

MAINE STATE LEGISLATURE

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FOURTH REVISION.

THE
REVISED STATUTES

OF THE
STATE OF MAINE,

PASSED _____, 1883;

TO WHICH ARE PREFIXED
THE CONSTITUTIONS

OF THE
UNITED STATES AND OF THE STATE OF MAINE:

WITH AN APPENDIX AND REFERENCE INDEX.

PORTLAND:
PRINTED BY WILLIAM M. MARKS.

TITLE ELEVEN.

Crimes and Offences, Proceedings in Criminal Cases. Punishments and Incidental Provisions.

- CHAP. 117. Offences against the sovereignty of the state.
118. Offences against the lives and persons of individuals.
119. Offences against habitations and other buildings.
120. Larceny and receiving stolen goods.
121. Forgery and counterfeiting, and fraudulent stocks.
122. Offences against public justice.
123. Offences against the public peace.
124. Offences against chastity, morality and decency.
125. Gambling.
126. Cheating by false pretences, frauds and conspiracies.
127. Malicious mischiefs, and trespasses on property.
128. Offences against the public health, safety and policy.
129. Libels.
130. Proceedings for the prevention of crimes.
131. Jurisdiction of offences, and general provisions relating thereto.
132. Appointment of municipal and police judges, and proceedings of magistrates in criminal cases.
133. Commencement of proceedings in criminal cases.
134. Proceedings in court in criminal cases.
135. Sentence and its execution in criminal cases, and the liberation of poor convicts.
136. Collection and disposal of fines and costs in criminal cases.
137. Disposal of insane criminals.
138. Pardons and fugitives from justice.
139. Coroners' inquests.
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CHAPTER 117.

OFFENCES AGAINST THE SOVEREIGNTY OF THE STATE.

- SEC. 1. Treason, its definition, proof, and punishment.
2. Misprision of treason, its definition, proof and punishment.
3. Limitation of prosecutions therefor to three years.
4. Usurpation of jurisdiction by a foreign power.
5. Removal of, injury to, or refusal to deliver up the great seal forbidden and punished.
6. Use of state seal except at office of secretary of state, forbidden and punished.

- CHAP. 117.** SEC. 7. Removal, secretion, mutilation of, or refusal to return public books and papers, forbidden and punished.
8. Ex-public officers shall deliver public money or other property to successors. Punishment for refusal.
9. Persons falsely assuming to act as state officers, punished.

Treason, its definition, proof, and punishment. R.S., c. 117, § 1. 1876, c. 114, §§ 1, 2.

SEC. 1. Treason consists in levying war against the state, adhering to its enemies, and giving them aid and comfort. No person can be convicted of it without the testimony of two witnesses to the same overt act, or confession in open court. Its punishment is imprisonment at hard labor for life.

Misprision of treason, its definition, &c. R.S., c. 117, § 2.

SEC. 2. Misprision of treason consists in a knowledge that treason has been, or is to be committed, and in the concealment of it, or [in] omission to give information thereof to the governor, a judge of a court of record, or a justice of the peace. No person can be convicted of it without the testimony of two witnesses, but one of them may *be* [testify] to one, and another to a different overt act of the same species of treason; or by confession in open court. It[s] *shall be punished by* [punishment is] imprisonment not exceeding five years, or *by* fine not exceeding one thousand dollars.

Limitation of prosecutions to three years. R.S., c. 117, § 3. Usurpation of jurisdiction by a foreign power. R.S., c. 117, § 4.

SEC. 3. No person can be convicted of treason or misprision of treason unless the indictment therefor is found within three years after the commission thereof.

SEC. 4. If a person, claiming authority from any foreign government or magistrate, enters upon any lands, cuts any timber, serves any process, or exercises any jurisdiction, authority, or ownership, claims any right, or threatens to do any of said acts within the limits of this state, as described by the treaties of seventeen hundred and eighty-three and eighteen hundred and forty-two, between the United States and Great Britain, he and every person aiding and encouraging the same shall be punished by imprisonment and fine, at the discretion of the court, according to the aggravation of the offence.*

State seal, removal of, injury to, and neglect or refusal to deliver up, prohibited. 1880, c. 103, § 1.

SEC. 5. Whoever *shall* knowingly and willfully remove[s] the seal of the state of Maine from the office or custody of the secretary of state at Augusta, or *shall* knowingly and willfully secrete[s], deface[s], injure[s] or destroy[s] said seal, or willfully aid[s] or assist[s] in so doing, or, having said seal in his possession, or under his control, *shall* willfully neglect[s] or refuse[s] to deliver up said seal to the secretary of state upon demand therefor, shall be punished by imprisonment not less than one nor more than five years, and by fine not exceeding five thousand dollars.

—punishment.

Use in any place but office of secretary of

SEC. 6. Whoever *shall* knowingly and willfully use[s] the seal of the state of Maine, or take[s] any impression therefrom, for any purpose, in any other place than the office of the secretary of state

*[QUERY BY THE COMMISSIONER. After the lapse of forty years since the treaty of Washington, is the re-enactment of this section necessary?]

at Augusta, or *shall* knowingly and willfully issue[s], or receive[s] and act[s] under any commission, record, document, parchment, instrument or paper, bearing the impression of said seal, unless such commission, record, document, parchment, instrument or paper *shall be* [has been] sealed in said office of said secretary of state at Augusta, shall be punished by imprisonment not more than three years and by fine not exceeding three thousand dollars.

CHAP. 117.

state, prohibited.
1880, c. 168, §2.

—punishment.

SEC. 7. * Whoever *shall* knowingly and willfully remove[s] from the state house at Augusta, or from the custody of the secretary of state, or governor and council, or other officer or person in whose lawful custody the same are deposited or kept in said state house, any book of accounts, voucher, record, return, returned copies of lists of votes given for any public officer, certified copy of any record, or other document or instrument, belonging to, or kept in, any of the offices in said state house, except the books and documents kept and deposited in the state library, or *shall* knowingly and willfully secrete[s], alter[s], mutilate[s], deface[s], or destroy[s] any such book of accounts, voucher, record, return, returned copies of lists of votes given for any public officer, certified copy of any record, or other document or instrument, or *shall* knowingly and willfully aid[s] or assist[s] in so doing, or having any such book of accounts, voucher, record, returned copies of lists of votes given for any public officer, certified copy of any record, or other such document or instrument in his possession, or under his control, *shall* willfully neglect[s] or refuse[s] to return the same to said state house, or to deliver up the same to the person in lawful charge of the office or room in said state house, where the same were kept or deposited, shall be punished by imprisonment, not less than one nor more than three years and by fine not exceeding five thousand dollars.

Books and papers, removal from state offices, secretion, mutilation or refusal to return, prohibited.
1880, c. 168, §3.

—punishment.

SEC. 8. When any person having held any public office in this state, and having in his possession or under his control, any moneys, books of account, records, accounts, vouchers, documents or other property, or effects pertaining or belonging to said office, or to the state, or any county or municipality in the state, and whose term of office has expired, and whose successor in said office has been duly elected or appointed and qualified, shall, after a written demand for the same, willfully refuse to deliver such moneys, books of account, records, accounts, vouchers, documents or other property or effects aforesaid to such successor in said office, such person so refusing shall be punished by imprisonment not exceeding five years, and by a fine not exceeding five thousand dollars.

Persons who have held public office, shall deliver moneys and other public property to successors.
1880, c. 173.

—punishment for refusal.

SEC. 9. Whoever *shall* knowingly and falsely assume[s] to be any state officer of the state of Maine, and to act as such, or *shall* knowingly and falsely assume[s] to discharge any of the duties of any such officer, or *shall* knowingly and willfully invite[s] or

State officers falsely assuming to act as, prohibited.
1880, c. 170.

CHAP. 118. receive[s] any communication, document, record or letter properly belonging to any such state officer, or relating to the office or official business of said officer, or *shall*, in any way, knowingly and willfully obstruct[s] or delay[s] any such officer in the discharge of any of his official duties, shall be punished by imprisonment not less than one, nor more than five years, and by fine not exceeding five thousand dollars.

—punish-
ment.

CHAPTER 118.

OFFENCES AGAINST THE LIVES AND PERSONS OF INDIVIDUALS.

SEC. 1. Murder defined.

2. Murder of the first degree defined and punished.
3. Murder of the second degree defined and punished.
4. Degree of murder how ascertained.
5. Manslaughter defined and punished.
6. Willful disturbance or obstruction of a railroad, by which human life is destroyed, is murder of first degree, if life is not, how punished.
7. Misconduct or gross neglect respecting steam in steamboats occasioning loss of life or danger of it.
8. Murder of the first degree by duelling defined.
9. Murder of the first degree by a second to such duel.
10. Conviction or acquittal in another state a bar to an indictment under sections eight, nine, and thirteen.
11. Fighting, challenging, or aiding a duel.
12. Accepting a challenge, or aiding it.
13. Leaving the state to elude provisions of the two preceding sections, and doing such acts out of the state.
14. Posting for not fighting a duel, or sending or accepting a challenge.
15. Mayhem defined and punished.
16. Robbery defined and punished.
17. Rape defined and punished.
18. Abduction defined and punished.
19. Forcible confinement, kidnapping, selling as a slave.
20. Abandonment of children.
21. Apprentices and minors carried out of the state by masters of vessels.
22. Enlistment of minors into army of United States.
23. Extortion or compulsion by threats.
24. Assault with intent to commit a rape.
25. Assault with intent to murder, kill, maim, rob, steal, or to commit arson or burglary.
26. Assault with intent to commit other felonies.
27. Attempts to murder or kill without assault.
28. Assaults, and assaults and batteries.
29. *Slaves voluntarily brought into the state, become free. Punishment for restraining such.*

SEC. 1. Murder is the unlawful killing of a human being with malice aforethought, either express or implied. (a) CHAP. 118.

SEC. 2. When murder is committed with express malice aforethought, or in perpetrating or attempting to perpetrate a crime punishable by death, imprisonment for life, or for an unlimited term of years, it shall be deemed murder of the first degree and punished by imprisonment at hard labor for life. (b)* Murder.
R.S., c. 118, §1.
Murder of
first degree
defined and
punished.
R.S., c. 118, §2.
1876, c. 114,
§§ 1, 2.

SEC. 3. When murder is committed otherwise than is set forth in the preceding section, it shall be deemed murder of the second degree, and punished by imprisonment for life. (c)* Murder of
the second
degree.
R.S., c. 118, §3.

SEC. 4. The jury, finding a person guilty of murder, shall find whether he is guilty of murder in the first or second degree. When a person is found guilty of murder by confession in open court, the court, from testimony, shall determine the degree of murder, and sentence accordingly. (d)* Degree of
murder, how
ascertained.
R.S., c. 118, §4.

SEC. 5. Whoever unlawfully kills a human being in the heat of passion, on sudden provocation, without express or implied malice aforethought, or commits manslaughter as defined by the common law, shall be punished by imprisonment not more than ten years, or by fine not exceeding one thousand dollars. Manslaughter
defined and
punished.
R.S., c. 118, §5.
32 Me., 374.
33 Me., 55.
39 Me., 67.

SEC. 6. Whoever willfully and maliciously displaces a switch or rail, disturbs, injures or destroys any part of an engine, car, signal, track or bridge of any railroad, or places any obstruction thereon with intent that any person or property passing on the same should be thereby injured, and human life is thereby destroyed, shall be deemed guilty of murder of the first degree and punished accordingly.* If human life is thereby endangered and not destroyed, or property is injured, he shall be punished by solitary confinement not more than sixty days, and afterwards by imprisonment and hard labor during life or for a period of not less than ten years. Penalty for
destroying
human life
by obstruct-
ing railroads.
1873, c. 108.

SEC. 7. Any person, [Whoever,] having charge of a steamboat used for conveyance of passengers, or of the boiler or other apparatus for generating steam therein, *who* through ignorance, gross neglect, or for the purpose of racing, creates or allows to be created such a quantity of steam as to break such boiler, apparatus, or machinery connected therewith, and thereby human life is destroyed, shall be punished by imprisonment not more than four, nor less than two years; and if human life is endangered and not destroyed, by —for en-
dangering
human life,
&c., by
obstructing
railroads.

(a) 54 Me., 415; 58 Me., 575, 578, 582, 589.

(b) 37 Me., 469; 39 Me., 66, 87; 51 Me., 222; 58 Me., 575, 576, 582, 583, 589.

(c) 39 Me., 87; 58 Me., 578, 582, 589.

(d) 58 Me., 567, 568, 570, 571, 577, 579, 582-7, 589.

* [NOTE BY THE COMMISSIONER. If it is the pleasure of the Honorable Legislature to continue the abolition of the death penalty, the punishment for murder in the second degree ought to be reduced,—or the distinction between the two degrees of murder, §§ 2, 3, 4, 6, 9, should be abolished.]

CHAP. 118. imprisonment less than one year, and by fine not exceeding two hundred and fifty dollars.

Murder of the first degree by duelling, defined and punished.
R.S., c. 118, § 8.

SEC. 8. Any person residing in *this* [the] state, who within it engages to fight a duel and fights such duel without the state, and thereby inflicts a mortal wound on any person, of which he dies in *this* [the] state, shall be deemed guilty of murder of the first degree, and punished accordingly; and he may be indicted and tried in the county where the death happened.

The same by a second to such duel.
R.S., c. 118, § 9.

SEC. 9. A person who, by an engagement made in the state, is the second to either party in such duel and [is] present when a mortal wound is inflicted, of which the person dies within the state, shall be deemed an accessory before the fact, to murder of the first degree, and he may be indicted, tried, and punished, as the principal may be.*

Conviction or acquittal in another state bars indictment here.
R. S., c. 118, § 10.

SEC. 10. Any person indicted under either of the two preceding sections, or under the thirteenth section of this chapter, may plead a former conviction or acquittal of the same offence, in another state, which, being admitted or established, shall entitle him to an acquittal in this state.

Duelling punished.
R. S., c. 118, § 11.

SEC. 11. Whoever fights a duel with deadly weapons, or is present thereat as aid, second, surgeon, or as advising, encouraging, or promoting it, though no homicide ensues; or sends, or delivers a verbal or written message intended to be a challenge, though no duel ensues, shall be punished by imprisonment not more than twenty years, or by fine not exceeding one thousand dollars; and be incapable of holding any office or place of honor, trust, or profit, for twenty years after conviction.

Accepting a challenge or aiding, punished.
R. S., c. 118, § 12.

SEC. 12. Whoever accepts such a challenge, or engages to act as second, or surgeon, to one accepting, or knowingly delivers such acceptance, or advises, encourages, or promotes it, though no duel ensues, shall be punished by imprisonment less than one year, and by fine not exceeding one thousand dollars; and be incapable, as in the preceding section, for five years after conviction.

Leaving the state to elude two preceding sections, and then doing such acts, punished.
R. S., c. 118, § 13.

SEC. 13. If any resident of *this* [the] state leaves it for the purpose of eluding the operation of the two preceding sections, with intent to do and does acts out of the state which would be a violation of their provisions if done within the state, he shall be subject to the same punishment as if the offence had been committed in the state; and he may be indicted and tried in the county where he resides.

Posting for not fighting a duel, &c.
R. S., c. 118, § 14.

SEC. 14. If a person posts another, or uses, in writing or in print, any reproachful or contemptuous language concerning him for not fighting a duel, or for not sending or accepting a challenge,

* [See note on preceding page.]

he shall be punished by imprisonment less than one year, and by fine not exceeding one hundred dollars. CHAP. 118.

SEC. 15. *If a person* [Whoever] with malicious intent to maim or disfigure, cuts or maims the tongue, puts out or destroys an eye, cuts or tears off an ear, cuts, slits, or mutilates the nose or lip, [or] cuts off or disables a limb or other member of another person, *he* shall be punished by imprisonment not less than one, nor more than twenty years. Mayhem defined and punished.
R. S., c. 118,
§ 15.

SEC. 16. Whoever, by force and violence, or by putting in fear, feloniously steals and takes from the person of another, property that is the subject of larceny, shall be deemed guilty of robbery, and if, at the time, he is armed with a dangerous weapon, with intent, if resisted, to kill or maim such person; or if, being so armed, he wounds or strikes him; or if he has any confederate present, so armed, to aid or abet him, he shall be punished by imprisonment for life; otherwise for any term of years or for life. Robbery defined and punished.
R. S., c. 118,
§ 16.

SEC. 17. Whoever ravishes, and carnally knows, any female of ten or more years of age by force and against her will, or unlawfully and carnally knows and abuses a female child under ten years of age, shall be punished by imprisonment for life, or for any term of years. Rape defined and punished.
R. S., c. 118,
§ 17.
1872, c. 12.
63 Me., 210.

SEC. 18. Whoever takes a woman unlawfully and against her will, and by force, menace, or duress, compels her to marry him, or any other person, or to be defiled, shall be punished by imprisonment for life or any term of years. And whoever so takes a woman, with intent by such means to compel her to do so, shall be punished by imprisonment not less than one, [n]or more than ten years. Abduction defined and punished.
R. S., c. 118,
§ 18.

SEC. 19. Whoever unlawfully confines or imprisons another, or forcibly transports or carries him out of the state, or from place to place within it, or so seizes, conveys, inveigles, or kidnaps any person with intent to cause him to be so dealt with; or sells as a slave, or transfers, for any term of time, the service of any person of color, who has been so seized, inveigled, or kidnapped, shall be punished by imprisonment not more than five years, or by a fine not exceeding one thousand dollars. These offences may be indicted and tried in the county where such person was carried or brought, or in the county where the offence was committed; and on trial the consent of such person shall not be a defence, unless it appears that it was not obtained by fraud, threats, or duress. Forcible confinement, kidnapping, selling as a slave, and trial.
R. S., c. 118,
§ 19.

SEC. 20. If a father or mother of a child under the age of six years, or a person to whom such child is confided, exposes it in any place with intent wholly to abandon it, he shall be punished by imprisonment not more than five years, or by fine not exceeding five hundred dollars. Abandonment of children.
R. S., c. 118,
§ 20.

CHAP. 118.

Shipmasters
carrying ap-
prentices
and minors
out of state.
R. S., c. 118,
§ 21.
11 Me., 106.

Enlistment
of minors in-
to the army
of U. S.
R. S., c. 118,
§ 22.

Extortion or
compulsion
by threats.
R. S., c. 118,
§ 23.
24 Me., 72.

Assault on a
female with
intent to
commit rape.
R. S., c. 118,
§ 24.

Assault with
intent to
murder, &c.
R. S., c. 118,
§ 25.
37 Me., 469.
39 Me., 66.

Intent to
commit oth-
er felonies.
R. S., c. 118,
§ 26.
1872, c. 82.
69 Me., 182.
Attempt to
murder or
kill, without
assault.
R. S., c. 118,
§ 27.

Assault, and
assault and
battery.
R. S., c. 118,
§ 28.
59 Me., 575.
69 Me., 182.
1872, c. 82.

SEC. 21. If the master of a vessel carries out of the state an apprentice, indented servant, or person under twenty-one years of age, without the consent of his parent, master, or guardian, he shall be punished by a fine not exceeding two hundred dollars; and be liable in an action on the case, to such parent, master, or guardian, for all damages thereby sustained.

SEC. 22. Whoever in this state enlists or causes to be enlisted into the army of the United States, a person, knowing him to be a minor, without the written consent of his parent, master, or guardian, and he is removed out of the state within six months after his enlistment; or persuades him to leave the state with intent thus to enlist him, shall be punished by imprisonment less than one year, or by fine not exceeding five hundred dollars.

SEC. 23. Whoever, verbally or by written or printed communication, maliciously threatens to accuse another of a crime or offence, or to do any injury to his person or property, with intent thereby to extort money or procure any advantage from him, or to compel him to do any act against his will, shall be punished by imprisonment not exceeding two years, or by fine not exceeding five hundred dollars.

SEC. 24. Whoever assaults a female of ten years of age or more, with intent to commit a rape, shall be punished by imprisonment not exceeding ten years, or by fine not exceeding five hundred dollars. If such assault is made on a female under ten years, such imprisonment shall not be less than one nor more than twenty years.

SEC. 25. Whoever assaults another with intent to murder, kill, maim, rob, steal, or commit arson or burglary, if armed with a dangerous weapon, shall be punished by imprisonment not less than one, nor more than twenty years; when not so armed, by imprisonment not more than ten years, or by fine not exceeding one thousand dollars.

SEC. 26. Whoever commits an assault not before described, with intent to commit a felony, shall be punished by imprisonment not more than five years, or by fine not exceeding one thousand dollars.

SEC. 27. Whoever, without an assault, unlawfully attempts by any means or in any form to murder or kill a human being, shall be punished by imprisonment not less than one, nor more than twenty years.

SEC. 28. Whoever unlawfully attempts to strike, hit, touch, or do any violence to another however small, in a wanton, willful, angry, or insulting manner, having an intention and existing ability to do some violence to such person, shall be deemed guilty of an assault; and if such attempt is carried into effect, he shall be

deemed guilty of an assault and battery, and for either, shall be punished by imprisonment for a term not exceeding five years, or by fine not exceeding one thousand dollars, when no other punishment is prescribed. CHAP. 119.

SEC. 29. *Any slave, voluntarily brought into this [the] state by his master or by his knowledge or consent, is thereby free; and if restrained of his liberty, he may be discharged on writ of habeas corpus; and if any person attempts to restrain him of his liberty, or to exercise the authority of master over him, he shall be punished by a fine not exceeding one thousand dollars, or by imprisonment less than one year.**

Slaves voluntarily brought into state, free. —punishment for restraining such. R. S., c. 118, § 29.

* [QUERY. Has not amendment XIII of the U. S. constitution rendered this section obsolete?]

CHAPTER 119.

OFFENCES AGAINST HABITATIONS AND OTHER BUILDINGS.

- SEC. 1. Arson of a dwelling-house in the night and day time. Punishment.
2. Arson of a dwelling-house owned in whole or in part by himself. Punishment.
 3. Burning of public and private buildings in the night and day time. Punishment.
 4. Burning of other buildings, vessels, locks, dams, and flumes.
 5. Burning of produce, trees, and other property. Punishment.
 6. Wife liable though property burnt is her husband's.
 7. Burglary defined and punished.
 8. Breaking and entering a dwelling-house in the day time, entering it in night time, breaking and entering other buildings, cars or vessels. Punishment.
 9. Dwelling-house defined.

SEC. 1. Whoever willfully and maliciously sets fire to the dwelling-house of another, or to any building adjoining thereto, or to any building owned by himself or another, with *the* intent to burn such dwelling-house, and it is thereby burnt, in the night time, shall be punished by imprisonment at hard labor for life. If he proves, and the jury find, that there was no person lawfully in such dwelling-house at the time, or if the offence was committed in the day time, he shall be punished by imprisonment for life.*

Arson of a dwelling-house. R.S., c. 119, § 1. 1876, c. 114, §§ 1, 2. 63 Me., 135. 66 Me., 307-9. 71 Me., 355.

SEC. 2. Whoever willfully and maliciously sets fire to a dwelling-house owned wholly or partly by himself, or to any other building owned by himself or another, with intent to burn such dwelling-house, shall be punished by imprisonment at hard labor for life.*

Arson of a dwelling-house owned by himself. R.S., c. 119, § 2.

* [See note on next page.]

CHAP. 119. ing-house, another person being lawfully therein, and it is thereby burnt, shall be punished by imprisonment for life.*

Burning of public and private buildings.
R.S., c. 119, § 3.
12 Me., 215.
58 Me., 243.

SEC. 3. Whoever willfully and maliciously sets fire to any meeting-house, court house, jail, town house, college, academy, or other building erected for public use, or to any store, shop, office, barn, or stable of another within the curtilage of a dwelling-house, so that it is thereby endangered, and such public or other building is thereby burnt in the night time, shall be punished by imprisonment for life, or any term of years; but if such offence was committed in the day time, or without the curtilage of, and without endangering a dwelling-house, by imprisonment not less than one, nor more than ten years.

Burning of other buildings, vessels, &c.
R.S., c. 119, § 4.

SEC. 4. Whoever willfully and maliciously burns any building of another not mentioned in the preceding section, or any vessel, bridge, lock, dam, or flume, of another, shall be punished by imprisonment not less than one, nor more than ten years.

Burning of produce, trees, &c.
R.S., c. 119, § 5.

SEC. 5. Whoever willfully and maliciously burns any corn, grain, hay, vegetables, or other produce, or any soil, trees, under-wood, or other property of another, shall be punished by imprisonment not less than one, nor more than three years.

Wife liable though property burnt is her husband's.
R.S., c. 119, § 6.

SEC. 6. The preceding sections are applicable to a married woman, committing either of such offences without the consent of her husband, though the property set on fire and burnt belonged wholly or in part to him.

Burglary defined and punished.
R.S., c. 119, § 7.

SEC. 7. Whoever breaks and enters in the night time, with intent to commit a felony, or, having entered with such intent, breaks, in the night time, a dwelling-house, any person being then lawfully therein, shall be deemed guilty of burglary; and if armed with a dangerous weapon before or after entering, or if he assaults any person lawfully therein, or has any confederate present aiding or abetting, or not, in any case, he shall be punished by imprisonment for life, or for any term of years; and all burglar's tools or implements prepared or designed for committing the crime of burglary, shall be dealt with as provided in section twelve of chapter one hundred and twenty-five.

1872, c. 12.
—burglars' tools how dealt with.
R.S., c. 119, § 7.

Breaking and entering a dwelling or other building, vessel or R. R. car, with intent to commit felony.
1877, c. 152, § 1.

SEC. 8. Whoever, with intent to commit a felony, breaks and enters in the day time, or enters without breaking in the night time, any dwelling-house, or breaks and enters any office, bank, shop, store, warehouse, vessel, railroad car of any kind, or building in which valuable things are kept, any person being lawfully therein and put in fear, shall be punished by imprisonment not

* [NOTE BY THE COMMISSIONER. If it is the pleasure of the Honorable Legislature to continue the abolition of the death penalty, the punishment for setting fire to a dwelling-house in the day time, or when no person is lawfully present, ought to be reduced,—or the distinction between the two degrees of arson, §§ 1, 2, should be abolished.]

less than one nor more than ten years, but if no person was lawfully therein and put in fear, by imprisonment not more than five years, or by fine not exceeding five hundred dollars.

CHAP. 120.
—punish-
ment.

SEC. 9. Any permanent building or edifice, usually occupied by any person by lodging therein at night, shall be deemed a dwelling-house, though such occupant is absent for a time, leaving furniture or goods therein, with an intention to return; but no building shall be deemed a dwelling-house or part of it, unless connected with, or occupied as part of the dwelling-house.

Dwelling-
house
defined.
R.S., c. 119, §9

CHAPTER 120.

LARCENY, AND RECEIVING STOLEN GOODS.

- SEC. 1. Larceny defined and punished.
2. Larceny in a dwelling-house, or breaking and entering other building, railroad car or vessel in the night or day time. Punishment.
 3. Larceny in a building on fire or of property removed at fires. Punishment.
 4. Larceny from the person of another. Punishment.
 5. Common thief described and punished.
 6. Larceny by falsely personating another, described and punished.
 7. Larceny by embezzlement or fraudulent conversion. Punishment.
 8. In prosecutions of cashier or other officer for embezzlement, &c., what shall be a sufficient allegation in the indictment. What evidence is admissible and what sufficient.
 9. Embezzlement, &c., of property intrusted to be carried. Embezzlement by insurance or other agent.
 10. Public officers forbidden to have pecuniary interest in public contracts, &c. Punishment.
 11. Buying, receiving, or aiding to conceal stolen property knowingly.
 12. Officers to secure stolen property, which is to be restored to owner on conviction of thief.
 13. Court may make compensation to prosecutor and officer.
 14. Action for stolen property without conviction of thief.

SEC. 1. Whoever steals, takes, and carries away, of the property of another, any 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, shall be deemed guilty of larceny; and [shall] be punished, when the value of the property exceeds one hundred dollars, by imprisonment not less than one, nor more than five years, and when it does not

Larceny
defined and
punished.
R.S., c. 120, §1.
17 Me., 195.
19 Me., 228,
400.
21 Me., 18.
66 Me., 441.
72 Me., 468,
469.

CHAP. 120. exceed that sum, by imprisonment not more than two years or by fine not exceeding one hundred dollars.

Larceny by night in a dwelling-house, or at any time with breaking and entering certain other buildings, vessel, or railroad car. 1877, c. 152, §2.
—punishment.

SEC. 2. Whoever, without breaking, commits larceny in the night time, in a dwelling-house, or building adjoining and occupied therewith, or breaks and enters any office, bank, shop, store, warehouse, barn, stable, vessel, railroad car of any kind, court house, jail, meeting-house, college, academy, or other building for public use or in which valuable things are kept, and commits larceny therein, shall be punished by imprisonment not less than one nor more than fifteen years; and when the offence is committed in the day time, by imprisonment not more than six years, or by fine not exceeding one thousand dollars.

Larceny in a building on fire, &c. R.S., c. 120, §3.

SEC. 3. Whoever commits larceny in a building on fire, or of [steals] property removed on account of an alarm of fire, shall be punished by imprisonment not more than five years, or by fine not exceeding five hundred dollars.

Larceny from the person. R.S., c. 120, §4.

SEC. 4. Whoever commits larceny from the person of another, shall be punished by imprisonment not more than six years, or by fine not exceeding five hundred dollars.

Common thief described and punished. R.S., c. 120, §5.

SEC. 5. If a person, after being convicted of larceny as principal or as accessory before the fact, is again guilty and convicted thereof, or is convicted of three distinct larcenies at the same term of the court, he shall be deemed a common thief, and be punished by imprisonment not less than four, nor more than fifteen years.

Larceny by falsely personating another. R.S., c. 120, §6.

SEC. 6. Whoever falsely personates or represents another, and thereby receives any thing intended to be delivered to the party personated, with intent to convert the same to his own use, shall be deemed guilty of larceny and be punished accordingly.

Larceny by embezzlement or fraudulent conversion of property. R.S., c. 120, §7. 62 Me., 108. 69 Me., 28, 364. 70 Me., 265.

SEC. 7. If an officer, agent, clerk, or servant, of a person, co-partnership, or corporation, not an apprentice, nor less than sixteen years of age, embezzles or fraudulently converts to his own use, or takes and secretes with intent to do so, without consent of his employer or master, any property of another in his possession or under his care by virtue of his employment, or if a public officer, or an agent, clerk, or servant of a public officer, embezzles or fraudulently converts to his own use, or loans, or permits any person to have or use for his own benefit, without the authority of law, any money in his possession, or under his control by virtue of his office or employment by such officer, he shall be deemed guilty of larceny and be punished accordingly; and whoever knowingly receives from a public officer, or his clerk, servant or agent, with intent to convert the same to his own use, without authority of law, any money in the possession or under the control of such officer, by virtue of his office, shall be guilty of larceny and punished accordingly. But the foregoing provisions in

—the receiver liable.

—proviso.

relation to public officers, their clerks, servants or agents, shall not apply to deposits by such officer in any bank, nor to any advances made towards the salary of such officer, nor to any person in the employ[-ment] of the state, or to whom the state is indebted, if the sums advanced do not exceed the sum due him.

SEC. 8. In prosecutions for *the offence of* embezzling, fraudulently converting to one's own use, or taking and secreting with intent so to embezzle or fraudulently convert, the bullion, money, notes, bank notes, checks, drafts, bills of exchange, obligations or other securities for money, of any person, bank, incorporated company, or co-partnership, by a cashier or other officer, clerk, agent or servant of such person, bank, incorporated company or co-partnership, it shall be sufficient to allege generally in the indictment an embezzlement, fraudulent conversion, or taking with such intent, of money to a certain amount, without specifying any particulars of such embezzlement; and at the trial, evidence may be given of any such embezzlement, fraudulent conversion, or taking with such intent, committed within six months next before the time stated in the indictment; and it shall be sufficient to maintain the charge in the indictment, and shall not be deemed a variance, if it is proved that any bullion, money, notes, bank note, check, draft, bill of exchange or other security for money, of such person, bank, incorporated company or co-partnership of whatever amount was fraudulently embezzled, converted or taken with such intent by such cashier or other officer, clerk, servant, agent, within such period of six months.

SEC. 9. If a person intrusted with any property, the subject of larceny, to be carried, embezzles or fraudulently converts the same to his own use, he shall be deemed guilty of larceny and punished accordingly. And any insurance agent, or agent of any corporation doing business in *this* [the] state, who *shall* appropriate[s] to his own use any money, or substitute for money, received by him as such agent, or *shall* refuse[s] or neglect[s] to pay over and deliver the same to the party entitled to receive it, for *the space of* thirty days after written demand upon him therefor, shall be deemed guilty of larceny, and punished accordingly.

SEC. 10. No trustee, superintendent, treasurer, or other person holding a place of trust in any state office or public institution of this state, shall be pecuniarily interested directly or indirectly in any contracts made in behalf of the state or of the institution in which he holds such place of trust, and any contract made in violation hereof shall be void; and if any such officer or person *shall* receive[s] any drawbacks, presents, gratuities or secret discounts to his own use on account of such contracts, or from the profits in any materials, supplies, or labor, furnished or done for

CHAP. 120.

In prosecutions for embezzling, or fraudulently converting to one's own use money, etc., by cashier or other officer. 1879, c. 151.
—what shall be sufficient allegation in the indictment.
—what evidence may be given at the trial.
—what sufficient to maintain the charge in the indictment.

Larceny by one intrusted, &c. R.S., c. 120, § 8. 33 Me., 131. Insurance or other agent appropriating money to his own use, deemed guilty of larceny. 1878, c. 58.

Public officers forbidden to have pecuniary interest in public contracts, &c. 1880, c. 237.

CHAP. 120. the state or such institution, he shall be punished by imprisonment not more than a year, or by fine not exceeding five hundred dollars.
 —penalty.

Buying, receiving, or aiding to conceal stolen property.
 R. S., c. 120, § 9.
 29 Me., 334.

SEC. 11. Whoever buys, receives, or aids in concealing stolen property, knowing it to be stolen, shall be punished by imprisonment not more than five years, or by fine not exceeding five hundred dollars. And the conviction of the person, who stole the property, need not be averred or proved. If the stealing was simple larceny, and the person restores or makes satisfaction to the party injured to [for] the full value of such property, he shall not be sentenced to the state prison. If after conviction, he is again guilty and convicted of a like offence, or if convicted of three such distinct offences at the same term of the court, the imprisonment shall not be less than one, nor more than ten years.

Officer to secure stolen property, &c.
 R. S., c. 120, § 10.

SEC. 12. The officer, who arrests a person charged with an offence under this chapter, shall secure the property alleged to have been stolen, be answerable for it, and annex a schedule of it to his return; and, upon conviction of the offender, the property stolen shall be restored to the owner.

Court may make compensation to the prosecutor and officer.
 R. S., c. 120, § 11.

SEC. 13. The court, other than a municipal or police court or trial justice, upon conviction before it of burglary, robbery, or larceny, and when there is no conviction by reason of the death of the offender, or of his escape without their fault, may allow to the prosecutor, and to the officer who has secured or kept the property, a fair compensation for their actual expenses, time, and trouble in arresting the offender, and securing the property stolen.

Action for stolen property.
 R. S., c. 120, § 12.
 67 Me., 77.
 68 Me., 236.

SEC. 14. An action, for the recovery of property stolen, may be maintained by the owner against the person liable therefor, although the thief is not convicted.

CHAPTER 121.

FORGERY AND COUNTERFEITING, AND FRAUDULENT STOCKS.

FORGERY AND COUNTERFEITING.

- SEC. 1. Forgery of and publishing as true, forged records and written instruments.
2. Forgery or counterfeiting of public securities, bank bills and coin, and having ten or more such in possession at one time with intent to pass them.
 3. Bringing into the state or having in possession any such coins or bank bills with intent to pass them.
 4. A person convicted being again guilty and convicted, or convicted of three distinct offences at the same term of the court.
 5. Counterfeiting coin of foreign countries for export.
 6. Manufacture or possession of implements for counterfeiting.
 7. Total erasures and fraudulent connections of instruments.
 8. Testimony to prove public securities and bank bills to be counterfeits.

FALSE CERTIFICATES AND FALSE ISSUES AND TRANSFERS OF STOCKS.

- SEC. 9. Forgery by false certificates and fictitious signatures.
10. Making or issuing false certificates of stock or pledging genuine without authority.

REWARDS TO INFORMERS AND PROSECUTORS.

- SEC. 11. Rewards for conviction of forgers and counterfeiters.

FORGERY AND COUNTERFEITING.

- SEC. 1. Whoever, with intent to defraud, falsely makes, alters, forges, or counterfeits, any public record or proceeding filed or entered in any court; or process issued, or purporting to be [issued,] by a competent court, magistrate, or officer; or attestation or certificate of any person required by law, or receivable as legal proof in relation to any matter; or any charter, deed, will, testament, bond, writing obligatory, power of attorney, letter of credit, policy of insurance, bill of lading, bill of exchange, promissory note, order or acceptance, indorsement or assignment thereof, or of any debt or contract; or acquittance, discharge, or accountable receipt for any thing of value; or any other written instrument of another or purporting to be such, by which any pecuniary demand or obligation or any right in any property is or purports to be created, increased, conveyed, transferred, diminished, or discharged; and whoever utters and publishes as true any instrument before mentioned, knowing it to be false, forged, or counterfeit, with like intent, shall be punished by imprisonment not less than two, nor more than ten years.

Forgery of,
and publish-
ing as true,
forged re-
cords and
written
instruments.
R.S., c. 121, § 1.
2 Me., 366.
20 Me., 82.
22 Me., 281.
47 Me., 167.
50 Me., 419.

CHAP. 121.

Forgery or
counterfeit-
ing of public
securities,
bank bills, or
coin, &c.
R.S., c. 121, § 2.

SEC. 2. Whoever with intent to defraud, falsely makes, alters, forges, or counterfeits, any public security issued in any form or purporting to be by authority of the United States, or any state or territory thereof; or any indorsement or writing purporting to be a transfer thereof; or any bank bill or promissory note issued or purporting to be [issued] by any bank or banking company in any of the United States, or in any foreign state, province, or government; or any gold or silver coin current in this state; and whoever has in his possession, at one time, ten or more such forged or counterfeit public securities, notes, or pieces of coin with intent to pass them, knowing them to be forged or counterfeit, shall be punished by imprisonment for life, or any term of years.

Bringing in-
to the state,
or having in
possession
any such
coins or
bank bills,
with intent
to pass them.
R.S., c. 121, § 3.

SEC. 3. Whoever brings into *this* [the] state, or has in his possession with intent to pass the same; or with intent to defraud, utters or tenders in payment as true any such coins, bank bills, notes, or public securities, as are described in the preceding section, knowing them to be forged or counterfeit, shall be punished by imprisonment not more than three years, or by fine not exceeding one thousand dollars.

A person
convicted a
second time,
or of three
offences at
same term.
R.S., c. 121, § 4.

SEC. 4. If any person, after being convicted of an offence described in the preceding section, is again guilty and convicted thereof, or is convicted of three such distinct offences at the same term of the court, he shall be punished by imprisonment not less than three, nor more than ten years.

Counterfeit-
ing foreign
coin for
export.
R.S., c. 121, § 5.

SEC. 5. Whoever forges or counterfeits any gold or silver coin of a foreign government or country, with intent to export it to defraud any foreign government or its subjects, shall be punished by imprisonment not less than one, nor more than ten years.

Manufacture
or possession
of imple-
ments and
materials for
counterfeit-
ing.
R.S., c. 121, § 6.

SEC. 6. Whoever makes or begins to make, mend, cast, stamp, engrave, mould, or provide any plate, block, press, tool, instrument, paper or other material, designed and adapted for making any false, forged, or counterfeit coin, public securities, bank bills or notes, mentioned in this chapter; or has the same in his possession partly or wholly made, with intent to use or permit them to be used for that purpose, shall be punished by imprisonment not more than three years or by fine not exceeding five hundred dollars; and all such tools, implements and materials shall be disposed of as provided in section twelve of chapter one hundred and twenty-five.

—disposal of
them.

Total eras-
ures, and
fraudulent
connections
of docu-
ments.
R.S., c. 121, § 7.

SEC. 7. Whoever, with intent to defraud, totally erases or obliterates any record or other written instrument described in this chapter; fraudulently connects together different parts of several bank bills, notes or other written instruments so as to produce one, or alters the same in a material matter, shall be deemed guilty of forgery and punished as if such instrument had been forged and counterfeited.

SEC. 8. In prosecutions for any offence described in this chapter relating to the bills or notes of any bank, if the president or cashier thereof resides out of the state, or more than forty miles from the place of trial, any other witness, acquainted with their signatures and with the difference between the true and counterfeit bills of such bank, may be admitted to prove them forged and counterfeit; and if such prosecution relates to public securities, a certificate of the tenor of the genuine public security, alleged to be forged or altered, made under oath by the secretary of the treasury, or treasurer of the United States, or by the secretary or treasurer of any state by which such security purports to be issued, shall be evidence to prove them forged or altered.

CHAP. 121.

Testimony to prove public securities and bank bills to be counterfeits.
R. S., c. 121, § 8.

FALSE CERTIFICATES, AND FALSE ISSUES AND TRANSFERS OF STOCKS.

SEC. 9. If any person, legally authorized to take the proof or acknowledgment of any instrument that by law may be recorded, willfully and falsely certifies that such proof or acknowledgment was duly made; or if any person fraudulently affixes a fictitious or pretended signature, purporting to be that of any officer or agent of a corporation, to any written instrument purporting to be a draft, note, or other evidence of debt issued by such corporation, with intent to pass the same as true, though such person never was an officer or agent of such corporation, or never existed, he shall be deemed guilty of forgery and punished as provided in section one.

Forgery by false certificates, and fictitious signatures.
R. S., c. 121, § 9.

SEC. 10. If any officer or agent of a corporation willfully signs with intent to issue, or issues any certificate purporting to be a certificate or other evidence of the ownership of the transfer of any stock in such corporation, not authorized by its charter, by-laws, and votes, or without such authority issues, sells, or pledges any such certificate or other evidence of ownership or transfer of stock after it is lawfully signed, he shall be punished by imprisonment in the state prison not more than ten years, and by fine not exceeding one thousand dollars.

Making or issuing false certificates of stock, or pledging genuine without authority.
R. S., c. 121, § 10.

REWARDS TO INFORMERS AND PROSECUTORS.

SEC. 11. The following rewards shall be paid to the person informing and prosecuting in the cases described below: Sixty dollars for each person convicted and sentenced for either of the aforesaid offences of forging and counterfeiting any coin, public security, bank bill, or note; and forty dollars for each person convicted and sentenced for either of the aforesaid offences of possessing with intent to utter, or of knowingly uttering any such coin, public security, bank bill, or note; and these rewards shall be

Rewards for conviction of forgers and counterfeits.
R. S., c. 121, § 11.

CHAP. 122. paid out of the treasury of the state by warrant of the governor and council, granted on certificate of the judge who tried the case; and where there are two or more informers and prosecutors for the same offence, the reward shall be divided between them equally, or in such proportions as said judge determines.

CHAPTER 122.

OFFENCES AGAINST PUBLIC JUSTICE.

PERJURY.

- SEC. 1. Definition and punishment of perjury, and subornation of perjury.
- 2. The like attempt when perjury is not committed.
- 3. Proceedings by any court, on presumption of perjury before such court; witnesses recognized, and papers detained.
- 4. Form of indictment for perjury in court.
- 5. Form of indictment for perjury in falsely swearing to a material statement in a complaint or other writing.

BRIBERY AND CORRUPTION IN OFFICERS OF THE LAW AND OTHERS.

- SEC. 6. Bribery and acceptance of bribes by public officers.
- 7. Corrupt solicitation of influence to procure places of trust, and acceptance of rewards for using the same.
- 8. Bribery of jurors, referees, masters in chancery, appraisers, or auditors, and acceptance thereof by them.
- 9. The party informing exempted from punishment.
- 10. Attempts to corrupt jurors or referees, and misconduct of jurors.
- 11. Sheriffs and other officers receiving bribes for neglect of official duty.
- 12. Corrupt agreements by attorneys and others, in order to obtain demands for collection by suits at law.

ESCAPES BY THE MISCONDUCT OF OFFICERS AND OTHERS.

- SEC. 13. Officers failing to execute process, whereby criminal escapes.
- 14. Voluntarily suffering criminals to escape in capital cases; also in other cases.
- 15. Negligent escapes, and refusing to receive prisoners.
- 16. Forcibly rescuing, furnishing means, or otherwise aiding an escape.

COMPOUNDING FELONIES.

- SEC. 17. Compounding felonies punishable with death or state prison for life; also other felonies.

REFUSING TO AID OFFICERS AND OBEY MAGISTRATES.

- SEC. 18. Refusing to aid officers, when required.
- 19. Refusing to obey justices of the peace, when required in view of a breach of the peace.

FALSELY ASSUMING TO BE A JUSTICE OR OFFICER.

- SEC. 20. Falsely assuming to be a justice of the peace or other officer.

DISGUIISING TO OBSTRUCT THE EXECUTION OF THE LAWS.

CHAP. 122.

SEC. 21. Punishment for disguising to obstruct the execution of the laws.

EXTORTION.

SEC. 22. Penalty for officers extorting illegal fees, and for witnesses making false certificates of travel and attendance.

PERJURY.

SEC. 1. Whoever, when required to tell the truth on oath or affirmation lawfully administered, willfully and corruptly swears or affirms falsely to any material matter, in a proceeding before any court, tribunal, or officer created by law, or in relation to which an oath or affirmation is authorized by law, is guilty of perjury; and whoever procures another to commit perjury shall be deemed guilty of subornation of perjury; and [shall be] punished in either case, if the perjury was committed in a trial of a capital crime, by imprisonment for life or any term of years not less than ten, and if committed in any other case, by imprisonment not less than two, nor more than ten years.

Definition and punishment of perjury, and subornation of perjury. R.S., c. 122, § 1. 26 Me., 36, 71. 39 Me., 339. 49 Me., 413. 50 Me., 217.

SEC. 2. Whoever willfully and corruptly endeavors to incite or procure another to commit perjury, though it is not committed, shall be punished by imprisonment not less than one, nor more than five years.

The like attempt when perjury is not committed. R.S., c. 122, § 2.

SEC. 3. When any witness or party, legally sworn and examined, or making affidavit in any proceeding in a court of record, testifies in such a manner as to raise a reasonable presumption that he is guilty of perjury therein, the court may immediately order him committed to prison, or take his recognizance with sureties for his appearance to answer to a charge of perjury; and [may] bind over any witnesses present to appear at the proper court to prove such charge, order the detention as long as necessary of any papers or documents produced and deemed necessary in the prosecution of such charge, and cause notice of these proceedings to be given to the state's attorney for the same county.

Proceedings, by any court, on presumption of perjury committed before such court. R.S., c. 122, § 3.

SEC. 4. Indictments against persons for committing perjury before any court or tribunal drawn substantially as hereinafter provided, shall be deemed sufficient in law, viz:

Form of indictment for perjury in court. R.S., c. 122, § 4.

"STATE OF MAINE.

—, ss. At the — court begun and *holden* [held] at —, in and for said county of —, on the — Tuesday of —, in the year of our Lord one thousand eight hundred and —.

59 Me., 139.

The jurors for said state, upon their oath present, that A. B., of —, in the county of —, (addition,) "at —, in the county of —, on the — day of —, in the year of our Lord one thousand eight hundred and —, appeared as a witness in a proceeding

CHAP. 122. in which C. D. and E. F. were parties, then and there being heard before a tribunal of competent jurisdiction, and committed the crime of perjury, by testifying as follows :” (here set out the matter sworn to and alleged to be false,) “which said testimony was material to the issue then and there pending in said proceeding, against the peace of said state and contrary to the form of the statute in such case made and provided.

— —, Foreman.

— —, County Attorney.”

Form of indictment for perjury in falsely swearing to a material fact in a complaint or other writing.
R.S., c. 122, § 5.

SEC. 5. All indictments against persons for committing perjury in swearing or affirming to any material matter in any complaint or other writing in relation to which an oath or affirmation is authorized by law, shall be deemed sufficient in law, when drawn substantially as follows :

“STATE OF MAINE.

—, ss. At the — court begun and *holden* [held] at —, in and for said county of —, on the — day of —, in the year of our Lord one thousand eight hundred and —.

The jurors for said state, upon their oath present, that A. B., of —, in the county of —,” (addition,) “at —, in the county of —, on the — day of —, in the year of our Lord one thousand eight hundred and —, before G. H., esquire, then and there having competent authority to administer oaths, committed the crime of perjury, by falsely swearing (or affirming) to material matter in a writing signed by the said A. B., and dated the — day of —, A. D. 18—, against the peace of said state and contrary to the form of the statute in such case made and provided.

— —, Foreman.

— —, County Attorney.”

BRIBERY AND CORRUPTION IN OFFICERS OF THE LAW AND OTHERS.

Bribery and acceptance of bribes by public officers.
R.S., c. 122, § 6.

SEC. 6. Whoever gives, offers, or promises, to an executive, legislative, or judicial officer, before or after he is qualified or takes his seat, any valuable consideration or gratuity whatever, or to do any act beneficial to such officer, with intent to influence his action, vote, opinion, or judgment, in any matter pending, or that may come legally before him in his official capacity, shall be punished by imprisonment not more than five years, or by fine not exceeding three thousand dollars; and whoever accepts such bribe or beneficial thing, in the manner and for the purpose aforesaid, shall forfeit his office, be forever disqualified to hold any public office, trust, or appointment under *this* [the] state, and be punished by imprisonment not more than ten years, or by fine not exceeding five thousand dollars.

SEC. 7. Whoever directly or indirectly gives, offers, or promises any valuable consideration or gratuity to any person not included in section six, with intent to induce him to procure for him by his interest, influence, or any other means, any place of trust in *this* [the] state; and whoever, not included as aforesaid, accepts the same in the manner and for the purpose aforesaid, shall be forever disqualified to hold any place of trust in *this* [the] state, and punished by fine not exceeding three hundred dollars, and imprisonment less than one year.

CHAP. 122.

Corrupt solicitation of influence to procure places of trust, &c.
R.S., c. 122, §7.

SEC. 8. Whoever corruptly gives, offers, or promises, any valuable consideration or gratuity to any person summoned, appointed, chosen, or sworn, as a juror, arbitrator, umpire or referee, auditor, master in chancery, or appraiser of real or personal estate, with intent to influence his opinion or decision in any matter pending, or that may come legally before him for decision or action; and whoever corruptly or knowingly receives the same, in the manner and for the purpose aforesaid, shall be punished by imprisonment not more than five years, or by fine not exceeding one thousand dollars.

Bribery of jurors, referees, masters in chancery, appraisers or auditors, and acceptance thereof by them.
R.S., c. 122, §8.

SEC. 9. Whoever, offending in the manner described in the three preceding sections, gives information, under oath, against the other party so offending, and duly prosecutes him, shall be exempt from the disqualifications and punishments therein provided.

The party informing exempted from punishment.
R.S., c. 122, §9.

SEC. 10. Whoever attempts improperly to influence any juror, or one drawn, appointed, or sworn as such, or any arbitrator, or referee, in relation to any matter pending, or that may come legally before him for action or decision; and whoever, drawn, summoned, or sworn, as a juror, promises or agrees to give a verdict for or against any person in any case, or receives any paper, information, or evidence relating to any matter, for the trial of which he is sworn, without the authority of the court or officer before whom such matter is pending, and without immediately disclosing it to such court or officer, shall be punished by a fine not exceeding two hundred dollars, and imprisonment not more than three months.

Attempts to corrupt jurors or referees, &c.
R. S., c. 122, § 10.

SEC. 11. If any sheriff, deputy sheriff, coroner, or constable, receives from any person any money, or other valuable thing, as an inducement for omitting or delaying to sell any property on execution, to arrest any defendant and carry him before a magistrate or to prison, or to perform any other official duty, he shall be punished by a fine not exceeding three hundred dollars, and imprisonment not more than three months.

Sheriffs and other officers receiving bribes for neglect of official duty.
R. S., c. 122, § 11.

SEC. 12. If any person loans, advances or promises to loan or advance any money, gives or promises to give day of payment on any demand left with him for collection, gives or promises any

Corrupt agreement by attorneys and others.

CHAP. 122.

1878, c. 57.
70 Me., 272.

—penalty.

valuable consideration, becomes liable in any manner for the payment of anything, becomes surety for another for such payment, or requests, advises, or procures another person to become responsible or surety as aforesaid, with intent thereby to procure any account, note or other demand for the profit arising from its collection by a suit at law or in equity, or brings, prosecutes or defends, or agrees to bring, prosecute or defend, any suit at law or in equity upon shares, he shall be punished by a fine not exceeding one thousand dollars nor less than twenty dollars, or by imprisonment not more than one year.

ESCAPES BY THE MISCONDUCT OF OFFICERS AND OTHERS.

Officers
refusing or
omitting to
execute pro-
cesses, &c.
R. S., c. 122,
§ 13.

SEC. 13. If any officer, authorized to serve process, willfully and corruptly refuses to execute any lawful process to him directed, requiring him to arrest or confine any person charged with or convicted of any offence; or thus omits or delays to execute it, whereby the offender escapes, he shall be punished by imprisonment less than one year, and by fine not exceeding five hundred dollars.

Voluntarily
suffering
criminals in
capital cases
to escape, &c.
R. S., c. 122,
§ 14.

SEC. 14. If any jailer or other officer voluntarily suffers any prisoner in his custody to escape, he shall be punished, if such prisoner was convicted of a capital felony,* by a fine not exceeding one thousand dollars, and by imprisonment for life; if charged with such felony, by imprisonment not less than five, nor more than fifteen years; if charged or convicted of any other offence, by the same penalties and punishments that such prisoner would have suffered or been liable to suffer if he had not escaped.

—escape of
other crim-
inals.

Negligent
escapes, and
refusal to
receive
prisoners.
R. S., c. 122,
§ 15.

SEC. 15. If any jailer or other officer, through negligence, suffers any prisoner in his custody for a criminal offence to escape, or willfully refuses to receive into his custody any prisoner committed to him on any lawful process, he shall be punished by imprisonment in the county jail not more than two years, and by fine not exceeding five hundred dollars.

Forceibly
rescuing,
furnishing
means, or
otherwise
aiding an
escape.
R. S., c. 122,
§ 16.

SEC. 16. Whoever forcibly rescues any prisoner lawfully detained for any criminal offence; conveys into any jail or other place of confinement any disguise, arms, instruments, or other things adapted and intended to aid, or in any way aids him to escape, though such escape is not effected or attempted; or whoever secretes, or with a design to aid the prisoner in his escape, or with such design, in any way assists such prisoner that has escaped, or is at large, shall be punished, if such prisoner was in custody for any felony, by imprisonment not less than one, nor more than seven years; and if for any other offence, by imprisonment less than one year, and by fine not exceeding five hundred dollars.

* [NOTE. Although capital punishment has been abolished, a large number of malefactors convicted of capital felony are still in state prison.]

COMPOUNDING FELONIES.

CHAP. 122.

SEC. 17. Whoever, having knowledge of the commission of any offence, takes any valuable consideration, gratuity, or promise therefor, with an agreement or understanding, express or implied, to compound, conceal, not prosecute, or not give evidence of such offence, shall be punished, if such offence is punishable with *death*, or imprisonment for life, or an unlimited term of years, by imprisonment not more than five years, or by fine not exceeding five hundred dollars; but if the offence is punishable by imprisonment in the state prison for a limited term of years, he shall be punished by imprisonment less than one year, and by fine not exceeding five hundred dollars.

Compound-
ing felonies,
how punish-
able.
R. S., c. 122,
§ 17.

REFUSING TO AID OFFICERS AND OBEY MAGISTRATES.

SEC. 18. Whoever, when required in the name of the state, by any sheriff, deputy sheriff, coroner, or constable, neglects or refuses to aid him in the execution of his office in any criminal case, in the preservation of the peace, in arresting and securing any person for a breach of the peace, or [for being] engaged in the escape or rescue of persons arrested on civil process, shall be punished by imprisonment not more than thirty days, or by fine not exceeding fifty dollars.

Refusing to
aid officers.
R. S., c. 122,
§ 18.

SEC. 19. If any person neglects or refuses to obey any justice of the peace, when, in view of a breach of the peace, or other offence proper for his cognizance, he requires such person to arrest and bring the offender before him, he shall be punished as in section sixteen; and if the justice made known or declared his office to such person, he shall not plead ignorance thereof.

Refusing to
obey justices
of the peace,
&c.
R. S., c. 122,
§ 19.

FALSELY ASSUMING TO BE A JUSTICE OR OFFICER.

SEC. 20. Whoever falsely assumes to be a justice of the peace, sheriff, deputy sheriff, coroner, or constable, and to act as such, or to require any one to aid him in any matter pertaining to the duty of such office, shall be punished by imprisonment less than one year, or by fine not exceeding four hundred dollars.

Falsely as-
suming to be
a justice or
other officer.
R. S., c. 122,
§ 20.
6 Me., 282.
64 Me., 371.

DISGUIISING TO OBSTRUCT THE EXECUTION OF THE LAWS.

SEC. 21. Whoever disguises himself in any manner with intent to obstruct the due execution of the laws, or to intimidate any officer, surveyor, or other person, in the legal discharge of his duty, though such intent is not effected, shall be punished by imprisonment less than one year, and by fine not exceeding five hundred dollars.

Punishment
for disguis-
ing to ob-
struct the
execution of
the laws.
R. S., c. 122,
§ 21.

CHAP. 123.

EXTORTION.

Penalty for
extorting
illegal fees,
&c.
1881, c. 20.
11 Me., 145.

SEC. 22. If any person, for performing any service or official duty for which the pay is fixed by law, willfully and corruptly demands and receives, or takes security for any greater sum than is legal, or if any witness falsely and corruptly certifies that as such he travelled more miles or attended more days than he actually did, or certifies that he attended as such for more than one party in the same case, he shall be punished by a fine [of] not less than thirty dollars for each offence, to be recovered to the use of the state, by indictment found within one year after the offence is committed, or by action of debt commenced within the same time, to the use of the person first suing therefor in his own name.

CHAPTER 123.

OFFENCES AGAINST THE PUBLIC PEACE.

AFFRAYS AND RIOTS.

- SEC. 1. Affrays between two or more persons.
2. Unlawful assembly and riot.
3. One person may be convicted, without the others.

PRIZE FIGHTS AND FIGHTS OF GAME ANIMALS.

- SEC. 4. Prize fights or premeditated conflicts between men or animals, penalty for participation in.
5. Complaint, warrant and proceedings to prevent, as well as to punish.

STRIKES AND UNLAWFUL COMBINATIONS.

- SEC. 6. Combinations of employes to stop or delay trains or to injure railroad property, how punished.
7. Malicious obstruction of engine or car, or abandonment thereof on a railroad, &c., penalty for.
8. Gross carelessness, and neglect or malicious delay in management or control of railroads, how punished.
9. Violence or intimidation in furtherance of any combination to promote a controversy between a gas, telegraph or railroad company and its workmen, how punished.
10. Unlawful refusal of railroad employes to do duty, how punished.

SUPPRESSION OF MOBS BY OFFICERS AND ARMED FORCE.

- SEC. 11. Duty of magistrates and officers to disperse unlawful assembly of twelve or more; penalty for refusal to assist them, or to disperse when ordered; neglect of duty by magistrates and officers.
12. When rioters refuse to disperse, magistrates and officers to call out armed force.

SEC. 13. If any person is killed or wounded, magistrates and officers held
guiltless; liability of the persons unlawfully assembled or
refusing to assist. CHAP. 123.

PUNISHMENT AND REMEDY FOR INJURIES BY MOBS.

SEC. 14. Punishment and civil remedy for pulling down houses or premeditated personal injuries.

15. Extent of liability of towns for injury to private property by mobs, and their remedy against the wrong-doers.

INSURRECTION AND INVASION.

SEC. 16. Governor empowered to call out the militia to suppress insurrection.

17. Governor and council empowered to protect the coast of the state.

AFFRAYS AND RIOTS.

SEC. 1. If two persons voluntarily or by agreement fight or use any blows or force towards each other, in an angry or quarrelsome manner, in any public place, to the terror or disturbance of others, they shall be deemed guilty of an affray, and punished as for an assault and battery. Affrays between two or more persons.
R.S., c. 123, § 1.

SEC. 2. If three or more persons assemble in a violent or tumultuous manner to do an unlawful act, or, being together, made any attempt or motion towards doing a lawful or unlawful act in a violent, unlawful, or tumultuous manner, to the terror or disturbance of others, they shall be deemed guilty of an unlawful assembly; if they commit such acts in the manner and with the effect aforesaid, they shall be deemed guilty of a riot, and be punished, in either case, by imprisonment less than one year, and by fine not exceeding five hundred dollars; and in case of a riot, each offender shall also suffer such punishment as he would be liable to if he had committed such act alone. Unlawful assembly and riot.
R.S. c., 123, § 2.
18 Me., 348.
33 Me., 556.
34 Me., 236.

SEC. 3. Any person, engaged in an unlawful assembly or riot, may be indicted and convicted thereof alone, if it is alleged in the indictment and proved at the trial that three or more were engaged therein, and if known, they must be named, but if unknown, that fact must be alleged. One person may be convicted, without the others.
R.S., c. 123, § 3.

PRIZE FIGHTS AND FIGHTS OF GAME ANIMALS.

SEC. 4. Any person who[-ever] shall instigate[s], or in any way be instrumental [aids] in getting up, or acts as umpire or judge, or is in any way connected with or participant [participates] in any prize fight or any premeditated fight between two persons, or any fight between game birds or game cocks, or dogs or bulls, or between dogs and rats or any other animals, that shall have been premeditated by any person having custody of such animals, shall upon conviction thereof be punished by imprisonment in the county jail for a term not less than ten days nor exceeding [more than] six months, or by fine not exceeding two hundred dollars. Participation in prize fights, or premeditated conflicts between men or animals, penalty for.
1873, c. 146, § 1.

CHAP. 123.

Complaint,
warrant and
proceedings
to prevent,
as well as to
punish same.
1873, c. 146, §2.

SEC. 5. If any person competent to *be a witness* [testify] in civil suits shall make complaint *upon oath or affirmation* before any judge of any municipal or police court or trial justice, that an offence *within any of the specifications of* [specified in] the foregoing section is about to be committed, *and setting forth in such complaint the grounds thereof*, [of his belief] such magistrate may issue his warrant directed to any [competent] officer *having power to serve criminal processes*, therein reciting the name of the complainant and his residence and the substance of his complaint, and *therein directing such officer to prevent the violation of any of the provisions of said section*, by arresting any person or persons whom he may find willfully violating *any provisions of said section* [the same], and *in case of any such arrest* [bringing] the respondents *shall be returned* before the judge or trial justice [such magistrate] *issuing said warrant*, for trial.

Combina-
tions of em-
ployes to
stop or de-
lay trains, or
injure prop-
erty of rail-
roads, how
punished.
1880, c. 200, §1.

SEC. 6. Any employe of a railroad corporation who, in pursuance of an agreement or combination by two or more persons to do, or procure to be done, any act in contemplation or furtherance of a dispute between such corporation and its employes, *shall*, unlawfully or in violation of his duty or contract, stop[s] or unnecessarily delay[s] or abandon[s], or in any way injure[s] a locomotive or any car or train of cars on the railway track of such corporation, or in any way hinder[s] or obstruct[s] the use of any [such] locomotive, car or train of cars *on the railroad of such corporation*, shall, *upon conviction*, be liable to a fine not exceeding five hundred dollars, or imprisonment in the state prison or in the county jail not exceeding one year.

Malicious
obstruction
of any engine
or car, or
abandon-
ment of
same on
railway, etc.,
how pun-
ished.
1880, c. 200, §2.

SEC. 7. Whosoever, by any unlawful act, or by any willful omission or neglect, *shall* obstruct[s] or cause[s] to be obstructed any engine or carriage on any railway, or *shall* aid[s] or assist[s] therein; or whosoever, having charge of any *engine* [locomotive] or carriage while upon or in use on any railway of any railroad corporation, *shall* willfully stop[s], leave[s] or abandon[s] the same, or render[s], or aid[s] or assist[s] in rendering the same unfit for or incapable of immediate use, with intent thereby to hinder, delay, or in any manner to obstruct or injure the management and operation of any railroad, or the business of any corporation operating or owning the same, or of any other corporation or person, *or* [and] whoever *shall* aid[s] or assist[s] therein, shall *upon conviction*, be liable to a fine not exceeding one thousand dollars, or imprisonment in the state prison or in the county jail not exceeding two years.

Gross care-
lessness and
neglect or
malicious
delay in
management

SEC. 8. Whoever, having any management of, or any control either alone or with others over, any railroad locomotive, car or train, while being used for the carriage of persons or property, or at any time is guilty of gross carelessness or neglect on, or in

relation to, the management or control of the same; or *shall* maliciously stop[s] or delay[s] the same, in violation of the rules and regulations then in force for the operation *and running* of the same; or *shall* abstract[s] therefrom the tools or appliances pertaining thereto, with intent thereby maliciously to delay the same, shall, *upon conviction*, be liable to a fine not exceeding one thousand dollars, or imprisonment in the state prison or in the county jail not exceeding three years.

CHAP. 123.
or control of
railroads,
how pun-
ished.
1880, c. 200, §3.

SEC. 9. Any person who, alone, or in pursuance or furtherance of any agreement or combination with others, to do, or procure to be done, any act in contemplation or furtherance of a dispute or controversy between a gas, telegraph, or railroad corporation and its employes or workmen, *shall* wrongfully and without legal authority, use[s] violence towards, or intimidate[s] any person, in any way or by any means, with intent thereby to compel such person against his will to do, or abstain from doing, any act which such person has a legal right to do or abstain from doing; or *shall*, on the premises of such corporation, induce[s], or endeavor[s] or attempt[s] to induce, such person to leave the employ[-ment] and service of such corporation by bribery, or in any manner or by any means, with intent thereby to further the objects of such combination or agreement; or *shall* in any way interfere[s] with such person while in the performance of his duty; or *shall* threaten[s] or persistently follow[s] such person in a disorderly manner, or injure[s] or threaten[s] to injure his property with [either of] said intents, *or either of them*, shall, *upon conviction*, be liable to a fine not exceeding three hundred dollars, or imprisonment *in the county jail* not exceeding three months.

Violence or
intimidation
in
furtherance
of any com-
bination to
promote a
controversy
between any
gas, tele-
graph or
railroad
company
and its work-
men, how
punished.
1880, c. 200, §4.

SEC. 10. Any person in the employ[-ment] of a railroad corporation, who *shall*, in furtherance of the interests of either party to a dispute between another railroad corporation and its employes, refuse[s] to aid in moving the cars of such other corporation, or trains in whole or in part made up of the cars of such other corporation, over the tracks of the corporation employing him; or refuse[s] to aid in loading or discharging such cars, in violation of his duty as such employe, shall, *upon conviction*, be liable to a fine not exceeding five hundred dollars, or imprisonment in the state prison or in the county jail not exceeding one year.

Unlawful
refusal of
railroad
employes
to perform
duty, how
punished.
1880, c. 200, §5.

SUPPRESSION OF MOBS BY OFFICERS AND ARMED FORCE.

SEC. 11. When twelve or more persons, any of them armed with clubs or dangerous weapons, or thirty or more, armed or unarmed, are unlawfully, riotously, or tumultuously assembled in any town, it shall be the duty of each of the municipal officers, constables, and justices of the peace thereof, and of the sheriff of

Duty of
magistrate
and officers
to disperse
unlawful as-
sembly, &c.
R.S., c. 123, §4.

CHAP. 123. the county and his deputies, to go among the persons so assembled, or as near to them as they can safely go, and in the name of the state, command them immediately and peaceably to disperse; and if they do not obey, such magistrates and officers shall command the assistance of all persons present, in arresting and securing the persons so unlawfully assembled; and every person refusing to disperse, or to assist as aforesaid, shall be deemed one of such unlawful assembly, and punished by a fine not exceeding five hundred dollars, and imprisonment less than one year; and each such magistrate or other officer, having notice of such unlawful assembly in his town, and refusing or neglecting to do his duty in relation thereto as aforesaid, shall be punished by a fine not exceeding three hundred dollars.

When
rioters re-
fuse to dis-
perse, &c.
R.S., c. 123, § 5.

SEC. 12. When persons, so riotously or unlawfully assembled, neglect or refuse, on command as aforesaid, to disperse without unnecessary delay, any two of the magistrates, or officers aforesaid, may require the aid of a sufficient number of persons in arms or otherwise, and [may] proceed in such manner as they judge expedient, to suppress such riotous assembly, and [to] arrest and secure the persons composing it; and when an armed force is thus called out they shall obey the orders for suppressing such assembly and arresting and securing the persons composing it, which they receive from the governor, any judge of a court of record, the sheriff of the county, or any two of the magistrates or officers mentioned in section eleven.

If any per-
son is killed
or wounded,
officers held
guiltless, &c.
R.S., c. 123, § 6.

SEC. 13. If, in the efforts made as aforesaid to suppress such assembly, and to arrest and secure the persons composing it who refuse to disperse, though the number remaining is less than twelve, any such persons, or any persons present as spectators or otherwise, are killed or wounded, said magistrates, officers, and persons acting with them by their order, shall be held guiltless and justified in law; if any of said magistrates, officers, or persons thus acting with them, are killed or wounded, all persons so unlawfully or riotously assembled, and all other persons who refused, when required, to aid such magistrates and officers, shall be *held* answerable therefor.

PUNISHMENT AND REMEDY FOR INJURIES BY MOBS.

Punishment
for pulling
down
houses, or
premedita-
ted personal
injuries.
R.S., c. 123, § 7.
63 Me., 48.

SEC. 14. If any persons, thus unlawfully and riotously assembled, pull down, or begin to pull down, or destroy any dwelling-house, building, ship or vessel; or perpetrate any premeditated injury, not a felony, on any person, each shall be punished by imprisonment not more than five years, or by fine not exceeding five hundred dollars; and shall also be answerable to any person

injured, in an action of trespass, to the full amount of damages by him sustained. CHAP. 124.

SEC. 15. When the injury to any property as described in section seven amounts to fifty dollars or more, the town where such property is situated shall indemnify the owner thereof for three fourths of the value of such injury, to be recovered in an action on the case, if he uses all reasonable diligence to prevent such injuries, and to procure the conviction of the offenders; and the town paying such sum may recover it in an action on the case against the persons doing the injury.

Liability of towns for injury by mobs, &c.
R.S., c. 123, §8.
63 Me., 48.
65 Me., 429,
438.

INSURRECTION AND INVASION.

SEC. 16. When an insurrection exists *in this state* to obstruct the course of justice, or the due execution of the laws, the governor is empowered to detach and call into actual service such part of the militia, as in his opinion is adequate to suppress the same.

Governor may call out militia to suppress insurrection.
R.S., c. 123, §9.

SEC. 17. When the governor and council deem it necessary to protect the coast of the state from invasion, they may procure, equip, officer and man, such armed vessels as they think expedient, to cruise along the coast of the state, for the purpose of protecting the inhabitants thereof; and fix the relative rank and compensation of the officers, and the number and compensation of seamen employed.

Governor and council may employ armed vessels to protect the coast of the state.
R. S., c. 123,
§ 10.

CHAPTER 124.

OFFENCES AGAINST CHASTITY, MORALITY AND DECENCY.

ADULTERY, INCEST, POLYGAMY, GROSS LEWDNESS AND FORNICATION.

- SEC. 1. Adultery.
 2. Incest.
 3. Crime against nature.
 4. Polygamy, its punishment, and where tried.
 5. Lascivious cohabitation and open and gross lewdness. Indecent exposure.
 6. Fornication.

CONCEALMENT OF BIRTHS AND PROCURING ABORTIONS.

- SEC. 7. Concealment by the mother, of the birth of illegitimate issue, punishment for, and how she may be indicted therefor as well as for murder.
 8. Punishment for procuring or attempting to procure abortion.

CHAP. 124.

HOUSES OF ILL-FAME.

- SEC. 9. Keeping houses of ill-fame.
 10. Enticing females to houses of ill-fame.
 11. Warrants to search for females supposed to be so enticed.
 12. Lease of tenant convicted of keeping such house void at option of landlord.

OBSCENE BOOKS AND PICTURES.

- SEC. 13. Punishment for making or circulating obscene books and pictures.
 14. Warrants to search for the same.

BLASPHEMY AND PROFANITY.

- SEC. 15. Blasphemy.
 16. Profanity.

DISTURBANCE OF RELIGIOUS MEETINGS, AND OBSERVANCE OF THE
LORD'S DAY.

- SEC. 17. Rude behavior in house of worship, disturbance of religious meetings, selling articles within a mile thereof, and refusing to leave or conform to the established rules of such meeting.
 18. Special police to preserve the peace at camp meetings, how appointed, and powers of. Presiding officer or committee of arrangements may appoint a person to keep boarders and sell refreshments.
 19. Offenders shall be arrested and detained by magistrates and officers until a warrant can be procured, and all persons present shall assist in so doing.
 20. Business, travelling and recreation, prohibited on the Lord's Day.
 21. Innholders and victualers are not to allow persons to abide or play any games or amusements about their premises on Sunday, or evening preceding or following. Penalty for so doing.
 22. The Lord's Day. Time of its continuance.
 23. Persons conscientiously observing the seventh day excepted.
 24. Tythingmen to prosecute for these offences.

DISTURBANCE OF PUBLIC MEETINGS AND LAWFUL ASSEMBLIES.

- SEC. 25. Disturbers of public meetings and lawful assemblies, how punished.

PROTECTION OF DEAD BODIES IN GRAVES.

- SEC. 26. Punishment for an officer taking the body of a deceased person.
 27. Unauthorized disinterment or improper exposure or abandonment of dead bodies, not including bodies lawfully in the hands of surgeons and physicians.
 28. Injury to monuments and places of burial.

CRUELTY TO ANIMALS.

- SEC. 29. Cruelty to animals, punishment for.
 30. Prevention of same by officer or agent of society therefor.
 31. Fatally diseased or injured animals may be destroyed if found abandoned.
 32. Animals, vehicles, &c., in charge of persons arrested, how cared for.
 33. Proceedings in case of violation of three preceding sections.
 34. Words and terms defined.
 35. Railroad companies transporting animals, shall allow them food and rest.
 36. Lien of railroad companies on animals for care and food.
 37. Penalty for violation of section thirty-five.
 38. Abandoned animals may be provided for at owner's expense.
 39. Lien how enforced.
 40. Duty of officers to prosecute for violations.
 41. Jurisdiction of courts and trial justices.

ADULTERY, INCEST, POLYGAMY, GROSS LEWDNESS, AND
FORNICATION.

CHAP. 124.

SEC. 1. Whoever commits adultery shall be punished by imprisonment not more than five years, or by fine not exceeding one thousand dollars; and when only one of the parties is married, *and* [or] when they have been legally divorced from the bonds of matrimony, and afterwards cohabit, each shall be deemed guilty of adultery. (a)

Adultery.
1879, c. 85.

Cohabitation after a divorce.

—adultery.

SEC. 2. When persons within the degrees of consanguinity or affinity in which marriages are declared incestuous and void, intermarry or commit fornication or adultery with each other, they shall be punished by imprisonment not less than one, nor more than ten years.

Incest.
R.S., c. 124, § 2.

SEC. 3. Whoever commits the crime against nature, with mankind or with a beast, shall be punished by imprisonment not less than one, nor more than ten years.

Crime against nature.
R.S., c. 124, § 3.

SEC. 4. If any person, except one legally divorced *on his or her own petition*,* or one whose husband or wife has been continually absent for seven years and not known to him or her to be living within that time, having a husband or wife living, marries another married or single person; or if any unmarried person knowingly marries the husband or wife of another, when such husband or wife is thereby guilty of polygamy, he [or she] shall be deemed guilty of polygamy and punished by imprisonment not more than five years, or by fine not exceeding five hundred dollars; and the indictment for such offence may be found and tried in the county where the offender resides, or where he [or she] is apprehended.

Polygamy, its punishment, and where tried.
R.S., c. 124, § 4.
6 Me., 149.

SEC. 5. If any man and woman, one or both being at the time married to another person, lewdly and lasciviously cohabit; or, married or unmarried, are guilty of open, gross lewdness and lascivious behavior, they shall each be punished by imprisonment not more than five years, or by fine not exceeding three hundred dollars; and whoever wantonly and indecently exposes his person shall be punished by imprisonment not more than thirty days, and by fine not exceeding ten dollars.

Lascivious cohabitation and lewdness.
1873, c. 104.
7 Me., 53.

Indecent exposure, penalty for.

SEC. 6. If an unmarried man commits fornication with an unmarried woman, they shall be punished by imprisonment not more than sixty days, and by fine not exceeding one hundred dollars.

Fornication.
R.S., c. 124, § 6.

CONCEALMENT OF BIRTHS AND PROCURING ABORTIONS.

SEC. 7. If any woman is willingly delivered in secret of the issue of her body, which would be a bastard if born alive, and con-

Concealment by the mother of

(a) 8 Me., 76; 11 Me., 394; 19 Me., 156; 35 Me., 206; 36 Me., 263; 43 Me., 261; 44 Me., 478.

* [NOTE. In case of divorce, *either party* may lawfully marry again. See c. 60, § 2. For this suggestion the commissioner is indebted to Hon. Charles C. Wing, of Auburn.]

CHAP. 124.

the death of
illegitimate
issue, how
indicted, &c.
R.S., c. 124, § 7.
57 Me., 31.

conceals the death thereof, so that it is not known whether it was born dead, or alive and was murdered, she shall be punished by imprisonment not more than three years, or by fine not exceeding one hundred dollars; and she may be charged with such offence, and also with [the] murder of such child, in the same indictment, and convicted and punished for either, according to the verdict of the jury.

Punishment
for procur-
ing or at-
tempting to
procure
abortion.
R.S., c. 124, § 8.
32 Me., 374.
33 Me., 58.

SEC. 8. Whoever administers to any woman pregnant with child, whether such child is quick or not, any medicine, drug, or other substances, or uses any instrument or other means, unless the same were done as necessary for the preservation of the mother's life, shall be punished, if done with intent to destroy such child and thereby it was destroyed before birth, by imprisonment not more than five years, or by fine not exceeding one thousand dollars; if done with intent to procure the miscarriage of such woman, by imprisonment less than one year, and by fine not exceeding one thousand dollars.

HOUSES OF ILL-FAME.

Keeping
houses of
ill-fame.
R.S., c. 124, § 9.

SEC. 9. Whoever keeps a house of ill-fame, resorted to for the purpose of prostitution or lewdness, shall be punished by imprisonment less than one year, and by fine not exceeding five hundred dollars; and if after conviction he is again guilty and convicted, he shall be punished by imprisonment not less than one, nor more than three years. The municipal officers and constables of towns and cities, and assessors of plantations, are required promptly to enforce the laws of *the state* against such houses, and to make complaint against any person within their respective municipalities, where there is probable cause to believe such person guilty of a violation of this section. A person, convicted of keeping such a house, before a municipal or police court or trial justice, may be sentenced to the house of correction or county jail not exceeding one month. And such person shall not be allowed to keep boarders or lodgers without a license from the overseers of the poor of the town, who shall prosecute for such offence, all whom they have good reason to suspect to be guilty.

Enticing
unmarried
females for
purposes of
prostitution.
R. S., c. 124,
§ 10.

SEC. 10. Whoever fraudulently and deceitfully entices or takes away an unmarried female from her father's house, or wherever else she may be found, for the purpose of prostitution at a house of ill-fame, assignation or elsewhere, and whoever aids therein, or secretes such female for such purposes; or whoever inveigles or entices any female, before reputed virtuous, to a house of ill-fame, or knowingly conceals or aids in concealing any such female, so enticed, for the purpose of prostitution or lewdness, shall be punished by imprisonment not less than one nor more than ten years.

SEC. 11. When any overseer of the poor, police officer, constable, parent, master, or guardian, has reason to believe that any female has been inveigled or enticed to a house of ill-fame as aforesaid, he may complain on oath to a [competent] magistrate *authorized to issue warrants, and he* [who] may issue his search warrant as in other cases, to enter such house by day or night, search for such female, and bring her and the person in whose keeping she is found, before him, and he may order her to be delivered to the complainant or discharged, as law and justice require.

CHAP. 124.
Warrants to search for females supposed to be so enticed.
R. S., c. 124, § 11.

SEC. 12. When the tenant of a dwelling-house is convicted of keeping it as a house of ill-fame, the lease or contract by which he occupies it may, at the option of the landlord, be deemed void, and he shall have the same remedy to recover possession as against a tenant holding over after his term expires.

Lease of tenant of house of ill-fame void at option of landlord.
R. S., c. 124, § 12.

OBSCENE BOOKS AND PICTURES.

SEC. 13. Whoever imports, prints, publishes, sells, exhibits or distributes any book, pamphlet, ballad or printed paper, containing obscene language, prints, pictures, or descriptions, manifestly tending to corrupt the morals of youth; or procures, receives, or has any of them in his possession with intent to sell, exhibit, or circulate them, shall be punished by imprisonment less than one year, or by fine not exceeding five hundred dollars.

Punishment for making or circulating obscene books and pictures.
R. S., c. 124, § 13.
See c. 11, § 117.

SEC. 14. A warrant to search for such articles may be issued by any trial justice like other search warrants, and when any of them are found by the officer serving it, they shall be brought before the justice, and kept by him or the officer, to be used as evidence in any case that may arise concerning them or any person connected therewith; and on conviction of any such offender, said articles shall be destroyed by order of the court trying the case.

Warrants to search for the same.
R. S., c. 124, § 14.

BLASPHEMY AND PROFANITY.

SEC. 15. Whoever blasphemes the holy name of God by denying, cursing, or contumeliously reproaching God, his creation, government, final judgment of the world, Jesus Christ, the Holy Ghost, or the Holy Scriptures as contained in the canonical books of the Old or New Testament, or by exposing them to contempt and ridicule, shall be punished by imprisonment not more than two years, or by fine not exceeding two hundred dollars.

Blasphemy.
R. S., c. 124, § 15.

SEC. 16. Whoever, being of years of discretion, profanely curses or swears, on complaint made within twenty days thereafter, shall be punished by fine not exceeding two dollars; and if, after conviction, he is again guilty, by fine not exceeding five dollars.

Profanity.
R. S., c. 124, § 16.

CHAP. 124. DISTURBANCE OF RELIGIOUS MEETINGS AND OBSERVANCE OF
THE LORD'S DAY.

Rude behavior in house of worship, &c.
R. S., c. 124,
§ 17.

SEC. 17. Whoever, on the Lord's Day or [at] any other time, behaves rudely or indecently within the walls of any house of public worship; willfully interrupts or disturbs any assembly of persons for religious worship within the place of such assembly or out of it; sells or exposes to sale within one mile thereof and during the time of their meeting, any intoxicating liquors, refreshments, or merchandise, except in his usual course and place of business; exhibits any shows or plays; engages or aids in any horse race, gaming, or other sports, to the disturbance of such assembly; or, coming within their neighborhood, refuses, on request, either immediately and peaceably to retire beyond their hearing, or to conform to the established regulations of the meeting, shall be punished by imprisonment not more than thirty days, and by fine not exceeding ten dollars.

Special police at camp-meetings, how appointed.
1878, c. 3.

SEC. 18. On application of the presiding elder, officers or preachers in charge, or tent masters, of a religious or temperance camp-meeting in any town, the municipal officers thereof shall appoint, in writing, signed by a majority of them, one or more police officers to preserve the peace during such meeting, who may arrest any person violating any provision of the preceding section, detain him until a warrant can be issued, and execute such warrant when directed to them; and the presiding officer or committee of arrangements of any such religious assembly or meeting may appoint some suitable person to keep boarders and sell refreshments at such meetings, who shall conform therein to such regulations as the officers appointing them prescribe.

—presiding officer, or committee may appoint person to keep boarders, &c.

Offenders shall be arrested by officers, &c.
R. S., c. 124,
§ 19.

SEC. 19. Every justice of the peace, sheriff, deputy sheriff, constable, grand juror, and tythingman, present at any such religious assembly disturbed as aforesaid, shall arrest or cause to be arrested every such offender, and detain him until the close of such assembly, or until he can be taken before a magistrate; and all persons present at such assembly, on request, shall assist said officers in the execution of their duty, under the same penalties for neglect or refusal that are provided for neglecting or refusing to aid officers in other cases.

Business, travelling and recreation prohibited on the Lord's day.
R. S., c. 124,
§ 20.

SEC. 20. Whoever, on the Lord's day, keeps open his shop, workhouse, warehouse, or place of business, travels, or does any work, labor, or business on that day, except works of necessity or charity; uses any sport, game, or recreation; or is present at any dancing, public diversion, show, or entertainment,

encouraging the same, shall be punished by a fine not exceeding ten dollars. (a) CHAP. 124.

SEC. 21. If any innholder or victualer, on the Lord's day, suffers any persons, except travellers, strangers, or lodgers, to abide in his house, yard, or field, drinking or spending their time idly, at play or doing any secular business, except works of charity or necessity, [he] shall be punished by fine not exceeding four dollars for each person thus suffered to abide; and if after conviction he is again guilty, by fine not exceeding ten dollars for each offence; and upon a third conviction, he shall also be incapable of holding any license; and every person so abiding shall be punished by a fine not exceeding four dollars for each offence.

Innholders and victualers not to allow gambling, &c., on the Lord's day.
R. S., c. 124, § 21.
65 Me., 38, 39.

SEC. 22. The Lord's day shall be and include the time between twelve o'clock Saturday night and twelve o'clock Sunday night.

Duration of Lord's day.
R. S., c. 124, § 22.

SEC. 23. No person conscientiously believing that the seventh day of the week ought to be observed as the sabbath, and actually refraining from secular business and labor on that day, shall be liable to said penalties for doing such business or labor on the first day of the week, if he does not disturb other persons.

Persons conscientiously observing seventh day, excepted.
R. S., c. 124, § 23.

SEC. 24. Tythingmen, or any other persons may prosecute for all offences described in sections seventeen, twenty and twenty-one, at any time within six months after the commission thereof, *in any competent court.*

Tythingmen to prosecute for offences.
R. S., c. 124, § 24.

DISTURBANCE OF PUBLIC MEETINGS AND LAWFUL ASSEMBLIES.

SEC. 25. Whoever by rude and indecent behavior, or in any way willfully and unlawfully, disturbs or interrupts any public meeting, or any assembly lawfully gathered in any hall or other place of meeting, or creates any disturbance in any hall, walk or corridor adjacent or leading to the room where such meeting or assembly is held, shall be punished by imprisonment not more than thirty days, or by a fine of not less than five nor more than ten dollars, or both, at the discretion of the court.

Disturbance of public meetings and lawful assemblies, how punished.
1873, c. 113.
1879, c. 101.

PROTECTION OF DEAD BODIES AND GRAVES.

SEC. 26. If any officer takes the body of any deceased person by writ or execution, he shall be punished by fine not exceeding five hundred dollars, and by imprisonment not more than six months.

Arrest of dead body forbidden.
R. S., c. 124, § 25.

SEC. 27. Whoever, without the permission of the board of health, municipal officers, or overseers of the poor of any town, therein willfully digs up or removes any human body or its remains

Disinterment, exposure, or abandonment of dead

(a) 26 Me., 466; 28 Me., 334; 33 Me., 540; 34 Me., 392; 35 Me., 144; 36 Me., 475; 39 Me., 197; 42 Me., 92; 44 Me., 26; 46 Me., 521; 48 Me., 202; 49 Me., 432; 50 Me., 84; 55 Me., 557; 56 Me., 101; 57 Me., 424; 65 Me., 37-39; 69 Me., 117; 71 Me., 239.

CHAP. 124.

bodies, &c.
R. S., c. 124,
§ 26.

—proviso.

Injury to
monuments
and places
of burial.
R. S., c. 124,
§ 27.

from its place of burial, or aids in so doing ; knowingly receives, conceals, or disposes of the same, or unnecessarily and indecently exposes, throws away, or abandons any human body or its remains in any public place, river, stream, or elsewhere, shall be punished by imprisonment not less than one, nor more than five years, or by fine not exceeding three thousand dollars ; but any physician, surgeon, or medical student, may have in his possession or use human bodies or parts thereof lawfully obtained, for anatomical or physiological investigation and instruction.

SEC. 28. Whoever willfully destroys or injures any tomb, gravestone, monument, or other thing placed or designed as a memorial of the dead, or any fence, railing, or other thing placed about or inclosing the burial place of the dead ; or willfully injures, removes, or destroys, any tree, shrub, or plant, within such inclosure, shall be punished by imprisonment less than one year, or by fine not exceeding five hundred dollars.

CRUELTY TO ANIMALS.

Penalty for
cruelty to
animals.
R. S., c. 124,
§ 28.

SEC. 29. Every person who overdrives, overloads, overworks, torments, tortures, deprives of necessary sustenance, cruelly beats, mutilates or kills any horse or other animal, or causes or procures the same to be done, or having the charge or custody of any such animal, as owner or otherwise, unnecessarily fails to provide such animal with proper food, drink and shelter or protection from the weather ; every person owning or having the charge or custody of any animal, who shall knowingly and willfully authorize or permit the same to be subjected to or suffer any unnecessary torture or cruelty ; and every owner, driver, possessor or person having the custody of an old, maimed, *or* disabled, or diseased horse, or other animal, who cruelly works the same when unfit for labor, or cruelly abandons the same ; and every person who *shall carry* [carries] or cause[s] to be carried in or upon any vehicle or otherwise, any animal in an unnecessarily cruel or inhuman manner, shall, for every such offence, be punished by imprisonment in the jail not exceeding one year, or by fine not exceeding two hundred dollars, or by both *such fine and imprisonment*.

Cruelty to
animals pre-
vention of
by officer
of society.
1875, c. 30, § 1.

SEC. 30. Any officer or agent of *the* [any] society for the prevention of cruelty to animals may lawfully interfere to prevent the perpetration of any act of cruelty upon any animal in his presence, and any person who *shall* interfere[s] with or obstruct[s] any such officer or agent in the discharge of his duty, *shall be* [is] guilty of a misdemeanor.

Totally
diseased or
injured
animals, may
be destroyed,

SEC. 31. Any [such] officer or agent of *said society* may lawfully destroy, or cause to be destroyed, any animal found abandoned and not properly cared for, appearing, in the judgment of two

reputable persons called by him to view the same in his presence, to be glandered, injured, or diseased past recovery for any useful purpose.

SEC. 32. When any person, arrested [for any cause,] is, at the time of such arrest, in charge of any vehicle drawn by or containing any animal, said officer or agent *of said society* may take charge of such animal and of such vehicle and its contents, and deposit the same in a safe place of custody, or deliver *the same* [them] into the possession of the sheriff of the county or police of the place wherein such arrest was made, who shall thereupon assume the custody thereof.

SEC. 33. Upon complaint, under oath or affirmation, to any [competent] magistrate *authorized to issue warrants in criminal cases*, that the complainant has just and reasonable cause to suspect that any of the provisions of law relating to or in any wise affecting the three preceding sections, are being [violated] or about to be violated in any particular building or place, such magistrate shall immediately issue and deliver a warrant to any person authorized by law to make arrests for such offences, authorizing him to enter and search such building or place, and to arrest any *person or persons* there present found violating any of said laws, and to take *such person or persons* [them] before a [competent] magistrate, *of competent jurisdiction*, to be dealt with according to law.

SEC. 34. In every law relating to or affecting animals, *the singular shall include the plural* ;* the words "animal," or "dumb animal," *shall be held to include every living creature* ; the words "torture," "torment," or "cruelty," *shall be held to include every act, omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted* ; and the words "owner" and "person" *shall be held to include corporations as well as individuals* ; but nothing in the four preceding sections shall be construed *as prohibiting* [to prohibit] the shooting of birds for *the purpose of human food*.

SEC. 35. No railroad company *in this state* while transporting cattle, sheep, swine or other animals, shall confine the same in cars for more than twenty-eight consecutive hours, unless delayed by storm or accidental cause, without unloading for rest, water, and feeding, for at least five consecutive hours. In estimating such period of confinement, the time [during which] the animals have been confined without such rest, on connecting roads from which they are received, shall be included. When so unloaded, they shall be properly fed, watered, and sheltered during such rest, by the owners or persons in custody thereof, and in case of their default, then by the railroad company transporting them, at the expense of said owners or persons in custody of the same.

* [NOTE. See c. 1, § 4, rule II, which contains the same provision.]

CHAP. 124.

if found abandoned.
1875, c. 36, § 2.
See c. 14, § 37.
Animals and vehicles, &c., in charge of persons arrested, how cared for.
1875, c. 36, § 3.

Violation of three preceding sections, proceedings in case of.
1875, c. 36, § 4.

Words and terms, meaning of.
1875, c. 36, § 5.

Railroad companies transporting animals, shall allow them rest.
—company to feed them if owners do not.
R. S., c. 124, § 29.

CHAP. 124.

Railroad companies to have a lien on animals for care and food.
R. S., c. 124, § 30.

Penalty for violation.
R. S., c. 124, § 31.

Abandoned animals may be provided for at owner's expense.
R. S., c. 124, § 32.

Lien, how enforced.
R. S., c. 124, § 33.

Duty of officers to prosecute for violations.
R. S., c. 124, § 34.

Jurisdiction of courts and trial justices.
R. S., c. 124, § 35.

SEC. 36. If any owner or person in charge of said animals refuses or neglects to pay for the care and feed of animals so rested, the railroad company may charge such expense to the owner or consignee, and retain a lien upon the animals until the same is paid; and no claim for damages for detention shall be recovered by the owner or *shipper* [forwarder,] of any animals for the time they are detained under the provisions of this section.

SEC. 37. Any railroad company, owner, consignee, or person in charge of such cattle, sheep, or other animals, who *shall* violate[s] any provisions of section thirty-five, shall, for every such violation forfeit *and pay a penalty of* one hundred dollars.

SEC. 38. Any person may take charge of any animal whose owner has abandoned it, or *is failing* [fails] properly to take care [of] and provide for it, and may furnish the same with proper shelter, nourishment, and care at the owner's expense, and shall have a lien on such animal for the same.

SEC. 39. In all cases where a lien is given under sections thirty-six and thirty-eight, the persons or corporations having such lien, may sell such *animal or* animals at public auction, in the town or city where *such animal was* [the same were] found or *is* [are] detained, after giving the party claiming or owning the same three days' notice in writing; or in case such party cannot be found, then by publishing notice of the time and place of sale three times in any newspaper printed in the county *where such animal was found or detained*; and [after deducting] from the proceeds of such sale, *may deduct* all costs, charges and expenses, and a reasonable compensation for trouble in the matter, *and* [they shall] hold the balance, if any, for, and on demand, [shall] pay over the same, to the *party or* parties owning *the said animal or* animals, or *his or* their legal representatives.

SEC. 40. It shall be the duty of all sheriffs, deputy sheriffs, police officers and constables, to prosecute all violations of *the provisions of* sections twenty-nine and thirty-five, which shall come to their notice or knowledge; and all fines collected for each violation shall be paid over to the treasurer of the city or town where the offence for which the fine is imposed, was committed; and in case a society for the prevention of cruelty to animals, *should be* [is] formed in such city or town, then such fines shall inure and be paid over to such society, *in aid of the benevolent objects for which it shall have been formed*.

SEC. 41. *The* municipal and police courts and trial justices *in this state shall* have concurrent jurisdiction with the supreme judicial court of all offences described in sections twenty-nine and thirty-five.

CHAPTER 125.

GAMBLING.

- SEC. 1. Punishment for keeping a gambling house or suffering persons to gamble in the same.
2. Penalty for gambling.
3. Penalty for winning more than three dollars at one time.

POOL SELLING.

- SEC. 4. Pool selling, how punished.

GAMBLING IN RAILROAD CARS, OR ON STEAMBOATS.

- SEC. 5. Gambling in railroad cars or on steamboats, how punished.
6. Railroad gamblers to be arrested and detained by conductor.
7. Copy of sections five and six to be posted in cars and steamboats. Penalty for neglect.

RECOVERY OF MONEY LOST BY GAMBLING.

- SEC. 8. Loser may recover of winner money lost by gambling within three months; otherwise any other person may recover three times the amount so lost. The execution shall show for what the judgment was rendered, and debtor to be imprisoned three months in default of payment.
9. *Loser when he is plaintiff may be a witness, and the winner also.*

SECURITIES GIVEN FOR GAMBLING DEBTS, VOID.

- SEC. 10. All securities given for gambling debts, void, except in the hands of bona fide purchasers or holders without notice.

SEARCH FOR IMPLEMENTS OF GAMBLING.

- SEC. 11. Trial justices may issue warrants to search for implements of gambling and to arrest the keeper of the place where they are found.
12. Gambling tools and other implements how disposed of.

GAMBLING.

- SEC. 1. If any person or corporation keeps a house, shop, or other place resorted to for the purpose of gambling; or permits any person to gamble in any way in any house, shop, or place under his care and control, such offender shall be punished by fine not less than twenty, nor more than one hundred dollars, to the use of the prosecutor; and the municipal officers and constables of towns and cities, and assessors of plantations, are required promptly to enforce the laws of the state against gambling rooms, and to make complaint against any person or corporation in their respective municipalities, when there is probable cause to believe such person or corporation [to be] guilty of a violation of the provisions of this section.

Punishment for keeping a gambling house, &c.
R.S., c. 125, § 1.
15 Me., 237.
23 Me., 44.

- SEC. 2. Whoever gambles, or bets on any person gambling, shall be *punished by fine*[d] not less than one, nor more than

Penalty for gambling.
R.S., c. 125, § 2.

CHAP. 125. twenty dollars, to be recovered by complaint or indictment to the use of the prosecutor.

Penalty for winning more than three dollars at one time.
R.S., c. 125, § 3.
63 Me., 11.

SEC. 3. Whoever is convicted, by indictment found within six months, of winning, at one time or sitting, by gambling, or betting on persons gambling, any money or goods of the value of three dollars or more, and of receiving or taking security therefor, shall forfeit, to the use of the town where the offence is committed, double the value of the property so won and received.

POOL SELLING.

Pool selling, punishment for engaging in.
1877, c. 176, § 1.

SEC. 4. Any person engaging in or having anything to do with pool selling shall, *upon conviction*, be punished by imprisonment in the state prison *for a term not greater* [not more] than two years, and [by] a fine [of] not more than two thousand dollars, or both *fine and imprisonment*.

GAMBLING IN RAILROAD CARS, OR ON STEAMBOATS.

Gambling on railroads and steamboats, how punished.
1874, c. 158, § 1.

SEC. 5. Whoever *within the State of Maine*, upon any railroad train or in any railroad car, or upon any steamboat, gambles, or bets upon any person gambling, shall be punished by fine not less than one hundred dollars, or by imprisonment not less than three months, or both, at the discretion of the court.

Gamblers on railroads to be arrested by conductor.
1874, c. 158, § 2.

SEC. 6. Every conductor or *any* other person having charge of *any* railroad train, is *authorized and* required to arrest *or cause to be arrested any person or* [all] persons gambling on his train, and [to] *retain* [detain] them in his custody *till* [until] a warrant can be procured from the proper authorities, and *is empowered to call upon and* [he may] employ all necessary aids *to make such arrests and detain the accused*.

Copy of sections five and six to be posted in cars and on steamboats.
1874, c. 158, § 3.

SEC. 7. A copy of sections five and six shall be conspicuously posted in every saloon and palace car used on *any* [every] railroad *in this state*, and in every steamboat *doing any business in this state*. Any railroad *company*, [or] steamboat company, or the proprietors of any steamboat, refusing or neglecting to comply with this requirement, shall forfeit for each offence *the sum of* one hundred dollars, to be recovered by indictment in any county in which said railroad company runs trains or the steamboat does business.

Penalty for neglect.
1874, c. 158, § 4.

RECOVERY OF MONEY LOST BY GAMBLING.

Loser by gambling or betting may recover of winner, money or goods lost.
1877, c. 159.
18 Me., 339.
19 Me., 336.
21 Me., 28.

SEC. 8. Whoever, by gambling, or betting on persons gambling, loses to any person so gambling or betting, any money or goods, and pays or delivers any part thereof, may sue for and recover the same of the winner, in an action on the case, brought within three months thereafter; and if the loser does not, without covin or collusion, within said time prosecute therefore with effect, any other person may sue for and recover of the winner treble the

value of the same in such action, one half to his own use, and the other half to the use of the town ; and all executions issued on judgment[s], in favor of the loser, or in favor of a third person, as above mentioned, shall show that the judgment was rendered against the defendant for or on account of money won at gambling, and shall order the defendant to be committed to jail for *the space* of three months from [the] date of arrest, at the county's expense, unless the judgment, costs, and board while in jail, shall sooner be paid, after which time, he may be released, on giving bond or discharging, as *is provided* in case of poor debtors.

CHAP. 125.

48 Me., 319.

63 Me., 11.

—such executions shall show for what rendered.

—debtor committed for 3 months, if ex'on and jail board are not paid.

SEC. 9. *In any such action brought by the loser against the winner, the plaintiff may offer to make oath, that such money or goods were lost by gambling with the defendant, and the court shall thereupon render judgment for the plaintiff for the amount thereof, unless the defendant will make oath, that he did not obtain any part thereof, by gambling, and if he so discharges himself, he shall recover his costs ; or the plaintiff may prove his case in any other legal mode.**

Loser may be a witness, and the winner also. R.S., c. 125, §5.

SECURITIES GIVEN FOR GAMBLING DEBTS, VOID.

SEC. 10. All notes, bills, bonds, mortgages, securities, or conveyances, given in whole or in part for money or goods won by gambling or betting on persons gambling, or to repay any money lent or advanced for gambling or betting, or at the time and place thereof, shall be utterly void against all persons, except bona fide subsequent purchasers of real estate, and holders of negotiable paper for a valuable consideration without notice.

Securities given for gambling debts, void, &c. R.S., c. 125, §6.

SEARCH FOR IMPLEMENTS OF GAMBLING.

SEC. 11. When any person makes oath before a trial justice [or judge of a municipal or police court] that he has reason to suspect and does suspect, that any house or building, naming in the complaint the house or building and *the* [its] occupant, is lawfully used as a common gambling house, and that idle or dissolute persons resort *there* [thither] for that purpose, such *justice* [magistrate] shall issue his search warrant to search for all implements used for gambling ; and if any such are found there, *for the* [to] arrest *of* the occupant or keeper of such house or other building, and said implements and *keeper* [occupant] shall be carried before him to be dealt with according to law.

Justices may issue warrants to search for implements of gambling, &c. R.S., c. 125, §7.

SEC. 12. All tools, machines, dies, plates or materials provided for making counterfeit or spurious coin, or for forging bank notes or other instruments ; all burglars' tools, or implements prepared or designed for committing the crime of burglary ; all lottery tickets or materials for a lottery or procured for the purpose of a

Tools and implements for gambling, counterfeiting, &c., how disposed of. R.S., c. 125, §8.

* [NOTE. Under the present law of evidence, section nine seems to have become obsolete.]

CHAP. 126. lottery; all gaming apparatus or implements used, procured, or kept to be used in gambling when the same are found and taken by virtue of a search warrant, or found in the possession or under the control of any person arrested for forgery, counterfeiting, burglary, selling lottery tickets, or gambling, shall be safely kept by the direction of the court or magistrate having cognizance of the case, so long as may be necessary for their being used as evidence on any trial, and as soon as may be afterward, they shall be burnt or otherwise destroyed by order of such court or magistrate, or of a justice of the supreme judicial court.

CHAPTER 126.

CHEATING BY FALSE PRETENCES; FRAUDS AND CONSPIRACIES.

FALSE PRETENCES AND FRAUDS.

- SEC. 1. Cheating by false pretences.
2. Penalty for forging receipts of deposits of goods.
 3. Parties to fraudulent conveyances, or to the use thereof.
 4. Gross frauds at common law.
 5. Circulating advertisements or shop bills in similitude of bank bills.
 6. Counterfeiting of stamps, labels and trade marks, and sale of goods with such thereon, prohibited. Penalties.
 7. Any person using trade mark is entitled to its sole use.
 8. Penalty for violation.
 9. No person shall assume or continue the name of another or his business without consent.
 10. Remedy by injunction.

SUPPRESSION OF WILLS.

- SEC. 11. Suppressions of last wills and testaments.

MARITIME FRAUDS.

- SEC. 12. Fraudulent destruction of vessels, and fitting them out for that purpose.
13. Making false bills of lading and other exhibits of property shipped.
 14. False affidavits and protests.

BURNING PROPERTY FOR THE INSURANCE.

- SEC. 15. Persons burning their own property to defraud insurers.

CONSPIRACIES.

- SEC. 16. Conspiracies to prosecute an innocent person.
17. Conspiracies in other cases.

FALSE PRETENCES AND FRAUDS.

Cheating
by false
pretences.

- SEC. 1. Whoever, designedly and by any false pretence or privy or false token, and with intent to defraud, obtains from

another any money, goods, or other property, or his signature to any written instrument, the false making of which is forgery, or whoever knowingly, and with intent to defraud, sells to another any personal property on which there is an existing mortgage, or to which he has no title, without notice to the purchaser, of such mortgage, or of such want of title, shall be deemed guilty of cheating by false pretences and be punished by imprisonment not more than seven years, or by fine not exceeding five hundred dollars.

CHAP. 126.

R.S., c. 126, §1.
33 Me., 499.
64 Me., 153.

SEC. 2. Whoever fraudulently makes or utters any receipt or other written evidence of the delivery or deposit of any grain, flour, pork, wool, or other goods, wares or merchandise in any warehouse, mill, store, or other building, when the quantity specified therein had not, in fact, been delivered or deposited in such building; or so makes or utters any receipt or other written evidence of the delivery or deposit with him of any bonds or other securities or evidences of debt, when the same have not, in fact, been so delivered and deposited, shall be punished by imprisonment not less than one year nor more than ten.

Penalty for uttering forged receipts of deposits of goods, &c.
R.S., c. 126, §2.

SEC. 3. Whoever is knowingly a party to any conveyance or assignment of real estate or interest in lands, goods, or things in action, or rents and profits arising therefrom, or to any charge thereon, made with intent to defraud prior or subsequent purchasers, or to hinder, delay, or defraud creditors or others; or knowingly puts such fraudulent conveyance, assignment, or charge into the use, as genuine and made in good faith, shall be punished by fine not exceeding one thousand dollars, and imprisonment less than one year.

Parties to fraudulent conveyances, &c.
R.S., c. 126, §3.
61 Me., 365.
68 Me., 477.

SEC. 4. Whoever is guilty of a gross fraud or cheat at common law shall be punished by imprisonment not more than seven years, or by fine not exceeding one thousand dollars.

Gross fraud at common law.
R.S., c. 126, §4.

SEC. 5. Whoever puts in circulation or distributes any notice, advertisement, or shop bill, in the form and similitude of bank bills, shall forfeit fifty dollars for each offence, to be recovered by action of debt in the name and to the use of the person suing therefor.

Circulating advertisements in similitude of bank bills.
R.S., c. 126, §5.

SEC. 6. Whoever knowingly and willfully counterfeits, or causes to be counterfeited, any private stamps, labels, or trade marks, used by a mechanic or manufacturer about the sale of his goods, with intent to defraud the purchaser or manufacturer; or sells such goods with such counterfeit stamps, labels, or trade marks thereon, knowing them to be counterfeit, without disclosing the fact to the purchaser, shall be punished by imprisonment less than one year, or by fine not exceeding two hundred dollars.

Counterfeiting trade marks, and sale of goods with such counterfeits thereon, prohibited; penalty.
R.S., c. 126, §6.
See c. 39,
§§ 25, 28, 29.

SEC. 7. When a person uses any peculiar name, letters, marks, device, or figures, cut, stamped, cast or engraved upon, or in any

No person allowed to

CHAP. 126. use another's trade mark, &c. R.S., c. 126, § 7. See c. 39, §§ 25, 28, 29. way attached to or connected with any article manufactured or sold by him to designate it as an article of peculiar kind, character or quality, or as manufactured by him, no other person shall, without his consent, use the same or any similar names, letters, marks, devices or figures, for the purpose of falsely representing any articles to have been manufactured by him, or to be of the same kind, character or quality, as that manufactured or sold by the party rightfully using the same.

Damages for violation. R.S., c. 126, § 8. **SEC. 8.** Whoever violates the provisions of the preceding section, shall be liable to any party aggrieved thereby, for all damages actually incurred, to be recovered in an action *of* [on] the case.

Business names unauthorized, use of, prohibited. R.S., c. 126, § 9. **SEC. 9.** No person doing business in *this* [the] state, shall assume, or continue to use in his business the name or names of any persons formerly connected with him in partnership, or of any other person, either alone, or in connection with his own or any other name, or designation, which has been used as aforesaid, without the consent, in writing, of such person or his legal representative.

S. J. C. may issue injunctions. R. S., c. 126, § 10. **SEC. 10.** The supreme judicial court may restrain, by injunction, any use of trade marks or names, in violation of the foregoing provisions.

SUPPRESSION OF WILLS.

Suppression of last wills and testaments. R. S., c. 126, § 11. **SEC. 11.** Whoever willfully suppresses, secretes, defaces or destroys any last will and testament of a deceased person, in his possession or under his control, with intent to injure or defraud any person interested therein, shall be punished as in section three.

MARITIME FRAUDS.

Fraudulent destruction of vessels, and fitting them out for that purpose. R. S., c. 126, § 12. **SEC. 12.** Whoever willfully casts away, burns, sinks, or otherwise destroys any vessel in any county in *this* [the] state, with intent to injure or defraud any owner thereof, the owner of any property on board, or any insurer of either, shall be punished by imprisonment for life, or any term of years not less than five; and if he lades, equips, or fits out any vessel, or aids in so doing, intending that the same shall be destroyed in the manner and with the intent aforesaid, he shall be punished by imprisonment not more than twenty years, or by fine not exceeding five thousand dollars.

Making false bills of lading, &c., of property shipped. R. S., c. 126, § 13. **SEC. 13.** If an owner of a vessel, or of any property laden or pretended to be laden on board thereof, or other person concerned in its lading or fitting out, makes out or exhibits, or causes to be made out or exhibited, any false or fraudulent invoice, bill of lading, bill of parcels, or other false estimates of any such property,

with intent to injure or defraud any insurer of such vessel or property, he shall be punished by imprisonment not more than ten years, or by fine not exceeding five thousand dollars. CHAP. 126.

SEC. 14. If any master, other officer, or mariner of any vessel makes, causes to be made, or swears to any false affidavit or protest; or if any owner or other person concerned in such vessel, or in the property on board thereof, procures any such false affidavit or protest to be made, or exhibits the same with intent to injure, deceive, or defraud any insurer of such vessel or property, he shall be punished by imprisonment not more than ten years, or by a fine not exceeding five thousand dollars.

False affidavits and protests.
R. S., c. 126,
§ 14.

BURNING PROPERTY FOR THE INSURANCE.

SEC. 15. If any owner or person in any way concerned, interested, or in possession of any building, goods, or other property, insured against loss or damage by fire, willfully burns the same or causes it to be burnt, with intent to defraud the insurer, he shall be punished by imprisonment not less than one nor more than twenty years.

Persons burning their own property to defraud insurers.
R. S., c. 126,
§ 15.

CONSPIRACIES.

SEC. 16. If any two or more persons conspire and agree together, with intent falsely, fraudulently, and maliciously to cause another person to be indicted or in any way prosecuted for an offence of which he is innocent, whether he is prosecuted or not, they shall be deemed guilty of a conspiracy, and each [shall be] punished by imprisonment not more than five years, or by a fine not exceeding one thousand dollars.

Conspiracies to prosecute an innocent person.
R. S., c. 126,
§ 16.

SEC. 17. If any two or more persons conspire and agree together, with the fraudulent or malicious intent wrongfully and wickedly to injure the person, character, business, or property of another; or to do any illegal act injurious to the public trade, health, morals, police, or administration of public justice; or to commit any crime punishable by imprisonment in the state prison, they shall be deemed guilty of a conspiracy, and every such offender, and every person convicted of conspiracy at common law, shall be punished by imprisonment not more than three years, or by fine not exceeding one thousand dollars.

Conspiracies in other cases.
R. S., c. 126,
§ 17.
15 Me., 102.
31 Me., 388,
400.
48 Me., 235.
64 Me., 370-1.

CHAP. 127.

CHAPTER 127.

MALICIOUS MISCHIEFS AND TRESPASSES ON PROPERTY.

MALICIOUS MISCHIEFS AND TRESPASSES. WILLFUL INJURY OF BAGGAGE.

- SEC. 1. Maliciously killing or injuring domestic animals.
2. Unlawful taking of a horse saddled or harnessed.
 3. Unlawful taking of any animal, boat or vehicle.
 4. Corrupting waters used for domestic purposes.
 5. Malicious injuries to ice punished. Title or ownership need not be alleged or proved.
 6. Injuries to dams, canals, machinery, ponds, engines, telegraph fixtures, public bridges, and obstructions on bridges and roads.
 7. Penalty for injury to, or for cutting loose booms, rafts, vessels, or boats, and civil action for double damages.
 8. Penalty for mooring rafts or vessels to buoys.
 9. Malicious injuries to trees, shrubs, fences, gates, bars, or to produce, or things attached to land.
 10. Penalty for advertising on rocks or fences without leave.
 11. Trespases to gardens, orchards, or improved lands with intent to take and carry away trees, vegetables or soil.
 12. Willful trespass on inclosed land between April first and December first, after notice, how punished. Section fourteen applies hereto.
 13. Injuries to fruit gardens, how punished.
 14. Owners or occupants may arrest offenders.
 15. Trespass on timber or wood standing; earth or stone; produce on lands; goods on wharves or landing places.
 16. Monuments, marked trees, mile stones, guide boards, sign boards, lamps and lamp-posts.
 17. Willful injuries to buildings, fixtures, goods, or valuable papers of another.
 18. Wanton injury to books, pictures, statues, &c., in public libraries.
 19. Penalty for placing obstructions on any travelled roads.
 20. Limitations of prosecutions, and jurisdiction of trial justices.

TRANSPORTATION OF BAGGAGE.

- SEC. 21. Penalty for willful destruction or injury of baggage.
22. Jurisdiction of trial justices.

MALICIOUS MISCHIEFS AND TRESPASSES.

Maliciously
killing or
injuring
domestic
animals.
R.S., c. 127, § 1.

SEC. 1. Whoever willfully or maliciously kills, wounds, maims, disfigures, or poisons any domestic animal, or exposes any poisonous substance with intent that the life of any such animal should be destroyed thereby, shall be punished by imprisonment not more than four years, or by fine not exceeding five hundred dollars.

Penalty for
unlawful
taking of a
saddled or
harnessed
horse.

SEC. 2. Any person who unlawfully, willfully, and with intent to injure the owner, takes away any horse, saddled, or harnessed, or attached to any vehicle, and standing in any highway or other place, shall be punished *therefor*, by a fine not exceeding one hun-

dred dollars, or imprisonment in the county jail not more than three months.

CHAP. 127.

R.S., c. 127, §2.

SEC. 3. Whoever in any other case, willfully and mischievously takes or uses any boat or vehicle, or takes, drives, rides, or uses any horse, ox, or other draft animal, the property of another, without the consent of the owner, or person having the legal custody, care and control of the same, shall be punished by fine not exceeding three hundred dollars, or by imprisonment *for a term* not exceeding one year; but this and the preceding section do not apply to any case of taking the property of another with intent to steal the same, nor when such property is taken under a claim of right, or with the presumed consent of the owner, or person having the legal control thereof.

Penalty for unlawful taking boats, vehicles or draft animals, in other situations.
R.S., c. 127, §3.

SEC. 4. Whoever willfully or maliciously poisons, defiles, or in any way corrupts the water of any well, spring, brook or reservoir used for domestic purposes, shall be punished by fine not exceeding one thousand dollars and by imprisonment not more than one year.

Punishment for corrupting waters used for domestic purposes.
1878, c. 36.

SEC. 5. Whoever willfully and maliciously cuts, injures, mars or otherwise damages or destroys any ice upon any waters *within this state* from which ice is or may be taken as an article of merchandise, whereby the taking thereof is hindered or *the [its]* value *thereof* diminished for that purpose; or whoever willfully and maliciously incites or procures another so to do, shall be punished by fine not exceeding five hundred dollars, or by imprisonment not exceeding one year, or both, *according to the nature and aggravation of the offence*; and *in any indictment for said offence* it shall not be necessary to allege or prove the title or ownership of the ice so cut, injured, marred, damaged or destroyed.

Willful and malicious injuries to ice.
1878, c. 1.

—punishment.

—ownership of ice need not be alleged or proved.

SEC. 6. Whoever willfully or maliciously injures, removes or destroys any dam, reservoir, canal, trench, or their appurtenances, or the gear or machinery of any mill or manufactory; draws off the water from any mill-pond, reservoir, canal, or trench; destroys or injures any engine or its apparatus for the extinguishment of fire, or any posts, glass caps, wires, or other materials used in the construction and operation of any telegraph; removes, injures, or destroys any public or toll bridge, or places any obstruction on such bridge or on any public road, with intent to injure any persons or property passing thereon, shall be punished by imprisonment not more than three years, or by fine not exceeding five hundred dollars.

Injuries to dams, canals, machinery, ponds, engines, telegraph fixtures, public bridges, and the placing of obstructions on bridges and roads.
R.S., c. 127, §4.
30 Me., 183.

SEC. 7. Whoever willfully or maliciously, without consent of the owner, cuts away, lets loose, injures, or destroys any boom, raft of logs, or other lumber, vessel, gondola, scow or other boat, fastened to any place of which he is not the owner or legal pos-

Penalty for injuring or cutting loose booms, rafts, vessels, or boats;

CHAP. 127. *civil action for double damages.* *R.S., c. 127, § 5.* sessor, shall be punished by fine not exceeding five hundred dollars, and imprisonment less than one year; and shall also be liable to the person injured in an action of trespass for double the damages by him sustained.

Penalty for mooring vessels or rafts to buoys or beacons, or removing them; how recoverable. *R.S., c. 127, § 6.*

SEC. 8. *Any person* who[-ever] moors any vessel, boat, scow, or raft, to any buoy or beacon, placed by the United States in any of the navigable waters of *this* [the] state, or shall in any manner make the same fast thereto, shall forfeit and pay fifty dollars; and *any person* who[-ever] *shall* willfully destroy[s] any such buoy or beacon, shall forfeit one hundred dollars and be imprisoned in the common jail three months. Said forfeitures may be recovered by complaint or action of debt, *before any court competent to try the same*; one half to the plaintiff or informer, and the other half to the county in which the trial is had.

Malicious injuries to trees, fences, gates, produce, &c. *R.S., c. 127, § 7.* *3 Me., 178.* *5 Me., 409.* *60 Me., 410.*

SEC. 9. Whoever willfully and maliciously cuts down, destroys, or otherwise injures any shrub or tree for ornament or use; breaks, injures or defaces any fence; throws down or opens any gates or bars; injures, destroys, or severs from the land of another, any produce thereof or thing attached thereto, such articles not being his own, shall be punished by imprisonment less than one year, and by fine not exceeding one hundred dollars.

Advertising on fences, rocks, &c., without permission. *R.S., c. 127, § 8.*

SEC. 10. Whoever advertises his wares or occupation by painting notices of the same on, or affixing them to fences or other private property, or *on* rocks or other natural objects, without the consent of the owner, or if in the highway or any other public place, without the permission of the mayor of cities, selectmen of towns, or assessors of plantations, shall *be punished by fine of* [forfeit] ten dollars for each offence, to be recovered on complaint, one half to the prosecutor, and one half to the town in which the offence is committed.

—penalty.

Trespasses on improved lands, &c. *R.S., c. 127, § 9.*

SEC. 11. Whoever willfully commits any trespass, or knowingly authorizes or employs another to do so, by entering the garden, orchard, pasture, cranberry ground, or improved land, of another, with intent to take, carry away, destroy, or injure the trees, shrubs, grain, grass, hay, fruit, vegetables, turf or soil thereon, shall be punished by a fine not exceeding twenty dollars, and imprisonment not more than thirty days.

Willfully entering or passing over the land of another after being forbidden, is trespass. *1879, c. 81.*

SEC. 12. Whoever willfully enters on or passes over the garden, orchard, mowing land or other inclosed or cultivated land of another, at any time between the first day[s] of April, and *the first day of December of each year*, after being forbidden so to do by the owner or occupant of said land, or his agent, either personally or by notice posted conspicuously on the premises, *shall be* [is] guilty of trespass, and [shall be] punished by fine not exceeding

twenty dollars, and the provisions of section fourteen apply to violations of this section. CHAP. 127.
§ 12 applies.

SEC. 13. Whoever, at any time, enters any orchard, fruit garden, vineyard, or any field or inclosure, kept for the purpose of cultivating any domestic fruit therein, without the consent of the owner or occupant thereof, and with *the* intent to take, injure, or destroy anything there growing; and whoever willfully cuts down, injures or destroys any tree, shrub, or vine, within any of the places before named, or injures any building, trellis, frame work, or any appurtenance belonging to or upon any of said places, shall be punished, on conviction thereof, by a fine of twenty dollars and costs, and imprisonment not less than thirty days, and in default of payment of said fine and costs, he shall be further imprisoned at the rate of two days for each dollar of said fine and costs. All fines imposed by this section, when collected, shall be paid to the overseers of the poor, for the use of the poor of the town where such conviction is had. Injuries to fruit gardens, how punished.
R. S., c. 127,
§ 11.

SEC. 14. The owner of any such place, or any person employed in the cultivation of, or rightfully in the possession thereof, may arrest any person found violating any of the provisions of the preceding section, and carry him before any [competent] magistrate *having jurisdiction of the offence*, within the county where the arrest is made. The owner or occupant may arrest offender.
R. S., c. 127,
§ 12.

SEC. 15. If any person, except a highway surveyor acting within the scope of his lawful authority, willfully commits any trespass by cutting, destroying, or carrying away any timber or wood, on the land of another; by digging up, taking, and carrying away therefrom any earth, stone, grass, corn, grain, fruit, hay, or other vegetables, or carrying away from any wharf or landing place any goods in which he has no interest, he shall be punished by imprisonment not more than two months, and by fine not exceeding fifty dollars. Trespass on timber, or wood standing, &c.
R. S., c. 127,
§ 13.
5 Me., 409.

SEC. 16. Whoever willfully and maliciously injures or removes any monument erected, or tree marked as a boundary of any land or town; destroys, defaces, or alters the marks thereon, made for the purpose of designating such boundary; injures or defaces any mile stone or guide board erected on any public way or railroad; removes, defaces, or injures any sign board, lamp, or lamp post; or extinguishes any lamp on any bridge, street, way, or passage, shall be punished by imprisonment less than one year and by fine not exceeding one hundred dollars. Willful injuries to monuments, guide boards, lamps, &c.
R. S., c. 127,
§ 14.

SEC. 17. Whoever willfully and maliciously destroys, injures, or defaces any building or fixture attached thereto, without consent of the owner; or destroys, injures, or secretes, any goods, chattels, or valuable papers, of another, shall be punished by Willful injuries to buildings, fixtures, goods or valuable papers.
R. S., c. 127,
§ 15.

CHAP. 127. imprisonment less than one year, or by fine not exceeding five hundred dollars; and [shall] also be liable to the party injured, in an action of trespass, for the amount of injury so done, and for a further sum, not exceeding, in all, three times such amount, as the jury shall deem reasonable.

12 Me., 215.
21 Me., 345.
30 Me., 477,
485.
33 Me., 147,
392.
66 Me., 64.
Wanton injury to books, pictures, &c., in public libraries, penalty for. 1877, c. 161.

Placing obstructions on any travelled road. R. S., c. 127, § 16.

Limitations of prosecutions, and jurisdiction of trial justices, &c. R. S., c. 127, § 17.

SEC. 18. Whosoever wantonly mars, defaces or injures any book, picture, statue or painting belonging to any public library, or library of any association opened to the public, *in this state*, shall be punished by a fine not exceeding ten dollars, to be recovered before any court competent to try the same.

SEC. 19. Whoever places any rocks, stones, or other obstructions, in the travelled roads of *this state*, and leaves them there, shall be subject to a fine of one dollar for each offence, to be recovered on complaint, to the use of the town where the offence is committed.

SEC. 20. All prosecutions for offences hereinbefore described, except such as are set forth in sections one, six and seven, must be commenced within four years after the commission thereof; and trial justices, [and municipal and police courts,] shall have jurisdiction *thereof* when the property destroyed, or injury done, is not alleged to exceed ten dollars in value, and in that case the punishment shall be by fine not exceeding ten dollars and imprisonment not more than thirty days, unless otherwise specially provided.

TRANSPORTATION OF BAGGAGE AND WILLFUL INJURY THEREOF.

Willful destruction or injury to baggage, punishment for. R. S., c. 127, § 18.

SEC. 21. When [Any] baggage masters, express agents, stage drivers *hackmen*, [hackman] or *any* other person whose duty it is to handle, remove, or take care of trunks, valises, boxes, packages or parcels, while loading, transporting, unloading, delivering, or storing the same, whether or not in the employ[-ment] of railroad, steamboat or stage companies, [who] shall wantonly, or recklessly injure or destroy the same, *they* shall be punished by imprisonment less than one year or by fine not exceeding one hundred dollars; and *the persons so offending* [such offenders] may be prosecuted by the owner of *such* property so destroyed or injured, or by his authorized agent within one year from the day of *committing* the offence, one half of the fine to be paid to such owner, and the other half to the county in which the offence was committed.

Jurisdiction of trial justices, &c. R. S., c. 127, § 19.

SEC. 22. Trial justices, [and municipal and police courts,] have jurisdiction *thereof*, when the property destroyed or injury done is not alleged to exceed twenty dollars.

CHAPTER 128.

OFFENCES AGAINST THE PUBLIC HEALTH, SAFETY AND POLICY.

UNWHOLESOME PROVISIONS AND DRINKS.

- SEC. 1. Selling unwholesome provisions and drinks. Penalty for selling veal of calf less than four weeks old.
2. Adulteration of sugar forbidden. Adulterated sugar and molasses not to be sold. Penalties.
3. Adulteration of vinegar prohibited. Penalty.
4. Use of injurious ingredients in vinegar forbidden. Penalty.
5. Municipal officers to appoint inspectors of vinegar.

FIRE WORKS.

- SEC. 6. Penalty for selling, giving away or firing fire works without license.

LOTTERIES.

- SEC. 7. Lotteries prohibited, and penalty for being concerned in them.
8. Attorney general to apply for injunction to restrain any lottery.
9. All payments and securities for lotteries void and recoverable back.

PRIZE CANDY.

- SEC. 10. Penalty for offering prize candy for sale. Offender liable to summary arrest.

TRAMPS.

- SEC. 11. Begging, &c., evidence of being a tramp. Penalty.
12. Entering dwellings, kindling fire in highway, &c., without consent, penalty for.
13. Malicious injury to person or property, how punished.
14. Tramps may be sentenced to state prison for less than a year.
15. Tramps may be apprehended in the act by any citizen, but the four preceding sections do not apply to women, children and the blind.
16. Non-resident tramps forbidden to sleep in barns, &c., without permission. Penalty. Evidence, arrest and detention.
17. Officers' fees. When paid by state out of pauper fund.
18. Municipal officers may appoint special constables. Their duty.

UNWHOLESOME PROVISIONS AND DRINKS.

- SEC. 1. Whoever sells any diseased, corrupted, or unwholesome provision for food or drink, knowing it to be such, without informing the buyer; or fraudulently adulterates, for the purpose of sale, any substance intended for food, or any wine, spirits, or other liquors intended for drink, so as to render them injurious to health, shall be punished by imprisonment not more than five years, or by fine not exceeding one thousand dollars; and whoever knowingly sells or offers for sale as food any veal killed before the calf was four weeks old, without informing the buyer,

Selling unwholesome provisions and drinks.

—penalty for selling veal of a calf less than four weeks old.
R.S., c. 128, § 1.

CHAP. 128. shall be punished by a fine of not more than twenty dollars, or by imprisonment not more than thirty days.

Sugar, adulteration of, forbidden.

1879, c. 93, § 2.

—adulterated sugar and molasses not to be sold.

1879, c. 93, § 1.

—penalty.

1879, c. 93, § 3.

Adulteration of vinegar prohibited.

1881, c. 6, § 1.

—penalty.

Use of injurious ingredients in vinegar prohibited.

1881, c. 6, § 2.

—penalty.

Municipal officers to appoint inspectors of vinegar.

1881, c. 6, § 3.

Penalty for selling, giving away or firing fire-works without license.

R.S., c. 128, § 2.

SEC. 2. Whoever in any way adulterates any sugar or molasses or knowingly, willfully or maliciously sells or offers, or exposes for sale, *within this state*, any sugar, refined or not, or any molasses, which has been adulterated with salts of tin, terra alba, glucose, dextrine, starch sugar, corn syrup, or other preparations from starch, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not more than one year.

SEC. 3. Whoever manufactures for sale, or knowingly offers or exposes for sale, or knowingly causes to be branded or marked as cider vinegar, any vinegar not the legitimate product of pure apple juice, known as apple cider, and not made exclusively of said apple cider, but into which any foreign substances, ingredients, drugs, or acids have been introduced, as shall appear by proper tests, shall, for each such offence, be punished by a fine of not less than fifty nor more than one hundred dollars.

SEC. 4. Whoever manufactures for sale, or knowingly offers or exposes for sale, any vinegar found, upon proper tests, to contain any preparation of lead, copper, or sulphuric acid, or other ingredient injurious to health, shall, for each *such* offence, be punished by a fine of not less than one hundred dollars.

SEC. 5. The mayor and aldermen of cities shall, and the selectmen of towns may, annually appoint one or more persons to be inspectors of vinegar, for their respective places, who shall, before entering upon their duties, be sworn to the faithful discharge of the same.

FIRE WORKS.

SEC. 6. Whoever sells, offers for sale, or gives away any crackers, squibs, rockets, or other fire works, or fires or throws the same in any town, without the license of the municipal officers thereof, shall be punished by fine not exceeding ten dollars, to the use of such town.

LOTTERIES.

SEC. 7. Every lottery, scheme, or device of chance, of whatever name or description, whether at fairs or public gatherings, or elsewhere, and whether in the interests of churches, benevolent objects, or otherwise, is prohibited and declared a nuisance; and whoever is concerned therein, directly or indirectly, by making, advertising, purchasing, receiving, selling, offering for sale, giving away, disposing of, or having in his possession with intent to sell or dispose of, any ticket, certificate, share or interest therein; by printing, publishing, or circulating the same, or any hand bill, advertisement or notice thereof, or by knowingly suffering the

Lotteries, including church fairs, &c., prohibited.

1877, c. 176, § 2.

c. 128, § 3.

—tickets and material, how dealt with.

7 Me., 502.

15 Me., 123.

same to be published in any newspaper or periodical under his charge, or on any cover or paper attached thereto; or [who] in any manner aids therein or is connected therewith, shall be punished by fine of not less than one hundred, nor more than one thousand dollars, to be recovered by indictment or action of debt, one half to the use of the prosecutor, and the other to the town where the offence is committed; and if by action of debt, he shall not be entitled to the provisions of law for the relief of poor debtors, and if by indictment, he shall further be punished by imprisonment for thirty days on the first conviction; sixty, on the second; and ninety, on the third. And all lottery tickets, or materials for a lottery, procured for that purpose, shall be disposed of as provided in section twelve of chapter one hundred and twenty-five.

—penalty.

SEC. 8. When it appears to the attorney general that any person has formed or published any such lottery; taken any measures for that purpose; or is engaged in selling or otherwise distributing any tickets, certificates, shares, or interests therein, whether it originated in this state or not, he shall immediately make complaint in the name of the state to some justice of the supreme judicial court, in or out of term time, for an injunction to restrain such person from any further proceedings therein; and on being satisfied that there is sufficient ground therefor, such justice shall forthwith issue such injunction; and thereupon he shall order notice, to be served like other summonses, on the adverse party to appear and answer to said complaint. Such justice, after a full hearing, may dissolve, modify, or make perpetual such injunction; make all orders and decrees, according to the course of chancery proceedings, necessary to restrain and suppress all such unlawful proceedings, and if the adverse party neglects to appear, or the final decree of the court is against him, judgment shall be rendered against him for all costs, fees, and expenses incurred in the case, and for such compensation to the attorney general, for his services and expenses, as the court deems reasonable.

Attorney general may have injunction to restrain any lottery.
R.S., c. 128, § 4

SEC. 9. All payments, compensations, and securities of every description, made directly or indirectly, in whole or in part, for any such lottery or ticket, certificate, share or interest therein, shall be considered as received without consideration and against law and equity, and may be recovered back.

All payments and securities for lotteries void and may be recovered back.
R.S., c. 128, § 5.

PRIZE CANDY.

SEC. 10. *Any person who[-ever] shall sell[s] or offer[s] for sale in this state, any prize candy in packages containing or purporting to contain any money, article or other thing as a prize or gift, shall, upon conviction thereof before any trial justice or*

Penalty for offering prize candy for sale.
1872, c. 80, § 1.

CHAP. 128. *court of competent jurisdiction*, for each offence be punished by imprisonment *in any jail or house of correction for a term* not exceeding thirty days, or by a fine not exceeding twenty dollars, [and if] *any person who shall be discovered in the commission of any such offence specified in this section, in any railroad car, steamboat, public conveyance, or other place*, by any *sheriff or other officer* qualified to serve criminal process, [he] may be arrested by such officer and *lawfully* detained by imprisonment or otherwise not exceeding twenty-four hours, until a complaint shall be made *for such offence* and a warrant issued *thereon* against him.

—liability to summary arrest.
1872, c. 80, § 2.

TRAMPS.

Begging, &c., evidence of being a tramp.
1880, c. 213, § 1.
1878, c. 78, § 1.
—penalty.

SEC. 11. Whoever goes about *from town to town or place to place in any town*, asking for food or shelter, or begging, or subsisting upon charity, shall be deemed a tramp, and be punished by imprisonment at hard labor in the state prison not more than fifteen months.

Penalty for entering dwelling, kindling fire in highway, etc., without leave.
1880, c. 213, § 2.

SEC. 12. If any tramp enters any dwelling-house, or kindles any fire in the highway, or on the land of another without the consent of the owner or occupant *thereof*, or is found carrying any fire-arm or other dangerous weapon, or threatens to do any injury to any person, or to the real or personal estate of another, he shall be punished by imprisonment at hard labor in the state prison not more than two years.

Malicious injury to person or property, punishment for.
1880, c. 213, § 3.

SEC. 13. If any tramp *shall* willfully and maliciously does any injury to any person, or to the real or personal estate of another, he shall be punished by imprisonment at hard labor in the state prison not more than five years.

State prison sentences may be for less than a year.
1880, c. 213, § 9.

SEC. 14. The court imposing any punishment provided by either of the preceding sections may, at its discretion, sentence to the state prison for a term less than one year.

Arrest by any citizen.
1880, c. 213, § 5.

SEC. 15. Any person, upon view of an offence described in the four preceding sections, may apprehend the offender and take him before any competent magistrate, for examination, but said sections shall not apply to any blind person, or female, or minor under the age of fourteen years.

—women, children, and the blind, excepted.
1880, c. 213, § 7.

Non-resident tramps forbidden to sleep or lodge in barns, &c., without permission.
1878, c. 78, §§ 1, 2.

SEC. 16. If any tramp, not resident in the state, sleeps or lodges in any barn or other [out-]building without the consent of the owner [or occupant] *thereof*, he shall be punished by a fine of twenty dollars, and in default of payment, shall be imprisoned at hard labor in the nearest work-jail, not less than four months for the first offence, and not less than six months for every subsequent offence. Any non-resident committing any act of beggary for vagrancy shall be deemed a tramp, and may be arrested by

—evidence.
1880, c. 213, § 4.

any *constable or other* officer and detained not exceeding twenty-four hours until a warrant issued on complaint of some resident of the state can be obtained. CHAP. 129.
—arrest and
detention.
1878, c. 78, § 2.

SEC. 17. The fees of officers and *justices* [magistrates] under the preceding section shall be the same as *for arrest and trial* [in case] of common vagrants, except that the *officers'* fees for commitment shall be one dollar and a half for each day necessarily employed and actual expenses of transportation; all costs incurred under said section to be paid by the state, upon the order of the county commissioners, out of the state pauper fund; *provided*, [that] the governor and council shall be satisfied [that] the person confined is a tramp, having no pauper settlement in *this* [the] state. Fees of
officers.
1881, c. 37.

—when costs
are to be
paid by state.

SEC. 18. The mayors of cities and the selectmen of towns, *are authorized to* [may] appoint special constables, *whose duty it shall be* to arrest and prosecute all tramps in their respective *cities and towns*. [municipalities.] Municipal
officers may
appoint
special con-
stables.
1880, c. 213, § 6.

CHAPTER 129.

LIBELS.

- SEC. 1. Definition of a libel and of a publication.
 2. Punishment for making or publishing a libel.
 3. What persons shall be responsible for libels printed or published in their offices, newspapers, &c., unless on negative proof.
 4. How far the truth of a publication is a justification.
 5. Jury judges of the law and the facts.

SEC. 1. A libel is the malicious defamation of a living person, made public by any printing, writing, sign, picture, representation or effigy, tending to provoke him to wrath, expose him to public hatred, contempt or ridicule, or to deprive him of the benefits of public confidence and social intercourse; or of a deceased person, thus made public, designed to blacken and vilify his memory, and tending to scandalize or provoke his relatives or friends; but nothing shall be deemed a libel unless there is a publication thereof; and the delivery, selling, reading or otherwise communicating a libel directly or indirectly to any person, or to the party libelled, shall be deemed a publication. Definition of
a libel and of
a publica-
tion.
R.S., c. 129, § 1.
20 Me., 15.
22 Me., 284.
30 Me., 467.
32 Me., 533.
54 Me., 391.
55 Me., 43.

SEC. 2. Whoever makes, composes, dictates, writes, or prints a libel; directs or procures it to be done; willfully publishes or cir- Punishment
for a libel.
R.S., c. 129, § 2.

CHAP. 130. 66 Me., 327. culates it, or knowingly and willfully aids in doing either, shall be punished by imprisonment less than one year, and by fine not exceeding one thousand dollars.

Who are responsible for libels printed or published, &c.
R.S., c. 129, § 3.

SEC. 3. Whoever manages or controls the business of a printing office, bookstore, or shop, as principal or agent, or is, in whole or in part, proprietor, editor, printer, or publisher of a newspaper, pamphlet, book, or other publication, shall be responsible for any libel printed or published therein, unless he can prove on trial that it was printed and published without his knowledge, consent, or suspicion, and that, by reasonable care and diligence, he could not have prevented it.

How far the truth of a publication is a justification.
R.S., c. 129, § 4.

SEC. 4. In prosecutions for any publication relative to the official conduct of men in public capacities, or the qualifications of candidates for popular suffrages; or where the matter published is proper for public information, the truth thereof may be given in evidence, and if proved, shall be a complete justification; and in prosecutions for all other libels, the truth thereof, thus proved, shall be a complete justification, unless it appears that such publication originated in corrupt and malicious motives; and if any alleged libel is not justified in either of said modes, it shall be deemed malicious, unless the contrary is clearly proved.

Jury judges of law and fact.
R.S., c. 129, § 5.
18 Me., 348.

SEC. 5. In all indictments for libel, the jury after receiving the direction of the court, may determine at their discretion, the law and the fact.

CHAPTER 130.

PROCEEDINGS FOR THE PREVENTION OF CRIMES.

- SEC. 1.** Justices of the supreme and superior courts and magistrates may require sureties of the peace and good behavior.
2. On complaint that an offence is threatened, magistrates may issue warrants, if they think fit, to bring the accused before them.
 3. He may then be ordered to find sureties to keep the peace for not more than one year, and pay the costs, but shall not be bound over to court unless a specific offence is charged.
 4. If he complies, he is to be discharged; if not, to be committed, and magistrates to return papers to the next court.
 5. Proceedings, if complaint is not sustained. Costs, if malicious or frivolous.
 6. Appeal to the next supreme or superior court, and proceedings.
 7. Consequences, if the appellant fails to prosecute.
 8. How recognizance may be taken after commitment.

- SEC. 9. When magistrate may require sureties, without a formal complaint.
 10. Persons going armed, without reasonable cause.
 11. All recognizances to be returned to appellate court, which may remit the penalty.
 12. Sureties on recognizances may surrender their principals, as in case of bail in civil actions.

CHAP. 130.

SEC. 1. The *judges* [justices] of the supreme judicial [and superior] court[s], and [judges] of municipal and police courts, in vacation or in court, and trial justices in their counties, shall have power to cause all laws for the preservation of the public peace to be kept; and in the execution thereof may require persons to give security to keep the peace and be of good behavior, as hereinafter provided.

Justices of the S. J. and superior courts and magistrates may require sureties of the peace and good behavior.
 R.S., c. 130, §1.

SEC. 2. Any such magistrate, on complaint that any person threatens to commit an offence against the person or property of another, shall examine, on oath, the complainant and any other witnesses produced, reduce the complaint to writing, and cause the complainant to sign it; and, if on examination of the facts he thinks there is just cause to fear the commission of such offence, he shall issue a warrant reciting the substance of the complaint, and commanding the officer, to whom it is directed, forthwith to arrest the accused and bring him before such magistrate or court, subject to the provisions of section seven of chapter one hundred and thirty-two.

On complaint that offence is threatened, proceedings, &c.
 R.S., c. 130, §2.

SEC. 3. When the accused is brought before the magistrate and his defence is heard, he may be ordered to recognize, with sufficient sureties, in the sum required by the magistrate, to keep the peace towards all persons, and especially towards the person requiring the security, for a term not exceeding one year, and to pay the costs of prosecution; but [he] shall not be bound over to any court, unless he is also charged with some other specific offence requiring it.

He may then be ordered to find sureties to keep the peace, &c.
 R.S., c. 130, §3.
 10 Me., 332.

SEC. 4. If the accused complies with such order, he shall be discharged; but if he does not, he shall be committed to the county jail for the time for which he was required to find sureties, or till he complies with such order; and the magistrate shall state in the mittimus the cause of commitment, and the time and sum for which security was required, and return a copy of the warrant to the next supreme judicial court in said county, and such court shall have cognizance of the case, as if the accused had appealed thereto.

If he complies, to be discharged, &c.
 R.S., c. 130, §4.

SEC. 5. If the magistrate, on examination of the facts, is not satisfied that there is just cause to fear the commission of any offence, he shall immediately discharge the accused; and if he judges the complaint unfounded, frivolous, or malicious, he may order the complainant to pay the costs of prosecution, who shall

Proceedings, if complaint is not sustained, &c.
 R.S., c. 130, §5.

CHAP. 130. thereupon be answerable to the magistrate, officer, and witnesses for their fees as for his own debt.

Appeal to the next S. J. or superior court, and proceedings thereon.
R. S., c. 130, § 6.

SEC. 6. Any person aggrieved by the order of such magistrate requiring him thus to recognize, on giving the security required, may appeal to the next supreme judicial [or superior] court in the same county; and the magistrate shall thereupon require such witnesses as he thinks proper, to recognize to appear at the appellate court; and such court may affirm or reverse the order of the magistrate, require the accused to recognize anew with sufficient sureties, and make such order as to costs as *they* [it] deem[s] reasonable.

Consequences, if the appellant fails to prosecute.
R. S., c. 130, § 7.

SEC. 7. If the appellant fails to prosecute his appeal, his recognizance shall be in force for any breach of its conditions without an affirmation of said order, and stand as security for any costs which he is ordered by the court to pay.

Recognizance may be taken after commitment.
R. S., c. 130, § 8.

SEC. 8. Any person committed for not recognizing as aforesaid may be discharged by any [bail commissioner,] judge or trial justice, on giving the security required.

When magistrate may require sureties without a formal complaint.
R. S., c. 130, § 9.

SEC. 9. Whoever in the presence of any of the magistrates aforesaid, or [of] any court of record, makes an affray; threatens to kill or beat another, or commit any violence against his person or property; or contends with hot and angry words to the disturbance of the peace, may be ordered, without process or other proof, to recognize to keep the peace and be of good behavior for a term not exceeding three months, and [may be] otherwise dealt with as is provided in the preceding sections.

Persons going armed, without reasonable cause.
R. S., c. 130, § 10.

SEC. 10. Whoever goes armed with any dirk, pistol, or other offensive and dangerous weapon, without just cause to fear an assault on himself, family, or property, may on complaint of any person having cause to fear an injury or breach of the peace, be required to find sureties to keep the peace for a term not exceeding one year, and, in case of refusal, may be committed as provided in the preceding sections.

All recognizances to be returned to S. J. court, and the court may remit the penalty.
R. S., c. 130, § 11.

SEC. 11. All recognizances taken under this chapter shall be returned to the supreme judicial [or superior] court on or before the first day of the next term, and there filed by the clerk as of record; and, in any suit thereon, if the forfeiture is found or confessed, the court may remit so much of the penalty, and on such terms, as *they* [it] think[s] proper.

Sureties on recognizances may surrender their principals, &c.
R. S., c. 130, § 12.

SEC. 12. Any surety in such recognizance may surrender the principal the same as bail in civil cases, and [he] shall thereupon be discharged from all liability for any subsequent breach of the recognizance; and the principal may recognize anew with sufficient sureties for the residue of the term before a trial justice, and then be discharged.

CHAPTER 131.

JURISDICTION OF OFFENCES, AND GENERAL PROVISIONS
RELATING THERETO.

JURISDICTION OF CRIMES.

- SEC. 1. Original and appellate criminal jurisdiction of the supreme and superior courts.
2. Offences committed near the boundary of two counties, and death in one county from an injury in another.
3. Death within the state from an injury inflicted on the high seas or without the state.
4. Acquittal of part of an indictment and conviction of the residue.
5. Where an accessory before or after the fact may be tried.

ACCESSORIES.

- SEC. 6. Accessory before the fact shall be punished the same as principal, and may be convicted with or without him.
7. Who are accessories after the fact.

ATTEMPTS TO COMMIT OFFENCES.

- SEC. 8. Attempt with an overt act to commit an offence, how punishable.

DEFINITIONS AND ALLEGATIONS.

- SEC. 9. Definition of "felony."
10. Of "owner" of property, as used in indictments. Unimportant variance in documents set forth is immaterial. Criminal process is amendable in form.
11. General allegation of intent to defraud is sufficient.
12. Complaints and indictments not to be quashed for omission of the words "feloniously," "force and arms," "against the peace," and "contrary to the form of the statute," nor for unimportant defect in venires.

RECOVERY AND APPROPRIATION OF FINES.

- SEC. 13. Fines and forfeitures to be recovered by indictment and accrue to the state unless otherwise provided.

LIMITATION OF PROSECUTIONS.

- SEC. 14. Prosecutions limited to six years, deducting absence from state. Exceptions to this provision.

JURISDICTION OF CRIMES.

- SEC. 1. The supreme judicial [and superior] court[s] *shall* have original jurisdiction, exclusive or concurrent, of all *criminal* offences 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.*

Jurisdiction of the S. J. and superior courts, &c. R.S., c. 131, § 1. 72 Me., 468.

- SEC. 2. When an offence is committed on the boundary Offences

* [NOTE. See *State v. Mullen*, 72 Me., 468, a case to which the commissioner's attention was directed by Mr. Justice Peters, of the Supreme Judicial Court.]

CHAP. 131. committed near the boundary of two counties, &c. R.S., c. 131, §2. between two counties or within one hundred rods thereof; or a mortal wound or other violence or injury is inflicted, or poison administered, in one county whereby death ensues in another, the offence may be alleged in the complaint or indictment as committed, and may be tried in either.

Death within the state from an injury inflicted without the state. R.S., c. 131, §3. **SEC. 3.** If a mortal wound or other violence or injury is inflicted, or poison administered, on the high seas or without *this* [the] state whereby death ensues within *this* [the] state, such offence may be tried in the county where the death ensues; and if such act is done within and death ensues without *this* [the] state, *such* [the] offence may be tried in the county where the act was done, as if death had there ensued.

Acquittal of part of an indictment, and conviction of the residue. R.S., c. 131, §4. **SEC. 4.** When a person, indicted for any offence, is acquitted of a part by the 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 offence, if any, which is substantially charged by such residue, and be punished accordingly though such offence 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. 5.** Every accessory, before or after the fact, may be tried in the county having jurisdiction of the principal offence, though the accessory offence was committed on the high seas or without the state; and if the principal offence was committed in one county and the accessory offence in another, the latter may be tried in either.

ACCESSORIES.

Accessory before the fact, punished the same as principal, and convicted with or without him. R.S., c. 131, §6. 29 Me., 87. 68 Me., 546. **SEC. 6.** Whoever aids in the commission of any 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 of a substantive felony, whether the principal is convicted or 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.

Who are accessories after the fact. R.S., c. 131, §7. **SEC. 7.** 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, shall be deemed an accessory after the fact, and shall be punished by imprisonment 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. CHAP. 131.

ATTEMPTS TO COMMIT OFFENCES.

SEC. 8. Whoever attempts to commit any criminal offence, and does any thing towards it, but fails, is interrupted, or prevented in its execution, where no punishment is expressly provided for such attempt, shall be punished, *when* [if] the offence thus attempted is punishable with imprisonment in the state prison for life, by imprisonment not less than one, nor more than ten years; but in all other cases, by the same kind, but not exceeding one half of the punishment that might have been inflicted, if the offence attempted had been committed.

Attempt with an overt act to commit an offence, how punishable. R.S., c. 131, § 8. 70 Me., 196, 198.

DEFINITIONS AND ALLEGATIONS.

SEC. 9. The term "felony," when used in any chapter in this title, shall be construed to include every offence punishable *with death*, or by imprisonment in the state prison. (a)

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

SEC. 10. In an offence in any way relating to real or personal estate, it shall be deemed sufficient and not a variance, if proved at the trial that, when the offence was committed, the actual or constructive possession, or the general or special property in whole or in part of such estate, 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 any criminal cause, and the recital or setting forth thereof in the complaint, indictment or other criminal process whereon trial is had, shall be deemed material, *provided*, that the identity of the instrument is evident, and the purport thereof is sufficiently described to prevent all 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 indictments. 1877, c. 189.

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

—proviso.

—process may be amended in form.

SEC. 11. When an intent to defraud is necessary to constitute any offence, it shall be 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 shall be sufficient.

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

SEC. 12. 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, 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,

Complaints and indictments not to be quashed for technicalities. R. S., c. 131, § 12. 15 Me., 124, 477. 69 Me., 182.

—nor for

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

CHAP. 132. 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 *shall* appear[s] to the court that the respondent has been or may be injured thereby.

unimportant defect in venires.
1877, c. 156.
67 Me., 336.

RECOVERY AND APPROPRIATION OF FINES.

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

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 enure to the state.

LIMITATION OF PROSECUTIONS.

Prosecution limited to six years, deducting absence.
R. S., c. 131, § 14.
See c. 27, § 60.
69 Me., 182.

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* [the] state, shall not be a part of said six years.

CHAPTER 132.

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

APPOINTMENT OF MUNICIPAL AND POLICE JUDGES.

SEC. 1. Appointment of municipal and police judges. Salaries how paid. Jailer to pay over all court fees paid to him.

CRIMINAL JURISDICTION OF MAGISTRATES.

- SEC. 2. Magistrates, &c., may administer oaths and require aid to repress breaches of the peace.
3. Magistrates have jurisdiction of larcenies not exceeding ten dollars.
 4. Also breaches of the peace and violations of the law.
 5. Magistrates may on complaint cause all offenders to be arrested, tried, or recognized to appear at supreme or superior court.
 6. Magistrates must examine on oath into circumstances of alleged offence; may try though fine accrues to their town.
 7. Jurisdiction of trial justices resident in towns where there is a municipal or police court. All warrants to be returnable before any trial justice.

MAY ISSUE SUMMONSES FOR WITNESSES AND ALLOW THEIR FEES.

SEC. 8. When and how summonses may be issued for witnesses, and when they are obliged to attend.

- SEC. 9. No costs allowed to complainants; exceptions. No fees allowed to witnesses in more than one case at the same time. CHAP. 132.
10. Witnesses may be summoned to attend any criminal court in New England.

WARRANTS FOR SEARCH.

- SEC. 11. Warrants for search, in what cases issued.
12. Contents of a complaint for such a warrant.
13. Warrant, its contents, how directed and served.
14. Search of a dwelling in the night, when authorized.

APPEALS FROM MAGISTRATES.

- SEC. 15. Appeals from magistrates provided for. Fee for copies and entry. Recognizance.
16. Appellant to produce copies and prosecute; consequences of neglect.

PROVISIONS RELATING TO FEES OF MAGISTRATES.

- SEC. 17. Fees for one warrant only; no fees if no bill is found, or if party arrested is acquitted on appeal, unless on county attorney's approval; not to tax more than law allows.
18. Costs paid to magistrates, disposal 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. Judges of municipal and police courts shall be appointed and shall hold their offices, as provided in the constitution. Their salaries shall be fixed by the municipal officers of their towns, paid quarterly from the treasuries thereof; and all fees received and by them shall be paid quarterly into said treasuries, except where 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 by him, quarterly, into said treasuries.
- Appoint-
ment of
municipal
and police
judges.
Salaries how
paid; jailer
to pay over
all court fees
paid to him.
Constitution,
art. vi, § 7.
R.S., c. 132, § 1.

CRIMINAL JURISDICTION OF MAGISTRATES.

- SEC. 2. Judges of municipal and police courts, trial justices, justices of the peace, and women otherwise eligible under the constitution, appointed by the governor with advice of 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, 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.
- SEC. 3. They *shall* have jurisdiction of the offences described in sections one, six, seven, nine and eleven of chapter one hundred and twenty, when the value of the property is not alleged to exceed ten dollars; and [they] may punish for the first offence by fine not exceeding ten dollars, and by imprisonment not more than
- Magistrates
may admin-
ister oaths
and require
aid.
R.S., c. 132, § 2.
1873, c. 39.
1875, c. 66.
- Jurisdiction
of larcenies
when value
does not ex-
ceed \$10.
R.S., c. 132, § 3.
27 Me., 282.
37 Me., 133.

CHAP. 132.

72 Me., 468,
469.

Jurisdiction
of breaches
of the peace
and viola-
tions of law.
1879, c. 114.

two months; and on a second conviction, by fine not exceeding twenty dollars, and by imprisonment not more than six months.

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 [they] may try and punish by fine not exceeding ten dollars, or by imprisonment not exceeding thirty days, and may require them to find sureties for keeping the peace.

May, on com-
plaint cause
all offenders
to be
arrested, &c.
R.S., c. 132, § 5.
23 Me., 532.

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 recognize with sufficient sureties to appear before the supreme judicial [or superior] court, and, in default thereof, [shall] commit them.

Must exam-
ine on oath
into circum-
stances of
alleged of-
fence, &c.
R.S., c. 132, § 6.
3 Me., 51.
10 Me., 476.
25 Me., 491.
34 Me., 220.

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 [accused] committed the offence, [they shall] issue a warrant, stating the substance of the charge, for his arrest; and [they] 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. 132, § 7.

SEC. 7. A trial justice, residing in a town in which there is a municipal or police court, shall have 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 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 sum-
mons may be
issued, &c.
R.S., c. 132, § 8.
39 Me., 61.

SEC. 8. A magistrate, named in section two, 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 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.

CHAP. 132.

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.

No costs allowed to complainants; except to certain officers.
R. S., c. 132, § 9.

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

Witnesses may be required to attend any court in New England, in a criminal case pending.
R. S., c. 132, § 10.

WARRANTS FOR SEARCH.

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. 132, § 11.

SEC. 12. 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 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.
R. S., c. 132, § 12.
33 Me., 570.

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 [be] made returnable like other warrants; and the person or thing searched for, if found, and the person in whose

Warrant, its contents, how directed and served.
R. S., c. 132, § 13.
Const., art. I, § 5.
25 Me., 491.

CHAP. 132. possession or custody the same was found, shall be returned with the warrant before a proper magistrate.

Search of a dwelling-house. R. S., c. 132, § 14. SEC. 14. To authorize [the search of] a dwelling-house *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.

Appeals. 1879, c. 166, 1 Me., 230. SEC. 15. Any person aggrieved at the sentence of such magistrate, may appeal therefrom to the next supreme judicial [or superior] court in the same county, and the magistrate shall thereupon order him to pay *to such magistrate* one dollar and fifty cents for copies of papers for the appellate court and the entry fee in such court of sixty-five cents, and shall also 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* [until] the order is complied with.

Appellant to produce copies and prosecute; consequences of neglect. 1879, c. 166. SEC. 16. The magistrate shall send to the appellate court a copy of the whole process, and of all writings before the magistrate, and account to the clerk of such court for the entry fee. 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.

PROVISIONS RELATING TO FEES OF MAGISTRATES.

Fees of magistrates regulated. 1880, c. 186. 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, or convicts a party and such party appeals and is finally acquitted, he shall not have any 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.

Costs paid; disposal of. R. S., c. 132, § 18. 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 allowed by county commissioners. R. S., c. 132, § 19. SEC. 19. When a party accused is acquitted by the magistrate, [is] 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 [or superior] court shall have the same powers as the commissioners in other cases. CHAP. 133.

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

Costs in cases carried up.
R. S., c. 132, § 20.

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.

Warrants to be sealed, &c.
R. S., c. 132, § 21.
34 Me., 222.
36 Me., 368.

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.

- SEC. 2. Justices of the supreme judicial and superior courts 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.

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

ARRESTS IN OTHER COUNTIES.

- SEC. 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 charged with a bailable offence.

TRANSFER OF PERSONS CHARGED WITH CRIME IN TWO COUNTIES.

- SEC. 7. Accused may be transferred to another county upon order.
8. Duty of officer when order is issued.

EXAMINATION OF OFFENDERS.

SEC. 9. Examination of persons arrested ; magistrate may associate another with him without fees.

- CHAP. 133. SEC. 10. Adjournment of examination on recognizance or commitment. How offender may be brought before magistrate at adjournment.
11. Proceedings if party fails to appear.
 12. Mode of examination; witnesses may be examined separately, and testimony taken in writing.
 13. When the accused shall be discharged, when sentenced, and when bound over or committed. When complainant may be compelled to pay costs.

PROCEEDINGS ON COMMITMENT OR BINDING OVER.

- SEC. 14. Magistrate to recognize material witnesses or commit them.
15. How married women and minors may recognize.
 16. Who may bail the accused after commitment.
 17. Examinations and recognizances to be returned to county attorney or clerk; magistrate compelled to do so by rule or *capias* of court.

WHEN PROSECUTIONS MAY BE DISMISSED.

- SEC. 18. What prosecutions may be dismissed on satisfaction for private injury.
19. Such discharges to be filed with the clerk or jailer.

REMEDIES ON RECOGNIZANCES. BAIL, HOW DISCHARGED.

- SEC. 20. Forfeited recognizances to be defaulted and process issued thereon. Sureties may pay the amount to county treasurer or clerk and be discharged.
21. Bail may exonerate themselves by surrender of principal before default on recognizance.
 22. After default, court may remit penalty; or sureties may surrender principal, if not guilty of connivance, *but only twice in same case.*
 23. [Privileges of preceding section denied to sureties in liquor cases.]
 24. *Scire facias*, on any recognizance to be dismissed on payment of costs, in case of actual sentence.
 25. Certain forms in proceedings on recognizances unessential.

WHEN PERSONS MAY BE PROSECUTED WITHOUT INDICTMENT.

Criminal prosecutions must be by indictment. R.S., c. 133, § 1. Excepted cases.

SEC. 1. No person shall be held to answer in any court for an alleged offence, unless on an indictment found by a grand jury, except for contempt of court and in the following cases:

First.—When prosecutions by information are expressly authorized by statute.

Second.—In proceedings before municipal and police courts, trial justices, and courts martial.

WHO MAY ISSUE CRIMINAL PROCESSES.

Justices of S. J. and superior courts and magistrates may issue processes. R.S., c. 133, § 2. 39 Me., 213, 482.

SEC. 2. The justices of the supreme judicial [and superior] court[s], judges of municipal and police courts, and trial justices in their counties, in the manner provided in chapter one hundred and thirty-two, in vacation or term time, may issue processes for the arrest of persons charged with offences.

Officer making complaint, &c. R.S., c. 133, § 3.

SEC. 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.

ARRESTS WITHOUT WARRANTS.

CHAP. 133.

SEC. 4. Every sheriff, deputy sheriff, constable, city or deputy marshal, watchman, 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 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.

Officer may arrest without warrant. R.S., c. 133, §4. 10 Me., 476. 36 Me., 320. 42 Me., 388. 68 Me., 149. —proviso.

ARRESTS IN OTHER COUNTIES.

SEC. 5. When a person charged with an offence 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 offence was committed.

Accused may be pursued into other counties, &c. R.S., c. 133, §5. 17 Me., 195.

SEC. 6. If the offence charged is not punishable with imprisonment in the state prison, the officer shall, on request of the accused, take him before a magistrate of the county where he is arrested; and such magistrate, without any examination, may take his recognizance with sufficient sureties for his appearance at the next court, or before any magistrate having cognizance of the offence in the county where it was committed, and thereupon the accused shall be discharged; and the magistrate shall certify that fact on the warrant, and deliver the same with the recognizance to the officer, *and he* [who] shall immediately deliver them to the clerk of the court or magistrate before whom the accused recognized to appear.

How discharged in county where arrested, &c. R.S., c. 133, §6.

TRANSFER OF PERSONS CHARGED WITH CRIME IN TWO COUNTIES.

SEC. 7. When a person is imprisoned or held under arrest in one county, any justice of the supreme judicial court, in term time or vacation, may order the removal of such person into another county, when complaint has been made and warrant issued, or an indictment has been found, charging the person so arrested or imprisoned, with the commission of a crime in such other county, for examination or trial under said complaint or indictment; but he shall be satisfied before issuing such order, that the administration of speedy and impartial justice requires it.

Of the transfer of prisoner, when charged with crimes in two counties. R.S., c. 133, §7.

SEC. 8. The officer holding the person described in such order, shall deliver him to the officer presenting it, and give to him an attested copy of the same, and of the complaint and warrant, or indictment on which such order is founded. The officer receiving the accused person, shall bring him before the proper court or magistrate, in the county to which he is removed, for examination and trial, and make due return of his proceedings.

Duties of officer holding prisoner, and of officer holding order of court. R.S., c. 133, §8.

CHAP. 133.

EXAMINATION OF OFFENDERS.

Examina-
tion of per-
son arrested,
&c.
R.S., c. 133, §9.

SEC. 9. Every person arrested for any offence shall be brought before the magistrate issuing the warrant, or some other in the same county, for examination; and the warrant, with a proper return thereon, signed by the officer serving it, shall be delivered to the magistrate, who may associate another magistrate with him in such examination, but no fees shall be taxed for him.

Adjourn-
ment of ex-
amination
on recogni-
zance or
commit-
ment, &c.
R. S., c. 133,
§ 10.
48 Me., 582.

SEC. 10. Any magistrate may adjourn an examination before him, from time to time, not more than ten days at a time, and may recognize the accused with sufficient sureties for his appearance before him at the time of adjournment; but if no sufficient sureties are offered, or the offence is not bailable, the accused shall be committed to jail by an order of the magistrate, stating briefly the offence with which he is charged, and that he is committed for examination at a future day therein named, and, on the day appointed, he may be brought before such magistrate by his verbal order to the officer committing him, or by a written order to any other person.

Proceedings,
if party fails
to appear.
R. S., c. 133,
§ 11.

SEC. 11. If the party so recognized does not appear at the time of such adjournment, the magistrate shall record his default, and certify the recognizance and such record to the *supreme judicial* [appellate] court, there to be proceeded with as any other forfeited recognizance in a criminal case.

Examina-
tion, &c.
R. S., c. 133,
§ 12.
71 Me., 204.

SEC. 12. When the accused is brought before a magistrate, he shall first examine on oath, in the presence of the accused, the complainant and witnesses to support the prosecution, as to all pertinent facts, and then the witnesses in defence; the witnesses on both sides may be examined, each one separately from all the others; and the witnesses for the accused may be kept separate from those against [him] during the examination, according to the directions of the magistrate, who may reduce the testimony of any witness to writing, when he thinks it necessary, and require him to sign it.

When accus-
ed shall be
discharged.
1879, c. 135.
35 Me., 131.
37 Me., 136.
41 Me., 431.
47 Me., 464.
71 Me., 204.

SEC. 13. If it appears on the whole examination that no offence has been committed or that there is not probable cause to charge the accused, he shall be discharged, and on motion of the respondent the magistrate shall render judgment whether or not the complaint is frivolous or malicious, and if the magistrate judges the complaint [to be] frivolous or malicious, he shall order the complainant to pay the costs of prosecution and [shall] issue execution in favor of the county and against the complainant for such sum, and *said magistrate* may receive and pay over said costs to the county treasurer for the use of the county, and *in case* [if] the same are not paid the magistrates shall return said execution to the county commissioners, for the use of the county. And the complainant shall have the same right of appeal as in civil cases. But if it

—on motion,
justice to
decide if
complaint is
frivolous or
malicious; if
so, he shall
order com-
plainant to
pay costs to
magistrate.

appears that an offence has been committed and [that] there is probable cause to charge the accused, and the offence is bailable and sufficient bail is offered, it shall be taken and the accused discharged; but if it is not bailable, or no sufficient bail is offered, the accused shall be committed to prison to await trial. If the offence is within the jurisdiction of the magistrate, he shall try it, and award sentence thereon.

CHAP. 133.

—complainant may appeal.

—proceedings if there is probable cause to charge the accused.

PROCEEDINGS ON COMMITMENT OR BINDING OVER.

SEC. 14. When the accused is committed, or bound over for trial to a higher court, the magistrate shall order the material witnesses against him to recognize to appear and testify at said court; and when he is satisfied [that] there is reason to believe that any of them will not perform the condition of his own recognizance, he may order him to recognize with sufficient sureties; and if he *refuses* [fails] to recognize as required, in either case, he may be committed to prison and remain *till* [until] discharged by law.

Magistrate to recognize material witnesses or commit them.
R. S., c. 133, § 14.

SEC. 15. Any person may so recognize for a married woman or minor to appear as a witness, or the magistrate may take the recognizance of either in a sum not exceeding twenty dollars, which shall be valid notwithstanding such disability.

How married women and minors may recognize.
R. S., c. 133, § 15.

SEC. 16. Any justice of the supreme judicial [or superior] court, or bail commissioner within his county, on application of a prisoner committed before verdict of guilty, for a bailable offence, or for not finding sureties to recognize for him, may inquire into the case and admit him to bail.

Who may bail accused after commitment.
R. S., c. 133, § 16.
1873, c. 137, § 2.

SEC. 17. All the examinations and recognizances, taken by a magistrate under this chapter, shall be certified and returned to the county attorney or clerk of the court, at which the accused is to appear, on or before the first day of its session; and if the magistrate neglects so to do, he may be compelled by rule of court, or if that is disobeyed, by attachment for contempt.

Examinations and recognizances to be returned, &c.
R. S., c. 133, § 17.
61 Me., 175.

WHEN PROSECUTIONS MAY BE DISCONTINUED.

SEC. 18. When a person is recognized or committed by a magistrate, or is indicted for an assault and battery, or other misdemeanor, for which the party injured has a remedy by a civil action, except felonious assaults, assaults upon or resistance of an officer of justice in the execution of his duty, and assaults and batteries of such officers, if the injured party appears before the magistrate or court, and in writing acknowledges satisfaction for the injury, on payment of all costs, the court may stay all further proceedings and discharge the defendant; the magistrate may discharge the recognizance, supersede the commitment by his written order, and discharge the recognizance of the witnesses.

What prosecutions may be dismissed on satisfaction for private injury.
R. S., c. 133, § 18.

SEC. 19. Any order discharging recognizances shall be filed in Such dis-

CHAP. 133. the office of the clerk of the court at which the party and witnesses are to appear; and an order superseding a commitment shall be delivered to the jailer; and if so filed or delivered, and not otherwise, shall bar all remedy by civil action for such injury.

charges to be filed with clerk or jailer.
R. S., c. 133, § 19.

REMEDIES ON RECOGNIZANCES. BAIL, HOW DISCHARGED.

Forfeited recognizances to be defaulted, &c.
R. S., c. 133, § 20.
33 Me., 200, 539.
41 Me., 345.

SEC. 20. When any person, under recognizance in a criminal case, fails to perform its condition, his default shall be recorded, and process shall be issued against such of the consors as the prosecuting officer directs, but no costs shall be taxed for travel in the suit; but any surety may be discharged by paying to the county treasurer, before or after process, the amount for which he is bound as surety, with costs, if any, or depositing it with the clerk of the court where the recognizance is filed.

Bail, how exonerated before default upon their recognizance.
R. S., c. 133, § 23.

SEC. 21. Bail in criminal cases, at any time before default upon their recognizance, may exonerate themselves by surrendering their principal into court, or to the jailer in the county where the principal is held to appear, and delivering to the jailer a certified copy of the recognizance; and the jailer shall receive and detain such principal; and any person, so surrendered, may be afterwards bailed in the same manner as if he had been committed without recognizance.

Court may remit penalty, &c.
R. S., c. 133, §§ 23, 21.
41 Me., 530.
50 Me., 56.

SEC. 22. When the penalty of any recognizance in a criminal case is forfeited, on scire facias against principal, sureties, or witnesses, the court, on application of any defendant, if satisfied that the default of the principal was without the consent or connivance of the bail, may remit all or any part of the penalty; or the sureties may surrender the principal in court at any time before final judgment on scire facias, and may, on application therefor, be discharged by paying the costs of suit, *provided* that the court is satisfied as aforesaid; *but if a principal has been thus surrendered twice, and is again released on bail in the same case, the sureties in such third, or any subsequent recognizance, shall not be so discharged.**

Liquor cases excepted.
1871, c. 189.
See c. 27, § 55.

SEC. 23. [The preceding section is not applicable to recognizances taken under either of the last fifty sections of chapter twenty-seven.]

Scire facias or any recognizance to be dismissed on payment

SEC. 24. Whenever, in any suit of scire facias on a recognizance taken in any criminal case, it shall appear that the surety has surrendered the principal into court for sentence, and [that] the

* [NOTE. The latter sentence of section 23 of chapter 133 of the Revised Statutes of 1871, seems to the commissioner inconsistent with the last provision of section 21, and also to have been intended to qualify the other two provisions of section 21.

Inasmuch as § 23 embodied an act of 1867, (c. 110) while § 21 was copied from the R. S. of 1857, the commissioner has endeavored to reconcile the apparent difficulty by giving precedence to the later expression of the legislative will.]

principal has actually been sentenced upon the indictment or complaint on which the recognizance was taken, such suit shall be dismissed upon *the* payment of the costs therein.

SEC. 25. No action on *such* [any] recognizance shall be defeated, nor judgment thereon arrested, for an omission to record a default of the principal or surety at the proper term, nor for any defect in the form of the recognizance, if it can be sufficiently understood, from its tenor, at what court the party or witness was to appear, and from the description of the offence charged, that the magistrate was authorized to require and take the same.

CHAP. 134.
of costs, in
case of actual
sentence.
1879, c. 80.
See c. 27, §55.
Unessential
forms in
recognizances, &c.
R. S., c. 133,
§ 22.
59 Me., 414.
60 Me., 107,
108.
71 Me., 204-6.

CHAPTER 134.

PROCEEDINGS IN COURT IN CRIMINAL CASES.

OATH AND DUTY OF GRAND JURY.

- SEC. 1. Clerks of courts to prepare alphabetical lists of grand jurors.
2. Grand jurors' oath.
 3. Form of affirmation.
 4. Election of foreman.
 5. Term of his office.
 6. Oath of witnesses before grand jury. List to be returned to court.
 7. Grand jury to present all offences, may appoint one of their number to take minutes, and when dismissed they may be recalled.
 8. Disclosures improper to be made by grand jurors.

BAIL, ARRAIGNMENT AND TRIAL OF CRIMINALS.

- SEC. 9. In what cases persons in prison, on charges of offences formerly capital, may be bailed or discharged, if not indicted.
10. When person, if indicted, may claim trial.
 11. Standing mute equivalent to a plea of not guilty.
 12. Jury for trial of cases formerly capital, how impanelled. Rules by S. J. Court.
 13. Person indicted for felony is entitled to a copy of indictment, and if indicted for an offence punishable by imprisonment for life, to a list of jurors and witnesses, at expense of state.
 14. Prosecuting officer may summon witnesses; no fees need be tendered them; no costs for witnesses not recognized or summoned, where no bill is found, or for defect of roads.
 15. Punishment for not attending, when summoned as a witness.
 16. Witnesses not to be paid till second or third day in continued cases; costs allowed before arrest or trial, in certain cases; but no extra charges for aid or otherwise, unless on examination of officer on oath or other proof.
 17. Person arraigned, need not be asked how he will be tried; and dilatory pleas may be rejected unless verified by oath.

CHAP. 134. SEC. 18. Depositions may be taken out of the state, on request of defendant. Accused may be a witness, at his own request, but he is not obliged on cross examination to convict himself of any other crime. His refusal to testify is not proof of guilt. Husband or wife is a competent witness.

19. Facts to be tried and challenges allowed as in civil cases.
20. Jurors' oaths and affirmations.
21. When a respondent's presence is required at his trial.
22. View may be ordered by court.
23. When the court may postpone criminal trials, or discharge the jury.

PAYMENT OF PRIVATE CLAIMS FROM FORFEITED RECOGNIZANCES.

SEC. 24. Payment of private claims out of forfeited recognizances.

EXCEPTIONS, AND BAIL AFTER VERDICT. NEW TRIALS. REVERSAL ON WRIT OF ERROR.

- SEC. 25. Questions of law may be reserved on report. Accused to recognize, or be committed; and, after verdict of guilty against him, only a justice of the supreme judicial court, or a person appointed by the justice who tried the case, can admit him to bail.
26. Supreme or superior court may grant new trial in cases formerly capital.
 27. Reversal of judgment on writ of error.

OATH AND DUTIES OF GRAND JURORS.

Clerks of courts to prepare lists of grand jurors.
R.S., c. 134, §1.
See c. 106.

Grand jurors' oath.
R.S., c. 134, §2.
36 Me., 130.
38 Me., 201, 300.
49 Me., 576, 594.
51 Me., 397.
64 Me., 284.
69 Me., 189.

SEC. 1. Prior to the commencement of each term of the supreme judicial [or superior] court in any county to which grand jurors are returned, the clerk of the court shall make out, from the returns on the venires, an alphabetical list of such jurors.

SEC. 2. When the grand jury is to be impanelled, the clerk shall call the first two persons named on the list, and administer the following oath to them: "You, as grand jurors of this county of—, do solemnly swear, that you will diligently inquire and true presentment make of all matters and things given you in charge. The state's counsel, your fellows', and your own, you shall keep secret. You shall present no man for envy, hatred, or malice; nor leave any man unpresented for love, fear, favor, affection, or hope of reward; but you shall present things truly as they come to your knowledge, according to the best of your understanding. So help you God." The other jurors shall then be called, in such divisions as the court orders, and the following oath shall be administered to them: "The same oath which your fellows have taken on their part, you and each of you on your part shall well and truly observe and keep. So help you God."

Form of affirmation.
R.S., c. 134, §3.

SEC. 3. When any person returned as grand juror is conscientiously scrupulous of taking an oath, he may make affirmation, substituting the word "affirm" instead of "swear;" and also the words "This you do under the pains and penalties of perjury," instead of "So help you God."

SEC. 4. The grand jury, having been impanelled and instructed by the court, shall retire in company with an officer to their room, and there elect, by ballot, one of their number for foreman, and give notice thereof to the court, and the clerk shall record it. CHAP. 134.
Election of
foreman.
R.S., c. 134, §4.

SEC. 5. Such foreman shall continue in office during the time for which he was returned ; but in case of his sickness or absence, the jury may in like manner elect and announce to the court another foreman. Term of his
office.
R.S., c. 134, §5.

SEC. 6. The attorney general, county attorney, or foreman of the grand jury, shall swear, or affirm, in the presence of the jury, all witnesses who are to testify before them, and a list thereof shall be returned into court by the foreman before the jury is discharged, and [shall be] filed and entered on record by the clerk. Oath of wit-
ness before
the grand
jury, &c.
R.S., c. 134, §6.
37 Me., 129.

SEC. 7. Grand juries shall present all offences cognizable by the court at which they attend ; and may appoint one of their number to take minutes of their proceedings to be delivered to the attorney, if the jury so directs ; and when they are dismissed before the court adjourns, they may be summoned again, on any special occasion, at such time as the court directs. It is sufficient in every indictment for murder, to charge that the defendant did feloniously, willfully and of his malice aforethought, kill and murder the deceased, and for manslaughter, to charge that the defendant did feloniously kill and slay the deceased, without setting forth the manner or means of death. Grand jury
to present all
offences, &c.
R.S., c. 134, §7.
4 Me., 444.

—what is a
sufficient in-
dictment for
murder or
man-
slaughter.
32 Me., 373.
54 Me., 413.
65 Me., 266.

SEC. 8. No grand juror or officer of the court shall disclose that an indictment for felony is [has been] found against any person not in custody or under recognizance, until he is arrested, except by issuing process for his arrest ; nor shall any grand juror state how any member of the jury voted, or what opinion he expressed, on any question before them ; and the court in charging such jury shall impress on their minds the provisions of this section. Disclosures
improper to
be made by
grand
jurors.
R.S., c. 134, §8.

BAIL, ARRAIGNMENT AND TRIAL OF PRISONERS.

SEC. 9. Any person in prison, charged with a crime formerly capital and now punishable by imprisonment at hard labor for life, may be bailed or discharged, if he is not indicted at the second term of the court in the county where the crime is alleged to have been committed, when there are two terms there in each year ; but when there is only one term a year therein, and the accused has been in prison six months before the first term and is not then indicted, he shall be bailed or discharged. When per-
sons are im-
prisoned on
offences
formerly
capital.
R.S., c. 134, §9.
1880, c. 178.

SEC. 10. Any person in prison under indictment shall be tried or bailed at the first term next after the finding thereof, if he demands it, unless the court is satisfied that some of the witnesses on the part of the state have been enticed away, or detained from court by some cause beyond their control ; and all persons under When person
indicted may
claim trial.
R. S., c. 134,
§ 10.

CHAP. 134. indictment for felony, if they have been arrested thereon, shall be tried or bailed at the second term after the finding thereof. Any person indicted, although he has not been arrested, is entitled to a speedy trial, if he demands it in person in open court.

Standing
mute.
R. S., c. 134,
§ 11.
SEC. 11. When any person indicted stands mute, the court shall order the plea of not guilty to be entered, and it shall have the same effect as if he had pleaded not guilty.

Jury for
trial of cases
formerly
capital, how
impanelled.
1880, c. 178.
R. S., c. 134,
§ 12.
67 Me., 337.
SEC. 12. When a person indicted for an offence formerly capital and now punishable by imprisonment at hard labor for life, is put upon his trial, the clerk under the direction of the court, shall place the names of all the traverse jurors summoned and in attendance, in a box, upon separate tickets, and the names, after being mixed, shall be drawn from the box by the clerk, one at a time, for the purpose of constituting a jury of trial. All peremptory challenges, except as herein provided, and all other challenges and objections to the juror drawn, shall be made and determined, and the juror sworn or set aside, before another name is drawn, and so on until the panel is completed. The state *shall have the right to* [may] challenge five persons peremptorily, and the person indicted shall not challenge peremptorily more than five of the jurors while the panel is being formed; but he may, before the trial commences, challenge peremptorily, one of the jurors from the panel. The supreme judicial court, may, by general rules, prescribe the mode of exercising the latter right of challenge.

—state has
five peremp-
tory chal-
lenges.
1872, c. 78.
—prisoner,
six.
R. S., c. 134,
§ 12.
—rules by
S. J. court.

Persons in-
dicted for
felony, to be
furnished
with copy of
indictment.
1874, c. 237.
SEC. 13. The clerk shall, without charge, furnish to *any* [every] person indicted for a crime punishable by imprisonment in the state prison, a copy of the indictment; if *he is indicted for a crime punishable by imprisonment in the state prison* [the punishment may be] for life, he shall [also] furnish *a copy of the indictment*, a list of the jurors returned, and process to obtain witnesses, to be summoned and paid at the expense of the state. Competent counsel shall be assigned by the court in cases formerly capital and now punishable by imprisonment at hard labor for life, when it appears that the accused has not sufficient means to employ counsel, but no compensation shall be allowed counsel by the court.

—counsel to
be assigned,
in cases
formerly
capital, but
not to be
paid by
state.
1880, c. 178.

Prosecuting
officer may
summon
witnesses,
&c.
R. S., c. 134,
§ 15.
SEC. 14. The prosecuting officer shall have the same power to issue a summons for witnesses in criminal cases as the clerk of the court; and no costs shall be taxed for witnesses before the grand jury in a case where no bill is found, nor in complaints against towns for defect of road, unless they are recognized so to attend, or summoned by order of the grand jury or prosecuting officer; nor shall it be necessary to tender any fees to witnesses summoned in behalf of the state.

Punishment
of witness
for not at-
tending.
SEC. 15. If any person, duly summoned as a witness in behalf of the state before any court or grand jury, without reasonable cause fails to appear at the time and place designated in the

summons, if he is not punished therefor as for contempt, he shall be punished, on indictment, by imprisonment less than one year, or by fine not exceeding one hundred dollars. CHAP. 134.
R. S., c. 134,
§ 16.

SEC. 16. No fees in criminal cases continued after the first term, shall be allowed to witnesses on the part of the state, until the second day of the term in Hancock, Oxford, Franklin, Piscataquis, and Aroostook; nor until the third day in any other county, unless legally summoned at an earlier day; and the court, in all such cases, previous to the determination thereof, may allow such costs for justices, officers, aids, jurors, and witnesses, as are provided by law, to be paid from the county treasury; but no court or magistrate shall allow any charge for aid or other expenses of the officer in serving a warrant, except his stated fees for service and travel, unless, on his examination on oath, or on other evidence, they find such additional charges reasonable. Witnesses
not to be
paid until
second or
third day in
continued
cases, &c.
R. S., c. 134,
§ 17.

SEC. 17. When a person is arraigned on any indictment, he need not be asked how he will be tried; and when a plea in abatement, or other dilatory plea to an indictment is offered, the court may refuse to receive it until it is verified by affidavit or other evidence. (a) Person ar-
raigned need
not be asked
how he will
be tried, &c.
R. S., c. 134,
§ 18.

SEC. 18. On application of the defendant in a criminal case, the court may grant a commission to take the depositions of material witnesses living out of the state, to be taken on interrogatories in the manner, [and to] have the effect, and be subject to the exceptions, as in civil causes; the prosecuting officer may join in such commission, and name therein any material witness to be examined on the part of the state; but if at the trial, the defendant does not use the depositions so taken for him, those taken for the state shall not be used. In all criminal trials, the accused shall, at his own request, but not otherwise, be a competent witness. He shall not be compelled to testify on cross-examination to facts that would convict, or furnish evidence to convict him of any other crime than that for which he is on trial, and the fact that he does not testify in his own behalf, shall not be taken as evidence of his guilt. The husband or wife of the accused shall be a competent witness. (b) Depositions
may be tak-
en out of
state.
—respondent
may testify
at his own
request.
R. S., c. 134,
§ 19.
—but not
compelled on
cross exam-
ination to
convict him-
self of any
other crime;
his failing to
testify is not
proof of
guilt.
1879, c. 92, § 2.
1879, c. 92, § 1.
1873, c. 137, § 5.

SEC. 19. Issues of fact joined on indictment shall be tried by a jury drawn and returned in the manner, and challenges shall be allowed to the prosecuting officer and the accused, as in civil cases; but no member of a grand jury finding an indictment, shall sit on the trial thereof, if challenged therefor by the accused. (c) Facts tried
and challen-
ges allowed
as in civil
cases, &c.
R. S., c. 134,
§ 20.
1876, c. 114, § 1.

(a) 15 Me., 107; 23 Me., 114; 36 Me., 132; 37 Me., 333; 38 Me., 300; 39 Me., 361.

(b) 63 Me., 211, 212; 65 Me., 240; 72 Me., 534.

(c) Practice and evidence in criminal cases. 19 Me., 227, 401; 21 Me., 18; 26 Me., 317; 29 Me., 336, 563; 30 Me., 30, 183, 344; 31 Me., 63; 32 Me., 372, 585; 34 Me., 40; 37 Me., 331, 363; 38 Me., 575; 39 Me., 65, 69, 72, 92, 296, 361; 40 Me., 560; 43 Me., 108; 45 Me., 329; 46 Me., 531; 47 Me., 450; 48 Me., 238, 366; 51 Me., 364, 396; 53 Me., 127, 331, 549; 54 Me., 28, 580; 55 Me., 213; 65 Me., 469; 67 Me., 337.

CHAP. 134.

Jurors' oath;
affirmations.
1880, c. 178.
R. S., c. 134,
§ 21.

SEC. 20. The following oath shall be administered to jurors in cases formerly capital and now punished by imprisonment at hard labor for life: "You swear, that you will well and truly try, and true deliverance make, between the state and the prisoner at the bar, whom you shall have in charge, according to your evidence. So help you God." In all other criminal cases, the following: "You swear, that you will well and truly try the issue between the state and the defendant, according to your evidence. So help you God." Any juror conscientiously scrupulous of taking an oath may affirm in the mode described in section three.

Respondent
to be present
at trial for
felony.
R. S., c. 134,
§ 22.
67 Me., 427.
View.
R. S., c. 134,
§ 23.

SEC. 21. No person indicted for felony shall be tried, unless present during the trial; but persons indicted for less offences, at their own request and by leave of court, may be tried in their absence, by their attorney.

When court
may post-
pone crim-
inal trials.
R. S., c. 134,
§ 24.
1880, c. 178.

SEC. 22. The court may order a view by any jury in a criminal case.

SEC. 23. The trial of any criminal case, except one formerly capital and now punished by imprisonment for life, may be postponed by the court to a future day of the same term, or the jury [may be] discharged therefrom, and the case continued, if justice will thereby be promoted.

PAYMENT OF PRIVATE CLAIMS FROM FORFEITED RECOGNIZANCES.

Payment of
private
claims out
of forfeited
recogniz-
ances.
R. S., c. 134,
§ 25.

SEC. 24. When the penalty of a recognizance to prosecute an appeal is paid to the clerk of the court or county treasurer, the court may award to any person therefrom the same sum he would have been entitled to receive from the penalty affixed to the offence if paid on conviction, and not on recognizance.

EXCEPTIONS AND BAIL AFTER VERDICT. NEW TRIALS.

REVERSAL ON WRIT OF ERROR.

Respondent
may give
bail in bail-
able case,
pending a
question of
law.
—form of re-
cognizance.
—after con-
viction, he
can be bailed
only by judge
trying him,
or by some
person ap-
pointed by
him.
R. S., c. 134,
§ 26.
34 Me., 224.
38 Me., 297.
40 Me., 129.
41 Me., 167.

SEC. 25. A question of law allowable by exceptions, may be reserved on a report signed by the presiding justice, and in such case, and where exceptions are allowed, the defendant may, when the offence charged is bailable, recognize with sureties, in such sum as the court orders, with conditions substantially as follows: "The condition of this recognizance is such that, whereas there is now pending in the — court, within and for the county of —, an indictment against the said — — for the crime of —, in the course of the proceedings upon which, questions of law requiring the decision of the justices of the supreme judicial court have arisen; now if the said — — shall personally appear before the said — court, to be held in and for the said county, from term to term, until and including the term of said court next after the certificate of decision shall be received from said justices, and shall abide the decision and order of said court, and not depart

without license, then this recognizance shall be void." If he does not so recognize he shall be committed. When a verdict of guilty is rendered against any person for an offence punishable by imprisonment in the state prison, he shall be admitted to bail only by the justice trying him, by some person by him appointed therefor, or by some other justice of the court.

CHAP. 135.

42 Me., 385.
43 Me., 284.
59 Me., 305.
70 Me., 334.

SEC. 26. The supreme judicial court, or any superior court, before which any person has been convicted *for* [of] an offence, capital, or formerly capital, or may be convicted *for* [of] an offence formerly capital, may either in term time or vacation, grant a new trial for any cause for which a new trial may or should be granted, when, on the petition or motion in writing of such person, it is made to appear to the court that justice may be better done thereby.

S. J. court or superior court may grant new trial in certain cases formerly capital.
1880, c. 207.

SEC. 27. When a final judgment in any criminal case is reversed by the supreme judicial court, upon a writ of error, on account of error in the sentence, the court may render such judgment therein as should have been rendered, or may remand the case for that purpose to the court before whom the conviction was had.

In case of error in sentence, proceedings.
R. S., c. 134, § 27.

CHAPTER 135.

SENTENCE, AND ITS EXECUTION IN CRIMINAL CASES, AND THE LIBERATION OF POOR CONVICTS.

WHAT SENTENCE MAY BE AWARDED.

- SEC. 1. No person can be punished until convicted; what sentence may be passed, when none is provided. When punishment is by imprisonment and fine, &c., sentence may be to either or both.
2. Punishment may be for life, when convict has before been sentenced to state prison.
3. No convict sent to state prison for less than a year. Imprisonment for misdemeanors may be inflicted in jail or house of correction.
4. Crimes punishable in state prison for three years or less, may be punished in work-jails.
5. Alternative sentences to work-jails, how inflicted. Powers of jail inspectors in case of incorrigible, or dangerous convicts, &c.
6. Courts may sentence convict to any work-jail nearest to county where offence was committed. Imprisonment sentences to include labor.
7. Expense of prisoners from other counties, how paid.
8. In what cases sureties to keep the peace may be required, in addition to the other punishment.

EXECUTION OF SENTENCES.

- SEC. 9. Minutes made by the clerk, when sufficient authority for the officer.
10. Removal of convicts to the state prison, upon sentence.

CHAP. 135.

LIBERATION OF POOR CONVICTS.

- SEC. 11. Convicts imprisoned for non-payment of fines or costs, may, after thirty days' labor, be liberated by the sheriff, on giving their notes, and a sworn schedule of their property.
12. Such notes are a lien on their real estate, and execution thereon may be proceeded with as in other cases.
13. Penalty for willfully making a false schedule of property.

WHAT SENTENCE MAY BE AWARDED.

No person can be punished, until convicted. R.S., c. 135, § 1. —sentence to imprisonment and fine.

SEC. 1. No person can be punished for an offence *till* [until] convicted thereof in a court having jurisdiction of the person and case. When no punishment is provided by statute for an offence, a person convicted thereof shall be imprisoned less than one year or fined not exceeding five hundred dollars. When it is provided that he shall be punished by imprisonment and fine, or by imprisonment or fine, he may be sentenced to either or both. In all cases where a fine is imposed he may be sentenced to pay the costs of prosecution.

Punishment, when convict has before been sentenced to state prison. R.S., c. 135, § 3.

SEC. 2. When a person is convicted of a crime punishable by imprisonment in the state prison, and it is alleged in the indictment therefor and proved or admitted on trial, that he had been before convicted and sentenced to a state prison by any court of this state, or of any other state, or of the United States, whether pardoned therefor or not, he may be punished by imprisonment in the state prison for life, or any term of years.

No convict sent to state prison for less than a year, &c. R.S., c. 135, § 2. —imprisonment for misdemeanor may be in jail or house of correction.

SEC. 3. Unless otherwise specially provided, all imprisonments mentioned in this title for the term of one year or more, shall be in the state prison; and all for a less term, in the county jail or house of correction. When it is provided that imprisonment shall be in the county jail, the sentence may be for imprisonment there or in a house of correction; and the sentence may be conditional that the convict shall pay a fine and costs, but if not paid in ten days, then he shall be imprisoned not more than six months.

Certain felonies may be punished in work-jails. 1877, c. 183. See c. 78, § 12.

SEC. 4. When the punishment provided by law may be imprisonment in the state prison for three years or less, such punishment may be inflicted by the court, in its discretion, in either of the work-jails.

Alternative sentences to work-jails, how inflicted. 1874, c. 240. See c. 78, § 13.

SEC. 5. When a convict is sentenced to imprisonment and labor in either of the work-jails, the court or *justice* [magistrates] may in addition sentence him to the other punishment provided by law for the same offence, with the condition that if such convict cannot be received at the [work-]jail to which he is sentenced, or if at any time before the expiration of said sentence he shall in the judgment of the inspectors named in section nine of chapter one hundred and forty, become incorrigible, or unsafe, they may order that he suffer such alternative sentence or punishment; and if said

alternate sentence is in the state prison, the sheriff of the county where such convict is imprisoned, shall forthwith, upon receiving the order of said inspectors, convey or cause said convict to be conveyed to the state prison at the expense of the county from which he was sentenced.

SEC. 6. The supreme [judicial] court, the superior court and any municipal court, police court, or trial justice in the county where a work-jail is situate, or in any county where there is no [work-] jail, may sentence any person convicted of any offence punishable by imprisonment, to either of the work jails nearest or most convenient to the county where the offence is committed, and all sentences of imprisonment, shall include *imprisonment and* labor. And the keeper of such [work-]jail shall receive and detain such prisoner in the same manner as if committed by any court sitting in the county where such [work-]jail is situated. Any officer of any county qualified to serve criminal precepts in his county may serve any precept required by sections four, five, six, and seven, whether such service is performed in whole or in part in one or more counties, and *the* processes shall be issued and directed accordingly.

SEC. 7. There shall be paid to the county to which a prisoner from any other county may be sentenced and committed, by such other county, such sum as may be agreed upon by the county commissioners of said counties, for subsistence and detention, deducting the amount received for labor, and if said commissioners do not agree upon the amount to be paid, representation of the facts may be made to the supreme [judicial] court, or any justice thereof, and the amount [shall be] determined by such court or justice, either in term time or vacation.

SEC. 8. In addition to the punishment prescribed by law, the court may require any person convicted of an offence not punishable by imprisonment in the state prison, to recognize to the state, with sufficient sureties, in a reasonable sum, to keep the peace and be of good behavior for a term not exceeding two years, and stand committed *till* [until] he so recognizes.

EXECUTION OF SENTENCES.

SEC. 9. When a convict is sentenced to pay a fine or costs, or be imprisoned in the county jail or house of correction, the clerk of the courts, as soon as may be, shall make out and deliver to the sheriff or some officer in court, a transcript of the minutes of the conviction and sentence duly certified by him; and this shall be a sufficient authority for the officer to execute such sentence.

SEC. 10. When any convict is sentenced to confinement in the state prison, such clerk shall make out a warrant under seal of the court, directed to the warden of the prison, requiring him to cause

CHAP. 135.

—power of inspectors in case of incorrigible or dangerous convicts.

Courts may sentence to any work-jail, nearest to county where offence has been committed.

1879, c. 159.

—sentence to include labor.

—keeper to receive such convict as if sentenced in the county.

—service of precepts. 18 73, c. 133, § 10.

Expense of prisoners from other counties, how paid. 1873, c. 133, § 8.

In all cases of misdemeanors, sureties to keep the peace may be required, &c. R.S., c. 135, § 4.

Clerk's minutes authority for officer to execute sentences for misdemeanors. R.S., c. 135, § 5.

Removal of convicts to state prison on sentence

CHAP. 135. such convict, without needless delay, to be removed from the county jail to the state prison; and the warden and all sheriffs and jail keepers are required strictly to obey its directions; and the clerk, as soon as may be, shall deliver such warrant to the sheriff of the county, and he shall forthwith deliver it to said warden. The sheriff shall provide the convict with comfortable clothing in which to be removed to the state prison.

LIBERATION OF POOR CONVICTS.

—convict unable to pay fine or costs, how liberated after thirty days.
1879, c. 132.

—convict's note and sworn schedule.

—such convict may be placed at labor.

Such notes a lien on convict's real estate.
R. S., c. 135, § 13.

Penalty for making a false schedule of property.
R. S., c. 135, § 14.

SEC. 11. [Except when otherwise expressly provided,] any convict, sentenced to pay a fine or costs, and committed for default thereof and for no other cause, who is unable to pay the same, may be liberated by the sheriff, after thirty days from his commitment, by giving his note for the amount due, to the treasurer of the same county, accompanied by a written schedule of all his property of every kind, signed and sworn to before the sheriff, jailer or any justice of the peace or trial justice, and the sheriff shall deliver the same to said treasurer, for the use of the county, within thirty days; and all convicts so committed may be placed at labor in the same manner as provided for persons sentenced to imprisonment and labor.

SEC. 12. Such note shall be and continue a lien on all the maker's real estate till the same is fully paid; and if judgment is rendered on it in favor of the treasurer, the same proceedings may be had on the execution as in other cases of contract.

SEC. 13. If such convict is convicted of knowingly and willfully making a false schedule, on oath, as to the nature or amount of his property, he shall receive no benefit from his liberation, but may be imprisoned again *till* [until] the performance of the original sentence.

CHAPTER 136.

COLLECTION AND DISPOSAL OF FINES AND COSTS IN CRIMINAL CASES.

DUTY OF THE CLERK IN RELATION THERETO.

- SEC. 1. Certificate of fines and costs required from the clerk of the judicial courts. County to pay costs in criminal cases. Fines and costs to be paid into county treasury.
2. Duty of clerks to collect fines and costs, or issue process.

DUTY OF SHERIFFS AND OTHER OFFICERS.

- SEC. 3. Officers to pay over to county treasurer fines and costs collected.
4. Penalty for their neglect. Treasurer's duty.
5. Officers receiving warrants, &c., for collection, to produce receipts to the court, or give a good excuse.
6. Sheriff to deliver over certain securities to the county treasurer.

DUTY OF TRIAL JUSTICES AND JUDGES OF MUNICIPAL AND POLICE COURTS.

- SEC. 7. Magistrates to account for, and pay over fines to treasurers of county or town; penalty for neglect.
8. Magistrate to keep docket, and to present it to county commissioners. They may summon him before them.
9. County commissioners may issue *capias*, if he fails to appear.

DUTIES OF COUNTY TREASURERS.

- SEC. 10. Fees allowed, must be claimed within three years.
11. Treasurer to exhibit to county commissioners, schedule of notes for costs. Duty of commissioners.
12. County treasurer to publish lists of criminal costs.
13. Treasurer to report to attorney general.
14. Neglect so to report is a breach of his bond. Penalty of \$5.00 for every day's neglect, to be enforced by the attorney general.

DUTY OF COUNTY ATTORNEYS.

- SEC. 15. Each county attorney shall examine the records of courts and accounts of treasurers, and move for process to enforce collection.
16. He shall summon every delinquent officer before the court to show cause why fines are not collected, and shall use all other means to enforce collections.

DUTY OF THE CLERK IN RELATION THERETO.

- SEC. 1. All fines, forfeitures, and costs in criminal cases shall be paid into the treasury of the county where the offence is prosecuted, for the use of such county, and all the costs and expenses attending the administration of criminal justice therein, shall be paid by said county, unless otherwise specially provided. The supreme judicial court, and the superior court[s] for the *county* [counties] of Cumberland, [and Kennebec] shall allow bills of costs accruing therein, but all other costs and expenses in criminal cases shall be audited by the commissioners of the county where

Fines, forfeitures and costs, how disposed of. —costs, how paid.
R.S., c. 136, §1.

CHAP. 136.

—clerks to
make copies
of bills of
costs.

they accrued. The clerks of the courts shall attest duplicate copies of all bills of costs allowed therein, and certificates of all fines and forfeitures imposed and accruing to the county, before the rising of the court, or immediately after, and deliver one of said copies and certificates to the county treasurer, and retain one for the use of the county commissioners.

Duty of
clerks as to
fines and
costs.
R.S., c. 136, § 2.

SEC. 2. *He* [Each clerk] shall, in default of payment to him of fines, forfeitures, and bills of costs, issue warrants of distress, or such other process therefor as the court finds necessary, to enforce the execution of any order, sentence or judgment in behalf of the state; deliver them to the sheriff, or to such coroner or constable as the county attorney directs, and enter of record the name of the officer and the time when they are delivered to him.

DUTY OF SHERIFFS AND OTHER OFFICERS.

Officers to
pay over to
county treas-
urer fines
and costs
collected.
R.S., c. 136, § 3.

SEC. 3. All sheriffs, jailers, constables, and coroners, who, by virtue of their office, receive any fines, forfeitures, or bills of costs, except debts and costs received upon execution in favor of the state, shall forthwith pay them to the treasurer of the county in which they accrued.

Penalty for
neglect.
R.S., c. 136, § 4.

SEC. 4. If any such officer neglects to pay over such fine, forfeiture, or costs, for *the space of* thirty days after the receipt thereof; or if he permits any person, sentenced to pay such fine, forfeiture, or bill of costs, and committed to his custody, to go at large without payment, unless by order of law, and does not within thirty days after such escape, pay the amount thereof to the county treasurer, he shall forfeit and pay double the amount; and the county treasurer shall give notice of such neglect to the county attorney, who shall sue therefor in an action of debt, in the name of such treasurer, to the use of the county.

—treasurer's
duty.

Officers re-
ceiving war-
rants, &c.
R.S., c. 136, § 5.

SEC. 5. Every sheriff or other officer, to whom any process is committed for the recovery of any such fine, forfeiture, or costs, by the clerk of the courts, shall, at the next session of the court in the same county, produce thereto a receipt in full for the same, or assign a satisfactory excuse for not doing so; and in case of neglect the court shall order a prosecution to be commenced therefor by the county attorney.

Sheriff to
deliver
securities to
co. treasurer.
R.S., c. 136, § 6.

SEC. 6. The sheriff in each county, as often at least as every three months, shall deliver *over* to the treasurer of his county, all notes or other securities by him taken for fines and costs, on the liberation of poor convicts from prison pursuant to law.

DUTY OF TRIAL JUSTICES, AND JUDGES OF MUNICIPAL AND
POLICE COURTS.

Magistrate
to pay over
fines to

SEC. 7. Every trial justice or judge of a municipal or police court shall render an account of and pay over all fines and for-

feitures by him received, upon convictions and sentences before him, accruing to the county, to the treasurer of the county, and when they accrue to the town, to the treasurer of the town, within six months after he receives the same; and for any neglect, he shall forfeit *and pay*, in each instance, double the amount, to be recovered in an action of debt in the name of the county treasurer, when *they* [such fines or forfeitures] accrue to the state or county, and in the name of the town treasurer, when they accrue to the town.

SEC. 8. Every such justice or judge of municipal or police court shall keep a correct docket of all examinations and trials had before him of persons accused of *criminal* offences, setting forth therein a true account of all fines and forfeitures by him imposed or received upon conviction or sentence; and once a year deliver or transmit to the county commissioners of his county at one of their regular sessions such docket, or a copy thereof, accompanied by his affidavit that he has faithfully complied with the requirements of the preceding section; and said commissioners shall examine said docket or copies and may summon such justice or judge to appear before them with his original docket and records, by giving him not less than ten days' written notice served by giving him a copy in hand, or by leaving it at his last and usual place of abode. He may be examined on oath relative to his official conduct, and if it is found that he has faithfully observed the requirements of law he shall be allowed a reasonable compensation for his travel and expenses, to be paid from the county treasury.

CHAP. 136.

treasurer of
county or
town, &c.
R.S., c. 136, §7.

Trial justices and municipal and police judges to keep docket of fines and forfeitures. 1874, c. 161.

—docket to be transmitted to county commissioners.

—commissioners may summon magistrate to appear before them.

—he may be examined.

—when he may be compensated.

SEC. 9. When he fails to appear, the commissioners may issue a *capias* and have him brought, with his papers, before them; and if he fails to show reasonable cause for his neglect, he shall pay the expenses of bringing him before the commissioners, and they may issue a warrant of distress for the collection of the same.

If he fails to appear, *capias* may issue. R.S., c. 136, §9.

DUTIES OF COUNTY TREASURERS.

SEC. 10. All sums allowed to any person as fees, or for expenses in any criminal prosecution, and payable from the county treasury, may be claimed by such person of the county treasurer, at any time within three years after the allowance, and not afterwards.

Must claim fees within three years. R. S., c. 136, § 10.

SEC. 11. A schedule of all notes and securities, with the amount due on each, received by the county treasurer from the sheriff pursuant to section six, shall be by him laid before the county commissioners at their next session, to be filed with the clerk, and the county commissioners, from time to time, shall examine such notes and securities; order the county attorney to take such measures for their collection as they judge expedient, or authorize the treasurer to compound and cancel them on such terms as they direct.

Treasurer to exhibit schedule of notes to county commissioners.

—proceedings thereon. R. S., c. 136, § 11.

CHAP. 136.

County
treasurer
shall pub-
lish lists of
costs, &c.
R. S., c. 136,
§ 12.

SEC. 12. Each county treasurer shall, at the close of the [criminal] terms of the supreme judicial [or superior] court in his county, and of the court of county commissioners, cause to be published in some paper printed in said county three weeks successively, a list containing the aggregate amount of costs allowed in each case, and specifying the court or magistrate that allowed the same, and before whom the case originated.

Treasurer
shall make
annual
report to
attorney
general.
R. S., c. 136,
§ 13.
69 Me., 368.

SEC. 13. He shall, on or before the twentieth day of November, annually, make a report to the attorney general, showing the amount paid out of his office during the year ending the first day of November, for costs of prosecutions in the supreme judicial court, in the superior court[s] for the *county* [counties] of Cumberland [and Kennebec], on bills of costs allowed by county commissioners for support of prisoners in jail, to grand jurors and to traverse jurors at terms of court held exclusively for criminal business; also the amount received from fines, costs, and forfeitures in said courts, from magistrates, jailers and other officers.

Neglect is
a breach of
treasurer's
bond.
1877, c. 168,
§§ 1, 2.
69 Me., 368.

SEC. 14. Any neglect to make and forward such report is a breach of his official bond, and for every day of such neglect he shall forfeit *the sum of* five dollars to the use of the state, and the attorney general shall bring an action on such treasurer's official bond, to recover such forfeiture.

DUTY OF COUNTY ATTORNEYS.

Each county
attorney
shall exam-
ine records,
&c.
R. S., c. 136,
§ 14.

SEC. 15. The county attorneys shall examine the records and files in the offices of clerks in their counties, and the certificates and accounts in the offices of the county treasurers, relating to fines, forfeitures and bills of costs accruing to their several counties; ascertain, as far as practicable, the causes of any delinquencies in paying over the same; and move the court for all necessary orders and processes to enforce the collection thereof.

He shall
summon de-
linquent offi-
cer before
court, &c.
R. S., c. 136,
§ 15.

SEC. 16. When it appears that any sheriff or other officer is not discharged of any fine, forfeiture, or bill of costs, committed to him to collect, the county attorney shall cause him to be summoned and brought before the court that imposed it, to show a proper discharge, or the cause for not collecting and paying it over; and he shall carry into execution all lawful orders of the court relating to the collection and payment thereof, and, by all other means pertaining to his office, promote and enforce the same.

CHAPTER 137.

DISPOSAL OF INSANE CRIMINALS.

SEC. 1. When a person is committed to jail by a magistrate on a criminal charge, any justice of the court may order him to the insane hospital.

2. When a grand or trial jury omits to find against any accused person by reason of insanity, court shall commit him to the insane department of the state prison or to the hospital. How he may be discharged from insane department.
3. How and by whom such person may be discharged from hospital. Bond to be given; when he may be recommitted.
4. How he shall be supported at the hospital.
5. When an inmate of the state prison or county jail becomes insane, how and by whom he may be sent to the hospital.
6. Incurable insane convicts may be removed by governor and council from the hospital to the insane department of the state prison.

SEC. 1. When any person is indicted for a *criminal* [an] offence, or is committed to jail on a charge thereof by a trial justice or judge of a police or municipal court, any judge of the court before which he is to be tried, when a plea of insanity is made in court, or he is notified that it will be made, may, in vacation or term time, order such person into the care of the superintendent of the insane hospital, to be detained and observed by him *till* [until] the further order of the court, that the truth or falsity of the plea may be ascertained.

When a person committed to jail on a criminal charge pleads insanity, proceedings. R.S., c. 137, § 1.

SEC. 2. When the grand jury omits to find an indictment against any person arrested by legal process to answer for any offence by reason of his insanity, they shall certify that fact to the court; and when a traverse jury, for the same reason, acquits any person indicted, they shall state that fact to the court when they return their verdict; and the court, by a precept stating the fact of insanity, may commit him to the insane department of the state prison or to the insane hospital; and any person so committed to the insane department of the state prison shall be discharged by the court having jurisdiction of the case only on satisfactory proof that his discharge will not endanger the peace and safety of the community; and when such person so discharged from the insane department of the state prison is on satisfactory proof again found insane and dangerous, any judge of the supreme judicial court may, by a precept stating the fact of his insanity, recommit him to the insane department of the state prison, or to the insane hospital.

When grand jury omits to indict on account of insanity of the accused, they shall so certify to court.

—likewise traverse jury in their verdict.

—how court shall dispose of accused. 1879, c. 100, § 1.

CHAP. 137.

How person committed to hospital may be discharged.

—bond, &c.
—when re-committed.
1879, c. 160, §2.
R.S., c. 137, §3.

[See chap. 24 of 1861, unrepealed.]

How supported at hospital.
R.S., c. 137, §4.

Proceedings when an inmate of state prison or county jail becomes insane.
1877, c. 188.

Incurable insane convicts in hospital may be removed to insane department of prison.
1879, c. 160, §3.

SEC. 3. Any person so committed to the insane hospital may be discharged by any judge of the supreme judicial court, in term time or vacation, on satisfactory proof that his discharge will not endanger the peace and safety of the community ; or the judge may, on application, commit him to the custody of any friend who *gives* [shall give] bond to the judge of probate for the county of Kennebec, with sufficient sureties, approved by said judge of probate, conditioned for the safe keeping of such insane person, and the payment of all damages which any person may sustain by his acts. And when, on satisfactory proof, he is again found insane and dangerous, any judge of the supreme judicial court may, by a precept stating the fact of his insanity, recommit him to the insane hospital.

SEC. 4. The person so committed shall be there supported at his own expense, if he has sufficient means ; otherwise, at the expense of the state.

SEC. 5. When an inmate of the state prison or county jail becomes insane, the warden or jailer shall notify the governor of the fact, and he, with advice of council, shall appoint a commission of two or more skillful physicians to investigate the case, and if such inmate is found insane by their examination, he shall be sent to the insane hospital until he becomes of sound mind ; and if this takes place before the expiration of his sentence, he shall be returned to prison ; but if after, he shall be discharged free. The expenses of the commission, removal and support, shall be paid by the state.

SEC. 6. The insane convicts now in the insane hospital, upon satisfactory proof that *the* said insane persons are incurable, and that a longer residence therein will have a deleterious influence on the other patients of said hospital, may be removed by order of the governor and council to the insane department of the state prison.

CHAPTER 138.

PARDONS, AND FUGITIVES FROM JUSTICE.

PARDONS.

- SEC. 1. Conditional pardons may be granted to persons under sentence of death.
2. Written notice shall be given to county attorney on all petitions for pardon, and notice by publication, and he may require the minutes of the trial.
3. When state prison sentence may be commuted to imprisonment in jail.

PARDONS IN CASES FORMERLY CAPITAL, RESTRICTED.

- SEC. 4. Copy of evidence to be made and certified by judge, upon conviction.
5. Pardons in cases formerly capital, to be applied for by request and statement of facts to supreme court.
6. Court may, at its discretion, appoint a hearing, and order notice to attorney general and county attorney.
7. What evidence is to be deemed pertinent.
8. Court may order application for pardon or commutation.
9. Governor and council may thereupon grant pardon or commutation.

FUGITIVES FROM JUSTICE IN THIS STATE.

- SEC. 10. Governor to appoint an agent to demand and receive fugitives in other states.
11. On application of attorney for state, the governor may offer rewards not exceeding one thousand dollars for apprehending persons convicted, or charged with high crimes.

FUGITIVES FROM JUSTICE IN OTHER STATES.

- SEC. 12. May issue his warrant to surrender fugitives found in this state.
13. When courts or magistrates may issue warrants for the arrest of fugitives from justice found in this state.
14. The case to be examined, and if made out, may be continued to obtain executive warrant, and the accused, bailed or committed. Results of forfeiture of such bail.
15. He shall be discharged at the adjourned day unless executive warrant is obtained, or for cause case is further continued, but these proceedings shall not prevent arrests in the ordinary mode.
16. The complainant shall be answerable for costs of such proceedings.

PARDONS.

- SEC. 1. When any person sentenced to suffer the punishment of death, applies to the governor for a pardon, he may, by *the* advice *and consent* of *the* council, grant a pardon on condition that the convict shall be imprisoned or confined to hard labor for life, or any term of years expressed in the pardon; and to carry the same into effect, may issue his warrant directed to all proper officers, who shall serve and obey it, as if such had been the original sentence.

Conditional pardons may be granted to persons under sentence of death.

R.S., c. 138, § 1

CHAP. 138.

Notice to be given to county attorney on all petitions for pardon, &c.
R.S., c. 138, § 2.

SEC. 2. On all petitions to the governor for pardons or commutation of sentence, written notice thereof shall be given to the county attorney for the county where the case was tried, and two weeks' notice in any newspaper published in said county; and the governor and council may require the judge and prosecuting officer who tried the case, to furnish them a concise statement of it as proved at the trial, and any other facts bearing on the propriety of granting the pardon.

When state prison sentence may be commuted to imprisonment in jail.
R.S., c. 138, § 3.

SEC. 3. When any person is sentenced to confinement in the state prison, the governor, with *the* advice of *the* council, may, if he deem[s] it consistent with the public interest and the welfare of the convict, commute said sentence to imprisonment in any county jail, there to be supported at the charge of the state, at an expense not exceeding the price paid for the support of other prisoners in said jail.

PARDONS IN CASES FORMERLY CAPITAL, RESTRICTED.

An accurate copy of evidence in cases formerly capital to be made and certified by judge.
1876, c. 114, § 2.
R.S., c. 135, § 7.

SEC. 4. In *case of* [the] trial of an indictment for any offence, formerly capital and now punished by imprisonment at hard labor for life, the judge presiding shall, at the expense of the county, employ suitable means to preserve an accurate and full copy of the evidence; and in case of conviction, he shall correct and certify such evidence to be a true copy of all the evidence in the case.

Pardons in cases formerly capital, how to be applied for.
1876, c. 132.
1876, c. 114, § 3.

SEC. 5. Whenever any convict sentenced to imprisonment at hard labor for life for an offence committed since March twenty-five, eighteen hundred and seventy-six, which until the year eighteen hundred and seventy-six was capital, desires to obtain a pardon or a commutation of such sentence, he may present a written request to the justices of the supreme judicial court, in term time or vacation, asking that application therefor be made to the governor in his behalf, and he shall therein set forth, specifically, the grounds on which such application for pardon or commutation of sentence is requested, and the facts which he expects to prove in support of the same, together with the names and residences of the witnesses by whom he expects to prove such facts; and with such request he shall present the affidavits of such witnesses, and a copy of all the evidence taken at the trial in which he was convicted, as provided in the preceding section.

—request and statement of facts to supreme court.

Court may at its discretion appoint a hearing.
1876, c. 114, § 4.

SEC. 6. If upon examination of said request and the affidavits therewith presented, said justices are of *the* opinion that new and material evidence has been discovered which was not known, and could not, by the use of due diligence, have been obtained at the time of the trial, and which would tend conclusively to show [such convict innocent,] *his innocence*, notwithstanding the evidence taken at the trial, they shall appoint a time and place for a hearing

thereon, and order notice to be given to the attorney general and to the county attorney of the county in which such *person* [convict] was convicted, that they may appear in behalf of the state.

CHAP. 138.

—notice to be given to att'y gen'l and co. att'y.

SEC. 7. At such hearing no evidence shall be deemed pertinent except such as has been discovered since the trial, and such as relates to material facts, tending to show that such *person* [convict] was wrongfully or erroneously convicted, or that he is innocent.

What evidence to be deemed pertinent. 1876, c. 114, § 5.

SEC. 8. If, upon all the evidence, said justices are of the opinion that such *person* [convict] was wrongfully convicted, or that he is innocent of the crime of which he was convicted, and that an application should be made for his pardon or for a commutation of his sentence, they shall so order, and thereupon the clerk of said court for the district in which such hearing is had shall make up a record of the proceedings had on such request, and transmit a copy thereof, and of all the papers in the case, to the governor, together with an application to the governor made by him in behalf of such person under the order and direction of said justices, for such pardon or commutation of sentence.

Court may order application for pardon or commutation of sentence. 1870, c. 114, § 6.

SEC. 9. On receipt of such application, the governor may, with the advice and consent of the council, grant a pardon or a commutation of sentence, upon such conditions and with such restrictions and limitations as may be deemed proper, and to carry the same into effect may issue his warrant directed to all proper officers who shall serve and obey it. [The pardoning power is so far restricted and limited that it shall not extend to crimes which until the year eighteen hundred and seventy-six, were capital, except upon application by order of the supreme judicial court as provided in the preceding section.]*

Governor and council may on receipt of such application grant a pardon or commutation. 1876, c. 114, § 7. —and not otherwise. Constitution, art. v, part 1, § 11.

FUGITIVES FROM JUSTICE IN THIS STATE.

SEC. 10. In any case, authorized by the constitution and laws of the United States, the governor may appoint an agent to demand and receive of the executive authority of any other state, any fugitive from justice charged with any crime in this state; and the accounts of such agent shall be audited and paid by order of the governor and council from the treasury.

Governor to appoint an agent to receive fugitives in other states. R. S., c. 138, § 4.

SEC. 11. Whenever any prisoner *who has been* convicted of, or charged with, a capital crime or other high offence, escapes from prison in *this* [the] state; or there is reasonable cause to believe that any person who is charged with such offence and has not

Reward for arrest and return of escaped prisoners and fugitives from justice. 1876, c. 80.

* [NOTE. Unless it was the legislative intention to restrict and limit the pardoning power as provided in the Constitution, Article V., part first, § 11, section sixteen of this chapter would seem to be of little value, as it adds nothing to the executive authority. The bracketed clause is suggested to make such intention clear.]

CHAP. 138. been apprehended therefor, cannot be arrested and secured in the ordinary course of proceedings, the governor may, upon application in writing, of the attorney general or county attorney for the county in which such offence was committed, and upon such terms and conditions as he may deem expedient and proper, offer a suitable reward, not exceeding one thousand dollars, for the arrest, return and delivery into custody of *every* such escaped —when paid. prisoner or fugitive from justice; and upon satisfactory proof that the terms and conditions of such offer have been complied with, may, with *the* advice of *the executive* council, draw his warrant upon the treasurer for the payment thereof.

FUGITIVES FROM JUSTICE IN OTHER STATES.

Governor
may issue
his warrant
to surren-
der fugitives
found in
this state.
R.S., c. 138, §6.

SEC. 12. When such demand as is mentioned in section three is made on the governor of this state, and he is satisfied, on examination of the grounds thereof, that it is according to law and ought to be granted, he shall issue his warrant, under the seal of the state, authorizing the agent making the demand, at his own expense, to take and transport such fugitive to the line of the state at the time designated in the warrant, and shall therein require the civil officers of the state to afford all needful aid in its execution.

When the
court may
issue war-
rant for
the arrest of
fugitive, &c.
R.S., c. 138, §7.

SEC. 13. When any such fugitive from justice in another state is found in this state, any court or magistrate authorized to issue warrants in criminal cases, on complaint under oath, setting forth the offence and other facts necessary to bring the case within the provisions of law, may grant a warrant and have the accused arrested for examination as in other cases.

The case to
be examin-
ed, &c.
R.S., c. 138, §8.

SEC. 14. On such examination, if the court or magistrate believes that the complaint is true, and that the accused can lawfully be demanded of the governor, the case shall be adjourned long enough to obtain an executive warrant; and if the offence is bailable, the accused may recognize with sufficient sureties to appear at the adjournment; and if he does not so recognize, or the offence is not bailable, he shall be committed; and if any such recognizance is forfeited, the same proceedings shall be had as in case of other recognizances.

Prisoner
shall be dis-
charged
at the ad-
journed day,
unless, &c.
R.S., c. 138, §9.

SEC. 15. If the accused appears at the adjournment, he shall be discharged, unless some person is authorized to receive him by an executive warrant, or another adjournment is ordered for sufficient cause, and in that case the same proceedings shall be had as at the first adjournment; but nothing in this, and the two preceding sections, shall prevent the arrest of any accused by an executive warrant, and such arrest shall discharge any such existing recognizance.

SEC. 16. The complainant shall be answerable in all such cases for the actual costs and charges, and the support in prison of the accused when committed, to be paid as a creditor pays for his debtor committed on execution; and if his support in prison is not so paid, the jailer may discharge the accused as if he were committed on execution for debt.

CHAP. 139.

The complainant answerable for costs.
R. S., c. 138,
§ 10.
See c. 113,
§ 72.

CHAPTER 139.

CORONERS' INQUESTS.

- SEC. 1. When inquests shall be taken; the coroner's warrant to the constable to summon a jury.
2. Duties of constable, and jurors, and penalties for neglect.
 3. Juror's oath.
 4. Talesmen may be appointed.
 5. Subpœnas for witnesses, and their oath.
 6. Coroner may compel the attendance of witnesses.
 7. Testimony to be in writing and signed. Power of coroner to recognize the witnesses.
 8. Coroner's charge to the jury, and proclamation for persons to give evidence.
 9. Form of verdict.
 10. Coroner may issue a warrant for the arrest of the person charged by the inquest.
 11. Coroner to bury the body. Expenses of inquest and burial how paid.
 12. Reasonable compensation to coroner and all others concerned, for services and expenses, and person may be employed to watch the dead body.

SEC. 1. Any coroner shall hold inquests on dead bodies of such persons only as appear or are supposed to come to their death by violence, and not when it is believed their death was caused by casualty; and as soon as he is notified of any such dead body in his county, he shall make out his warrant in the following form, directed to any of the constables of the same town or an adjoining town in his county, requiring him forthwith to summon a jury of six good and lawful men of their towns to appear before him at the time and place fixed in the warrant:

When an inquest shall be taken, &c.
R.S., c. 139, § 1.

"[L. s.] To either of the constables in the town of —, in the county of —,

GREETING.

In the name of the state of Maine, you are hereby required immediately to summon six good and lawful men of said town of —, to appear before me, one of the coroners of the county of —, at the dwelling-house of — —, (or at the place called —,) within said town of —, at the hour of —, — M., then and there to inquire upon and view the body of — —, there

CHAP. 139. lying dead, how and in what manner he came to his death. Fail not herein at your peril.

Given under my hand and seal, at —, the — day of —, A. D. 18—. S. F.”

Duties of constable and jurors, and penalties for neglect. R.S., c. 139, §2.

SEC. 2. The constable, to whom such warrant is directed and delivered, shall forthwith execute it, at the time appointed, repair to the place where the dead body is, and make return of the warrant with his doings to said coroner, or he shall forfeit *the sum of* ten dollars; and every person summoned as a juror, neglecting to attend at the time and place appointed, without reasonable excuse, shall forfeit and pay *the sum of* seven dollars, to be recovered in an action of debt in the name of the coroner or the county, and for the use of the county.

Jurors' oath. R.S., c. 139, §3.

SEC. 3. The coroner shall administer to the jurors who appear in view of the body the following oath: “You solemnly swear that you will diligently inquire and true presentment make on behalf of *this* [the] state, how, when, and in what manner, the person whose body here lies dead came to his death, and you shall return to me a true inquest thereof according to your knowledge and the evidence laid before you. So help you God.”

Talesmen. R.S., c. 139, §4.

SEC. 4. If the six jurors summoned do not appear as commanded, the coroner may require the constable or any other person [whom] he appoints, to return jurors from the bystanders to complete the number.

Subpœnas and oath of witnesses. R.S., c. 139, §5.

SEC. 5. The coroner may issue subpœnas for witnesses to be served as in other cases, and shall administer to them an oath as follows:

“You solemnly swear, that the evidence which you shall give to this inquest, concerning the death of the person here lying dead, shall be the truth, the whole truth, and nothing but the truth. So help you God.”

Witnesses compelled to attend inquests. 1878, c. 26. Testimony to be in writing and signed, &c. R.S., c. 139, §6.

SEC. 6. Coroners, when holding inquests, have the same authority as probate courts, to compel the attendance of witnesses, and may commit for contempt.

SEC. 7. The evidence of all the witnesses shall be in writing and signed by them; and if it relates to the trial of any person concerned in the death, the coroner shall bind such witnesses by recognizance, in a reasonable sum, for their personal appearance at the next supreme judicial [or superior] court to be held in the same county, to give their testimony accordingly; and if they do not so recognize, he shall commit them to prison, and return to the same court the inquisition, written evidence, and recognizance by him taken.

Coroner's charge to the jury, &c.

SEC. 8. After the coroner has sworn the jurors, he shall charge them to declare whether the person died by felony, mischance or

accident; if by felony, who were principals and accessories; the instrument employed, and all important circumstances; if by mischance, or by his own hand, in what manner, and all attending circumstances; and make proclamation for all persons who can give any evidence to draw near and be sworn.

CHAP. 139.
R.S., c. 139, §7.

SEC. 9. The jury, after examining the body, hearing the evidence and making all useful inquiries, shall draw up and deliver to the coroner their verdict in writing under their hand and seals in substance as follows:

Form of
verdict.
R.S., c. 139, §8.

“An inquisition held at —, within the county of —, [on] the — day of —, A. D. 18—, before S. F., one of the coroners of said county, upon view of the body of — —, there lying dead, by the oaths of — —, — —, — —, — —, — —, and — —, good and lawful men, who, being charged and sworn to inquire for the state, when, how, and by what means the said — — — came to his death, upon their oaths say:” (then insert how, when and by what means, and with what instrument he was killed.) “In testimony whereof, the said coroner and the jurors of the inquest have hereunto set their hands and seals, the day and year abovesaid.”

SEC. 10. If any person, charged by the inquest with causing the death of such person, is not then in custody, the coroner shall have the same power as a trial justice to issue a warrant for his apprehension, to be returned before any judge or trial justice, who shall proceed therein according to law.

Coroner may issue a warrant, &c.
R.S., c. 130, § 9.

SEC. 11. Every coroner within his county, after the return of an inquisition of the jury upon view of the dead body of a stranger, shall bury the body in a decent manner; and all the expenses attending the burial and the expenses of the inquisition shall be paid to the coroner out of the state treasury, if the coroner certifies under oath that the deceased was a stranger not belonging to the state, according to his best knowledge and belief; otherwise, the expenses of burial shall be paid to the coroner by the town where the body was found, and repaid to such town by the town to which he belonged *in the state*; and the expense of the inquisition, by the county.

Coroner to bury the body, &c.
R. S., c. 139,
§ 10.

SEC. 12. The coroner, whether an inquest is held or not, jurors, witnesses and any other person required to summon jurors or witnesses, shall be allowed, in addition to the regular fees, a sum sufficient to make a reasonable compensation for all their services and expenses; and the coroner shall pay to the party giving him notice that a dead body has been found, and to the person who picked up such dead body, and to the person who has had the care of such body *till* [until] taken charge of by him, a suitable compensation, which shall be reimbursed as for personal services.

Compensation to coroner, &c.
R. S., c. 139,
§ 11.