

# MAINE STATE LEGISLATURE

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SEVENTH REVISION

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REVISED STATUTES

OF THE  
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**Sec. 17. Limitation of prosecutions.** R. S. c. 133, § 17. 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.

See c. 127, § 3; c. 137, § 26; c. 139, § 35.

#### Finger Prints and Photographs of Persons Charged with Crime.

**Sec. 18.** When authorized, state highway police or sheriffs shall take photographs and finger prints. 1929, c. 325, § 1. Upon receipt of written authority from any superior, municipal or police courts in this state the state highway police or the sheriffs of the several counties shall have authority to take or cause to be taken the finger prints and photographs of any person in custody charged with the commission of a felony.

**Sec. 19.** Finger prints or photographs to be destroyed if person is acquitted. 1929, c. 325, § 2. County attorneys or judges of the municipal courts shall notify the state highway police and sheriff under whose authority any finger prints or photographs are taken, of the acquittal of the person accused, whereupon such finger print records and photographs shall be destroyed.

**Sec. 20.** Copies of photographs and finger prints to be forwarded to chief of highway police. 1929, c. 325, § 3. Copies of all finger prints and photographs taken or caused to be taken by sheriffs as provided in section eighteen shall be forwarded to the chief of the state highway police.

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## CHAPTER 144.

### Appointment of Municipal and Police Judges, and Proceedings of Magistrates in Criminal Cases.

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- Sections 3-10 Criminal Jurisdiction of Magistrates.
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- Sections 14-17 Search Warrants.
- Sections 18-21 Appeals from Magistrates.
- Sections 22-25 Provisions Relating to the Fees of Magistrates.

#### Appointment of Municipal and Police Judges.

**Sec. 1.** Appointment of municipal and police judges; salaries; all fees to be paid over. R. S. c. 134, § 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.

See Constitution Me. Art. vi, § 8.

**Sec. 2.** Qualification of judges. 1917, c. 269. No person shall be eligible for appointment as judge of any municipal or police court unless he shall be a member of the bar in the county in which such court is located.

**Criminal Jurisdiction of Magistrates.**

**Sec. 3. Magistrates may administer oaths; magistrates may require aid. R. S. c. 134, § 2.** Judges of municipal and police courts, clerks of courts, trial justices 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, 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.

\*104 Me. 354.

**Sec. 4. Jurisdiction of larcenies, when the value does not exceed ten dollars. R. S. c. 134, § 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 thirty-one, when the value of the property is not alleged to exceed ten dollars; they may punish for the first offense by a fine of not more than ten dollars, and by imprisonment for not more than two months; and on a second conviction, by a fine of not more than twenty dollars, and by imprisonment for not more than six months.

27 Me. 282; 37 Me. 133; \*72 Me. 468; 104 Me. 354.

**Sec. 5. Jurisdiction of breaches of the peace and violations of law. R. S. c. 134, § 4.** They have jurisdiction of assaults and batteries, breaches of the peace, and violations of any statute or by-law of a town, village corporation, or local board of health, when the offense is not of a high and aggravated nature, and of offenses and misdemeanors, jurisdiction of which is conferred by law, and of all attempts to commit offenses of which they now have jurisdiction by law; and may cause affrayers, rioters, breakers of the peace, and violators of the law, to be arrested; and they may try and punish by a fine of not more than ten dollars, or by imprisonment for not more than thirty days, and may require such offenders to find sureties for keeping the peace.

See § 8; 26 Me. 73; 39 Me. 478; 47 Me. 465; \*73 Me. 281; \*84 Me. 272; 104 Me. 354; 123 Me. 412.

**Sec. 6. On complaint, may cause arrest of offenders; proceedings. R. S. c. 134, § 5.** They shall, on complaint, cause to be arrested persons found within their county charged with offenses; and those having committed offenses therein who have escaped therefrom; and all persons charged with felonies, offenses, and misdemeanors; and when the offense on examination is found to be one not within their jurisdiction for trial, they may cause them to recognize with sufficient sureties to appear before the superior court, and, in default thereof, shall commit them.

23 Me. 532; \*95 Me. 452; 100 Me. 78; 104 Me. 354; 114 Me. 443.

**Sec. 7. Examination on oath into the circumstances of the alleged offenses; issue of warrant. R. S. c. 134, § 6.** When complaint is made to any such magistrate, charging a person with the commission of an offense, he shall carefully examine, on oath, the complainant, the witnesses by him produced and the circumstances, and, when satisfied that the accused committed the offense, shall, on any day, Sundays and holidays not excepted, issue a warrant for his arrest, stating therein the substance of the charge; and he may try those brought before him for offenses within his jurisdiction, although the penalty or fine accrues wholly or partly to his town.

3 Me. 51; 10 Me. 476; 25 Me. 491; 39 Me. 214; \*86 Me. 529; 96 Me. 172; 100 Me. 336; 104 Me. 354; 123 Me. 221.

**Sec. 8. Rule for prosecutions of violation of municipal ordinance. R. S. c. 134, § 7.** In any prosecution before a municipal or police court or trial justice

for violation of an ordinance or by-law of a city or town, or of any by-law of a village corporation or local board of health, it shall not be necessary to recite such ordinance or by-law in the complaint, or to allege the offense more particularly than in prosecutions under a general statute.

**Sec. 9. Jurisdiction of trial justices in towns where there is a municipal or police court.** R. S. c. 134, § 8. A trial justice, residing in a town in which there is a municipal or police court, has the same jurisdiction as other trial justices in the county in all matters, the exclusive jurisdiction of which is not conferred on such court. Warrants issued by trial justices shall be made returnable before any trial justice in the county, and such warrants may be returned before any municipal or police court in the same county and the same proceedings had thereon as if said warrants had originally issued from said municipal or police court; and a justice, for issuing one not so returnable, shall be imprisoned for six months and pay the costs of prosecution.

53 Me. 548; 80 Me. 94; \*117 Me. 399.

**Sec. 10. Warrants to be sealed and signed.** R. S. c. 134, § 9. Warrants, issued by a magistrate in criminal cases, shall be under seal, and be signed by him at the time when they are issued.

As to signature of recorder or clerk of a municipal or police court, c. 97, § 7;  
34 Me. 222; 36 Me. 368.

#### Summonses for Witnesses, and Their Fees.

**Sec. 11. Summonses to witnesses; when witnesses shall recognize.** R. S. c. 134, § 10. Any judge or justice named in section three, 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, he 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 the party accused, and he shall express in the summons at whose request they are summoned; and when summoned for the accused, the witnesses are not required to attend without payment or tender of their legal fees.

39 Me. 61.

**Sec. 12. Limitation of costs and fees.** R. S. c. 134, § 11. 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.

**Sec. 13. Witnesses may be required to attend any court in New England, in a criminal case pending; penalty for neglect.** R. S. c. 134, § 12. When, on affidavit filed, the clerk of any court in any other New England state certifies that a criminal case is 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 forfeits two hundred dollars to any prosecutor.

127 Me. 236.

Search Warrants.

**Sec. 14. Warrants for search, in what cases may be issued.** R. S. c. 134, § 13. 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 pretenses; for forged or counterfeit coins, bank-bills, or other writings; 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.

See c. 35, § 22; c. 38, § 98; c. 42, § 34; c. 49, § 40; c. 50, § 5; c. 135, §§ 25, 28; c. 136, §§ 12, 13; c. 137, § 33; c. 140, § 5; 79 Me. 104; 95 Me. 199.

**Sec. 15. Complaint for such a warrant.** R. S. c. 134, § 14. The complaint for a warrant to search must be made in writing, sworn to and signed by the complainant, must 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 offense in relation thereto; and that the complainant has probable cause to suspect and does suspect, that the same is there concealed.

See Const. Me., Art. I, § 5; 33 Me. 570; \*79 Me. 104; 96 Me. 153; 100 Me. 448; 117 Me. 399.

**Sec. 16. Warrant, its contents, and how directed and served.** R. S. c. 134, § 15. 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 be 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.

25 Me. 491; 96 Me. 153; \*117 Me. 401.

**Sec. 17. Search of a dwelling-house.** R. S. c. 134, § 16. To authorize the search of a dwelling-house 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.

\*95 Me. 199.

Appeals from Magistrates.

**Sec. 18. Appeals within twenty-four hours after sentence.** R. S. c. 134, § 17. Any person aggrieved at the decision or sentence of such magistrate, may, within twenty-four hours after such sentence is imposed, Sunday not included, appeal therefrom to the next superior court in the same county, and the magistrate shall thereupon order such appellant to recognize in a reasonable sum, not less than twenty dollars with sufficient sureties, to appear and prosecute his appeal and to be committed until the order is complied with. When such appeal is not taken before the adjournment of the session of court at which said sentence is imposed, mittimus shall issue and the respondent shall be committed thereon, under such sentence, but if after adjournment and commitment as aforesaid and within said twenty-four hours, application in writing is made to such magistrate to enter such appeal, he shall supersede such commitment by his written order to the jailer or other officer, and the respondent shall be brought before him and such appeal allowed and entered as if claimed before adjournment. The magistrate shall be allowed one dollar and fifty cents for copies of papers for the appellate court to be paid out of the county treasury.

1 Me. 230; 96 Me. 498; 100 Me. 126; 104 Me. 354.

**Sec. 19. Copies sent to appellate court; failure to prosecute appeal.** R. S. c. 134, § 18. The magistrate shall send to the appellate court a copy of the whole

process, and of all writings before the magistrate. If the appellant does not appear and prosecute his appeal, his default shall be noted on the record; and the court may order the case to be laid before the grand jury, or may issue a *capias* against the body of the appellant, bring him into court, and then affirm the sentence of the magistrate with additional costs.

107 Me. 18; 109 Me. 283; 111 Me. 504; 124 Me. 58.

**Sec. 20. Appellant may withdraw appeal and abide by sentence.** R. S. c. 134, § 19. The appellant may, at any time before such copy has been sent to the appellate court, come personally before such magistrate, who may permit him, on motion to withdraw his appeal and abide by the sentence appealed from; whereupon, he shall be ordered to comply with said sentence and the sureties taken upon the recognizance upon such appeal shall be discharged. If the appellant is detained in jail for want of sureties to prosecute his appeal, he may give notice, in writing, to the jailer, of his desire to withdraw his appeal and abide by the sentence appealed from; whereupon, such jailer shall cause him to be taken before such magistrate, who shall order him to comply with the sentence appealed from, as hereinbefore provided; and in such case the jailer, or officer taking the appellant before the magistrate by his direction, shall be entitled to the same fees, to be taxed and paid as a part of the costs of prosecution, as are allowed to an officer for serving a *mittimus*.

109 Me. 283; 126 Me. 330.

**Sec. 21. Respondent may appeal without trial.** R. S. c. 134, § 20. In all prosecutions before municipal or police courts or trial justices, the respondent may plead not guilty and waive a hearing, whereupon the same proceedings shall be had as to sentence and appeal as if there had been a full hearing.

#### Provisions Relating to the Fees of Magistrates.

**Sec. 22. Limitation of fees of magistrates.** R. S. c. 134, § 21. When several warrants are issued by a 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 him, or convicts a party and he appeals and is finally acquitted, the magistrate shall have no fees in the case unless the same are certified and approved by the county attorney, and in no case shall he tax other or greater fees than are expressly allowed by law.

**Sec. 23. Costs paid; how to be disposed of.** R. S. c. 134, § 22. When the costs in a 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 thereto; 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 section seven of chapter one hundred and forty-eight.

**Sec. 24. Allowance of costs by the county commissioners.** R. S. c. 134, § 23. When a party accused is acquitted by the magistrate, is not sentenced to pay costs, or does not pay them when so sentenced, and on all legal search warrants, the commissioners of the same county shall examine and correct the bills of costs, including the fees of officers, witnesses and others, and order the same to be paid out of the county treasury to the persons entitled thereto; but when such magistrate, or other person interested in such bill of costs, is one of the commissioners for such county, the superior court shall have the same powers as the commissioners in other cases.

87 Me. 297.

**Sec. 25. Costs in appealed cases. R. S. c. 134, § 24.** In cases carried to a higher court by appeal, recognizance, or commitment, costs shall be taxed by the magistrate and certified with the papers.

87 Me. 297.

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## CHAPTER 145.

### Commencement of Proceedings in Criminal Cases.

- Sections 1- 6 Issue of Process and Arrest.  
Sections 7- 8 Transfer of Persons Charged with Crime in Two Counties.  
Sections 9-13 Examination of Offenders.  
Sections 14-19 Proceedings on Commitment or Binding Over.  
Sections 20-21 Dismissal of Prosecutions.  
Sections 22-31 Remedies on Recognizances. Discharge of Bail.

### Issue of Process and Arrest.

**Sec. 1. Criminal prosecutions must be by indictment; excepted cases. R. S. c. 135, § 1.** No person shall be held to answer in any court for an alleged offense, unless on an indictment found by a grand jury, except for contempt of court, and in the following cases:

- I. When prosecutions by information are expressly authorized by statute.
- II. In proceedings before municipal and police courts, trial justices, and courts martial.

**Sec. 2. Justices and magistrates may issue processes. R. S. c. 135, § 2.** The justices of the supreme judicial court and of the superior court, judges of municipal and police courts, and trial justices in their counties, in the manner provided in chapter one hundred and forty-four, in vacation or term time, may issue processes for the arrest of persons charged with offenses.

39 Me. 213, 482.

**Sec. 3. Officer may make oath according to his knowledge and belief. R. S. c. 135, § 3.** When it is the duty of an officer to make complaint before any magistrate, he may make oath to it according to his knowledge and belief.

**Sec. 4. Arrests without warrant; liability. R. S. c. 135, § 4.** Every sheriff, deputy sheriff, constable, city or deputy marshal, or police officer, shall arrest and detain persons found violating any law of the state, or any legal ordinance or by-law of a town, until a legal warrant can be obtained, and they shall be entitled to legal fees for such service; but if, in so doing, he acts wantonly or oppressively, or detains a person without a warrant longer than is necessary to procure it, he shall be liable to such person for the damages suffered thereby.

10 Me. 476; 36 Me. 320; 42 Me. 388; 68 Me. 149; 79 Me. 548; \*92 Me. 410; 97 Me. 81; 114 Me. 537.

**Sec. 5. Arrests in other counties. R. S. c. 135, § 5.** When a person charged with an offense in any county, before or after the issue of the warrant, removes, escapes, or is found out of it, the officer having the warrant may pursue and arrest him in any other county, command aid as in his own county, and convey him to the county where the offense was committed.

17 Me. 195.

**Sec. 6. Right to be discharged upon recognizance, in the county where he was arrested. R. S. c. 135, § 6.** If the offense charged is not punishable with