

MAINE STATE LEGISLATURE

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SECOND SPECIAL SESSION

ONE HUNDRED AND THIRD LEGISLATURE

Legislative Document

No. 1774

H. P. 1268

House of Representatives, January 9, 1968

Referred to Committee on Judiciary. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Richardson of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-EIGHT

AN ACT Relating to Appeals by State on Questions of Law in Criminal Cases.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., T. 15, § 2115-A, additional. Title 15 of the Revised Statutes is amended by adding a new section 2115-A, to read as follows:

§ 2115-A. Appeals by State on questions of law

1. Appeals prior to trial. An appeal may be taken by the State in criminal cases on questions of law, with the written approval of the Attorney General, from the several District Courts and from the Superior Court to the law court from a decision, order or judgment of the court (1) suppressing evidence prior to trial, (2) allowing a motion to dismiss or quash an indictment, complaint or informations, (3) quashing an arrest or search warrant, (4) suppressing a confession or admission. Such appeal shall be taken within 10 days after such order, decision or judgment has been entered, and in any case before the defendant has been placed in jeopardy under established rules of law. The appeal shall be diligently prosecuted.

2. Appeals after trial. An appeal may be taken by the State in criminal cases, with the written approval of the Attorney General, from the several District Courts and from the Superior Court to the law court from a decision, order or judgment of the court (1) acquitting the defendant where a question of law has been decided adversely to the State during the trial; but in such case the appeal shall not subject the defendant to further prosecution, nor shall the judgment of acquittal be reversed, but the law court shall nevertheless decide the question of law presented, (2) convicting the defendant where a question of law

has been decided adversely to the State and the defendant appeals from the judgment.

3. **Manner.** An appeal by the State, taken pursuant to this section, shall be taken in the manner and upon such conditions as the Supreme Judicial Court may by rule provide.

4. **Fees and costs.** The Supreme Judicial Court shall allow reasonable counsel fees and costs for the defense of appeals under this section.

Sec. 2. Appropriation. There is appropriated from the General Fund the sum of \$2,000 for the fiscal year ending June 30, 1968 and the sum of \$5,000 for the fiscal year ending June 30, 1969 to the Supreme Judicial Court, to be expended in carrying out the objectives of this Act. The breakdown shall be as follows:

	1967-68	1968-69
SUPREME JUDICIAL COURT		
All Other	\$2,000	\$5,000

Sec. 3. Effective date. This Act shall apply to any case pending upon the effective date of this Act.