

MAINE STATE LEGISLATURE

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CHAPTER 133.

Jurisdiction of Offenses and General Provisions Relating Thereto.

- Sections 1-7 Jurisdiction of Crimes.
 Sections 8-9 Accessories.
 Section 10 Attempts to Commit Offenses.
 Sections 11-17 General Provisions.

Jurisdiction of Crimes.

Sec. 1. Jurisdiction of the supreme judicial and superior courts. R. S. c. 132, § 1. In the counties of Cumberland and Kennebec, the superior court, and in other counties the supreme judicial court has original jurisdiction, exclusive or concurrent, of all offenses except those of which the original exclusive jurisdiction is conferred by law on municipal and police courts and trial justices, and appellate jurisdiction of these.

72 Me. 468; 73 Me. 281; 112 Me. 248.

Sec. 2. Offenses committed near the boundary of two counties. R. S. c. 132, § 3. When an offense 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 is administered, in one county, whereby death ensues in another, the offense may be alleged in the complaint or indictment as committed, and may be tried, in either.

84 Me. 461; 85 Me. 193.

Sec. 3. County lines terminating at or in tide-waters; course. 1915, c. 330, § 1. The lines of the several counties of the state which terminate at or in tide-waters shall run by the principal channel in such directions as to include, within the counties to which they belong, the several islands in said waters, and after so including such islands shall run in the shortest and most direct line to the extreme limit of the waters under the jurisdiction of this state, and all waters between such lines off the shores of the respective counties shall be a part of, and held to be within such counties, respectively.

Sec. 4. Warrants for offenses at or in tide-waters; authority of officers. 1915, c. 330, § 2. Any official authorized to issue warrants within any county, may issue warrants for offenses committed in or upon the waters so made a part of such county, or the waters of any adjoining county; and said warrant shall be returnable in the county where issued, and the courts in such county shall have jurisdiction of the offense. Officers have the same authority upon all such waters as they have upon land within the county where the warrant is issued.

Sec. 5. Death within the state, from an injury inflicted without the state. R. S. c. 132, § 4. If a mortal wound or other violence or injury is inflicted, or poison administered, on the high seas or without the state, whereby death ensues within the state, such offense may be tried in the county where

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the death ensues; and if such act is done within and death ensues without the state, the offense may be tried in the county where the act was done, as if death had there ensued.

76 Me. 334.

Sec. 6. Acquittal of part of an indictment, and conviction of the residue. R. S. c. 132, § 5. When a person, indicted for an offense, is acquitted of a part by 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 offense, if any, which is substantially charged by such residue, and be punished accordingly, although such offense would not otherwise be within the jurisdiction of said court.

39 Me. 68, 70; 87 Me. 78.

Sec. 7. Trial of an accessory, before or after the fact. R. S. c. 132, § 6. Every accessory, before or after the fact, may be tried in the county having jurisdiction of the principal offense, although the accessory offense was committed on the high seas or without the state; and if the principal offense was committed in one county and the accessory offense in another, the latter may be tried in either.

Sec. 8. Accessory before the fact; punishment; conviction with or without principal. R. S. c. 132, § 7. Whoever aids in the commission of a 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 he may be indicted for and convicted of a substantive felony, whether the principal is convicted or is amenable to justice or not, and shall be 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.

29 Me. 86; 39 Me. 68; 68 Me. 546.

Sec. 9. Who are accessories after the fact. R. S. c. 132, § 8. 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, is an accessory after the fact, and shall be punished by imprisonment for 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.

92 Me. 73.

Attempts to Commit Offenses.

Sec. 10. Attempt with an overt act to commit an offense, how punishable. R. S. c. 132, § 9. Whoever attempts to commit an offense, and does anything towards it, but fails, or is interrupted, or is prevented in its execution, where no punishment is expressly provided for such attempt, shall, if the offense thus attempted is punishable with imprisonment for life, be imprisoned for not less than one, nor more than ten years; and in all other

cases, he shall receive the same kind of punishment that might have been inflicted, if the offense attempted had been committed, but not exceeding one-half thereof.

32 Me. 599; 70 Me. 198; 99 Me. 331; 101 Me. 517.

General Provisions.

Sec. 11. Definition of "felony." R. S. c. 132, § 10. The term "felony," includes every offense punishable by imprisonment in the state prison.

29 Me. 86; 32 Me. 373; 33 Me. 57; 48 Me. 236; 69 Me. 182; 99 Me. 334.

Sec. 12. Of "owner" of property, as used in an indictment. R. S. c. 132, § 11. In an offense in any way relating to real or personal estate, it is sufficient and not a variance, if it is proved at the trial that, when the offense was committed, the actual or constructive possession of, or the general or special property in the whole of such estate or in any part thereof, was in the person or community alleged in the indictment to be the owner thereof.

Sec. 13. Unimportant variance between written or printed matter in evidence, is not material; process may be amended in form. R. S. c. 132, § 11. No variance between any matter in writing or in print, produced in evidence on the trial of a criminal cause, and the recital or setting forth thereof in the complaint, indictment or other criminal process whereon trial is had, is material, provided, that the identity of the instrument is evident, and the purport thereof is sufficiently described to prevent prejudice to the defendant; and any criminal process may be amended, in matters of form, at any time before final judgment.

Sec. 14. General allegation of intent to defraud, is sufficient. R. S. c. 132, § 12. When an intent to defraud is necessary to constitute an offense, it is sufficient to allege generally in the indictment an intent to defraud; and if there appears on trial an intent to defraud the United States, any state, county, town, person or corporation, it is sufficient.

Sec. 15. Complaints and indictments shall not be quashed for technicalities; nor for unimportant defect in venires. R. S. c. 132, § 13. No indictment or complaint shall be quashed, or adjudged bad, nor shall the proceedings or judgment thereon be arrested, reversed or affected by reason of the omission or misstatement of the title, occupation, estate or degree of the accused; of the name of the city, town, plantation 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 misstatement does not tend to his prejudice; nor by reason of any defect, want of form, or irregularity in the venires for grand or traverse jurors, or in the issuing or return of the same, or in the drawing or summoning of grand or traverse jurors, unless it appears to the court that the respondent has been or may be injured thereby.

15 Me. 124, 477; 67 Me. 336; 69 Me. 182; 82 Me. 342; 87 Me. 81.

Sec. 16. Fines and forfeitures may be recovered by indictment. R. S. c. 132, § 14. All fines and forfeitures, imposed as punishment for offenses or for violations or neglects of statute duties, may, when no other mode is expressly provided, be recovered by indictment; and when no other appro-

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priation is expressly made, they inure to the county where the offense is prosecuted.

59 Me. 191.

Sec. 17. Limitation of prosecutions. R. S. c. 132, § 15. When no other limitation is provided, no indictment for any offense, 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 the state, shall not be a part of said six years.

See c. 119, § 3; c. 127, § 47; c. 129, § 32.

CHAPTER 134.

Appointment of Municipal and Police Judges, and Proceedings of Magistrates in Criminal Cases.

- Section 1 Appointment of Municipal and Police Judges.
 Sections 2-9 Criminal Jurisdiction of Magistrates.
 Sections 10-12 Summonses for Witnesses; their Fees.
 Sections 13-16 Search Warrants.
 Sections 17-20 Appeals from Magistrates.
 Sections 21-24 Provisions relating to Fees of Magistrates.

Appointment of Municipal and Police Judges.

Sec. 1. Appointment of municipal and police judges; salaries; all fees to be paid over. R. S. c. 133, § 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 shall not be diminished during their continuance in office; and all fees received by them shall be paid quarterly into said treasuries, except when 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.

See Constitution Me. Art. vi, § 8.

Criminal Jurisdiction of Magistrates.

Sec. 2. Magistrates and women may administer oaths; magistrates may require aid. R. S. c. 133, § 2. 1915, c. 288. Judges of municipal and police courts, clerks of 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 the 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 sheriff,