

# MAINE STATE LEGISLATURE

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E I G H T Y - S I X T H   L E G I S L A T U R E

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Legislative Document

No. 212

S. P. 151

In Senate, Jan. 31, 1933.

Referred to Committee on Judiciary and 500 copies ordered printed.  
Sent down for concurrence.

ROYDEN V. BROWN, Secretary.

Presented by Senator Weeks of Somerset.

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S T A T E   O F   M A I N E

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I N   T H E   Y E A R   O F   O U R   L O R D   N I N E T E E N   H U N D R E D   T H I R T Y -  
T H R E E

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AN ACT Revising Sundry Sections of the Revised Statutes.

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

Section 1.   **R. S. c. 5, § 118, amended.** Section 118 of c. 5 of the revised statutes is hereby amended to read as follows:

**'Sec. 118. Trees within highway limit public shade trees.** All trees within or upon the limits of any highway marked as ~~hereinafter~~ provided in §§ 118-125, inclusive, are hereby declared to be public shade trees. The tree wardens in the several cities and towns, as soon as may be after they are appointed as hereinafter provided, shall carefully examine the trees along the highways under their jurisdiction and plainly mark such trees as they consider should be controlled by the municipality. The forest commissioner shall furnish to the municipal officers of the several cities and towns, at cost, galvanized iron disks not more than 1 inch in diameter, which disks shall have stamped on them the letter "M." Said disk shall be inserted in each tree, selected as above provided, at a point not less than 3 feet nor more than 6 feet from the ground on the side toward the highway. It shall be the duty of the tree warden, if any tree marker shall be destroyed or defaced, to renew or replace the same.'

Revisor's note. The present wording was clear at it appeared in the public laws, but after being placed in the statutes it might refer to any number of sections. This amendment will make the reference definite.

Sec. 2. **R. S. c. 7, § 19, amended.** Section 19 of c. 7 of the revised statutes, as amended, is hereby further amended to read as follows:

**‘Sec. 19. Return of expenditures; false statement deemed to be perjury; effect of failure to make returns.** Each candidate nominated in any primary election shall, with such acceptance, send to the secretary of state the following return by him subscribed and sworn to:

“RETURN OF EXPENDITURES

To the Secretary of State:

I, \_\_\_\_\_, of \_\_\_\_\_, nominated for the office of \_\_\_\_\_, at the primary election held on June \_\_\_\_\_, 19\_\_\_\_, on oath depose and say that the following is a true and perfect return of all expenditures by me made, or liabilities by me incurred for any purpose whatever in connection with my said nomination, or the procurement thereof, before, at or since said primary election.

The total amount thereof was	\$
The aforesaid amount is made up of the following:	
Printing	\$
Clerk hire	\$
Newspaper advertising	\$
Hall rent	\$
Soliciting agents	\$
Postage	\$
Telegrams	\$
Telephones	\$
Stationery	\$
Express	\$
Traveling expenses	\$
Hotel bills	\$
Miscellaneous	\$
Total	\$

Of the above, the following are itemized:

PRINTING

Name.	Date.	Amount.
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(The subdivisions of clerk hire, newspaper advertising, hall rent, soliciting agents, telegrams, telephones, stationery, express, traveling expenses and hotel bills shall follow the foregoing form.)

MISCELLANEOUS

Name.	Date.	Amount.	Purpose.
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I further depose and say that no person, firm, association, committee,

organization, or corporation has with my knowledge or consent paid any sum, or incurred any liability, other than such as are included in reports filed with the secretary of state as required in section 22 of c. 7 of the revised statutes to procure, or to aid in procuring, my nomination aforesaid.

Dated \_\_\_\_\_ A. D. 19 \_\_\_\_ .  
State of Maine,

County, SS. \_\_\_\_\_ A. D. 19 \_\_\_\_ .  
Personally appeared \_\_\_\_\_ and made oath that the foregoing  
return by him signed is true.

Before me,

Justice of the Peace.”

If any statement in said return is wilfully false it shall be deemed to be perjury and shall be punished accordingly. No expenditures shall be so made, or liabilities be so incurred except for the purposes named aforesaid in said return. The subdivision “Miscellaneous” shall not exceed 10 per cent of the total amount expended and shall include no items not legitimate under sections 1 to 10, both inclusive, of chapter 10; subsections (d) and (e) of section 5 of chapter 10, as applied to primary elections, are to be construed as if reading as follows: “(d) of renting and furnishing rooms to be used by candidates or their political agents, and for the reasonable entertainment and refreshment exclusive of alcoholic beverages, of political agents;” “(e) of compensating clerks and other persons employed in candidates’ rooms and at the polls.” Political agents of candidates appointed under the provisions of said sections shall, within 15 days after the date of the primary election, make to the secretary of state the return required by this section of candidates; and the form of the return shall be varied accordingly. Candidates who are their own political agents need not make a separate return in the latter capacity. Any political agent failing to make return within the time required shall be fined \$25 for each day on which he is in default, unless he shall be excused by the court, but such failure shall not avoid nor affect the nomination of the candidate. The returns aforesaid shall be open to public inspection for 1 year and then be destroyed. The failure of any candidate to file a return within the time required by section 18 shall render his nomination void.

Each candidate nominated in any political convention shall, within 15 days after the date of such convention file with the secretary of state a return similar in form to that hereinbefore set forth and the failure of any person so nominated to file a return within said period of 15 days shall render his nomination void.’

Revisor’s note. This reference, although clear when read in the statutes,

is indefinite when the form is printed, as there is no reference in the form to the chapter referred to.

Sec. 3. R. S. c. 8, §§ 9, 10, amended. Sections 9 and 10 of c. 8 of the revised statutes are hereby amended to read as follows:

**'Sec. 9. Two sets of ballots, etc., to be provided by city clerks.** The ~~two sets of~~ ballots together with the specimen ballots and cards of instructions printed by the city clerks, as herein provided, shall be packed by them in separate sealed packages, with marks on the outside clearly designating the polling places for which they are intended, and the number of ballots of each kind enclosed.'

**'Sec. 10. One set of ballots to be sent to presiding election officer on day of election; cards of instructions and specimen ballots to be posted in each compartment; disposition of second set.** The several city, town, and plantation clerks, or municipal officers, shall send to the presiding election officer or officers of such voting place before the opening of the polls on the day of election 1 set of ballots so prepared, sealed, and marked for such voting place, and a receipt of such delivery shall be returned to them from the presiding election officer or officers present, which receipt, with a record of the number of ballots sent, shall be kept in the clerk's office for 1 year. At the opening of the polls in each polling place the seals of the packages shall be publicly broken, and the packages shall be opened by the presiding election officer or officers, and the packages, books, or blocks of ballots shall be delivered to the ballot clerks hereinafter provided for. The cards of instructions shall be immediately posted at or in each voting shelf or compartment provided in accordance with this chapter for the marking of ballots, and not less than 3 such cards and not less than 5 specimen ballots shall be immediately posted in or about the polling rooms outside the guard-rails. ~~The second set of ballots shall be retained by the respective city, town, and plantation clerks until they are called for or needed for the purposes of voting, and upon the requisition in writing of the presiding election officer or officers of any voting place, the entire second set of ballots be furnished to such voting place in the manner above provided as to the first set, and shall be transmitted in like manner to the secretary of state as provided in section forty-seven of this chapter. If said second set of ballots shall not be required for use as above, the same shall be kept intact by said city, town, or plantation clerks for a period of three months from the day of election for which said ballots were provided, during which time any person who was a candidate on said ballot may inspect said second set of ballots at the office of the city, town, or plantation clerk under the supervision of said clerk.'~~

Revisor's note. Chapters 89 and 90 of the P. L. 1931 amended the ballot law so that only one set of ballots are now sent. The above amendment removes from the statutes provisions that applied only to the two sets of ballots. These were repealed by indirection and are now obsolete.

Sec. 4. **R. S. c. 13, § 100, amended.** Section 100 of c. 13 of the revised statutes is hereby amended to read as follows:

**'Sec. 100. When a tax is laid on a place not incorporated, county commissioners may cause it to be organized as a plantation.** When a state or county tax is laid on a place not incorporated or organized, the treasurer of state or county commissioners of that county may cause the same to be organized as provided in chapter 5, sections ~~one hundred seventy eight 193~~ and ~~one hundred seventy nine 194~~, for the organization of plantations ascertained to contain 200 inhabitants. If the inhabitant to whom the warrant is directed fails to perform the duties required of him, he forfeits the sums due for state and county taxes, to be recovered by the treasurer to whom the tax is payable.'

Revisor's note. This is now an erroneous reference and this amendment corrects that reference.

Sec. 5. **R. S. c. 29, §§ 118 and 126, amended.** Sections 118 and 126 of c. 29 of the revised statutes, as amended by cc. 189 and 252 of the P. L. 1931, respectively, are hereby amended to read as follows:

**'Sec. 118. Court jurisdiction of violations; transmission of fines.** Municipal courts and trial justices in their respective counties shall have concurrent jurisdiction with the superior court over all prosecutions for all violations of the provisions of this chapter. All fines and forfeitures collected under this chapter, when the arrest is made by a member of the state highway police, or inspector, together with any part of the costs taxed by the court for such member or inspector, shall be paid  $\frac{1}{2}$  forthwith to the treasurer of state, **who shall issue his receipt therefor**, and applied as provided in section 117, and  $\frac{1}{2}$  into the treasury of the county where the offense is prosecuted. When the arrest is made by any other officer, all fines and forfeitures, and in either case, except as above stated, all costs, shall be paid into the treasury of the county where the offense is prosecuted.'

**'Sec. 126. Salary and compensation determined by governor and council; to be sworn and give bond; not to receive fees; fines to be paid to treasurer of state.** The governor and council shall determine the salary of the chief and the compensation of the other members of the state highway police. Before entering upon the duties of their office they shall be sworn and shall give bond to the treasurer of state with surety, or sureties approved by the treasurer of state conditioned for the faithful performance

of the duties of their office, as follows: the chief shall give bond in the sum of \$5,000 and each of the other members in the sum of \$2,000. No inspector or member of the state highway police shall receive any fee as a complainant or witness, or for making an arrest or for attendance at court, but shall be reimbursed by the state for his actual costs of arrest and actual expenses of travel and attendance. Whenever any fines or penalties are imposed by any court in any proceeding in which a member of the state highway police is a complainant or a witness, said court may tax costs for such complainant or witness in the usual manner. ~~All fines, penalties or costs imposed or taxed by the court under the provisions of this section, except those payable by law to the county, shall be paid forthwith to the treasurer of state, who shall issue his receipt therefor.~~

Revisor's note. Chapter 252 made all fines and costs not payable to the county, payable to the treasurer of state and made a receipt necessary and therefore amended § 126 of c. 29.

Chapter 189 of the P. L. 1931, accomplished the same purpose except in the matter of the receipt. This amendment corrects the repetition and simplifies the statute.

Sec. 6. **R. S. c. 129, § 27; R. S. c. 131, § 1, amended.** Section 27 of c. 129 of the revised statutes, and § 1 of c. 131 of the revised statutes are hereby amended to read as follows:

**'Sec. 27. Assault, and assault and battery, definitions; penalty.** Whoever unlawfully attempts to strike, hit, touch, or do any violence to another however small, in a wanton, wilful, angry, or insulting manner, having an intention and existing ability to do some violence to such person, is guilty of an assault; and if such attempt is carried into effect, he is guilty of an assault and battery, and ~~for either offense, he~~ **any person convicted of either offense when it is not of a high and aggravated nature, shall be punished by a fine of not more than \$100 or by imprisonment for not more than 6 months or by both such fine and imprisonment; and when the offense is of a high and aggravated nature, the person convicted of either offense shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than 5 years, when no other punishment is prescribed.'**

**'Sec. 1. Larceny, definition; penalty.** Whoever steals, takes and carries away, of the property of another, money, goods or chattels, or any writ, process, public record, bond, bank-bill or note, promissory note, bill of exchange, order, certificate, book of accounts, conveyance of real estate, valuable contract, receipt, release, defeasance, or instrument in writing whereby any demand, right or obligation, is created, increased, diminished or extinguished, is guilty of larceny; and shall be punished, when the value of the property exceeds \$100, by imprisonment for not less than 1 year, nor more

than 5 years; ~~otherwise, by imprisonment for not more than two years or by a fine of not more than one hundred dollars.~~ and when the value of the property does not exceed \$100, by a fine of not more than \$100, or by imprisonment for not more than 6 months, or by both such fine and imprisonment.'

Revisor's note. P. L. 1931, c. 80, gave municipal courts jurisdiction of petty larceny and assault and battery and defined them and fixed the penalty so that they would be misdemeanors instead of felonies. As P. L. 1931, c. 62, gave municipal courts jurisdiction of all misdemeanors, no further revision is necessary beyond changing the penalties of these two crimes, which the above amendment does.