

MAINE STATE LEGISLATURE

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EIGHTY-FIRST LEGISLATURE

SENATE

NO. 143

In Senate, Feb. 23, 1923.

Referred to Committee on Judiciary and five hundred copies ordered printed. Sent down for concurrence.

L. ERNEST THORNTON, Secretary.

Presented by Senator Hussey of Aroostook.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND TWENTY-THREE

AN ACT to Amend Section Fifteen, Chapter One Hundred
Thirty-three of the Revised Statutes, Relating to Complaints
and Indictments.

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

Section fifteen of chapter one hundred thirty-three of the
2 revised statutes is hereby amended by inserting after the
3 word "statute" in the seventh line the words 'nor the in-
4 clusion or omission of any other averment or matter which
5 is immaterial or not necessary to a proper understanding
6 of the case,' and by inserting after the word "nor" in the
7 eighth line the following: 'if, on the trial of a complaint
8 or indictment, there appears to be a variance between the

9 averment therein and the evidence offered in proof, in the
10 name or description of a place mentioned, or of a person
11 alleged to be the owner of property, which forms the sub-
12 ject of an offense charged, or which is alleged to be in-
13 jured or damaged by the commission of such offense, or
14 in the Christian name or surname, or both Christian name
15 and surname, or other description of a person named or
16 described, or in the name or description of any matter or
17 thing whatsoever, and the court before whom such trial
18 is had, if it considers such variance not material and that
19 the respondent cannot be prejudiced thereby, in his defense
20 upon the merits, may order the complaint, or indictment,
21 to be amended, according to the proof, by some officer of
22 the court, in that part wherein the variance occurs, on such
23 terms as to a postponement of the trial as the court thinks
24 reasonable; and after amendment, the trial shall proceed
25 in the same manner and with the same consequences as if
26 such variance had not occurred, nor shall any indictment
27 or complaint be questioned, or adjudged bad, nor shall the
28 proceedings or judgment thereon be arrested, reversed or
29 affected,' so that said section as amended shall read as
30 follows:

'Sect. 15. No indictment or complaint shall be quashed,
2 or adjudged bad, nor shall the proceedings or judgment
3 thereon be arrested, reversed or affected by reason of the
4 omission or misstatement of the title, occupation, estate or
5 degree of the accused; of the name of the city, town, plan-

6 tation or county, of his residence, or of the words “feloni-
7 ously,” “force and arms,” “against the peace,” or “con-
8 trary to the form of the statute”; nor the inclusion or
9 omission of any other averment or matter which is imma-
10 terial or not necessary to a proper understanding of the
11 case; if such omission or misstatement does not tend to
12 his prejudice; nor if on the trial of a complaint or indict-
13 ment, there appears to be a variance between the aver-
14 ments therein and the evidence offered in proof, in the
15 name or description of a place mentioned, or of a person
16 alleged to be the owner of property, which forms the sub-
17 ject of an offense charged, or which is alleged to be in-
18 jured or damaged by the commission of such offense, or
19 in the Christian name or surname, or both Christian name
20 and surname, or other description of a person named or de-
21 scribed, or in the name or description of any matter or things
22 whatsoever, and the court before whom such trial is had, if
23 it considers such variance not material and that the re-
24 spondent cannot be prejudiced thereby, in his defense upon
25 the merits, may order the complaint or indictment to be
26 amended, according to the proof, by some officer of the
27 court, in that part wherein the variance occurs, on such
28 terms as to a postponement of the trial as the court thinks
29 reasonable; and after amendment, the trial shall proceed
30 in the same manner and with the same consequences as if
31 such variance had not occurred, nor shall any indictment
32 or complaint be quashed or adjudged bad, nor shall the

33 proceedings or judgment thereon be arrested, reversed or
34 affected by reason of any defect, want of form, or irreg-
35 ularity in the venires for grand or traverse jurors, or in
36 the issuing or return of the same, or in the drawing or
37 summoning of grand or traverse jurors, unless it appears
38 to the court that the respondent has been or may be in-
39 jured thereby.'