

# MAINE STATE LEGISLATURE

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FOURTH REVISION.

THE  
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED AUGUST 29, 1883, AND TAKING EFFECT JANUARY 1, 1884.

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BY THE AUTHORITY OF THE LEGISLATURE.



PORTLAND:  
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**ERRATA:**

**The following two leaves are  
inserted because one or more pages  
in this chapter have errors  
noticed and corrected here.**

# ERRORS.

## ERROR IN THE TEXT OF THE REVISED STATUTES.

Page 63, § 3, line one.—Erase the last word “may.”

## ERROR IN THE TEXT OF THE REPEALING ACT.

Page 999.—Transfer “Chapter 48, Section 6, of an act to facilitate the prompt administration of justice by establishing a superior court in Kennebec County,” from the year 1879 to 1878.

## ERROR IN THE COMMISSIONER'S NOTES.

Pages 177, 178.—Erase the last two lines of page 177, and the first three lines of page 178.

## ERRORS IN THE MARGINAL REFERENCES.

- Page 59, § 6, ¶ xx.—Erase “*R. S.*, c. 1, ¶ xx”, and supply, at the bottom of the page, “*R. S.*, c. 1, § 4”
- “ 66, § 24.—Erase “*Resolve of 1837*, c. 52.”
- “ 69, § 44.—Supply “*Resolve of 1840*, c. 107.”
- “ 72, § 68.—Erase “*See c. 6*, §§ 40-67.”
- “ “ § 70.—Erase “*R. S.*, c. 2, § 66.”
- “ 79, § 12, (note b).—“*See c. 18*, § 73” should read “*See c. 18*, § 75.”  
“ “ “ “ “*See c. 30*, § 15” should read “*See c. 30*, § 16.”
- “ “ § 14.—Supply “*See c. 18*, § 75.”
- “ 83, § 40.—“*R. S.*, c. 3, § 34” should read “*R. S.*, c. 3, § 33.”
- “ 84, § 46.—“*See c. 18*, § 67” should read “*See c. 18*, § 59.”
- “ 86, § 59, ¶ i, (note b).—“*See c. 17*, §§ 25-29” should read “*See c. 17*, §§ 27, 28.”
- “ “ “ ¶ vi, (note e).—“*See c. 18*, § 15” should read “*See c. 18*, § 17.”
- “ 92, note.—“*c. 18*, §§ 39, 103” should read “*c. 18*, §§ 39, 97.”
- “ 97, § 16.—Erase “*R. S.*, c. 4, § 16.”
- “ 108, § 86.—“*Art. ii*, § 2” should read “*Art. ii*, § 1, ¶ 2.”
- “ 117, § 28.—Erase the first reference to “1878, c. 31, § 1.” Also erase “*R. S.*, c. 5, § 26.”
- “ 176, § 27.—“*Resolve of 1883*, c. 20” should read “*Resolve of 1883*, c. 86.”
- “ 183, § 5.—“*See § 93*, ¶ 6” should read “*See § 93*, ¶ v.”
- “ 202, § 102.—“1883, c. 229” should read “*See c. 115*, § 1.”
- “ 209, § 1.—Supply “1880, c. 215.”
- “ 210, § 7.—Supply “1880, c. 215.”
- “ 249, § 44.—“1875, c. 25, § 6” should read “1875, c. 25, § 6.”
- “ 270, § 16.—Supply “1880, c. 215.”
- “ 330, § 26.—“*See c. 40*, § 77” should read “*See c. 40*, § 74.”
- “ “ § 28.—“*See c. 40*, § 38” should read “*See c. 40*, §§ 33, 40.”
- “ 374, § 23.—“*See § 17*” should read “1880, c. 234, § 1.”
- “ 384, § 74.—Add “1883, c. 138, § 3.”  
“ “ “ “ “1883, c. 144, § 4.”
- “ 506, § 1.—Supply “*See 1880*, c. 215.”
- “ 642, § 80, bottom of the page.—Supply “1878, c. 48, § 6.”
- “ 709, § 105.—“*See c. 134*, § 13” should read “*See c. 134*, § 19.”
- “ 773, § 42.—Supply “1883, c. 198, § 2.”
- “ 804, § 35.—“*See c. 134*, § 26” should read “*c. 134*, § 26.”
- “ 861, § 1.—“*R. S.*, c. 2, § 20,” } should read “1883, c. 221.”  
“ “ “ “ “*R. S.*, c. 115, § 1.” }
- “ 862, § 4.—“*See c. 63*, §§ 32 to 39” should read “*See c. 63*, § 35.”

## ERRORS IN CITATIONS OF CASES.

- Page 10, § 8, ¶ iii, (note c).—"14 *Pet.*, 504" should read "14 *Pet.*, 540."  
 " 16, § 1, (note b).—"10 *Me.*, 483" should read "10 *Me.*, 283."  
 " 78, § 5, (note a).—"13 *Me.*, 472, 489" should read "13 *Me.*, 472."  
 " " § 7, (note b).—"12 *Me.*, 589" should read "12 *Me.*, 489."  
 " 147, § 97.—"58 *Me.*, 528" should read "58 *Me.*, 532."  
 " 166, § 1.—"64 *Me.*, 549" should read "64 *Me.*, 599."  
 " 200, § 93, ¶ iv.—Erase "20 *Me.*, 545."  
 " 211, § 19.—"3 *Me.*, 347" should read "3 *Me.*, 249."  
 " 241, § 5, (note b).—"68 *Me.*, 28" should read "63 *Me.*, 28."  
 " 257, § 80, (note a), Construction of ways.—"26 *Me.*, 340" should read "26 *Me.*, 240."  
 " 397, § 1, (note a).—Erase "66 *Me.*, 526."  
 " 521, § 2, (note a).—Erase "60 *Me.*, 377."  
 " " § 9.—Erase "60 *Me.*, 533."  
 " 563, § 10.—"31 *Me.*, 286" should read "31 *Me.*, 254."  
 " 597, § 23.—"4 *Me.*, 19" should read "4 *Me.*, 8."  
 " 705, § 78.—"43 *Me.*, 438" should read "48 *Me.*, 438."  
 " 728, § 12.—Erase "68 *Me.*, 30."  
 " 750, § 5.—Erase "20 *Me.*, 325."  
 " 765, § 1, (note a).—Erase "73 *Me.*, 228."  
 " 814, § 19, (note c).—Erase "71 *Me.*, 543."  
 " 817, § 8, (note b).—"27 *Me.*, 363" should read "27 *Me.*, 362."  
 " 885, § 1.—Erase "62 *Me.*, 285."  
 " 886, § 8.—"36 *Me.*, 225" should read "36 *Me.*, 227."  
 " 933, § 4.—"34 *Me.*, 478" should read "39 *Me.*, 478."

## OMISSION IN REFERENCE INDEX TABLE, PART I.

Page 1060.—Supply "1878, c. 48, § 6," with a reference to "R. S., c. 77, § 80."

CHAP. 132.

## CHAPTER 132.

## APPOINTMENT OF MUNICIPAL AND POLICE JUDGES, AND PROCEEDINGS OF MAGISTRATES IN CRIMINAL CASES.

## APPOINTMENT OF MUNICIPAL AND POLICE JUDGES.

- SEC. 1. Appointment of municipal and police judges. Salaries, how to be paid. Jailer shall pay over all court fees paid to him.

## CRIMINAL JURISDICTION OF MAGISTRATES.

- SEC. 2. Magistrates, and women commissioned, may administer oaths. Magistrates may require aid to repress breaches of the peace.
3. Magistrates have jurisdiction of larcenies, not exceeding ten dollars.
4. Also, of breaches of the peace and violations of the law.
5. Magistrates may, on complaint, cause all offenders to be arrested, tried, or recognized to appear at the supreme or superior court.
6. Magistrates must examine on oath into the circumstances of alleged offences; may try, although the fine accrues to their town.
7. Jurisdiction of trial justices, in towns where there is a municipal or police court. Warrants shall be returnable before any trial justice.

## MAY ISSUE SUMMONSES FOR WITNESSES, AND ALLOW THEIR FEES.

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

## SEARCH WARRANTS.

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

## APPEALS FROM MAGISTRATES.

- SEC. 15. Appeals from magistrates. Fee for copies and entry. Recognizance.
16. Appellant must produce copies, and prosecute; consequences of neglect.

## PROVISIONS RELATING TO THE FEES OF MAGISTRATES.

- SEC. 17. Fees for one warrant only; if no bill is found, or if party arrested is acquitted on appeal, no fees except on county attorney's approval.
18. Costs paid to magistrates, how to be disposed of.
19. Costs, not paid, may be allowed by the county commissioners.
20. Costs in cases carried to a higher court, to be taxed by the magistrate.
21. Warrants shall be under seal and signed, when they are issued.

## APPOINTMENT OF MUNICIPAL AND POLICE JUDGES.

- SEC. 1. Judges of municipal and police courts shall be appointed and shall hold their offices, as provided in the constitution. Their salaries, unless established by law, 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 over by him, quarterly, into said treasuries.

Appointment of municipal and police judges.  
R.S., c. 132, § 1.  
See Constitution, art. vi, § 8.

—salaries how paid.

—jailer shall pay over all court fees paid to him.

## CRIMINAL JURISDICTION OF MAGISTRATES.

## CHAP. 132.

SEC. 2. Judges of municipal and police courts, trial justices, and justices of the peace; also women, otherwise eligible under the constitution, appointed by the governor with the advice and consent of council; 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, such judges and justices may, without warrant, command the assistance of any sheriff, deputy sherriff, constable, or person present, to repress the same, and to arrest all concerned therein.

Magistrates and women may administer oaths. R.S., c.132, § 2. 1873, c. 89. 1875, c. 56. —magistrates may require aid.

SEC. 3. Such judges and trial justices have jurisdiction of the offences described in sections one, six, seven, nine and eleven of chapter one hundred and twenty, when the value of the property is not alleged to exceed ten dollars; they may punish for the first offence by fine not exceeding ten dollars, and by imprisonment for not more than two months; and on a second conviction, by fine not exceeding twenty dollars, and by imprisonment for not more than six months.

Jurisdiction of larcenies, when the value does not exceed ten dollars. R.S., c.132, § 3. 27 Me., 282. 37 Me., 133. 72 Me., 468.

SEC. 4. They 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 violators of law, to be arrested; and they may try and punish by fine not exceeding ten dollars, or by imprisonment not exceeding thirty days, and may require such offenders to find sureties for keeping the peace.

Jurisdiction of breaches of the peace and violations of law. 1879, c. 114. 26 Me., 73. 34 Me., 478. 47 Me., 465. 73 Me., 281.

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 or superior court, and, in default thereof, shall commit them.

They may, on complaint, cause all offenders to be arrested. R.S., c.132, § 5. 23 Me., 532. —proceedings.

SEC. 6. When complaint is made to any such magistrate, charging a person with the commission of an offence, he shall carefully examine, on oath, the complainant, the witnesses by him produced, and the circumstances, and, when satisfied that the accused committed the offence, shall issue a warrant for his arrest, stating therein the substance of the charge; and he may try those brought before him for offences within his jurisdiction, although the penalty or fine accrues wholly or partly to his town.

Must examine, on oath, into the circumstances of the alleged offence. R.S., c.132, § 6. 3 Me., 51. 10 Me., 476. 25 Me., 491. 39 Me., 214.

SEC. 7. A trial justice, residing in a town in which there is a municipal or police court, has 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 a justice, for issuing one not so returnable, shall be imprisoned for six months and pay the costs of prosecution.

Jurisdiction of trial justices, in towns where there is a municipal or police court. R.S., c.132, § 7. 53 Me., 548.

CHAP. 132. MAY ISSUE SUMMONSES FOR WITNESSES, AND ALLOW THEIR FEES.

When and how, summonses may be issued. R. S., c. 132, § 8. 39 Me., 61.

—when witnesses shall be recognized.

SEC. 8. Any judge or justice named in section two, 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, he 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 the party accused, and he shall express in the summons at whose request they are summoned; and when summoned for the accused, the witnesses are not required to attend without payment or tender of their legal fees.

No costs are allowed to complainants; except to police officers and constables. 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 any other New England state certifies that a criminal case is 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 forfeits two hundred dollars to any prosecutor.

SEARCH WARRANTS.

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

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; for forged or counterfeit coins, bank bills, or other writings; 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.

Complaint for such a warrant. R. S., c. 132, § 12. See Constitution, art. i, § 5. 33 Me., 570.

SEC. 12. The complaint for a warrant to search must be made in writing, sworn to and signed by the complainant, must 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.

Warrant, its contents, and how directed and served.

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 be 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. (a)

SEC. 14. To authorize the search of a dwelling-house 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.

CHAP. 132.

R. S., c. 132, § 13.  
See Constitution, art. i, § 5.  
Search of a dwelling-house.  
R. S., c. 132, § 14.

#### APPEALS FROM MAGISTRATES.

SEC. 15. Any person aggrieved at the sentence of such magistrate, may appeal therefrom to the next supreme judicial or superior court in the same county, and the magistrate shall thereupon order such appellant to pay him one dollar and fifty cents for copies of papers for the appellate court and the entry fee in such court of sixty-five cents, and to recognize in a reasonable sum, not less than twenty dollars, with sufficient sureties to appear and prosecute his appeal; and to be committed until the order is complied with.

Appeals.  
1879, c. 166.  
1 Me., 230.

—fee for copies and entry.

SEC. 16. The magistrate shall send to the appellate court a copy of the whole process, and of all writings before the magistrate, and shall account to the clerk of such court for the entry fee. If the appellant does not appear and prosecute his appeal, his default shall be noted on the record; and the court may order the case to be laid before the grand jury, or may 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 must produce copies, and prosecute; consequences of neglect.  
1879, c. 166.

#### PROVISIONS RELATING TO THE FEES OF MAGISTRATES.

SEC. 17. When several warrants are issued by a 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 grand jury do not find an indictment against him, or convicts a party and he appeals and is finally acquitted, the magistrate shall have no 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.

Fees for one warrant only.  
1880, c. 186.

—if no bill is found, or in case of acquittal, no fees for magistrate.  
—exception.

SEC. 18. When the costs in a 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 thereto; 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 section seven of chapter one hundred and thirty-six.

Costs paid; how to be disposed of.  
R. S., c. 132, § 18.

SEC. 19. When a party accused is acquitted by the magistrate, is not sentenced to pay costs, or does not pay them 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 others, and order the same to be paid out of the county treasury to the persons entitled thereto; but when such magistrate, or other person interested in such bill of costs, is one of the commissioners

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

(a) 25 Me., 491.

**CHAP. 132.** for such county, the supreme judicial or superior court shall have the same powers as the commissioners in other cases.

Costs in appealed cases.  
R. S., c. 132,  
§ 20.

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

Warrants must be sealed and signed.  
R. S., c. 132,  
§ 21.  
34 Me., 222.  
36 Me., 368.

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

## CHAPTER 133.

### COMMENCEMENT OF PROCEEDINGS IN CRIMINAL CASES.

#### WHEN PERSONS MAY BE PROSECUTED WITHOUT INDICTMENT.

**SEC. 1.** No person is bound to answer for an offence without indictment, except for contempt, by information, and before magistrates and courts martial.

#### WHO MAY ISSUE CRIMINAL PROCESSES.

**SEC. 2.** Justices of the supreme judicial and superior courts, and magistrates, may issue processes in criminal cases.

**3.** Officer, complaining officially, may swear to it according to his knowledge and belief.

#### ARRESTS WITHOUT WARRANTS.

**SEC. 4.** Officers may arrest without warrant, and detain until warrant can be obtained, persons found violating law, and they may have their fees, for such services, if they act in good faith.

#### ARRESTS IN OTHER COUNTIES.

**SEC. 5.** The accused may be pursued into other counties, arrested, and brought back.

**6.** How, if charged with a bailable offence, he may be discharged in the county where he is arrested.

#### TRANSFER OF PERSONS, CHARGED WITH CRIME IN TWO COUNTIES.

**SEC. 7.** Accused may be transferred to another county, upon order of removal.

**8.** Duty of officer, when such order is issued.

#### EXAMINATION OF OFFENDERS.

**SEC. 9.** Examination of persons arrested; magistrate may associate another with him without fees.

**10.** Adjournment of an examination on recognizance or commitment. How the accused may be brought before the magistrate after adjournment.

**11.** Proceedings, if party fails to appear.

**12.** Mode of examination; witnesses may be examined separately, and testimony may be taken in writing.

**13.** When the accused is discharged, complainant shall pay the costs, if complaint is adjudged frivolous or malicious. Complainant may appeal. Proceedings, if probable cause is found. When magistrate may sentence.

#### PROCEEDINGS ON COMMITMENT OR BINDING OVER.

**SEC. 14.** Magistrate shall recognize material witnesses, or commit them.

**15.** How married women and minors may recognize.

**16.** Who may bail the accused, after commitment.

**17.** Examinations and recognizances shall be returned to the county attorney or clerk; magistrate may be compelled to do it, by rule of court or capias.

#### WHEN PROSECUTIONS MAY BE DISMISSED.

**SEC. 18.** What prosecutions may be dismissed, on satisfaction for private injury.

Such discharges shall be filed with the clerk or jailer.