATES.

SEC. 15. Any person, aggrieved at a sentence of such magistrate, may appeal therefrom to the next supreme judicial court in the same county, and the magistrate shall thereupon order him to recognize in a reasonable sum, not less than twenty dollars, with sufficient sureties, to appear and prosecute his appeal, and to be committed till the order is complied with.

Appeals provided for.  
R. S. c. 132,  
§ 15.  
1 Me. 230.

SEC. 16. He shall produce at the appellate court a copy of the whole process, and of all writings filed before the magistrate; and if he does not produce them and prosecute his appeal, his default shall be noted on the record; and the court may order the case laid before the grand jury, or issue a capias against the body of the appellant, bring him into court, and then affirm the sentence of the magistrate, with additional costs.

Appellant to produce copies and prosecute; consequences of neglect.  
R. S. c. 132,  
§ 16.

## PROVISIONS RELATING TO FEES OF MAGISTRATES.

SEC. 17. When several warrants are issued by any magistrate where only one is necessary, he shall be allowed only the costs for one complaint and warrant; and when he binds over a party, and the

Fees for one warrant only; no fees if no bill; unless, &c. No more

CHAP. 132. grand jury do not find an indictment against such party, he shall not have any fees in the case, unless the same are certified and approved by the county attorney; and in no case shall he tax other or greater fees than are expressly allowed by law.

than legal fees to be taxed.  
R. S. c. 132, § 17,  
1867, c. 69.

Costs paid; disposal of.  
R. S. c. 132, § 18.

SEC. 18. When the costs in any criminal case are paid to the magistrate as a part of the sentence, he may retain his fees, and pay over the other fees to the persons entitled to them; but if such other fees are not called for in one year, they shall be forfeited to the state, and paid over to the county treasurer within the time, and under the penalty, provided in chapter one hundred and thirty-six, section seven.

Costs not paid may be allowed by county commissioners.  
R. S. c. 132, § 19.

SEC. 19. When a party accused is acquitted by the magistrate, not sentenced to pay costs, or does not pay them to him when so sentenced, and on all legal search warrants, the commissioners of the same county shall examine and correct the bills of cost, including the fees of officers, witnesses, and other persons entitled thereto, and order the same paid out of the county treasury; but when such magistrate, or other person interested in such bill of costs, is one of the commissioners for the same county, the supreme judicial court shall have the same powers as the commissioners in other cases.

Costs in cases carried to higher court.  
R. S. c. 132, § 20.

SEC. 20. In cases carried to a higher court by appeal, recognizance, or commitment of a party, the costs shall be taxed by the magistrate and certified with the papers.

Warrants to be under seal, &c.  
R. S. c. 132, § 21.  
34 Me. 210.  
36 Me. 366.

SEC. 21. Warrants, issued by a magistrate in criminal cases, shall be under seal, and signed by him at the time when they are issued.