

MAINE STATE LEGISLATURE

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THE
REVISED STATUTES

OF THE
STATE OF MAINE,

PASSED APRIL 17, 1857;

TO WHICH ARE PREFIXED

THE CONSTITUTIONS

OF THE
UNITED STATES AND OF THE STATE OF MAINE:

WITH AN

APPENDIX.

PUBLISHED BY AUTHORITY OF THE LEGISLATURE.

BANGOR:
WHEELER & LYNDE.

1857.

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the accused; of the name of the city, town, 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 mis-statement does not tend to his prejudice.

for omission,
&c.
15 Maine, 122,
476.
R. S., c. 172,
§ 38.

RECOVERY AND APPROPRIATION OF FINES.

Fines and forfeitures to be recovered by indictment, &c.
R. S., c. 167,
§ 13, 14.

SEC. 13. All fines and forfeitures, imposed as a punishment for any offence, or for a violation or neglect of any statute duty, when no other mode is expressly provided, may be recovered by indictment; and when no other appropriation is expressly made by law, shall inure to the state.

LIMITATION OF PROSECUTIONS.

Prosecution limited to six years, deducting absence from the state.
R. S., c. 167,
§ 15.

SEC. 14. When no other limitation is provided by law, no indictment for any offence, 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 this state, shall not be a part of said six years.

CHAPTER 132.
ELECTION OF MUNICIPAL AND POLICE JUDGES, AND PROCEEDINGS OF MAGISTRATES IN CRIMINAL CASES.
ELECTION OF MUNICIPAL AND POLICE JUDGES.

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CRIMINAL JURISDICTION OF MAGISTRATES.

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3. Magistrates have jurisdiction of larcenies, value not exceeding ten dollars.
4. Magistrates have jurisdiction of breaches of the peace and violations of law. Not to take cognizance of cases relating to arrest of fugitive slave. Penalty.
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MAY ISSUE SUMMONSES FOR WITNESSES AND ALLOW THEIR FEES.

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

WARRANTS FOR SEARCH.

11. Warrants for search, in what cases issued.
12. Contents of a complaint for such a warrant.
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17. Fees for one warrant only; no fees if no bill; not tax more than law allows.

18. Costs paid to magistrates, disposition of them.

19. Costs not paid may be allowed by county commissioners.

20. Costs in cases carried to a higher court to be taxed.

21. Warrants to be under seal and signed when issued.

ELECTION OF MUNICIPAL AND POLICE JUDGES.

SEC. 1. The election of judges of municipal and police courts shall be effected and determined in cities as the election of mayor is; and in towns as the election of selectmen is. A plurality shall elect. The clerk shall notify the person elected, who shall be duly sworn, and commence the discharge of his duties on the Monday following the day of his election. They hold their offices, and vacancies are filled, as provided in the constitution.

Election of municipal and police judges. 1856, c. 210, § 3, 4.

CRIMINAL JURISDICTION OF MAGISTRATES.

SEC. 2. Judges of municipal and police courts and justices of the peace 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, they may, without warrant, command the assistance of a sheriff, deputy sheriff, constable, or person present, to repress the same, and to arrest all concerned therein.

Magistrates may administer oaths and require aid. R. S., c. 170, § 1, 12.

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

Jurisdiction of larcenies when value does not exceed \$10. R. S., c. 156, § 15.

SEC. 4. They shall 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 may try and punish by fine not exceeding ten dollars, and may require them to find sureties for keeping the peace; but they shall not take cognizance of any case relating to a person claimed as a fugitive slave, nor aid in his arrest, detention, or surrender, under a penalty not exceeding one thousand dollars, or imprisonment less than one year.

Jurisdiction of breaches of the peace and violations of law. Shall not take cognizance of cases relating to arrest of fugitive slave. Penalty. R. S., c. 166, § 3. c. 170, § 2, 4. c. 154, § 35. 1855, c. 182, § 1, 2, 3.

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

May, on complaint, cause all offenders to be arrested, &c. 23 Maine, 527. R. S., c. 170, § 5, 6.

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Must examine on oath into circumstances of alleged offence, &c.
10 Maine, 473.
R. S., c. 171, § 2.

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

Jurisdiction of justices in towns where there is a municipal court, &c.
R. S., c. 171, § 2.
1845, c. 139, § 1, 2.
1856, c. 261.

SEC. 7. A justice of the peace, residing in a town in which there is a municipal or police court, shall have the same jurisdiction as other justices of the peace in the county in all matters, the exclusive jurisdiction of which is not conferred on such court. Warrants issued by justices of the peace shall be made returnable before any justice of the peace in the county; and any justice, for issuing one not so returnable, shall on indictment and conviction be imprisoned six months and pay the costs of prosecution.

MAY ISSUE SUMMONSES FOR WITNESSES AND ALLOW THEIR FEES.

When and how summons may be issued, &c.
R. S., c. 152, § 4, 5, 6.
c. 170, § 11.
c. 171, § 2.

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

No costs allowed to complainants, exceptions, &c.
R. S., c. 152, § 7, 8.

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.
1855, c. 184, § 1, 2.

SEC. 10. When, on affidavit filed, the clerk of any court in a state in New England certifies that there is a criminal case 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 shall forfeit two hundred dollars to any person suing therefor.

WARRANTS FOR SEARCH.

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

Warrants for search, in what cases issued.
R. S., c. 170,
§ 13.

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

Complaint for such a warrant.
33 Maine, 564.
R. S., c. 170,
§ 14.

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 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.

Warrant, its contents, how directed and served.
25 Maine, 490.
R. S., c. 170,
§ 15.

SEC. 14. To authorize a dwellinghouse to be searched 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.

Search of a dwellinghouse.
R. S., c. 170,
§ 16.

APPEALS FROM MAGISTRATES.

SEC. 15. Any person, aggrieved at a sentence of such magistrate, may appeal therefrom to the next supreme judicial court in the same county, and the magistrate shall thereupon order him to recognize in a reasonable sum, not less than twenty dollars, with sufficient sureties, to appear and prosecute his appeal, and to be committed till the order is complied with.

Appeals provided for.
R. S., c. 170,
§ 8.

SEC. 16. He shall produce at the appellate court a copy of the whole process, and of all writings filed before the magistrate; and if he does not produce them and prosecute his appeal, his default shall be noted on the record; and the court may order the case laid before the grand jury, or 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 to produce copies and prosecute; consequences of neglect.
R. S., c. 170,
§ 9, 10.

PROVISIONS RELATING TO THE FEES OF MAGISTRATES.

SEC. 17. When several warrants are issued by any 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 such party, he shall not have any fees in the case, and in no case shall he tax other or greater fees than are expressly allowed by law.

Fees for one warrant only; no fees if no bill; not taxed more than law allows.
R. S., c. 152,
§ 1, 2.

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Costs paid;
disposal of.
R. S., c. 152,
§ 10, 11.

SEC. 18. When the costs in any 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 to them; 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 chapter one hundred thirty-six, section seven.

Costs not paid
may be allow-
ed by county
commission-
ers.

R. S., c. 152,
§ 12, 13.
1854, c. 82.

SEC. 19. When a party accused is acquitted by the magistrate, not sentenced to pay costs, or does not pay them to him 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 other persons entitled thereto, and order the same paid out of the county treasury; but when such magistrate, or other person interested in such bill of costs, is one of the commissioners for the same county, the supreme judicial court shall have the same powers as the commissioners in other cases.

Costs in cases
carried to
higher court.
R. S., c. 152,
§ 14.

Warrants to be
under seal, &c.

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

SEC. 21. Warrants, issued by a magistrate in criminal cases, shall be under seal, and 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 bound to answer for an offence without indictment, except for contempt, by information, and before magistrates and courts martial.

WHO MAY ISSUE CRIMINAL PROCESSES.

2. Justices of the supreme judicial court and magistrates may issue processes in criminal cases.
3. Officer, making complaint officially, may swear to it according to his knowledge and belief, and witnesses may be summoned in a warrant or by subpoena.

ARRESTS WITHOUT WARRANTS.

4. Officers may arrest without warrant persons violating law until warrant can be obtained, and have their fees, if they act in good faith.

ARRESTS IN OTHER COUNTIES.

5. The accused may be pursued into other counties, arrested and brought back.
6. How he may be discharged in the county where he is arrested, if for a bailable offence.

EXAMINATION OF OFFENDERS.

7. Examinations of persons arrested; magistrate may associate another magistrate with him without fees.
8. Adjournment of examination on recognizance or commitment. How offender may be brought before the magistrate at the adjournment.
9. Proceedings if party fails to appear.