

MAINE STATE LEGISLATURE

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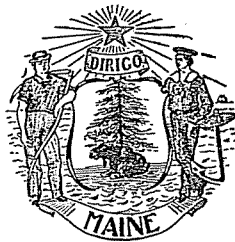
THE
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED SEPTEMBER 1, 1903, AND TAKING EFFECT JANUARY 1, 1904.

BY THE AUTHORITY OF THE LEGISLATURE.



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CHAPTER 132.

JURISDICTION OF OFFENSES AND GENERAL PROVISIONS RELATING THERETO.

JURISDICTION OF CRIMES.

Jurisdiction
of the su-
preme and su-
perior courts.
R. S., c. 131, § 1.
72 Me., 468.
73 Me., 281.

SEC. 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.

Proceedings
on indictment
for murder
found in su-
perior court,
Kennebec
county.
1899, c. 45.

SEC. 2. Whenever an indictment for murder is found by the grand jury in the superior court for the county of Kennebec, the clerk of said court shall certify and transmit the indictment to the supreme judicial court for said county at the next term thereof, when and where it shall be entered; and said supreme judicial court shall have cognizance and jurisdiction thereof, and proceedings shall be had thereon in the same manner as if the indictment had been found in that court.

Offenses com-
mitted near
the boundary
of two
counties.
R. S., c. 131, § 2.
84 Me., 461.
85 Me., 193.

SEC. 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.

Death within
the state,
from an in-
jury inflicted
without
the state.
R. S., c. 131, § 3.
76 Me., 334.

SEC. 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 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.

Acquittal of
part of an
indictment,
and convic-
tion of the
residue.
R. S., c. 131, § 4.
39 Me., 68, 70.
87 Me., 78.

SEC. 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.

Where an
accessory,
before or
after the fact,
may be tried.
R. S., c. 131, § 5.

SEC. 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.

ACCESSORIES.

Accessory
before the
fact, punished
same as the
principal,
and may be
convicted,
with or
without him.
R. S., c. 131, § 6.
29 Me., 86.
39 Me., 68.
68 Me., 546.

SEC. 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.

SEC. 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.

Who are accessories, after the fact. R. S., c. 131, § 7. 92 Me., 73.

ATTEMPTS TO COMMIT OFFENSES.

SEC. 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.

Attempt with an overt act to commit an offense, how punishable. R. S., c. 131, § 8. 32 Me., 599. 70 Me., 188.

GENERAL PROVISIONS.

SEC. 10. The term "felony," includes every offense punishable by imprisonment in the state prison. (a)

Definition of "felony." R. S., c. 131, § 9.

SEC. 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. 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.

Of "owner" of property, as used in an indictment. R. S., c. 131, § 10.

—unimportant variance between written or printed matter in evidence, is not material.

—proviso.

—process may be amended in form.

SEC. 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.

General allegation of intent to defraud, is sufficient. R. S., c. 131, § 11.

SEC. 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.

Complaints and indictments shall not be quashed for technicalities. R. S., c. 131, § 12. 15 Me., 124. 477. 69 Me., 182. 82 Me., 342. 87 Me., 81.

—nor for unimportant defect in venires. 67 Me., 336.

(a) 29 Me., 86; 32 Me., 373; 33 Me., 57; 48 Me., 236; 69 Me., 182.

CHAP. 133.

Fines and forfeitures may be recovered by indictment. R. S., c. 131, § 13. 59 Me., 191.

Limitation of prosecutions. R. S., c. 131, § 14. See c. 29, § 67; c. 118, § 3; c. 128, § 25.

SEC. 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 appropriation is expressly made, they inure to the state,

SEC. 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.

CHAPTER 133.

APPOINTMENT OF MUNICIPAL AND POLICE JUDGES, AND PROCEEDINGS OF MAGISTRATES IN CRIMINAL CASES.

APPOINTMENT OF MUNICIPAL AND POLICE JUDGES.

Appointment of municipal and police judges. R. S., c. 132, § 1. 1885, c. 313. See Constitution, Art. vi, § 8.

—salaries.

—all fees to be paid over.

SEC. 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.

CRIMINAL JURISDICTION OF MAGISTRATES.

Magistrates and women may administer oaths. R. S., c. 132, § 2. See c. 2, § 38.

—magistrates may require aid.

SEC. 2. Judges of municipal and police 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, constable or person present, to repress the same, and to arrest all concerned therein.

SEC. 3. Such judges and trial justices have jurisdiction of the offenses described in sections one, six, seven, eight, ten and twelve of chapter one hundred and twenty-one, when the value of the property is not alleged to exceed ten dollars; they may punish for the first offense by fine not exceeding ten dollars, and by imprisonment for not more than two months; and on a second conviction, by fine not exceeding twenty dollars, and by imprisonment for not more than six months.

Note. Jurisdiction is conferred upon judges of municipal and police courts and trial justices in the following cases:

Of complaints as to vicious dogs, c. 4, § 60; of assaults upon, and obstruction of officers, c. 123, § 23.

For violation of truancy laws, c. 15, §§ 54, 96; laws relating to public health, c. 18, § 50; law relating to use of wide rimmed wheels, c. 24, § 16; building laws, c. 28, § 35; law relating to intoxicating liquors, c. 29, § 60; requiring licenses for public exhibitions, c. 31, § 13.

For violation of law relating to inland fisheries and game, c. 32, §§ 54, 55; sea and shore fisheries, c. 41, § 60; itinerant vendors, c. 45, § 17.

For violation of insurance laws, c. 49, § 75; fraternal beneficiary laws, c. 49, § 156.

For violation of law prohibiting prize fights, c. 124, § 5; keeping houses of ill-fame, c. 125, § 9; circulation of criminal news among children, c. 125, § 16; fights between animals, c. 125, § 36; cruelty to animals, c. 125, §§ 49, 55; fraud on innkeepers, c. 127, § 6; relating to sterling and coin silver, c. 127, § 12; desertion of vessel by seamen, c. 127, § 17; malicious mischiefs, c. 128, § 25; wanton injury to baggage, c. 128, § 27; sale of cigarettes, c. 129, § 25; relating to tramps, c. 129, § 26.

To order removal of paupers, c. 27, §§ 42, 44; to commit to house of correction, c. 27, § 46, c. 142, § 6; to state school for boys, c. 143, § 2; industrial school for girls, c. 143, §§ 22, 26.

Judges of municipal and police courts and trial justices required to make returns of prosecutions under law relating to inland fisheries and game, c. 32, § 59.

Jurisdiction of larcenies, when the value does not exceed ten dollars. R. S., c. 132, § 3. 27 Me., 282. 37 Me., 133. 73 Me., 468.