

# MAINE STATE LEGISLATURE

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REPORT  
OF  
THE COMMISSIONER  
ON THE  
REVISION AND CONSOLIDATION  
OF THE  
PUBLIC LAWS  
OF THE  
STATE OF MAINE  
UNDER  
RESOLVE OF APRIL 15, 1927

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## TITLE ELEVEN.

### Crimes and Offenses, Proceedings in Criminal Cases, Punishments and Incidental Provisions.

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## CHAPTER 127.

### Offenses Against the Sovereignty of the State.

**Sec. 1. Treason. R. S. c. 119, § 1.** Whoever is guilty of treason against the state, shall be punished by imprisonment for life.

For definition of treason, see Const. Me., Art. 1, § 12.

**Sec. 2. Misprision of treason, definition and penalty. R. S. c. 119, § 2.** Misprision of treason shall be punished by imprisonment not exceeding five years, 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 testify to one, and another to a different overt act of the same

species of treason; or by confession in open court. Whoever is guilty of misprision of treason shall be punished by imprisonment not exceeding five years, or fine not exceeding one thousand dollars.

**Sec. 3. Prosecution to be within three years. R. S. c. 119, § 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. Usurpation of jurisdiction by a foreign power; overt acts within the state, penalty. R. S. c. 119, § 4.** If a person, claiming authority from any foreign government or magistrate, enters upon any lands, cuts any timber, serves any process, exercises any jurisdiction, authority or ownership, claims any right, or threatens to do any of said acts within the limits of the 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.

**Sec. 5. Desecration of flag of U. S. or of this state; penalty; inscriptions and symbols may be placed on flag pursuant to law. R. S. c. 119, § 5. 1925, c. 110.** Whoever in any manner, for exhibition or display, places or causes to be placed any inscription, device, advertisement, or notice whatever upon any flag, standard, color, or ensign of the United States or state flag of this state, or displays or exhibits or causes to be displayed or exhibited any flag, standard, color, or ensign of the United States or flag of this state upon which shall in any manner be placed or affixed any inscription, device, advertisement, or notice whatever, or attaches to or represents upon any goods, wares, or merchandise, any imitation or representation of the national flag of the United States, or uses any imitation or representation of the national flag of the United States for advertising purposes or in any manner mutilates, tramples upon or otherwise defaces or defiles any of said flags, standards, colors, or ensigns, whether they are public or private property, shall be punished by a fine of not less than five, nor more than fifty dollars. Provided, however, that flags, standards, colors, or ensigns, the property of or used in the service of the United States, or of this state, may have inscriptions, names of actions, words, marks, or symbols, placed thereon pursuant to law or authorized regulations, and that associations organized by men who have served in the army or navy of the United States may place appropriate inscriptions upon flags borne by them or used for memorial purposes.

**Sec. 6. State seal, removal of, injury to, and neglect or refusal to deliver up, penalty. R. S. c. 119, § 6.** Whoever knowingly and wilfully removes the seal of the State of Maine from the office or custody of the secretary of state at Augusta, or knowingly and wilfully secretes, defaces, injures, or destroys it, or wilfully aids or assists in so doing, or, having the same in his possession, or under his control, wilfully neglects or refuses to deliver it to the secretary of state upon demand therefor, shall be punished by imprisonment for not less than one, nor more than five years, and by fine not exceeding five thousand dollars.

**Sec. 7. Use of great seal in any place but the office of secretary of state, penalty. R. S. c. 119, § 7.** Whoever knowingly and wilfully uses the seal of the State of Maine, or takes any impression therefrom, for any purpose, in any other place than the office of the secretary of state at Augusta, or knowingly and wilfully issues, or receives and acts under any commission, record, document, parchment, instrument, or paper, bearing the impression of said seal, unless the same has been sealed in said office of said secretary of state at Augusta, shall be pun-

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ished by imprisonment for not more than three years and by fine not exceeding three thousand dollars.

**Sec. 8. Books and papers, removal from state offices, secretion, mutilation, or refusal to return, penalty. R. S. c. 119, § 8.** Whoever knowingly and wilfully removes from the state house at Augusta, or from the custody of the secretary of state, or of the governor and council, or other officer or person in whose lawful custody the same are deposited and 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 knowingly and wilfully secretes, alters, mutilates, defaces, or destroys 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 knowingly and wilfully aids or assists in so doing, or having 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 such document or instrument in his possession, or under his control, wilfully neglects or refuses to return the same to said state house, or to deliver 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, for not less than one, nor more than three years and by fine not exceeding five thousand dollars.

**Sec. 9. Refusal by former public officer to deliver moneys and other public property to successor, penalty. R. S. c. 119, § 9.** 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 to any county or municipality in the state, and whose term of office has expired, and whose successor in said office has been elected or appointed and qualified, after a written demand for the same, wilfully refuses to deliver such moneys, books of account, records, accounts, vouchers, documents or other property or effects aforesaid to such successor in said office, he shall be punished by imprisonment not exceeding five years, and by fine not exceeding five thousand dollars.

**Sec. 10. Falsely assuming to act as a state officer, penalty. R. S. c. 119, § 10.** Whoever knowingly and falsely assumes to be a state officer of the State of Maine, and to act as such, or knowingly and falsely assumes to discharge any of the duties of such officer, or knowingly and wilfully invites or receives any communication, document, record or letter properly belonging to such state officer, or relating to the office or official business of said officer, or, in any way, knowingly and wilfully obstructs or delays such officer in the discharge of any of his official duties, shall be punished by imprisonment for not less than one, nor more than five years, and by fine not exceeding five thousand dollars.

## CHAPTER 128.

## Uniform Flag Law.

P. L. 1919, c. 158.

**Sec. 1. Definition.** The words flag, standard, color, ensign or shield, as used in this act, shall include any flag, standard, color, ensign or shield, or copy, picture or representation thereof, made of any substance or represented or produced thereon, and of any size, evidently purporting to be such flag, standard, color, ensign or shield of the United States or of this state, or a copy, picture or representation thereof.

**Sec. 2. Desecration.** No person shall, in any manner, for exhibition or display :

(a) place or cause to be placed any word, figure, mark, picture, design, drawing or advertisement of any nature upon any flag, standard, color, ensign or shield of the United States or of this state, or authorized by any law of the United States or of this state ; or

(b) expose to public view any such flag, standard, color, ensign or shield upon which shall have been printed, painted or otherwise produced, or to which shall have been attached, appended, affixed or annexed any such word, figure, mark, picture, design, drawing or advertisement ; or

(c) expose to public view for sale, manufacture, or otherwise, or to sell, give or have in possession for sale, for gift or for use for any purpose, any substance, being an article of merchandise, or receptacle, or thing for holding or carrying merchandise, upon or to which shall have been produced or attached any such flag, standard, color, ensign or shield, in order to advertise, call attention to, decorate, mark or distinguish such article or substance.

**Sec. 3. Mutilation.** No person shall publicly mutilate, deface, defile, defy, trample upon, or by word or act cast contempt upon any such flag, standard, color, ensign or shield.

**Sec. 4. Exceptions.** This statute shall not apply to any act permitted by the statutes of the United States (or of this state), or by the United States Army and Navy regulations, nor shall it apply to any printed or written document or production, stationery, ornament, picture or jewelry whereon shall be depicted said flag, standard, color, ensign or shield with no design or words thereon and disconnected with any advertisement.

**Sec. 5. Penalty.** Any violation of section two of this act shall be a misdemeanor and punishable by a fine of not more than fifty dollars. Any violation of section three of this act shall be punishable by a fine of not more than five hundred dollars, or by imprisonment for not more than six months, or by both fine and imprisonment, in the discretion of the court.

**Sec. 6. Inconsistent statutes repealed.** All laws and parts of laws in conflict herewith are hereby repealed.

**Sec. 7. Interpretation.** This act shall be so construed as to effectuate its general purpose and to make uniform the laws of the states which enact it.

**Sec. 8. Name of act.** This act may be cited as the Uniform Flag Law.

## CHAPTER 129.

### Offenses Against the Lives and Persons of Individuals.

- Sections 1-13 Offenses against Human Lives.  
Sections 14-30 Offenses against the Person.  
Sections 31-42 Crimes against Children.  
Sections 43-47 Desertion and Non-Support of Families.

### Offenses Against Human Lives.

**Sec. 1. Murder, definition, penalty. R. S. c. 120, § 1.** Whoever unlawfully kills a human being with malice aforethought, either express or implied, is guilty of murder, and shall be punished by imprisonment for life.

37 Me. 469; 39 Me. 66, 87; 51 Me. 222; 54 Me. 415; 57 Me. 582; 58 Me. 567-589;  
95 Me. 372; 109 Me. 202; 126 Me. 239.

**Sec. 2. Manslaughter, definition, penalty. R. S. c. 120, § 2.** Whoever unlawfully kills a human being in the heat of passion, on sudden provocation, without express or implied malice aforethought, or, being under the legal duty to care and provide for any child or other person, wilfully fails or neglects to provide for such child or other person, necessary food, clothing, treatment for the sick, or other necessaries of life, thereby causing or hastening the death of such child or other person, or commits manslaughter as defined by the common law, shall be punished by imprisonment for not more than twenty years, or by fine not exceeding one thousand dollars.

32 Me. 374; 33 Me. 55; 39 Me. 67; 109 Me. 207; 122 Me. 120; \*125 Me. 455.

**Sec. 3. Carelessly shooting a human being while engaged in hunting, penalty. R. S. c. 120, § 3.** Whoever while on a hunting trip, or in the pursuit of wild game or game birds, negligently or carelessly shoots and wounds, or kills any human being, shall be punished in the discretion of the court, by imprisonment for not more than ten years, or by fine not exceeding one thousand dollars.

**Sec. 4. County attorney and sheriff to investigate violations; penalty for failure to act. R. S. c. 120, § 4.** County attorneys and sheriffs, in their respective counties, shall promptly investigate any alleged violations of the preceding section and prosecute every person accused thereof; for failure so to investigate and prosecute, each of said officers shall be punished by fine not exceeding one thousand dollars, and shall be removed from office.

**Sec. 5. Destruction of human life by obstructing railroads; endangering life, or injuring property, penalties. R. S. c. 120, § 5.** Whoever wilfully 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 an obstruction thereon with intent that any person or property passing on the same should be thereby injured, and human life is thereby destroyed, is guilty of murder and shall be punished accordingly. If human life is thereby endangered and not destroyed, or if property is injured, he shall be punished by imprisonment for not less than ten years.

107 Me. 479.

**Sec. 6. Misconduct or gross neglect, respecting steam in steamboats, and boilers; interference with safety valve; penalties. R. S. c. 120, § 6.** Whoever,

having charge of a steamboat used for conveyance of passengers, or of the boiler or other apparatus for generating steam therein, through ignorance, gross neglect, or for the purpose of racing, creates or allows to be generated such a quantity of steam as to break such boiler, apparatus or machinery connected therewith, or whoever intentionally loads or obstructs or causes to be loaded or obstructed in any way the safety valve of the boiler, or employs any other means or device whereby the boiler may be subjected to a greater pressure than the amount allowed by the inspectors' certificate, or intentionally deranges or hinders the operation of any machinery or device employed to denote the stage of the water or steam in any boiler or to give warning of approaching danger, or intentionally permits the water to fall below the prescribed low water line of the boiler, or is directly or indirectly concerned therein, and thereby human life is destroyed, is guilty of manslaughter and shall be punished accordingly. And if human life is thereby endangered and not destroyed he shall be punished by fine not exceeding five hundred dollars, or by imprisonment for not more than five years.

**Sec. 7. Murder by duelling, definition; penalty. R. S. c. 120, § 7.** Any person residing in 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 the state, is guilty of murder, and shall be punished accordingly; and he may be indicted and tried in the county where the death happened.

**Sec. 8. Murder, by a second to such duel; penalty. R. S. c. 120, § 8.** A person who, by an engagement made in the state, is second to either party in such duel and is present when a mortal wound is inflicted, of which the person dies within the state, is an accessory before the fact, to murder, and may be indicted, tried, and punished the same as the principal may be.

**Sec. 9. Trial in another state, effect. R. S. c. 120, § 9.** A person indicted under sections seven, eight, or twelve, may plead a former conviction or acquittal of the same offense, in another state, which, being admitted or established, entitles him to an acquittal in this state.

**Sec. 10. Duelling, penalty. R. S. c. 120, § 10.** Whoever fights a duel with deadly weapons, or is present thereat as aid, second, surgeon, or as advising, encouraging, or promoting it, although no homicide ensues; or sends, or delivers a verbal or written message intended to be a challenge, although no duel ensues, shall be punished by imprisonment for 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.

**Sec. 11. Accepting a challenge, or aiding a duel, penalty. R. S. c. 120, § 11.** 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, although no duel ensues, shall be punished by imprisonment for not 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.

**Sec. 12. Leaving state to elude two preceding sections and then doing such acts. R. S. c. 120, § 12.** If a resident of the state leaves it to elude either of the two preceding sections, with intent to do acts out of the state which would be a violation of either of their provisions if done within the state, and does such acts, he shall be subject to the same punishment as if the offense had been committed in the state; and he may be indicted and tried in the county where he resides.

**Sec. 13. Posting for not fighting a duel, etc., penalty. R. S. c. 120, § 13.** whoever posts another, or uses, in writing or in print, reproachful or contemp-

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tuous language concerning him for not fighting a duel, or for not sending or accepting a challenge, shall be punished by imprisonment for not less than one year, and by fine not exceeding one hundred dollars.

### Offenses Against the Person.

**Sec. 14. Mayhem, definition, penalty.** R. S. c. 120, § 14. 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, shall be punished by imprisonment for not less than one, nor more than twenty years.

**Sec. 15. Robbery, definition, penalty.** R. S. c. 120, § 15. 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, is guilty of robbery and shall be punished by imprisonment for any term of years.

<sup>86 Me. 430.</sup>

**Sec. 16. Rape, definition, penalty.** R. S. c. 120, § 16. Whoever ravishes, and carnally knows, any female of fourteen or more years of age, by force and against her will, or unlawfully and carnally knows and abuses a female child under fourteen years of age, shall be punished by imprisonment for any term of years.

<sup>39 Me. 323; 63 Me. 210; 116 Me. 260; 117 Me. 69; 118 Me. 380; \*122 Me. 106;</sup>  
<sup>\*124 Me. 360.</sup>

**Sec. 17. Abduction, definition, penalty.** R. S. c. 120, § 17. 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 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 for not less than one, nor more than ten years.

**Sec. 18. Kidnapping; penalty; jurisdiction; consent.** R. S. c. 120, § 18. 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 for not more than twenty years, or by a fine not exceeding one thousand dollars. Indictments for these offenses may be found and tried in the county where such person was carried or brought, or in the county where the offense was committed; and on trial the consent of such person shall not be a defense, unless it appears that it was not obtained by fraud, threats, or duress.

**Sec. 19. Shipmasters, carrying apprentices and minors out of state, penalty.** R. S. c. 120, § 19. 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 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.

<sup>11 Me. 106.</sup>

**Sec. 20. Enlistment of minors into the army of U. S., penalty.** R. S. c. 120, § 20. Whoever in this state enlists or causes to be enlisted into the army of the United States, a minor, knowing him to be such, 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 for less than one year, or by fine not exceeding five hundred dollars.

**Sec. 21. Discrimination without cause against soldiers or sailors, in public places, penalty.** 1917, c. 177. Whoever makes any distinction, discrimination, or restriction against any soldier or sailor duly enlisted in the service of the United States or the State of Maine relative to admission to, or treatment in, a theatre, skating rink, or other public place of amusement, or in any public conveyance or public meeting, or in an inn or hotel, or other public places kept for gain or hire, while wearing the uniform of said United States or said State of Maine, except for good cause, shall be punished by a fine not exceeding one hundred dollars or imprisonment for not more than three months.

**Sec. 22. Extortion, or compulsion, by threats, or maliciously vexing or tormenting another; by means of telephone, penalty.** R. S. c. 120, § 21. Whoever, verbally, or by written or printed communication maliciously threatens to accuse another of a crime or offense, or to injure 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, and whoever being more than sixteen years of age shall wilfully and wantonly or maliciously vex, irritate, harass, or torment any person in any way, after having been forbidden so to do, by any sheriff, deputy sheriff, constable, police officer, or justice of the peace, and whoever without reasonable cause or provocation shall wilfully and wantonly or maliciously vex, irritate, harass, or torment any person by communications to, or conversation with, such person over or by means of any telephone, or shall call out any fire department, police department or other municipal department, or any portion or persons thereof, by intentionally giving a false alarm or call to such department or to any officer or member thereof by means of any telephone line or lines shall be punished by imprisonment not exceeding two years, or by fine not exceeding five hundred dollars.

See c. 130, § 31; 24 Me. 72; 68 Me. 474; 85 Me. 195; 99 Me. 227; 104 Me. 125; 111 Me. 230; 123 Me. 310.

**Sec. 23. Assault with intent to commit rape, penalty.** R. S. c. 120, § 22. Whoever assaults a female of fourteen 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 fourteen years, such imprisonment shall be for not less than one, nor more than twenty years.

**Sec. 24. Assault with intent to murder, maim, rob, etc.; penalty.** R. S. c. 120, § 23. Whoever assaults another with intent to murder, kill, maim, rob, steal, or to commit arson or burglary, if armed with a dangerous weapon, shall be punished by imprisonment for not less than one, nor more than twenty years; when not so armed, by imprisonment for not more than ten years, or by fine not exceeding one thousand dollars.

37 Me. 469; 39 Me. 66; 42 Me. 385; 84 Me. 250; 87 Me. 76; 88 Me. 197; 90 Me.

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**Sec. 25. Assault with intent to commit other felony, penalty.** R. S. c. 120, § 24. Whoever commits an assault not before described, with intent to commit a felony, shall be punished by imprisonment for not more than five years, or by fine not exceeding one thousand dollars.

69 Me. 182.

**Sec. 26. Attempt to murder, without assault, penalty.** R. S. c. 120, § 25. 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 for not less than one, nor more than twenty years.

**Sec. 27. Assault, and assault and battery, definitions, penalty.** R. S. c. 120, § 26. Whoever unlawfully attempts to strike, hit, touch, or do any violence to another however small, in a wanton, wilful, angry, or insulting manner, having an intention and existing ability to do some violence to such person, is guilty of an assault; and if such attempt is carried into effect, he is guilty of an assault and battery, and for either offense, he shall be punished by imprisonment not exceeding five years, or by fine not exceeding one thousand dollars, when no other punishment is prescribed.

59 Me. 575; 69 Me. 182; 73 Me. 281; 98 Me. 424; 114 Me. 494; 120 Me. 173; \*122 Me. 483; 123 Me. 417.

**Sec. 28. Penalty for sending or causing to be sent to any person any bomb or infernal machine.** 1921, c. 146, § 1. Whoever sends or procures to be sent to another or deposits or procures to be deposited any bomb or infernal machine, with intent that the same shall explode to cause injury to the person or property of another, whereby any person is injured shall be punished by imprisonment for any term of years; and if upon explosion no person is injured, the imprisonment shall be for not more than twenty years.

**Sec. 29. Penalty for having in possession any bomb or infernal machine.** 1921, c. 146, § 2. Whoever knowingly has in his possession any bomb or infernal machine or materials appropriate for the construction thereof, except for lawful purposes, shall be punished by imprisonment for not more than fifteen years or a fine of not more than one thousand dollars or both.

**Sec. 30. Penalty for black hand communication.** 1921, c. 146, § 3. Whoever shall make, publish, or send to another any communication, written or oral, containing a threat to injure the person or property of any person shall be punished by imprisonment for not more than five years or a fine of not more than five hundred dollars, or both; and if the communication is written and is anonymous or signed by any other than the true name of the writer, the punishment shall be imprisonment for not more than ten years or a fine of not more than fifteen hundred dollars, or both; and if any such threat is against the person or property or member of the family of any public official, the punishment shall be imprisonment for not more than fifteen years.

### Crimes Against Children.

**Sec. 31. Protection of girls between the ages of fourteen and sixteen, penalty.** R. S. c. 120, § 27. 1917, c. 106. Whoever, being more than eighteen years of age, has carnal knowledge of the body of any female child, between the ages of fourteen and sixteen years, shall be punished by fine not exceeding five hundred dollars or by imprisonment for not more than two years. The provisions of this section shall not apply to cases of rape as defined in section sixteen of this chapter.

**Sec. 32. Abandonment of children, penalty.** R. S. c. 120, § 28. If the 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 for not more than five years, or by fine not exceeding five hundred dollars.

**Sec. 33. Cruelty to children, penalty.** R. S. c. 120, § 29. Any parent, guardian, or other person, having the care and custody of any child, who cruelly treats such child by abuse, neglect, overwork, or extreme punishment, shall be punished by fine not exceeding one hundred dollars, or by imprisonment not exceeding one year.

**Sec. 34. Admitting to or allowing children in disorderly house, penalty, etc.**

**R. S. c. 120, § 30.** Whoever admits or allows to remain in any disorderly house, house of ill fame, gambling place, or place where intoxicating liquors are sold, or other place injurious to health or morals, owned, kept, maintained, managed or controlled by him in whole or in part, any child under the age of sixteen years, shall be punished by a fine not exceeding one hundred dollars or by imprisonment not exceeding sixty days.

**Sec. 35. Offering for sale, selling or giving intoxicating liquors to children, penalty. R. S. c. 120, § 31.** Whoever by himself, his clerk, servant, or agent, directly or indirectly has in his possession with intent to sell, offers for sale, sells, or gives away to any child under the age of sixteen years, or to any such child for any other person, any intoxicating liquors, and whoever by himself, his clerk, servant, or agent, directly or indirectly, employs or permits any such child to aid or assist him in the illegal keeping or the illegal sale of intoxicating liquors, shall be punished in addition to the penalties otherwise provided against the illegal keeping for sale or illegal sale of intoxicating liquors, by fine not less than one hundred dollars or by imprisonment not less than sixty days.

See c. 137, §§ 6-15.

**Sec. 36. Exhibiting children under sixteen years of age, or permitting begging by the same, penalty. R. S. c. 120, § 32.** No person shall employ or cause to be employed, exhibit, use, or have in custody, or train for use, employment, or exhibition, any child under sixteen years of age, and no parent, guardian, or other person, having care, custody, and control of such child, shall procure or permit the training, use, employment, or exhibition of any such child, in begging or soliciting or receiving alms in any manner or under any pretense, or in any illegal, indecent, or immoral exhibition or practice, or in any exhibition of any such child when insane, or idiotic, or when possessing any deformity and unnatural physical formation, or in any practice, exhibition, or place dangerous or injurious to the life, limb, health, or morals of such child. Whoever violates this section shall be punished by a fine not exceeding one hundred dollars or by imprisonment not exceeding sixty days.

**Sec. 37. Selling or giving air rifles to children under fourteen years; penalty; jurisdiction. 1917, c. 302.** Whoever sells or gives away an air rifle to any child under the age of fourteen years shall be fined not less than five or more than twenty dollars.

Municipal courts and trial justices shall have jurisdiction of violations of this section.

**Sec. 38. Selling or giving cigarettes, tobacco, liquor, or narcotic drugs to children, penalty. R. S. c. 120, § 33.** Whoever sells or gives to any child under the age of sixteen years, or furnishes any such child with cigarettes, cigarette papers, tobacco, liquor, or narcotic drugs in any form, or encourages such child to use the same, unless prescribed by a physician or otherwise used in case of sickness, shall be deemed guilty of encouraging, causing, or contributing to the delinquency or distress of such child, and upon conviction shall be punished by a fine not exceeding one hundred dollars or by imprisonment not exceeding thirty days.

See c. 140, § 23.

**Sec. 39. Selling firearms or dangerous weapons to children forbidden except in certain cases. R. S. c. 120, § 34.** Whoever gives, furnishes, or sells to any such child any dangerous weapon or firearm, except in cases where the parents, guardians, teachers, or instructors of children may furnish them with such weapons for hunting or target shooting outside the thickly settled portions

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of any town or city, or where such weapons may be used in any licensed shooting gallery, shall be deemed guilty of encouraging, causing, or contributing to the delinquency or distress of such child and upon conviction shall be punished as provided in the preceding section.

**Sec. 40. Other laws not affected.** R. S. c. 120, § 35. Sections thirty-eight and thirty-nine of this chapter shall not be construed to repeal any criminal law of this state forbidding the sale of tobacco, liquor, narcotic drugs, or fire-arms to minors, or any law of this state for the protection of children or minors, or to forbid proceedings under such laws in cases which may also come within the provisions of the two preceding sections.

**Sec. 41. Court may suspend sentence.** R. S. c. 120, § 36. The court may suspend any sentence, stay or postpone the execution thereof, or release from custody any person found guilty in any case under sections thirty-eight and thirty-nine upon such conditions as shall be imposed by the court.

**Sec. 42. Evidence required to find person guilty.** R. S. c. 120, § 37. In order to find any person guilty of violating sections thirty-eight and thirty-nine it shall not be necessary to prove that the child is actually in delinquency or distress, provided it appears from the evidence that through any act or neglect or omission of duty or by any improper act or conduct on the part of the accused the distress or delinquency of any child may have been caused or merely encouraged.

Note. Proceedings when child under sixteen years of age is arrested and charged with crime, c. 147, §§ 15-21.

### Desertion and Non-support of Families.

**Sec. 43. Desertion of wife or children in destitute circumstances, or wilful non-support, when a felony; penalty. Court may direct fine to be paid to wife; or may order respondent to make weekly payments; condition of recognition.** R. S. c. 120, § 38. 1923, c. 157, § 1. Whoever shall without lawful excuse desert his wife when such wife is in destitute or necessitous circumstances, or, being able by means of his property or labor to provide for the necessary support and maintenance of his wife shall without lawful excuse, wilfully, neglect or refuse to provide such support and maintenance when such wife is in destitute or necessitous circumstances, or whoever shall without lawful excuse desert his or her minor child or children under the age of sixteen years or being able by means of his or her property or labor to provide for the necessary support and maintenance of his or her minor child or children under said age, shall wilfully neglect or refuse to provide such support and maintenance when such child or children are in destitute or necessitous circumstances, when such offense is of a high and aggravated nature shall be deemed guilty of a felony and on conviction thereof shall be punished by a fine of not more than five hundred dollars or by imprisonment with or without hard labor for not more than two years or by both such fine and imprisonment, and if a fine is imposed, the court may direct that it be paid in whole or in part to the wife or to the guardian or custodian of the minor child or children; provided that, before the trial, with the consent of the defendant, or after conviction, instead of imposing the punishment hereinbefore provided, or in addition thereto, the court in its discretion having regard to the circumstances and to the financial ability or earning capacity of the defendant, may make an order, which shall be subject to change by it from time to time as circumstances may require, directing the defendant to pay a certain sum weekly for the space of one year to the wife, or to the guardian or custodian of the minor

child or children, or to an organization or individual approved by the court, as trustee, and to release the defendant from custody on probation for the space of one year upon his or her entering into a recognizance, with sureties, in such sum as the court may direct. The condition of the recognizance shall be such that if the defendant shall make his or her personal appearance in court whenever ordered to do so within the year, and shall further comply with the terms of the order and of any subsequent modification thereof, then the recognizance shall be void, otherwise in full force and effect.

\*116 Me. 359; 121 Me. 94; 123 Me. 414.

**Sec. 44. Desertion of wife or minor children in destitute circumstances and wilful non-support, when a misdemeanor; penalty.** 1923, c. 157, § 2. 1925, c. 17. Whoever shall without lawful excuse desert his wife when such wife is in destitute or necessitous circumstances, or being able by means of his property or labor to provide for the necessary support and maintenance of his wife, shall without lawful excuse, wilfully, neglect or refuse to provide such support and maintenance when such wife is in destitute or necessitous circumstances, or whoever shall without lawful excuse desert his or her minor child or children under the age of sixteen years or being able by means of his or her property or labor to provide for the necessary support and maintenance of his or her minor child or children under said age, shall wilfully neglect or refuse to provide such support and maintenance when such child or children are in destitute or necessitous circumstances, when such offense is not of a high and aggravated nature, shall be deemed guilty of a misdemeanor and on the conviction thereof shall be punished by a fine of not more than three hundred dollars or by imprisonment with or without hard labor for not more than eleven months or by both such fines and imprisonment. If a fine is imposed, the court may direct that it be paid in whole or in part to the wife or to the guardian or custodian of the minor child or children; provided that, before the trial, with the consent of the defendant, or after conviction, instead of imposing the punishment hereinbefore provided, or in addition thereto, the court in its discretion having regard to the circumstances and to the financial ability or earning capacity of the defendant, may make an order, which shall be subject to change by it from time to time as circumstances may require, directing the defendant to pay a certain sum weekly for the space of one year to the wife, or to the guardian or custodian of the minor child or children, or to an organization or individual approved by the court, as trustee, and to release the defendant from custody on probation for the space of one year upon his or her entering into a recognizance, with sureties, in such sum as the court may direct. The condition of the recognizance shall be such that if the defendant shall make his or her personal appearance in court whenever ordered to do so within the year, and shall further comply with the terms of the order and of any subsequent modification thereof, then the recognizance shall be void, otherwise in full force and effect.

**Sec. 45. On proof of violation of order court may proceed under original indictment; amount recovered may be paid to wife or guardian.** R. S. c. 120, § 39. 1923, c. 157, § 3. If the court shall be satisfied by information or evidence under oath, that at any time during the year the defendant has violated the terms of such order, it may forthwith proceed with the trial of the defendant under the original complaint or indictment, or sentence him under the original conviction, or enforce the original sentence, as the case may be. In case of forfeiture of a recognizance, and enforcement thereof by execution, the sum recovered may, in the discretion of the court, be paid in whole or in

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part to the wife or to the guardian or custodian of the minor child or children.

**Sec. 46. Earnings of persons sentenced, how disposed of. R. S. c. 120, § 40.** When any person is sentenced to hard labor and actually employed in such labor in a county jail or any other county correctional institution or reformatory on account of any sentence imposed under the two preceding sections, the keeper of said jail or other institution or reformatory, shall certify at the end of each week to the county commissioners the number of days during which such persons shall have been actually employed in said jail as aforesaid, and the county commissioners shall thereupon draw their order upon the county treasurer for a sum equal to fifty cents for each day's hard labor so performed by such person and the same shall thereupon be paid forthwith by the county treasurer to the wife of such person or to the guardian or custodian or his or her minor child or children, or to any organization or individual as trustee which shall be approved by the court imposing such sentence.

**Sec. 47. Fines and penalties, how recovered. R. S. c. 120, § 41. 1923, c. 157, § 5.** All fines or penalties provided for by the terms of the thirteen preceding sections of this chapter may be recovered or enforced by complaint or indictment and in all prosecutions for misdemeanors under said sections, judges of municipal and police courts and trial justices within their respective counties shall have original and concurrent jurisdiction with the supreme judicial court and superior courts.

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## CHAPTER 130.

### Offenses Against Habitations and Other Buildings.

**Sec. 1. Burning of dwelling-houses; offense may constitute murder; penalties. R. S. c. 121, § 1.** Whoever wilfully and maliciously sets fire to or causes fire to be set to the dwelling-house or any building, occupied in part for dwelling- or lodging-house purposes and belonging wholly or in part to himself or to another, or to any building adjoining thereto owned wholly or in part by himself or another, with intent to burn such dwelling-house or building, shall be punished by imprisonment for not less than one nor more than twenty years. Whoever wilfully and maliciously sets fire to or causes fire to be set to a dwelling-house or any building owned by himself, and thereby endangers a dwelling-house or other property of another shall be punished by imprisonment for not less than one nor more than twenty years. Should the life of any person be lost in consequence of any such burning such offender shall be deemed guilty of murder, and punished accordingly.

55 Me. 367; 63 Me. 135; 66 Me. 307; 71 Me. 355; 116 Me. 419; \*121 Me. 564.

**Sec. 2. Burning of public and private buildings, penalty. R. S. c. 121, § 2.** Whoever wilfully 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 such dwelling-house is thereby endangered, and such public or other building is thereby burned in the night time, shall be punished by imprisonment for any term of years; but if such offense was committed in the day time, or without the curtilage of, and without endangering a dwelling-house, by imprisonment for not less than one, nor more than ten years.

12 Me. 215; 45 Me. 329; 58 Me. 243; 119 Me. 546.

**Sec. 3. Burning of other buildings, vessels, bridges, etc., penalty. R. S. c. 121, § 3.** Whoever wilfully 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 for not less than one, nor more than ten years.

45 Me. 329; \*117 Me. 363.

**Sec. 4. Burning of produce, trees, etc., penalty. R. S. c. 121, § 4.** Whoever wilfully and maliciously burns any corn, grain, hay, vegetables, or other produce, or any soil, trees, underwood, or other property of another, shall be punished by imprisonment for not less than one, nor more than three years.

**Sec. 5. Wife is liable, although property burned is her husband's. R. S. c. 121, § 5.** The preceding sections are applicable to a married woman, committing either of such offenses without the consent of her husband, although the property set on fire and burned belonged wholly or in part to him.

**Sec. 6. Burglary, definition, penalty. R. S. c. 121, § 6.** 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, is guilty of burglary; and whether he is, before or after entering, armed with a dangerous weapon, or whether he assaults any person lawfully therein, or has any confederate present aiding or abetting, or not, in either case, he shall be punished by imprisonment for any term of years; and all burglar's tools or implements prepared or designed for committing burglary, shall be dealt with as provided in section thirteen of chapter one hundred thirty-six.

**Sec. 7. Breaking and entering with intent to commit a felony, penalty. R. S. c. 121, § 7.** 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 for not less than one, nor more than ten years, but if no person was lawfully therein and put in fear, by imprisonment for not more than five years, or by fine not exceeding five hundred dollars.

25 Me. 502; 32 Me. 584; 36 Me. 227; 92 Me. 72; 99 Me. 331.

**Sec. 8. Dwelling-house, defined. R. S. c. 121, § 8.** Any permanent building or edifice, usually occupied by any person by lodging therein at night, is a dwelling house, although 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.

117 Me. 365; 124 Me. 328.

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## CHAPTER 131.

### Larceny, and Receiving Stolen Goods.

**Sec. 1. Larceny, definition, penalty. R. S. c. 122, § 1.** Whoever steals, takes and carries away, of the property of another, money, goods or chattels, or any writ, process, public record, bond, bank-bill or note, promissory note, bill of exchange, order, certificate, book of accounts, conveyance of real estate, valuable contract, receipt, release, defeasance, or instrument in writing whereby

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any demand, right or obligation, is created, increased, diminished or extinguished, is guilty of larceny; and shall be punished, when the value of the property exceeds one hundred dollars, by imprisonment for not less than one, nor more than five years; otherwise, by imprisonment for not more than two years or by fine not exceeding one hundred dollars.

See c. 51, § 2; 17 Me. 195; 19 Me. 228, 400; 21 Me. 18; 62 Me. 285; 66 Me. 441; 72 Me. 468; 86 Me. 432; 99 Me. 334; 126 Me. 163.

**Sec. 2. Larceny by night in a dwelling-house, or at any time breaking and entering certain other buildings, vessel, or railroad-car, penalty.** R. S. c. 122, § 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 for not less than one, nor more than fifteen years; and when the offense is committed in the day time, by imprisonment for not more than six years, or by fine not exceeding one thousand dollars.

**Sec. 3. Larceny at a fire, penalty.** R. S. c. 122, § 3. Whoever commits larceny in a building on fire, or steals property removed on account of an alarm of fire, shall be punished by imprisonment for not more than five years, or by fine not exceeding five hundred dollars.

See c. 34, § 11.

**Sec. 4. Larceny from the person, penalty.** R. S. c. 122, § 4. Whoever commits larceny from the person of another, shall be punished by imprisonment for not more than six years, or by fine not exceeding five hundred dollars.

86 Me. 433.

**Sec. 5. Common thief, description, penalty.** R. S. c. 122, § 5. 1925, c. 103. Whoever, after being convicted of larceny as principal or as accessory before the fact, is again convicted thereof, or is convicted of three distinct larcenies at the same term of court, shall be deemed a common thief, and be punished by imprisonment for not less than one, nor more than fifteen years.

91 Me. 80, 85.

**Sec. 6. Larceny, by falsely personating another.** R. S. c. 122, § 6. Whoever falsely personates or represents another, and thereby receives anything intended to be delivered to the party personated, with intent to convert the same to his own use, is guilty of larceny and shall be punished accordingly.

**Sec. 7. Taking of any beasts or birds kept in confinement, larceny.** R. S. c. 122, § 7. Whoever without the consent of the owner and with a felonious intent, takes any beast or bird ordinarily kept in a state of confinement, and not the subject of larceny at common law, shall be deemed guilty of larceny.

**Sec. 8. Larceny by embezzlement or fraudulent conversion of property; receiver liable.** R. S. c. 122, § 8. If an officer, agent, clerk or servant of a person, copartnership 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 the 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, collector of taxes, or an agent, clerk or servant of a public officer or tax collector, embezzles or fraudulently converts to his own use, or loans or permits any person to have or use for his own benefit without authority of law, any money in his possession or under his control by virtue of his office or employment by such officer, he is guilty of larceny and shall be punished accordingly; and whoever knowingly receives

from a public officer, collector of taxes 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, is guilty of larceny and shall be punished accordingly. But the foregoing provisions in relation to public officers, collectors of taxes, 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 employment of the state or to whom the state is indebted, if the sums advanced do not exceed the sum due him.

See c. 36, § 35; c. 51, § 2; 62 Me. 108; 69 Me. 28, 364; 70 Me. 265; 90 Me. 144; 95 Me. 183; 101 Me. 159; 126 Me. 232.

**Sec. 9. Prosecutions for embezzling, or fraudulently converting money, etc., by cashier or other officer; allegations in the indictment; evidence at the trial; evidence sufficient to maintain the charge in the indictment. R. S. c. 122, § 9.** In prosecutions for 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 copartnership, by a cashier or other officer, clerk, agent, or servant of such person, bank, incorporated company, or copartnership, it is 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 such embezzlement, fraudulent conversion, or taking with such intent, committed within six months before the time stated in the indictment; and it is sufficient to maintain the charge in the indictment, and is not a variance, if it is proved that any bullion, money, note, bank-note, check, draft, bill of exchange, or other security for money, of such person, bank, incorporated company, or copartnership, 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.

126 Me. 233.

**Sec. 10. Larceny by one trusted with property; insurance, or other agent, appropriating money to his own use. R. S. c. 122, § 10.** Whoever embezzles, or fraudulently converts to his own use, or secretes with intent to embezzle or fraudulently convert to his own use, money, goods or property delivered to him, or any part thereof, which may be the subject of larceny, shall be deemed guilty of larceny, and shall be punished accordingly. And any insurance agent, or agent of any corporation doing business in the state, who fraudulently appropriates to his own use any money, or substitutes for money, received by him as such agent, or refuses or neglects to pay over and deliver the same to the party entitled to receive it, for thirty days after written demand upon him therefor, is guilty of larceny, and shall be punished accordingly.

33 Me. 131; 91 Me. 111; 95 Me. 182; 99 Me. 70; \*126 Me. 230.

**Sec. 11. Public officers forbidden to have pecuniary interest in public contracts; contracts are void. R. S. c. 122, § 11. 1927, c. 211.** No trustee, superintendent, treasurer, or other person holding a place of trust in any state office or public institution of the state, or any officer of a quasi municipal corporation, shall be pecuniarily interested directly or indirectly in any contracts made in behalf of the state or of the institution or of the quasi municipal corporation in which he holds such place of trust, and any contract made in violation hereof is void; and if such officer or person receives any drawbacks, presents, gratuities or secret discounts to his own use on account of such con-

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tracts, or from the profits in any materials, supplies or labor, furnished or done for the state or such institution or such quasi municipal corporation, he shall be punished by imprisonment for not more than a year, or by fine not exceeding five hundred dollars.

108 Me. 548; 113 Me. 322.

**Sec. 12. Buying, receiving, or aiding to conceal stolen property; restoration of stolen property; penalty; subsequent conviction.** R. S. c. 122, § 12. Whoever buys, receives, or aids in concealing stolen property, knowing it to be stolen, shall be punished by imprisonment for 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 for the full value of such property, he shall not be sentenced to the state prison. If, after conviction, he is again convicted of a like offense, or if he is convicted of three such distinct offenses at the same term of court, the imprisonment shall not be for less than one, nor more than ten years.

29 Me. 334; 123 Me. 317.

**Sec. 13. Officer to secure and keep stolen property for the owner.** R. S. c. 122, § 13. The officer, who arrests a person charged with an offense 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.

**Sec. 14. Court may make compensation to the prosecutor and officer.** R. S. c. 122, § 14. 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.

**Sec. 15. Action for stolen property.** R. S. c. 122, § 15. 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.

53 Me. 132; 67 Me. 77; 68 Me. 236.

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## CHAPTER 132.

### Forgery and Counterfeiting, and Fraudulent Stocks.

#### Forgery and Counterfeiting.

**Sec. 1. Forgery of and publishing as true, forged records and written instruments.** R. S. c. 123, § 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, or indorsement or assignment thereof, or of any debt or contract; or acquittance, discharge or accountable receipt for anything 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 for not more than ten years.

2 Me. 366; 20 Me. 82; 22 Me. 281; \*47 Me. 167; \*50 Me. 419.

**Sec. 2. Forgery or counterfeiting of public securities, bank-bills or coin, etc. R. S. c. 123, § 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 for any term of years.

**Sec. 3. Bringing into the state, or having in possession counterfeits, with intent to pass them. R. S. c. 123, § 3.** Whoever brings into 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 for not more than three years, or by fine not exceeding one thousand dollars.

**Sec. 4. Second and third convictions. R. S. c. 123, § 4.** Whoever, after being convicted of an offense described in the preceding section, is again convicted thereof, or is convicted of three such distinct offenses at the same term of the court, shall be punished by imprisonment for not less than three, nor more than ten years.

**Sec. 5. Counterfeiting foreign coin for exportation. R. S. c. 123, § 5.** Whoever forges or counterfeits gold or silver coin of a foreign government or country, with intent to export the same for the purpose of defrauding any foreign government or its subjects, shall be punished by imprisonment for not less than one, nor more than ten years.

**Sec. 6. Manufacture or possession of implements and materials for counterfeiting; disposal. R. S. c. 123, § 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 for not more than three years or by fine not exceeding one thousand dollars; and all such tools, implements and materials shall be disposed of as provided in section thirteen of chapter one hundred thirty-six.

**Sec. 7. Fraudulent alterations of written instruments. R. S. c. 123, § 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, is guilty of forgery and shall be punished as if such instrument had been forged and counterfeited.

**Sec. 8. Testimony, sufficient to prove public securities and bank-bills to be**

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**counterfeits in certain cases.** R. S. c. 123, § 8. In prosecutions for any offense 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, is evidence to prove them forged or altered.

**False Certificates, and False Issues and Transfers of Stocks.**

**Sec. 9. Forgery by false certificates, and fictitious signatures.** R. S. c. 123, § 9. If any person, legally authorized to take the proof or acknowledgment of any instrument that by law may be recorded, wilfully 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 an 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, although such person never was an officer or agent of such corporation, or never existed, he is guilty of forgery and shall be punished as provided in section one.

**Sec. 10. Making or using false certificates of stock, or pledging genuine, without authority.** R. S. c. 123, § 10. If an officer or agent of a corporation wilfully signs with intent to issue, or issues any certificate purporting to be a certificate or other evidence of the ownership or of the transfer of any stock in such corporation, not authorized by its charter, by-laws or votes, or without such authority issues, sells or pledges 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 for not more than ten years, and by fine not exceeding one thousand dollars.

**Sec. 11. Acting for corporation after forfeiture of charter.** R. S. c. 123, § 11. Whoever undertakes to do business, or does business of any kind in behalf of any corporation, the charter of which has been forfeited *under the provisions of chapter two hundred and thirty-five, of the public laws of nineteen hundred and three, or suspended under the provisions of chapter one hundred and seventy-two, of the public laws of nineteen hundred and five, or of chapter one hundred and nine, of the public laws of nineteen hundred and seven, or of chapter one hundred and twenty-seven of the public laws of nineteen hundred and nine, or of chapter one hundred and eighty-two of the public laws of nineteen hundred and eleven, or of chapter one hundred and eighty-six, of the public laws of nineteen hundred and thirteen, or of chapter three hundred and fourteen, of the public laws of nineteen hundred and fifteen, or of section twenty-three of chapter nine,* or holds out such corporation as doing business, or sells, transfers or puts upon the market any stocks or other evidence of indebtedness whatsoever of any such corporation, while the charter of said corporation remains forfeited or suspended, shall be punished by a fine of three hundred dollars.

**Rewards to Informers and Prosecutors.**

**Sec. 12. Rewards for conviction of forgers and counterfeiters. R. S. c. 123, § 12.** 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 offenses 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 offenses of possessing with intent to utter, or of knowingly uttering such coin, public security, bank-bill or note; these rewards shall be 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 offense, the reward shall be divided between them equally, or in such proportions as said judge determines.

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**CHAPTER 133.****Offenses Against Public Justice.**

Sections	1- 4	Perjury and Subornation of Perjury.
Sections	5-12	Bribery and Corrupt Agreements.
Sections	13-17	Escapes.
Section	18	Compounding Felonies.
Sections	19-24	Refusing to Aid Officers and Obey Magistrates.
Section	25	Falsely Assuming to be a Justice or Officer.
Section	26	Disguising, to Obstruct the Execution of the Laws.
Section	27	Extortion.

**Perjury and Subornation of Perjury.**

**Sec. 1. Definition and punishment of perjury and subornation of perjury. R. S. c. 124, § 1.** Whoever, when required to tell the truth on oath or affirmation lawfully administered, wilfully and corruptly swears or affirms falsely to a 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 is guilty of subornation of perjury; and shall be punished in either case, if the perjury was committed in a trial of a crime, punishable by imprisonment for life, by imprisonment for any term of years not less than ten, and if committed in any other case, by imprisonment for not more than ten years.

See c. 7, § 18; c. 8, § 112; c. 18, § 68; c. 23, § 5; c. 34, § 53; c. 43, § 13; c. 48, § 17; c. 53, § 44; c. 59, § 14; c. 60, § 18; c. 73, § 5; c. 79, § 6; c. 99, § 77; c. 158, § 19; 26 Me. 36, 71; 39 Me. 339; 49 Me. 413; 50 Me. 217; \*59 Me. 141; 69 Me. 219; \*76 Me. 66; 106 Me. 507; 115 Me. 251; 122 Me. 263.

**Sec. 2. Attempted subornation of perjury. R. S. c. 124, § 2.** Whoever wilfully and corruptly endeavors to incite or procure another to commit perjury, although it is not committed, shall be punished by imprisonment for not more than five years.

**Sec. 3. Proceedings by any court, on presumption of perjury committed before such court. R. S. c. 124, § 3.** When a 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

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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 so long as necessary of any papers or documents produced and deemed necessary in the prosecution of such charge, and cause notice of such proceedings to be given to the state's attorney for the same county.

**Sec. 4. Form of indictment for perjury in court.** R. S. c. 124, § 4. Indictments against persons for committing perjury before any court or tribunal drawn substantially as hereinafter provided, are sufficient in law, viz.:

## "STATE OF MAINE.

\_\_\_\_\_, ss. At the \_\_\_\_\_ court begun and held at \_\_\_\_\_, within and for said county of \_\_\_\_\_, on the \_\_\_\_\_ Tuesday of \_\_\_\_\_, in the year of our Lord nineteen hundred and \_\_\_\_\_.

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

A true bill.

\_\_\_\_\_, Foreman.

\_\_\_\_\_, County Attorney."

\*59 Me. 139; 79 Me. 120; 91 Me. 313; 106 Me. 370.

**Bribery and Corrupt Agreements.**

**Sec. 5. Bribery and acceptance of bribes by public officers.** R. S. c. 124, § 5. 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 does, offers or promises 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 for 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 the state, and be punished by imprisonment for not more than ten years, or by fine not exceeding five thousand dollars. Sheriffs, deputy sheriffs, coroners, within the several counties, and constables, marshals, deputy marshals and other officers of police of the several cities and towns, are declared to be executive officers within the meaning of this section. But the enumeration of such officers shall not be held to exclude any other executive officer not specially mentioned herein.

<sup>114</sup> Me. 477.

**Sec. 6. Corrupt solicitation of influence to procure places of trust; acceptance thereof.** R. S. c. 124, § 6. Whoever directly or indirectly gives, offers or promises a valuable consideration or gratuity to any person not included

in the preceding section, with intent to induce such person to procure for him by his interest, influence or any other means, any place of trust in 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 the state, and be punished by fine not exceeding three hundred dollars, and imprisonment for less than one year.

**Sec. 7. Bribery of jurors, referees, masters in chancery, appraisers or auditors, and acceptance thereof by them. R. S. c. 124, § 7.** Whoever corruptly gives, offers or promises, a 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 for not more than five years, or by fine not exceeding one thousand dollars.

**Sec. 8. Informer is exempted from punishment. R. S. c. 124, § 8.** 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.

**Sec. 9. Malfeasance in office, penalty. R. S. c. 124, § 9.** Any officer authorized and empowered to serve criminal processes, who shall hire, attempt to hire or give money or other valuable thing by way of inducement to any person to consent or suffer himself to be arrested for, prosecuted for or convicted of any criminal offense, or who shall cause the same to be done, or who shall enter into any pecuniary agreement with any person whereby he is to suffer himself to be so arrested, prosecuted or convicted, whether such person be guilty of such offense or not, shall be deemed guilty of malfeasance in office, and shall be punished by fine not exceeding one thousand dollars, or by imprisonment not exceeding two years.

**Sec. 10. Attempts to corrupt jurors or referees, etc. R. S. c. 124, § 10.** Whoever attempts improperly to influence a juror, or any one drawn, appointed or sworn as such, or an arbitrator, referee or commissioner appointed by a court of probate 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 a 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 fine not exceeding two hundred dollars, and imprisonment for not more than three months.

<sup>\*99 Me. 316.</sup>

**Sec. 11. Sheriffs and other officers, receiving bribes, for neglect of official duty. R. S. c. 124, § 11.** If any sheriff, deputy sheriff, coroner or constable, receives from any person money or other valuable thing, as an inducement for omitting or delaying to sell 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 deemed guilty of malfeasance in office and shall be punished by fine not exceeding one thousand dollars, or by imprisonment not exceeding two years.

**Sec. 12. Corrupt agreements by attorneys and others. R. S. c. 124, § 12.**

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Whoever 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 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, shall be punished by fine of not less than twenty, nor more than one thousand dollars, or by imprisonment for not more than one year.

See c. 92, § 30; 70 Me. 272; 79 Me. 42; 81 Me. 38; 82 Me. 495; 84 Me. 587; 85 Me. 172.

## Escapes.

**Sec. 13. Officers, refusing or omitting to execute processes. R. S. c. 124, § 13.** If an officer, authorized to serve process, wilfully 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 offense; or thus omits or delays to execute it, whereby the offender escapes, he shall be punished by imprisonment for less than one year, and by fine not exceeding five hundred dollars.

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 CHAPTER 134.

## Offenses Against the Public Peace.

- Sections 1- 3 Affrays and Riots.
- Sections 4- 6 Prize Fights.
- Sections 7-10 Printed Notices Discriminating Against Persons, Prohibited.
- Sections 11-15 Strikes, and Unlawful Combinations Against Public Service Corporations.
- Sections 16-18 Suppression of Mobs.
- Sections 19-20 Punishment and Remedy for Injuries by Mobs.
- Sections 21-22 Insurrection and Invasion.

## Affrays and Riots.

**Sec. 1. Affrays between two or more persons. R. S. c. 125, § 1.** If two persons voluntarily or by agreement, fight or use blows or force towards each other, in an angry or quarrelsome manner, in a public place to the terror or disturbance of others, they are guilty of an affray, and shall be punished as for an assault and battery.

<sup>125 Me. 452.</sup>

**Sec. 2. Unlawful assembly and riot. R. S. c. 125, § 2.** If three or more persons assemble in a violent or tumultuous manner to do an unlawful act, or, being together, make 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 are guilty of an unlawful assembly; if they commit such acts in the manner and with the effect aforesaid, they are guilty of a riot, and shall, in either case be punished, by imprisonment for 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.

18 Me. 347; 33 Me. 556; 34 Me. 236; \*104 Me. 282; \*125 Me. 452.

**Sec. 3. One person may be convicted, without the others. R. S. c. 125, § 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; but if known, they must be named, and if unknown, that fact must be alleged.

#### Prize Fights.

**Sec. 4. Participation in prize-fights, or premeditated fights. R. S. c. 125, § 4.** Whoever instigates, engages in, encourages, or does any act to further a contention or fight or premeditated fight without weapons between two or more persons, or a fight commonly called a ring or prize-fight, or who engages in a public or private exhibition, or who sends or publishes a challenge or acceptance of a challenge for such contention, exhibition or fight, or carries or delivers such a challenge for acceptance, or trains or assists any person in training or preparing for such contention, exhibition or fight, or acts as umpire or judge, or is in any way connected therewith shall be punished by imprisonment in jail for not less than ten days nor more than six months or by fine not exceeding two hundred dollars.

See c. 135, § 32.

**Sec. 5. Exception of boxing contests. R. S. c. 125, § 5. 1927, c. 207.** Section four shall not apply to amateur boxing contests of not more than four rounds of three minutes each, in which new six-ounce gloves are used which have not been broken, or tampered with by pushing back the padding from the knuckles of said gloves, and where there is not more than five pounds difference in the weight of the contestants and where contestants have had a rigid physical examination by a reputable physician just prior to said contest and said physician certifies that each of said contestants is in good physical condition. Decisions may be given in such amateur boxing contests conducted by organization incorporated under section one of chapter seventy, provided the receipts from such amateur boxing contests are to be paid into the treasury of such organization or to some public charity. For the purposes of this section an amateur boxing contest is a contest between boxers who never have taken cash prizes in boxing contests, in which no other prizes than medals or merchandise are awarded.

**Sec. 6. Complaint, warrant, and proceedings to prevent, as well as to punish such offense. R. S. c. 125, § 6.** If any person competent to testify in civil suits makes complaint on oath before any judge of a municipal or police court or trial justice, that an offense specified in section four of this chapter or in section fifty-two of chapter one hundred thirty-five, is about to be committed, setting forth in such complaint the grounds of his belief, such magistrate may issue his warrant directed to any competent officer, therein reciting the name and residence of the complainant and the substance of his complaint, and directing such officer to prevent the violation of said sections, by arresting any persons whom he finds wilfully violating the same, and by bringing the respondents before such magistrate for trial.

See c. 135, § 52.

**Printed Notices Discriminating Against Persons, Prohibited.**

**Sec. 7. Places of public accommodation prohibited from issuing or distributing printed notices discriminating against persons on account of religious sect or nationality.** 1917, c. 225, § 1. No person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, resort or amusement, shall directly or indirectly, by himself or another, publish, issue, circulate, distribute or display, in any way, any advertisement, circular, folder, book, pamphlet, written or painted or printed notice or sign, of any kind or description, intended to discriminate against or actually discriminating against persons of any religious sect, creed, class, denomination, or nationality, in the full enjoyment of the accommodations, advantages, facilities or privileges offered to the general public by such places of public accommodation, resort or amusement.

**Sec. 8. Term "Place of public accommodation" defined.** 1917, c. 225, § 2. A place of public accommodation, resort or amusement within the meaning of section seven shall be deemed to include any inn, whether conducted for the entertainment, housing, or lodging of transient guests, or for the benefit, use or accommodation of those seeking health, recreation or rest, any restaurant, eating-house, public conveyance on land or water, bath-house, barber-shop, theatre and music-hall.

**Sec. 9. Specific inquiries may be answered by mail.** 1917, c. 225, § 3. Nothing in section seven contained shall be construed to prohibit the mailing of a private communication in writing, sent in response to specific written inquiry.

**Sec. 10. Penalty for violations.** 1917, c. 225, § 4. Any person who shall violate any of the provisions of section seven, or who shall aid in or incite, cause or bring about, in whole or in part, the violation of the provisions of section seven, shall, for each and every violation be liable to a fine of not more than one hundred dollars, or shall be imprisoned not more than thirty days, or shall be subject to both such fine and imprisonment.

**Strikes and Unlawful Combinations Against Public Service Corporations.**

**Sec. 11. Combinations of employees to stop or delay trains, or injure property of railroads.** R. S. c. 125, § 7. Any employee 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 employees, unlawfully, or in violation of his duty or contract, stops or unnecessarily delays or abandons, or in any way injures a locomotive or any car or train of cars on the railroad track of such corporation, or in any way hinders or obstructs the use of any locomotive, car or train of cars on the railroad of such corporation, shall be punished by fine not exceeding five hundred dollars, or imprisonment in the state prison or in jail not exceeding one year.

**Sec. 12. Malicious obstruction of any engine or car, or abandonment of the same on a railroad.** R. S. c. 125, § 8. Whoever, by any unlawful act, or by any wilful omission or neglect, obstructs or causes to be obstructed an engine or carriage on any railroad, or aids or assists therein; or whoever, having charge of any locomotive or carriage while upon or in use on any railroad, wilfully stops, leaves or abandons the same, or renders, or aids or assists 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, and whoever aids or assists therein, shall be punished by fine not exceeding one thousand dollars, or imprisonment in the state prison or in jail not exceeding two years.

See c. 64, § 34.

**Sec. 13. Gross carelessness and neglect or malicious delay, in the management or control of railroad trains. R. S. c. 125, § 9.** Whoever, having any management of, or control, either alone or with others, over any railroad locomotive, car or train, while it is used for the carriage of persons or property, or is at any time guilty of gross carelessness or neglect thereon, or in relation to the management or control thereof; or maliciously stops or delays the same, in violation of the rules and regulations then in force for the operation thereof; or abstracts therefrom the tools or appliances pertaining thereto, with intent thereby maliciously to delay the same, shall be punished by a fine not exceeding one thousand dollars, or imprisonment in the state prison or in jail not exceeding three years.

**Sec. 14. Violence or intimidation to promote a controversy between a public service company and its workmen. R. S. c. 125, § 10.** Whoever, 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, telephone, electric light, electric power or railroad corporation and its employees or workmen, wrongfully and without legal authority, uses violence towards, or intimidates 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 he has a legal right to do or abstain from doing; or, on the premises of such corporation, by bribery, or in any manner or by any means, induces, or endeavors or attempts to induce, such person to leave the employment and service of such corporation with intent thereby to further the objects of such combination or agreement; or in any way interferes with such person while in the performance of his duty; or threatens or persistently follows such person in a disorderly manner, or injures or threatens to injure his property with either of said intents, shall be punished by fine not exceeding three hundred dollars, or imprisonment not exceeding three months.

**Sec. 15. Unlawful refusal of railroad employees to perform duty. R. S. c. 125, § 11.** Any person in the employment of a railroad corporation, who, in furtherance of the interests of either party to a dispute between another railroad corporation and its employees, refuses 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 refuses to aid in loading or discharging such cars, in violation of his duty as such employee, shall be punished by fine not exceeding five hundred dollars, or imprisonment in the state prison or in jail not exceeding one year.

#### Suppression of Mobs by Officers and Armed Force.

**Sec. 16. Duty of officers to disperse unlawful assembly; disobedience punished; penalty for neglect of duty by officer. R. S. c. 125, § 12.** 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, marshal, deputy marshal and police officers and of the sheriff of 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

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peaceably to disperse; and if they do not obey, such 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 be punished by fine not exceeding five hundred dollars, and imprisonment for less than one year; and each such 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 fine not exceeding three hundred dollars.

114 Me. 443.

**Sec. 17. When rioters refuse to disperse, officers may require aid of armed force; orders for suppressing unlawful assembly. R. S. c. 125, § 13.** When persons, so riotously or unlawfully assembled, neglect or refuse, on command as aforesaid, to disperse without unnecessary delay, any two of the 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 justice or judge of a court of record, the sheriff of the county, or any two of the officers mentioned in the preceding section.

**Sec. 18. If any person is killed or wounded, officers to be held guiltless; liability of rioters. R. S. c. 125, § 14.** If, in the efforts made as aforesaid to suppress such assembly, and to arrest and secure the persons composing it who refuse to disperse, although the number remaining is less than twelve, any such persons, or any persons present as spectators or otherwise, are killed or wounded, said officers and persons acting with them by their order, shall be held guiltless and justified in law; but if any of said 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 officers, shall be answerable therefor.

### Punishment and Remedy for Injuries by Mobs.

**Sec. 19. Punishment for pulling down houses, or premeditated personal injuries. R. S. c. 125, § 15.** 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 for 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.

63 Me. 48; 65 Me. 429.

**Sec. 20. Liability of towns for injury by mobs; town's remedy against rioters. R. S. c. 125, § 16.** When the injury to any property described in the preceding section 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.

63 Me. 48; \*65 Me. 429, 438.

**Insurrection and Invasion.**

**Sec. 21. Governor may call out militia to suppress insurrection. R. S. c. 125, § 17.** When an insurrection exists 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.

**Sec. 22. Governor and council may employ armed vessels to protect the coast of the state. R. S. c. 125, § 18.** 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.

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## CHAPTER 135.

**Offenses Against Chastity, Morality, and Decency.**

- Sections 1-7 Offenses against Chastity.
- Sections 8-12 Concealment of Births. Procuring Abortions.
- Sections 13-27 Houses of Ill Fame. Prostitution.
- Sections 28-34 Immoral Literature, Pictures and Exhibitions.
- Sections 35-36 Blasphemy and Profanity.
- Sections 37-45 Disturbance of Religious Meetings. Observance of the Lord's Day and Memorial Day.
- Section 46 Disturbance of Public Meetings and Lawful Assemblies.
- Sections 47-49 Protection of Dead Bodies and Graves.
- Sections 50-80 Cruelty to Animals.

**Offenses Against Chastity.**

**Sec. 1. Adultery; penalty; cohabitation after a divorce. R. S. c. 126, § 1.** Whoever commits adultery shall be punished by imprisonment for not more than five years, or by fine not exceeding one thousand dollars; and when only one of the parties is married, or when they have been legally divorced from the bonds of matrimony, and afterwards cohabit, each shall be deemed guilty of adultery.

8 Me. 76; 11 Me. 394; 19 Me. 156; 35 Me. 206; 36 Me. 263; 43 Me. 261; 44 Me. 478; 65 Me. 30.

**Sec. 2. Incest, penalty. R. S. c. 126, § 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 for not less than one, nor more than ten years.

118 Me. 164.

**Sec. 3. Crime against nature, penalty. R. S. c. 126, § 3.** Whoever commits the crime against nature, with mankind or with a beast, shall be punished by imprisonment for not less than one, nor more than ten years.

**Sec. 4. Polygamy, penalty; place of trial. R. S. c. 126, § 4.** If any person, except one legally divorced, 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,

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when such husband or wife is thereby guilty of polygamy, he or she shall be deemed guilty of polygamy and punished by imprisonment for not more than five years, or by fine not exceeding five hundred dollars; and the indictment for such offense may be found and tried in the county where the offender resides, or where he or she is apprehended.

6 Me. 149; 53 Me. 440; 91 Me. 207; 97 Me. 324, 325; 115 Me. 220; 118 Me. 237.

**Sec. 5. Lascivious cohabitation; lewdness; indecent exposure; penalties. R. S. c. 126, § 5. 1919, c. 54.** 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 for 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 for not more than six months and by fine not exceeding twenty-five dollars.

7 Me. 58; 112 Me. 56.

**Sec. 6. Indecent liberties; penalty. R. S. c. 126, § 6.** Whoever, being twenty-one years or more of age, takes any indecent liberty or liberties, or indulges in any indecent or immoral practice or practices, with the sexual parts or organs of any other person, male or female, under the age of sixteen years, either with or without the consent of such male or female person, shall, upon conviction thereof, be punished by imprisonment at hard labor, for not less than one, nor more than ten years.

**Sec. 7. Fornication, penalty. R. S. c. 126, § 7.** If an unmarried man commits fornication with an unmarried woman, they shall be punished by imprisonment for not more than sixty days, and by fine not exceeding one hundred dollars.

#### Concealment of Births and Procuring Abortions.

**Sec. 8. Concealment by the mother of the death of illegitimate issue, penalty; may be charged with murder in same indictment. R. S. c. 126, § 8.** If a woman is willingly delivered in secret of the issue of her body, which would be a bastard if born alive, and 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 for not more than three years, or by fine not exceeding one hundred dollars; and she may be charged with such offense, and also with the murder of such child, in the same indictment, and convicted and punished for either, according to the verdict.

57 Me. 31; 115 Me. 203.

**Sec. 9. Procuring or attempting to procure abortion, or miscarriage, penalties. R. S. c. 126, § 9. 1921, c. 153.** Whoever administers to any woman pregnant with child, whether such child is quick or not, any medicine, drug, or other substance, or uses any instrument or other means, unless the same was 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 for not more than five years or by fine not exceeding one thousand dollars; but if done with intent to procure the miscarriage of such woman, by imprisonment for less than one year, and by fine not exceeding one thousand dollars, and any person consenting and aiding or assisting shall be liable to like punishment.

32 Me. 374; 33 Me. 54; \*126 Me. 177.

**Sec. 10. Publication, sale or distribution of information tending to produce miscarriage, penalty. R. S. c. 126, § 10.** Whoever publishes, sells or distributes by hand or otherwise any circular, pamphlet, or book containing recipes or pre-

scriptions for the cure of chronic female complaints or private diseases, or recipes or prescriptions for drops, pills, tinctures, or other compound designed to prevent conception, or tending to produce miscarriage or abortion, shall be deemed guilty of a misdemeanor and shall be punished by fine of not less than fifty, nor more than one hundred dollars, or by imprisonment for not more than three months.

**Sec. 11. Publication, distribution, or display of notices or advertisements for cure of venereal diseases; exception; penalty. 1921, c. 32.** It shall be unlawful for any person to publish or cause to be published, to deliver or distribute or cause to be delivered or distributed in any manner whatsoever, or to post, or display, or to permit to be posted, displayed, or to remain on any buildings, windows, or out-houses, or premises, or other surface owned or controlled by him in this state, or to have displayed in or on any window or place where the same could be read by passers-by or the public, any advertisement, label, statement, print, or writing which refers to any person or persons from whom, or to any means by which, or to any office or place at which, may be obtained any treatment or cure for syphilis, gonorrhoea, chancroid, lost manhood, sexual weakness, lost vitality, impotency, seminal emissions, gleet, varicocele, or self-abuse, whether described by such names, words, terms, or phrases, or by any other names, words, terms, or phrases, calculated or intended to convey to the reader the idea that any of said diseases, infirmities, disabilities, conditions, or habits are meant or referred to, or which refers to any medicine, article, device, or preparation that may be used for the treatment, cure, or prevention of any of the diseases, infirmities, disabilities, conditions, or habits mentioned in this section.

This section shall not apply to publications, advertisements, or notices of the United States government, the State of Maine, or of any city, town, or plantation in said state, or of any public official, department, or agency of this state, charged with the enforcement of its health laws.

Any person violating any of the provisions of this section shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than three months or by both such fine and imprisonment.

**Sec. 12. Throwing or leaving samples of patent medicines upon door steps, penalty. R. S. c. 126, § 11.** Any person, firm or corporation who, by himself, his servant, or agent, or as the servant or agent of any other person or firm, leaves, throws, or deposits, or has in his possession with intent to leave, throw, or deposit upon the doorstep, hall, porch, doorway, vestibule, or premises owned or occupied by another, any patent or proprietary medicine of any preparation, pill, tablet, or drug, shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than twenty, nor more than one thousand dollars, or by imprisonment for not less than thirty days nor more than one year.

#### Houses of Ill Fame. Prostitution.

**Sec. 13. Specific prohibitions against prostitution, lewdness, and assignation. R. S. c. 126, § 12. 1919, c. 112, § 1.** It shall be unlawful:

I. To occupy any place, structure, building, or conveyance for the purpose of prostitution, lewdness, or assignation or for any person to permit any place, structure, building, or conveyance owned by him or under his control to be used for the purpose of prostitution, lewdness, or assignation, with knowledge or reasonable cause to know that the same is, or is to be, used for such purpose;

II. To receive or to offer or agree to receive any person into any place, struc-

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ture, building or conveyance for the purpose of prostitution, lewdness or assignation, or to permit any person to remain there for such purpose;

III. To direct, take or transport or to offer or agree to take or transport, any person to any place, structure or building, or to any other person with knowledge or reasonable cause to know that the purpose of such directing, taking or transporting is prostitution, lewdness or assignation;

IV. To procure or solicit or to offer to procure or solicit, for the purpose of prostitution, lewdness, or assignation;

V. To reside in, enter or remain in any place, structure, or building, or to enter or remain in any conveyance for the purpose of prostitution, lewdness, or assignation;

VI. To engage in prostitution, lewdness or assignation or to aid or abet prostitution, lewdness or assignation by any means whatsoever.

40 Me. 561; 75 Me. 592; 113 Me. 443; 118 Me. 251; 124 Me. 244.

**Sec. 14. Terms defined. 1919, c. 112, § 2.** The term "prostitution" shall be construed to include the offering or receiving of the body for sexual intercourse for hire, and, shall also be construed to include the offering or receiving of the body for indiscriminate sexual intercourse without hire. That the term "lewdness" shall be construed to include any indecent or obscene act. That the term "assignation" shall be construed to include the making of any appointment or engagement for prostitution or lewdness or any act in furtherance of such appointment or engagement.

**Sec. 15. Record of prior conviction admissible evidence in trial. 1919, c. 112, § 3.** In the trial of any person charged with a violation of any of the provisions of section thirteen, the record of a prior conviction or testimony concerning the reputation, of any place, structure, or building, and of the person or persons who reside in or frequent the same shall be admissible in evidence in support of the charge.

**Sec. 16. Penalty for violation of § 13. Terms of probation and parole. 1919, c. 112, § 4.** I. Any person who violates any of the provisions of section thirteen shall be subject to imprisonment in, or commitment to, any penal or reformatory institution in this state for not more than three years;

II. Probation or parole shall be granted or ordered in the case of a person infected with venereal disease only on such terms and conditions as shall insure medical treatment therefor and prevent the spread thereof, and the court may order any convicted defendant to be examined for venereal disease.

III. No girl or woman who shall be convicted under this act shall be placed on probation or on parole in the care or charge of any person except a woman probation officer.

\*126 Me. 136.

Note. Section 12 of c. 126 of the Revised Statutes of 1916 has been substantially superseded by P. L. 1919, c. 112, which appears as sections 13-17 of this revision and is therefore omitted.

**Sec. 17. Unconstitutionality of certain parts of §§ 13-16 not to affect whole. 1919, c. 112, § 5.** The declaration by the courts of any of the provisions of sections thirteen to sixteen inclusive as being in violation of the constitution of this state shall not invalidate the remaining provisions.

**Sec. 18. Enticing unmarried females for purposes of prostitution. R. S. c. 126, § 13.** 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 in-

veigles 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 for not less than one, nor more than ten years.

54 Me. 26; 113 Me. 43.

**Sec. 19. Procuration constituted a felony, penalty. R. S. c. 126, § 14.** Whoever procures a female inmate for a house of prostitution; or induces, persuades, encourages, inveigles, or entices a female person to become a prostitute; or whoever by promises, threats, violence, or by any device or scheme, causes, induces, persuades, inveigles, takes, places, harbors, encourages, or entices a female person to become an inmate of a house of prostitution, or assignation place, or any place where prostitution is practiced, encouraged, or allowed; or whoever by promises, threats, violence, or by any device or scheme, causes, induces, persuades, encourages, inveigles, or entices an inmate of a house of prostitution or place of assignation to remain therein as such inmate; or whoever by promises, threats, violence, by any device or scheme, by fraud or artifice, or by duress of person, of goods, or by abuse of any position of confidence or authority, or having legal charge, takes, places, harbors, inveigles, entices, persuades, encourages, or procures any female person to enter any place within this state in which prostitution is practiced, encouraged or allowed, for the purpose of prostitution or for any other immoral purpose; or whoever inveigles, entices, persuades, encourages, or procures any female person to come into this state or leave this state for the purpose of prostitution or for any other immoral purpose; or whoever takes or detains a female with the intent to compel her by force, threats, menace, or duress to marry him or to marry any other person or to be defiled; or upon the pretense of marriage takes or detains a female person for the purpose of sexual intercourse; or whoever receives or gives or agrees to receive or give any money or thing of value for procuring or attempting to procure any female person to become a prostitute or to come into this state or leave this state for the purpose of prostitution or for any other immoral purpose shall be guilty of a felony, and on conviction thereof, shall be punished by imprisonment for not less than two, nor more than twenty years.

**Sec. 20. Placing of a wife in house of prostitution, a felony, penalty. R. S. c. 126, § 15.** Whoever by force, fraud, intimidation, or threats, places or leaves, or procures any other person or persons to place or leave, his wife in a house of prostitution or to lead a life of prostitution shall be guilty of a felony, and on conviction thereof, shall be punished by imprisonment for not less than two, nor more than twenty years.

**Sec. 21. Acceptance of money from woman engaged in prostitution, a felony; penalty; evidence. R. S. c. 126, § 16.** Whoever knowingly accepts, receives, levies, or appropriates any money or other valuable thing, without consideration, from the proceeds of the earnings of any woman engaged in prostitution, shall be guilty of a felony, and on conviction thereof, shall be punished by imprisonment for not less than two, nor more than twenty years. Any such acceptance, receipt, levy, or appropriation of such money or valuable thing, shall, upon any proceeding or trial for violation of this section, be presumptive evidence of lack of consideration.

113 Me. 41; \*117 Me. 344.

**Sec. 22. Detention of female in house of prostitution on account of debt, a felony; penalty. R. S. c. 126, § 17.** Whoever attempts to detain any female person in a house of prostitution, assignation place, or any place where prostitution is practiced, encouraged, or allowed, because of any debt or debts she has

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contracted, or is said to have contracted, shall be guilty of a felony and on conviction thereof shall be punished by imprisonment for not less than two, nor more than twenty years.

**Sec. 23. Transportation of female persons for purpose of prostitution, a felony; penalty; place of prosecution. R. S. c. 126, § 18.** Whoever knowingly transports or causes to be transported, or aids or assists in obtaining transportation for, by any means of conveyance into, through, or across the state, any female person for the purpose of prostitution or for any other immoral purpose, or with the intent and purpose to induce, entice, or compel such female person to become a prostitute, shall be guilty of a felony, and on conviction thereof, shall be punished by imprisonment for not less than two, nor more than twenty years. Whoever commits the crime mentioned in this section may be prosecuted, indicted, tried, and convicted in any county or city in or through which he shall have transported or attempted to transport any female person as aforesaid.

**Sec. 24. No defense if prohibited acts were committed outside of this state. R. S. c. 126, § 19.** It shall not be a defense to a prosecution for any of the acts prohibited in the five preceding sections that any part of such act or acts shall have been committed outside this state, and the offense in such case shall be deemed and alleged to have been committed and the offender tried and punished in any county in which the prostitution was intended to be practiced or in which the offense was consummated, or any overt act in furtherance of the offense shall have been committed.

**Sec. 25. Females referred to competent witnesses; evidence of general reputation of house admissible. R. S. c. 126, § 20.** Any such female person referred to in the six preceding sections shall be a competent witness in any prosecution thereunder to testify for or against the accused as to any transaction, or as to any conversation with the accused, or by him with another person or persons in her presence, notwithstanding her having married the accused before or after the violation of any provision of said sections, whether called as a witness during the existence of the marriage or after its dissolution. In any prosecution under the six preceding sections evidence of the general reputation or common fame of a house or place shall be admissible for the purpose of proving that the house or place is one of ill fame, prostitution or assignation.

64 Me. 523; \*117 Me. 346.

**Sec. 26. Warrants to search for females supposed to be so enticed. R. S. c. 126, § 21.** When an overseer of the poor, police officer, constable, parent, or guardian, has reason to believe that a female has been inveigled or enticed to a house of ill fame as aforesaid, he may complain on oath to a competent magistrate 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 may order her to be delivered to the complainant or to be discharged, as law and justice require.

**Sec. 27. Lease of tenant of house of ill fame void, at option of the landlord. R. S. c. 126, § 22.** When the tenant of a dwelling-house is convicted of keeping it as a house of ill fame, [or of permitting it to be used in violation of section thirteen] the lease or contract by which he occupies it may, at the option of the landlord, be deemed void, and the landlord shall have the same remedy to recover possession as against a tenant holding over after his term expires.

See c. 26, § 3.

**Immoral Literature, Pictures, and Exhibitions.**

**Sec. 28. Making or circulating obscene books and pictures, penalty. R. S. c. 126, § 23.** Whoever imports, prints, publishes, sells, or distributes any book, pamphlet, ballad, printed paper, or other thing containing obscene, indecent, or impure language, or manifestly tending to the corruption of the morals of youth, or an obscene, indecent, or impure print, picture, figure, or description, manifestly tending to the corruption of the morals of youth, or introduces into a family, school, or place of education, or buys, procures, receives, or has in his possession any such book, pamphlet, ballad, printed paper, or other thing, either for the purpose of sale, exhibition, loan, or circulation, or with intent to introduce the same into a family, school, or place of education, shall be punished by imprisonment in the state prison not exceeding five years, or by imprisonment in the jail not exceeding two years, and by fine not exceeding one thousand, nor less than one hundred dollars.

See c. 19, § 195.

**Sec. 29. Warrants to search for such articles. R. S. c. 126, § 24.** 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 such offender, said articles shall be destroyed by order of the court trying the case.

**Sec. 30. Circulation among minors of criminal news and obscene pictures, penalty. R. S. c. 126, § 25.** Whoever knowingly sells, lends, gives away, or shows to any minor, any book, pamphlet, magazine, newspaper, or other printed paper devoted to the publication, or principally made up of criminal news, police reports, or accounts of criminal deeds, or pictures and stories of lust or crime; or circulates, posts, or causes to be circulated or posted in any conspicuous or public place, any picture, handbill, or poster containing obscene, indecent, or immoral representations; or in any manner hires, uses, or employs any minor to sell or give away, or in any manner to distribute, or who, having the care, custody, or control of any minor, permits such minor to sell or give away, or in any manner to distribute any book, magazine, pamphlet, or newspaper coming within the first paragraph of this section, shall be punished by imprisonment in the county jail not more than six months, or by fine of not less than twenty-five, nor more than one hundred dollars, or by both imprisonment and fine.

**Sec. 31. Jurisdiction of offenses. R. S. c. 126, § 26.** Judges of municipal and police courts and trial justices shall have by complaint, jurisdiction of the offenses mentioned in the preceding section, original and concurrent with the supreme judicial and superior courts.

**Sec. 32. Reproduction of prize-fights, penalty. R. S. c. 126, § 27.** Whoever publicly exhibits any photographic or other reproduction of a prize-fight shall be punished by a fine not exceeding five hundred dollars.

**Sec. 33. Use of a phonograph which utters profane or obscene language, penalty. R. S. c. 126, § 28.** Whoever in connection with any show or entertainment, whether public or private, either as owner, manager, or director, or in any other capacity, uses, or causes or permits to be used, a phonograph or other contrivance, instrument, or device, which utters or gives forth any profane, obscene, or impure language, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding one year, or by both such fine and imprisonment.

**Sec. 34. Giving any obscene or impure show, penalty. R. S. c. 126, § 29.** Whoever as owner, manager, director, agent, or in any other capacity, prepares, advertises, gives, presents, or participates in any obscene, indecent, immoral, or impure show or entertainment, or in any show or entertainment manifestly tending to corrupt the morals of youth, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding one year, or by both such fine and imprisonment.

#### **Blasphemy and Profanity.**

**Sec. 35. Blasphemy, penalty. R. S. c. 126, § 30.** Whoever blasphemes the holy name of God by 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 for not more than two years, or by fine not exceeding two hundred dollars.

\*120 Me. 84.

**Sec. 36. Profanity, penalty. R. S. c. 126, § 31.** Whoever, being of years of discretion, profanely curses or swears, shall, on complaint made within twenty days thereafter, be punished by fine not exceeding two dollars; and if, after conviction, he is again guilty, by fine not exceeding five dollars.

#### **Disturbance of Religious Meetings and Observance of the Lord's Day and Memorial Day.**

**Sec. 37. Rude behavior in a house of worship or religious assembly, penalty. R. S. c. 126, § 32.** Whoever, on the Lord's Day or at any other time, behaves rudely or indecently within the walls of any house of public worship; wilfully interrupts or disturbs any assembly for religious worship within the place of such assembly or out of it; sells or exposes for sale within one mile thereof and during the time of their meeting, refreshments or merchandise, except in his usual course and place of business; exhibits any show or play; engages or aids in any horse-race, gambling or other sport, 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 their established regulations, shall be punished by imprisonment for not more than thirty days, and by fine not exceeding ten dollars.

**Sec. 38. Special police at camp-meetings, appointment; appointment of persons to keep boarders and sell refreshments. R. S. c. 126, § 33.** 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 or a majority of them, shall in writing, appoint one or more police officers to preserve the peace during such meeting, who may arrest any violator 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 such religious assembly or meeting may appoint some suitable persons to keep boarders and sell refreshments at such meetings, and to sell tickets for admission to such meetings, who shall conform therein to such regulations as the officers appointing them prescribe.

**Sec. 39. Arrest of offenders; penalty for refusing to aid officers. R. S. c. 126, § 34.** Every justice of the peace, sheriff, deputy sheriff, constable, and grand juror, 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, shall, on request, 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.

**Sec. 40. Business, traveling, and recreation, on Lord's Day, penalty. R. S. c. 126, § 35.** 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 fine not exceeding ten dollars.

See c. 95, § 137; 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; 63 Me. 576; 65 Me. 37; 66 Me. 92; 69 Me. 117; 71 Me. 239; 82 Me. 198, 433; 84 Me. 115; 87 Me. 266; 89 Me. 573; 93 Me. 562; 96 Me. 172; 101 Me. 457; 108 Me. 305; 122 Me. 45.

**Sec. 41. Innholders and victualers not to allow gambling, diversion, or business on Lord's Day. R. S. c. 126, § 36.** If an innholder or victualer, on the Lord's Day, suffers any persons, except travelers, 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 offense; and upon a third conviction, he shall also be incapable of holding any license; and every person so abiding shall be fined not exceeding four dollars for each offense.

65 Me. 38.

**Sec. 42. Duration of Lord's Day. R. S. c. 126, § 37.** The Lord's Day includes the time between twelve o'clock on Saturday night and twelve o'clock on Sunday night.

**Sec. 43. Persons conscientiously observing the seventh day, excepted. R. S. c. 126, § 38.** 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, is liable to said penalties for doing such business or labor on the first day of the week, if he does not disturb other persons.

**Sec. 44. Prosecutions under §§ 37, 40 and 41. R. S. c. 126, § 39.** Any person may prosecute for all offenses described in sections thirty-seven, forty and forty-one, at any time within six months after the commission thereof.

**Sec. 45. Public outdoor sports where admission is charged, on Memorial Day, penalty. 1921, c. 216, § 1.** Whoever on Memorial Day engages in any public outdoor game or sport where an admission is charged or collection is taken shall be punished by a fine not exceeding twenty-five dollars or imprisonment not exceeding ten days, or by both such fine and imprisonment. Judges of municipal and police courts and trial justices shall have jurisdiction of all offenses under this section.

#### Disturbance of Public Meetings and Lawful Assemblies.

**Sec. 46. Disturbance of public meetings and lawful assemblies, penalty. R. S. c. 126, § 40.** Whoever by rude and indecent behavior, or in any way wilfully and unlawfully, disturbs or interrupts any public meeting, or any assembly lawfully gathered in a hall or other place of meeting, or creates a 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

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for not more than thirty days, or by fine of not less than five, nor more than ten dollars.

### Protection of Dead Bodies and Graves.

**Sec. 47. Arrest of dead body forbidden.** R. S. c. 126, § 41. If an officer takes the body of a deceased person by writ or execution, he shall be punished by fine not exceeding five hundred dollars, and by imprisonment for not more than six months.

**Sec. 48. Disinterment, concealment, exposure, or abandonment of dead bodies, penalty; exceptions for physicians, surgeons, and students of anatomy.** R. S. c. 126, § 42. Whoever, without permission of the clerk of a town, therein wilfully digs up or removes any human body or its remains 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 a human body or its remains in any public place, river, stream, or elsewhere, shall be punished by imprisonment for 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.

See c. 21, §§ 1-6; c. 72, § 26; 121 Me. 47.

**Sec. 49. Injury to monuments and places of burial, penalty.** R. S. c. 126, § 43. Whoever wilfully destroys or injures any tomb, gravestone, monument, or other object placed or designed as a memorial of the dead, or any fence, railing, or other thing placed about or enclosing a burial place; or wilfully injures, removes, or destroys, any tree, shrub, or plant, within such enclosure, shall be punished by imprisonment for less than one year, or by fine not exceeding five hundred dollars.

121 Me. 146.

### Cruelty to Animals.

**Sec. 50. Cruelty to animals, penalty.** R. S. c. 126, § 44. Every person who cruelly overdrives, overloads, or overworks, who torments, tortures, maims, wounds or deprives of necessary sustenance, or who cruelly beats, mutilates, or kills any horse or other animal, or causes the same to be done, or having the charge or custody thereof, as owner or otherwise, unnecessarily fails to provide such animal with proper food, drink, shelter and protection from the weather; every person, owning or having the charge or custody of any animal, who knowingly and wilfully authorizes or permits the same to suffer tortures or cruelty; and every owner, driver, possessor or person having the custody of an old, maimed, disabled, or diseased animal, who cruelly works the same when unfit for labor, or who cruelly abandons such animal; and every person who carries or causes to be carried, or has the care of, in or upon a car or other vehicle or otherwise, any animal in a cruel or inhuman manner, shall for every such offense be punished by imprisonment in jail not exceeding one year, or by fine of not less than five, and not exceeding two hundred dollars.

76 Me. 400; 86 Me. 195; 114 Me. 457; \*126 Me. 115.

**Sec. 51. Shooting of pigeons and other birds for amusement, penalty; not applicable to wild game.** R. S. c. 126, § 45. Whoever keeps or uses any live pigeon, fowl, or other bird for a target, or to be shot at either for amusement or as a test of skill in marksmanship, and whoever shoots at any bird as aforesaid, or is present as a party, umpire, or judge at such shooting, and whoever rents any building, shed, room, yard, field, or premises, or knowingly suffers

the use of the same for such purpose, shall be punished by imprisonment in jail not exceeding thirty days, or by fine not exceeding fifty dollars. Nothing in this section prohibits the shooting of wild game in its wild state.

**Sec. 52. Premeditated fights between animals, penalty. R. S. c. 126, § 46.** Whoever instigates, or aids in getting up or acts as umpire or judge, or is connected with or participates in, any fight between game birds or game cocks, dogs, or bulls, or between dogs and rats or other animals, premeditated by any person having custody thereof, shall be imprisoned for not less than ten days nor more than six months, or be fined not more than two hundred dollars. Section six of chapter one hundred and thirty-four applies to this section.

See c. 134, § 6.

**Sec. 53. Keeping places for fighting or baiting dogs, cocks, or other creatures, penalty. R. S. c. 126, § 47.** Whoever keeps, or uses, or is in any way connected with, or interested in the management of, or receives money for the admission of any person to any place kept or used for the purpose of fighting or baiting any dog, cock, or other creature, and whoever aids or assists therein, or suffers any place to be so kept or used, shall be punished by imprisonment not exceeding two months, or by fine not exceeding fifty dollars.

**Sec. 54. Owning, or training any bird or animal to fight, penalty. R. S. c. 126, § 48.** Whoever owns, possesses, keeps, or trains any bird or animal with intent that the same shall be engaged in an exhibition of fighting, shall be punished by imprisonment not exceeding thirty days, or by fine not exceeding fifty dollars.

**Sec. 55. Officers may enter buildings where birds or animals are kept for unlawful training; dwelling protected. R. S. c. 126, § 49.** Any sheriff, deputy sheriff, constable, police officer, officer of any society for the prevention of cruelty to animals, or any other person authorized to make arrests, may enter any building or enclosure where he has reason to believe that any bird or creature is kept for any unlawful purpose hereinbefore named; and whoever resists or interferes with such officer shall be punished by imprisonment in jail not exceeding one year, or by fine not exceeding one hundred dollars. But nothing in this section allows any officer to enter a dwelling-house without a warrant.

**Sec. 56. Exhibition of bears, penalty; menageries excepted. R. S. c. 126, § 50.** Whoever shall go about from town to town, or from place to place in any town, exhibiting any bear, shall be punished by fine not exceeding twenty dollars, or by imprisonment not exceeding thirty days, and such bear, after such notice to the owner thereof as the court may order, and a hearing thereon, may be declared forfeited, and ordered to be killed; but this section shall not be construed to prohibit the transportation or exhibition of bears in any authorized menagerie.

**Sec. 57. Railroads to give cars containing animals continuous passage and preference to other freight. R. S. c. 126, § 51.** Railroad companies within the state shall give cars containing cattle, sheep, swine, or other animals a continuous passage in preference to other freight; and cars loaded with such animals at any station shall have precedence over all other freight. A greater number of animals shall not be loaded into any car than can stand comfortably therein. Animals of one kind only shall be loaded in the same apartment. Young animals shall not be loaded in the same apartment with those larger and mature, except in case of dams with their own and other sucklings, which shall in all cases be transported in the same apartment and separate from other animals. Calves shall have free access to their dams, and shall not be muzzled,

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except that calves, for a period not to exceed twenty-four hours may be transported in a separate compartment. During December, January, February, and March, cars used for the transportation of animals shall be sufficiently boarded on the sides and ends to afford proper protection to such animals in case of storms or severely cold weather.

**Sec. 58. Animals brought into the state to be allowed rest, shelter, food, and water; animals in transit; railroad company liable for neglect. R. S. c. 126, § 52.** Animals coming into the state on the same or connecting roads or other transportation lines, shall, within twenty-eight hours after they were loaded, be unloaded, comfortably yarded, and in cold or inclement weather, comfortably sheltered, and shall be furnished with a sufficient quantity of proper food and good water; and they shall continue so yarded or sheltered, fed, and watered for a reasonable time. And all animals in transit within the state shall be so unloaded, yarded, or sheltered, fed, and watered every twenty-eight hours, unless delayed by accident or other unavoidable circumstances. Animals arriving at their destination within the state, or for embarkation on steamers between the hours of three in the forenoon and six in the afternoon, shall be so unloaded, yarded, or sheltered, fed, and watered within six hours thereafter and before embarkation. And animals arriving between the hours of six in the afternoon and three in the forenoon, shall be so unloaded, yarded, or sheltered, fed, and watered before nine o'clock in the forenoon following, and before embarkation, if remaining in the state. The railroad company or transportation line having animals in charge within the state at the expiration of the limit of time herein specified for unloading, feeding and watering, is liable to the penalties herein specified, for such neglect.

**Sec. 59. Time of confinement may be extended upon request; in the case of sheep. R. S. c. 126, § 53.** Upon the written request of the owner or person in custody of any particular shipment of animals, which written request shall be separate and apart from any printed bill of lading or any railroad form, the time of confinement of any particular shipment of animals may be extended to thirty-six hours; a railroad company or transportation line shall not be required to unload sheep in the night time, but where the time expires in the night time, in case of sheep, the same may continue in transit to a suitable place for unloading, not exceeding, however, the limitation of thirty-six hours during which they may be confined.

**Sec. 60. Penalty for violation of §§ 57-59. R. S. c. 126, § 54.** A railroad company or other transportation line violating any provision of the three preceding sections, forfeits not less than fifty, nor more than five hundred dollars for every such offense.

**Sec. 61. Application to owners, shippers, etc. R. S. c. 126, § 55.** Sections fifty-seven and fifty-eight shall apply to the owners, shippers, charterer of cars, or other person having the care, custody, or charge of animals loaded into any car, or transported upon any railroad; and such owner, shipper, charterer of cars, or other person having the care, custody, or charge of animals, loaded into cars or transported over any railroad, for a violation of any of the provisions of said sections fifty-seven and fifty-eight, shall be subject to the same penalties as are imposed upon railroad companies for a like violation, by section sixty.

**Sec. 62. Railroad companies have a lien on such animals for penalties and for care and protection. R. S. c. 126, § 56.** Any railroad company or other transportation line shall have a lien on all animals in transit for reimbursement of penalties paid in consequence of the direction or orders of the owner

or other person having such animals in charge, and for all extra expenses or damages incurred in the care and protection of animals according to this chapter, and is not liable for any detention of such animals for the purposes herein named.

**Sec. 63. Officers may take possession of animals detained in violation of law; lien. R. S. c. 126, § 57.** Any sheriff, deputy sheriff, police officer, constable, officer of any society for the prevention of cruelty to animals, or other person authorized to make arrests, may take possession of any animals detained in violation of this chapter, and may unload the same, comfortably yard or shelter, feed, water, and care for them, and have a lien thereon for a reasonable sum for such care, and is not liable for any damages for detention of the same.

**Sec. 64. Enforcement of lien. R. S. c. 126, § 58.** Persons or corporations having such lien, may sell such animals at public auction, in the town or city where they were found or are detained, after three days' written notice to the party claiming or owning the same; or if such party cannot be found, by publishing notice of the time and place of sale for three successive days in any daily, or once in any weekly newspaper printed in the county where such animals were found or are detained, and from the proceeds of such sale, may deduct all costs, charges, and expenses, and a reasonable compensation for trouble, and shall hold the balance, if any, for, and pay over the same, on demand, to the parties owning said animals, or to the legal representatives of such parties.

**Sec. 65. Abandoned animals may be destroyed. R. S. c. 126, § 59.** Any officer or agent of any society for the prevention of cruelty to animals may lawfully cause to be destroyed forthwith, any animal found abandoned or not properly cared for, appearing in the judgment of two reputable persons called by him to view the same in his presence, to be diseased or injured or in a condition from lack of food, water, or shelter, past recovery for any useful purpose.

\*118 Me. 303.

**Sec. 60. Old, diseased or disabled animal may be destroyed; proceedings. R. S. c. 126, § 60. 1925, c. 126.** Such officer or agent may take possession of any old, maimed, disabled, diseased, or injured animal, and apply to any municipal or police court or trial justice for process to cause the same to be destroyed. If the owner is known, a copy of such application shall be served upon him in hand with an order of court to appear at a time and place named, to show cause why such animal should not be destroyed, and its value fixed. If the owner cannot be found by reasonable diligence or is out of the state, although resident therein, a copy of such application and order of court shall be left at his last and usual place of abode. If the owner is not known, then the court shall order notices to be posted in two public and conspicuous places in the town, stating the case in substance, and giving forty-eight hours' notice of a hearing thereon. At such hearing if it appears that such animal is old, maimed, disabled, diseased, or injured, and is unfit for use, the court shall determine the value of such animal, and shall issue process directing the officer to destroy the same. The defendant may appeal as in a civil action, but before such appeal shall be allowed, the defendant shall give sufficient security to said officer, to be approved by the court, to pay all the expenses for the care and support of such animal pending such appeal.

80 Me. 206; 118 Me. 305.

**Sec. 67. Officers may interfere to prevent cruelty; interference with officer, misdemeanor. R. S. c. 126, § 61.** Such officer or agent may lawfully interfere

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to prevent the perpetration of any act of cruelty upon an animal in his presence, and whoever interferes with or obstructs such officer or agent in the discharge of his duty is guilty of a misdemeanor.

See c. 133, § 23.

**Sec. 68. Care of abandoned or neglected animals at the owner's expense; sheep abandoned on islands. R. S. c. 126, § 62.** Any person may take charge of an animal whose owner has cruelly abandoned it, or cruelly fails 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 have a lien thereon for the same; and the keeping or leaving sheep on any of the uninhabited and barren islands, lying off the coast of Maine, within said state, during the months of December, January, February, and March of any year, without providing sufficient food and proper shelter therefor, shall be deemed prima facie evidence that the owner or person having the custody and control of such sheep has violated the provisions of this section.

**Sec. 69. Penalty for docking horses' tails; disposal of fines. R. S. c. 126, § 63.** Whoever cuts the solid part of the tail of any horse in the operation known as docking, or by any other operation performed for the purpose of shortening the tail, and whoever shall cause the same to be done, or assist in doing such cutting, unless the same is proved to be a benefit to the horse, shall be punished by fine not exceeding one hundred dollars. All fines collected under this section upon, or resulting from, the complaint or information of an officer or agent of the Maine State Society for the Protection of Animals, shall be paid over to said society in aid of the benevolent objects for which it was incorporated.

**Sec. 70. Duty of officers to prosecute for violations; payment for services. R. S. c. 126, § 64.** Sheriffs, deputy sheriffs, police officers, constables, and agents appointed under the provisions of the following section, shall investigate all cases of cruelty to animals coming to their knowledge, and shall cause offenders to be prosecuted in all cases in which the offense may appear to be of a sufficiently aggravated nature to require prosecution; all fines imposed for the punishment of such offenses, shall be paid over to the county treasurer of the county in which the offense may have been committed. For services and expenses in conducting such investigations such agents shall be paid a reasonable sum by the county in which such services are rendered and expenses incurred, and for their travel the same fees as are now allowed officers, by law for the service of a warrant for arrest; provided, however, that all claims of such agents for such travel and services shall first be audited and approved by the county commissioners of the county liable to pay the same.

See c. 122, § 10.

**Sec. 71. Governor and council to appoint State Humane Agent. R. S. c. 126, § 65. 1917, c. 221. 1921, c. 170.** Upon application by the mayor and aldermen of any city, the selectmen of any town, the county commissioners of any county, or the president and three directors of any society for the prevention of cruelty to animals, the governor and council shall issue a badge and commission to any person designated, to arrest any person charged with violating any of the preceding twenty-one sections, the same as any sheriff, deputy sheriff, or constable can do, and whose jurisdiction shall extend throughout the state. Such persons so designated shall be known as and denominated State Humane Agents.

114 Me. 457.

**Sec. 72. Jurisdiction of offenses. R. S. c. 126, § 66.** Municipal and police courts and trial justices shall on complaint cause to be arrested any person charged with the commission in their counties of any of the offenses described

in the twenty-two preceding sections; the offense may be deemed to have been committed in any county where such animal may be found; and when such offenses are not of a high and aggravated nature, they may try and punish by fine of not less than five, nor more than twenty dollars, and by imprisonment not exceeding thirty days; but when on examination the offense appears to be one not within their jurisdiction for trial, they may cause the person or persons charged with the commission of the same to recognize with sureties to appear before the supreme judicial court or a superior court, and in default thereof to be committed to jail.

**Sec. 73. Rules of construction of the twenty-three preceding sections. R. S. c. 126, § 67.** In this chapter, and in every law relating to or affecting animals, the masculine includes the feminine, the singular includes the plural, the word "animal" includes every living brute creature, the words "torment," "torture" and "cruelty" include every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted, and the words "owner" or "person" include corporations as well as individuals.

*Note.* Traps set in incorporated or organized places shall be visited at least once in every twenty-four hours, c. 37, § 52.

**Sec. 74. Vivisection in schools supported wholly or in part by public money, prohibited. 1919, c. 208, § 1.** No person in any of the schools of the state supported wholly or in part by public money, shall practice vivisection or perform any experiment upon a living animal, or exhibit to any pupil in such school an animal which has been vivisected or experimented upon.

**Sec. 75. Penalty for violation of § 74. 1919, c. 208, § 2.** Whoever wilfully violates the provisions of section seventy-four shall be punished by a fine of not less than ten nor more than twenty-five dollars, and if the person found guilty of such violation is a teacher in any of the said schools, the state superintendent of schools shall revoke the certificate of said teacher.

**Sec. 76. Sale of diseased horses illegal. 1917, c. 159, § 1.** It shall be unlawful for any person holding an auctioneer's license to receive or offer for sale or to sell at public auction, or for any person to sell at private sale, any horse which by reason of debility, disease or lameness or for other cause, could not be worked in this state without violating the laws against cruelty to animals, but this section shall not be construed to prohibit the sale to, and the purchase of animals by, humane societies incorporated under the laws of this state for the purpose of humanely killing the same.

**Sec. 77. Penalty for violation of § 76. 1917, c. 159, § 2.** Any licensed auctioneer violating any provision of section seventy-six shall forfeit his license, and any person violating any provision of section seventy-six shall be punished by a fine of not less than five nor more than one hundred dollars, or by imprisonment for not more than six months.

**Sec. 78. Moving picture films not to involve in preparation deliberate cruelty to animals. 1921, c. 53, § 1.** It shall be unlawful for any person knowingly and wilfully, as owner, manufacturer, photographer, exhibitor, manager, director, or agent or in any other capacity to prepare, manufacture, make, exhibit or participate in the preparation, manufacturing, making, or exhibiting of any moving or motion picture film involving in its preparation, manufacture or making, intentional and deliberate cruelty to animals for the sole purpose of furnishing a scene for said moving or motion picture film.

**Sec. 79. Penalty for violation of § 78. 1921, c. 53, § 2.** Any person who violates any provision of section seventy-eight shall be punished by imprison-

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ment not exceeding three months or by fine not exceeding one hundred dollars, or by both such fine and imprisonment. Any corporation violating any such provision shall be responsible for the knowledge and acts of its agents and servants therein and shall be punished by a fine as herein provided, and such corporation and its agent or servant may be punished for the same act.

**Sec. 80. Jurisdiction.** 1921, c. 53, § 3. Municipal and police courts and trial justices shall have jurisdiction of all offenses under sections seventy-eight and seventy-nine.

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## CHAPTER 136.

### Gambling. Bucket-Shops.

Sections 1-11 Gambling.

Sections 12-13 Search for Implements of Gambling.

Sections 14-17 Bucket-Shops.

### Gambling.

**Sec. 1. Keeping a gambling-house or permitting gambling in house or shop, penalty.** R. S. c. 127, § 1. Whoever keeps or assists in keeping a gambling-house, or tenement or other place occupied, used, kept, or resorted to for the purposes described in section twelve of this chapter, or is found gambling or present as described in said section twelve, or permits any person to gamble in any way in any tenement or other place under his care or control, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than four months; and the municipal officers, constables, and police officers of towns and cities, and the assessors of plantations, are required promptly to enforce the laws against gambling rooms, and to make complaint against any person in their respective municipalities when there is probable cause to believe such person to be guilty of a violation of this section. Trial justices and judges of municipal or police courts, shall have jurisdiction in all prosecutions for violations of this section.

15 Me. 237; 23 Me. 44; 85 Me. 237; \*99 Me. 488; 114 Me. 443; 126 Me. 340; 125 Me. 458.

**Sec. 2. Gambling, penalty.** R. S. c. 127, § 2. Whoever gambles, or bets on any person gambling, shall be fined not less than one, nor more than twenty dollars, to be recovered by complaint or indictment to the use of the prosecutor.

**Sec. 3. Winning more than three dollars at one time by gambling, penalty.** R. S. c. 127, § 3. Whoever is convicted, by indictment found within six months, of winning, at one time or sitting, by gambling, or by betting on persons gambling, money, or goods of the value of three dollars or more, and of receiving or taking security therefor, forfeits to the town where the offense is committed, double the value of the property so won and received.

63 Me. 11; 126 Me. 340.

**Sec. 4. Pool selling, penalty.** R. S. c. 127, § 4. Whoever engages or participates in pool selling, or aids or abets the same by his presence, shall be punished by imprisonment in the state prison for not more than two years, and by fine of not more than two thousand dollars.

126 Me. 340.

**Sec. 5. Gambling on railroads or steamboats, penalty.** R. S. c. 127, § 5. Whoever, 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 of not less than one hundred dollars, or by imprisonment for not less than three months.

**Sec. 6. Gamblers on railroads shall be arrested by the conductor.** R. S. c. 127, § 6. Every conductor or other person having charge of a railroad-train, is required to arrest or cause to be arrested all persons gambling on his train, and to detain them in his custody until a warrant can be procured from the proper authorities, and he may employ all necessary aids for such purpose.

**Sec. 7. Copy of sections five and six shall be posted in cars and on steamboats; penalty for refusal or neglect.** R. S. c. 127, § 7. A copy of the two preceding sections shall be conspicuously posted in every car in which passengers are usually carried on any steam-railroad, and in every steamboat. Any railroad or steamboat company, or the proprietors of any steamboat, refusing or neglecting to comply with this requirement, forfeit for each offense one hundred dollars, to be recovered by indictment in any county in which said railroad company runs trains or the steamboat company does business.

**Sec. 8. Loser by gambling or betting, may recover back his loss; form of execution.** R. S. c. 127, § 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 therefor with effect, any other person may sue for and recover of the winner treble the value of the same in such action, half to his own use, and half to the town; and all executions issued on judgments, 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 three months from the date of arrest, at the county's expense, unless the judgment, costs and board while in jail, are sooner paid; after which time, he may be released, on giving bond or disclosing, as in case of poor debtors.

18 Me. 339; 19 Me. 336; 21 Me. 28; 48 Me. 319; 63 Me. 11; 91 Me. 45; \*110 Me.

303.

**Sec. 9. Special rule of evidence, when the loser is plaintiff.** R. S. c. 127, § 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 costs; or the plaintiff may prove his case in any other legal mode.

**Sec. 10. Securities given for gambling debts are void.** R. S. c. 127, § 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 given to repay money lent or advanced for gambling or betting, or lent or advanced at the time and place thereof, are utterly void against all persons, except bona fide subsequent purchasers of real estate, and holders of negotiable paper for a valuable consideration without notice.

**Sec. 11. Sale of, offering for sale, soliciting orders for punch boards, seal cards, slot gambling machines, and other gambling apparatus, prohibited; penalty; enforcement of law, jurisdiction of offenses.** 1925, c. 114. No person shall travel from town to town, or from place to place, in any city, town, or plantation, on foot or by private or public conveyance, either by land or water, carry-

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ing for sale, offering for sale, or offering to obtain for sale, any punch board, seal card, slot gambling machine, or other implements, apparatus, or materials of any form of gambling, and no person shall solicit, obtain, or offer to obtain orders for the sale or delivery of any punch board, seal card, slot gambling machine, or other implements, apparatus, or material of gambling. Any person violating the provisions of this section shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than four months; and the municipal officers, constables, and police officers of towns and cities, the assessors of plantations, and licensed private detectives are required promptly to enforce the provisions of this act and to make complaint against any person in their respective municipalities where there is probable cause to believe such person to be guilty of a violation of this act. Trial justices and judges of municipal or police courts shall have jurisdiction in all prosecutions for violation of this act.

**Search for Implements of Gambling.**

**Sec. 12. Search warrants for implements of gambling, etc. R. S. c. 127, § 11. 1923, c. 29.** When a 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 tenement or other place is unlawfully used as and for a common gambling house, for the purpose of gambling for money or other property, or is kept, used or occupied for promoting a lottery, or for the sale of lottery tickets, or for promoting the game known as policy lottery, or policy, or for buying or selling of pools or registering of bets upon any race, game, contest, act or event, and that persons resort to the same for any such purpose, or that implements, apparatus, or materials intended to be used in any form of gambling are there kept or deposited, such magistrate, whether the names of the persons last mentioned are known to the complainant or not, shall issue a warrant, commanding the sheriff or any of his deputies or any constable or police officer to enter such tenement or other place, and to arrest the keepers thereof, all persons in any way assisting in keeping the same, whether as janitor, door keeper, watchman, or otherwise, all persons who are there found participating in any form of gambling and all persons present whether so participating or not, if any lottery, policy, or pool tickets, slips, checks, manifold books or sheets, memoranda of any bet, or other implements, apparatus, or materials of any form of gambling are found in said place, and to take into their custody all the implements, apparatus, or materials of gambling, as aforesaid, and all the personal property, furniture, and fixtures, so that they may be forthcoming before some court or magistrate, to be dealt with according to law. All articles and property seized under the provisions of this section, or found in the possession or under the control of any person arrested for keeping or assisting in keeping a gambling house or for gambling, shall be disposed of in the manner provided in the following section for the disposal of counterfeiting and burglars' tools; and the finding in any tenement or other place of any lottery, policy, or pool tickets, slips, checks, manifold books or sheets, memoranda of any bet, or other implements, apparatus, or materials of any form of gambling shall be prima facie evidence that said tenement or other place is occupied, used, kept, and resorted to for the purpose of gambling.

**Sec. 13. Tools and implements for gambling, counterfeiting, and burglars' tools, forfeited. R. S. c. 127, § 12. 1919, c. 101.** 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 burglary; all lottery tickets or materials for a lottery or procured

for the purpose of a lottery ; all gambling apparatus or implements for gambling, and all moneys therein contained, shall, when the same are found and taken by virtue of a search warrant, or are found in the possession or under the control of any person arrested for forgery, counterfeiting, burglary, selling lottery tickets, or gambling, 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. All such articles, devices, tools, and materials, shall thereupon be declared forfeited by said court, and ordered destroyed, and shall by order of the court rendering final judgment be turned over to the sheriff of the county where the seizure was made, or to such of his deputies as the court shall order, by any officer competent to serve the process on which they were seized, who shall forthwith make return accordingly to said court ; and said sheriff, or his said deputy, shall receipt to said officer therefor. As soon thereafter as may be said sheriff, or his said deputy receiving said forfeited articles, shall burn or otherwise destroy them, and make return to said court as to how he executed its order ; provided, however, that all moneys so seized shall be declared forfeited to the county in which they were seized, and in all cases where an officer may seize tools, machines, dies, plates, or materials provided for making counterfeit or spurious coin, or for forging bank notes or other instruments ; burglars' tools or implements prepared or designed for burglary ; lottery tickets or materials for a lottery or procured for the purpose of a lottery ; gambling apparatus or implements for gambling and all moneys therein contained, upon a warrant, he may seize the same without a warrant and keep them in some safe place for a reasonable time until he can procure such warrant.

See c. 130, § 6 ; c. 132, § 6 ; c. 140, § 18 ; 79 Me. 549 ; \*95 Me. 518.

### Bucket-Shops.

**Sec. 14. Bucket-shop defined.** R. S. c. 127, § 13. A bucket-shop, within the meaning of this section and the three following sections, is defined to be an office, store, or other place wherein the proprietor or keeper thereof, either in his or its own behalf, or as the agent or correspondent of any other person, corporation, association, or copartnership within or without the state, conducts the business of making, or offering to make, contracts, agreements, trades, or transactions respecting the purchase or sale of any stocks, grain, provisions, or other commodity, or personal property, wherein both parties thereto, or said proprietor or keeper, contemplate or intend that such contracts, agreements, trades, or transactions shall be, or may be closed, adjusted, or settled according to, or upon the basis of, the public market quotations of prices made on any board of trade or exchange, upon which the commodities or securities referred to in such contracts, agreements, trades, or transactions are dealt in, and without a bona fide transaction on such board of trade or exchange ; or wherein both parties, or such keeper or proprietor, shall contemplate or intend that such contracts, agreements, trades, or transactions shall be, or may be, deemed closed or terminated when the public market quotations of prices made on such board of trade or exchange for the articles or securities named in such contracts, agreements, trades, or transactions shall reach a certain figure ; and also any office store, or other place where the keeper or proprietor thereof either in his or its own behalf, or as agent as aforesaid, therein makes or offers to make, with others, contracts, trades, or transactions for the purchase or sale of any such securities or commodities, wherein the parties thereto do not contemplate the actual or bona fide receipt or delivery of such securities or commodities, but do

contemplate a settlement thereof based upon differences in the prices at which said securities or commodities are, or are claimed to be, bought and sold.

**Sec. 15. Keeping of a bucket-shop prohibited; penalties. R. S. c. 127, § 14.** No corporation, association, copartnership or person shall keep, or cause to be kept, within the state any bucket-shop, as defined in the preceding section, or shall make or offer to make any such contract, agreement, trade, or transaction as is defined in said section; and any person, whether acting individually or as a member, officer, agent, or employee of any corporation, association, or copartnership, who shall keep or assist in the keeping of any bucket-shop within this state, or who shall make or offer to make any such prohibited contract, agreement, trade, or transaction, whether the offer is accepted or not, shall, upon conviction thereof, be punished for a first offense by a fine not exceeding three thousand dollars, or by imprisonment until such fine is paid, but not for more than one year; and whoever shall be guilty of a second offense under this section shall, upon conviction thereof, be punished by imprisonment for not less than two years and not more than five years; if the offender is a corporation, it shall forfeit its charter. The continuing of the keeping of a bucket-shop by any person, corporation, association or copartnership, after a first conviction therefor, shall be deemed a second offense under this section.

**Sec. 16. Persons communicating statement of quotations with view to transaction deemed accessories, penalty. R. S. c. 127, § 15.** Any corporation, association, copartnership or person who shall communicate, receive, exhibit or display, in any manner, any statements of quotations of the prices of any property mentioned in section fourteen, with a view to any transaction prohibited in the two preceding sections, shall be deemed an accessory, and upon conviction thereof shall be subject to the same penalty as the principal, and as provided in the preceding section.

**Sec. 17. Statement of transaction to be furnished, failure prima facie evidence of illegality. R. S. c. 127, § 16.** Every commission merchant, copartnership, association, corporation, or broker shall furnish, upon demand, to any customer or principal for whom such commission merchant, broker, copartnership, corporation, or association has executed any order for the actual purchase or sale of any of the securities or commodities hereinbefore mentioned, either for immediate or future delivery, a written statement containing the names of the parties from whom such property was bought, or to whom it shall have been sold, as the case may be, the time when, the place where, and the price at which, the same was either bought or sold; and in case such commission merchant, broker, copartnership, corporation, or association shall refuse promptly to furnish such statement within twenty-four hours after such demand, the fact of such refusal shall be prima facie evidence that the property was not sold or bought in a legitimate manner.

## CHAPTER 137.

## Intoxicating Liquors.

Section	1	Manufacture.
Sections	2- 5	Transportation.
Sections	6-14	Sale.
Sections	15-16	Possession.
Sections	17-18	Intoxication.
Sections	19-31	Enforcement.
Sections	32-43	Search and Seizure.
Section	44	Forms.

## Manufacture.

**Sec. 1. Manufacturing intoxicating liquors prohibited; exception for extracts.** R. S. c. 127, § 17. 1921, c. 62. 1923, c. 162. Whoever manufactures or attempts to manufacture any intoxicating liquors, except cider, and whoever has in his possession any wort or mash fit for distillation or for the production of distilled spirits, or has in his possession any worm, still, or other device for the purpose of manufacturing intoxicating liquors, shall be imprisoned for not less than two months nor more than six months and fined not less than one hundred dollars nor more than one thousand dollars and costs of prosecution, and in default of payment of fine and costs be imprisoned for not less than sixty days nor more than six months additional; and said wort, mash, worm, still, or other device shall be seized by any officer having authority to seize intoxicating liquors and shall be declared forfeited by the court or magistrate having cognizance of the case, and ordered destroyed. Alcohol may be used in the manufacture of flavoring extracts and syrups, Jamaica ginger not included, provided such extracts and syrups contain no more alcohol than is necessary for extraction, solution, and preservation, and measure up to the standards prescribed and published by commissioner of internal revenue and are unfit for use as beverages or for intoxicating beverage purposes.

124 Me. 46.

## Transportation.

**Sec. 2. Traveling liquor pedlars, dealers, and solicitors; penalty.** R. S. c. 127, § 19. 1917, c. 291, § 1. No person shall travel from town to town, or from place to place, in any city, town, or plantation, on foot or by public or private conveyance, either by land or water, carrying for sale or offering for sale intoxicating or fermented liquors, and no person shall solicit, obtain, or offer to obtain orders for the sale or delivery of any intoxicating or fermented liquors, in any quantity. Any person violating the provisions of this section shall be fined not less than one hundred nor more than five hundred dollars and costs, and in addition thereto be imprisoned not less than two nor more than six months, and in default of payment of said fine and costs he shall be imprisoned six months additional.

125 Me. 437.

**Sec. 3. Transportation of intoxicating liquors, without federal permit prohibited; penalty.** R. S. c. 127, § 20. 1917, c. 291, § 2. 1923, c. 167, § 1. 1925, c. 116, § 1. No person shall knowingly transport into this state or from place to place therein any intoxicating liquor, or aid any person in such transportation without being in possession of a permit therefor duly issued under authority conferred by the provisions of the national prohibition act of October twenty-eight, nineteen hundred and nineteen, and amendments thereto, providing for the enforcement of the eighteenth amendment to the constitution of the United States; and in any prosecution under this section it shall not be incumbent on the state to allege and prove that the respondent did not possess such a permit. Whoever violates the provisions of this section shall be fined not less than three hundred nor more than six hundred dollars and costs, and in addition thereto, shall be imprisoned for not less than three months nor more than six months, and in default of payment of fine and costs shall be imprisoned for six months additional; provided, that if the person so convicted shall have been theretofore convicted of a violation of any of the provisions of this chapter he shall be fined not less than five hundred, nor more than one thousand dollars and costs, and in addition thereto shall be imprisoned not less than six months nor more than one year and in default of payment of said fine and costs shall suffer imprisonment for six months additional.

117 Me. 234, 458; \*120 Me. 496; 122 Me. 280, 287; 123 Me. 176, 524.

**Sec. 4. Transportation of intoxicating liquors in another's vehicle without written consent; penalty.** 1923, c. 204, § 3. Any person who shall transport into this state or from place to place therein contrary to law, any intoxicating liquor in any automobile, truck, wagon, boat, vessel, or vehicle of any kind, not a common carrier, without the consent in writing to such transportation signed by the owner thereof and also by the mortgagee thereof and also by all parties to any agreement by which said automobile, truck, wagon, boat, vessel, or vehicle is to remain the property of the seller until paid for, whether said agreement is or is called a note, lease, conditional sale, purchase on instalments, or by any other name or in whatever form it may be, and also by all other persons who have any right, title, and interest in such automobile, truck, wagon, boat, vessel, or vehicle, shall be fined not less than five hundred dollars, nor more than one thousand dollars and costs, and in addition thereto shall be imprisoned not less than six months, nor more than two years, and in default of payment of fine and costs, shall be imprisoned six months additional, and such sentence shall be additional to any other sentence imposed for any other offense committed by such person.

**Sec. 5. Express companies, etc., to require receipt from consignee or agent, before delivery of intoxicants, penalty.** 1917, c. 209, § 55. It shall be unlawful for any transportation company, express company, corporation or individual to deliver any intoxicating liquors at any place other than the regular place of business of said company or individual or to deliver any intoxicating liquors to any person, firm, or corporation other than the person, firm, or corporation to whom it has been consigned, unless upon the written order in each instance of the bona fide consignee, or to any fictitious person, or to any person under a fictitious name; and in all cases, before delivery is made, said company or individual shall require the consignee, or his agent, in each instance duly authorized thereto in writing, personally to sign a receipt in a book kept for such purpose, which said receipt shall reveal the name of the person to whom the liquors were shipped, the amount and kind and the date when delivered and the persons by whom and to whom delivered, except that in case of partnerships

and corporations, a partner or duly authorized officer of the corporation may receipt for liquors consigned to their principals, and the book of receipts above described shall be kept permanently in such places of business and shall be open to inspection by any state, county, or municipal officer during regular business hours, and such book shall constitute prima facie evidence of the facts therein stated and be admissible as evidence in any court in this state having jurisdiction over offenses named in this chapter and chapter twenty-six. Any officer of any transportation company or express company or any other person who knowingly delivers intoxicating liquors contrary to the provisions hereof shall be punished by a fine of not less than one hundred nor more than five hundred dollars and costs and be imprisoned for not less than two nor more than six months and in default of payment of said fine and costs he shall be imprisoned six months additional. Any person who knowingly receipts for any intoxicating liquors contrary to the provisions of this section shall be guilty of forgery and shall be punished by imprisonment for not less than two months.

### Sale.

**Sec. 6. Sale of intoxicating liquors prohibited; definition. R. S. c. 127, §§ 18, 21. 1919, c. 235. 1923, c. 188. 1925, c. 77, § 2. 1927, c. 127.** No person shall at any time, by himself, his clerk, servant, or agent, directly or indirectly, sell any intoxicating liquors, of whatever origin; wine, ale, porter, strong beer, lager beer, and all other malt liquors and cider *when kept or deposited with intent to sell the same for tippling purposes, or as a beverage, and which has not been treated so as to prevent fermentation*, [except new cider which shall have not so far advanced in the natural process of fermentation as to contain more than one-half of one per cent of alcohol by volume, and cider which has been so treated as to prevent fermentation and which does not contain one-half of one per cent of alcohol by volume, and cider sold to manufacturers of vinegar to be used in the manufacture of vinegar, and for no other purpose] and all distilled spirits, as well as any beverage containing one-half of one per cent of alcohol by volume, are declared intoxicating within the meaning of this chapter; but this enumeration shall not prevent any other pure or mixed liquors from being considered intoxicating.

118 Me. 198; 121 Me. 83; 121 Me. 137; \*121 Me. 339; \*121 Me. 438; \*121 Me. 522; \*122 Me. 162; 126 Me. 153.

Note. This section is affected by the change in the statute relating to the sale of cider. The changes indicated are suggested for the purpose of making it conform. It would perhaps be better to start the chapter with an accurate definition of intoxicating liquors which would apply to all prohibitions contained in the chapter.

**Sec. 7. Penalty for selling. R. S. c. 127, § 22. 1917, c. 291, § 3. 1923, c. 206.** Whoever by himself, clerk, servant, or agent, sells any intoxicating liquors in this state, or who knowingly sells any extract or syrup for intoxicating beverage purposes, or who sells any of the same, under circumstances from which the seller might reasonably adduce the intention of the purchaser to be to use them for such purposes, in violation of law, shall be punished by a fine of not less than one hundred nor more than five hundred dollars and costs and in addition thereto be imprisoned for not less than two nor more than six months, and in default of payment of said fine and costs he shall be imprisoned not less than two nor more than six months additional, and on each subsequent conviction he shall be punished by a fine of five hundred dollars and costs and in addition thereto be imprisoned six months, and in default of payment of said fine and costs he shall be imprisoned six months additional. Any

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person who aids in the sale of intoxicating liquor, by acting as agent, broker, clerk, employee, servant, or otherwise, or in any manner aids or assists in violating any provision of law relating to intoxicating liquors, is equally guilty with the principal and shall suffer like penalties.

126 Me. 353.

**Sec. 8. Sale of cider, prohibited, exceptions.** R. S. c. 127, § 18. 1925, c. 77. 1927, c. 127, § 2. The sale of cider which shall contain more than one-half of one per cent of alcohol by volume is hereby declared to be unlawful, except that it may be sold to manufacturers of vinegar to be used in the manufacture of vinegar and for no other purpose. Manufacturers of vinegar shall make use of cider purchased by them as authorized by this section in the manufacture of vinegar, and for no other purpose, and shall keep a record of all such purchases of cider, which shall be retained by them and which shall be open at all reasonable times to the inspection of any officer charged with the duty of the enforcement of law, for a period of three years from the date of such purchase, and which shall show as to each purchase, its date, the quantity purchased, the price at which purchased, and the name and address of the seller.

**Sec. 9. Penalties.** 1927, c. 127, § 2. Whoever is convicted of violation of any of the provisions of section eight shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars and costs and in addition thereto be imprisoned for not less than two nor more than six months, and in default of payment of said fine and costs he shall be imprisoned not less than two nor more than six months additional, and on each subsequent conviction he shall be punished by a fine of five hundred dollars and costs, and in addition thereto be imprisoned six months, and in default of payment of said fine and costs he shall be imprisoned six months additional, provided that in case of violation of the provisions relating to the making and keeping of record of purchases punishment by imprisonment shall be in the discretion of the court.

**Sec. 10. Label required on all liquors containing alcohol.** R. S. c. 127, § 57. 1917, c. 209, § 57. All ale, beer, and other liquors kept for sale in this state of which alcohol is an ingredient or constituent part, shall be plainly labeled by having conspicuously affixed on the vessels in which they are contained, a paper label showing in print the percentage of alcohol contained in said liquors. Any liquors not so labeled shall be deemed to be intoxicating liquors within the meaning of the statute, shall be subject to seizure and shall be disposed of in the manner provided for disposing of intoxicating liquors. Any person who keeps and offers for sale any such liquors not so labeled shall be subject to a fine of one hundred dollars and costs and be imprisoned for not less than two nor more than six months, and in default of payment of said fine and costs he shall be imprisoned six months additional.

**Sec. 11. Common sellers; penalty.** R. S. c. 127, § 23. 1917, c. 291, § 4. No person shall be a common seller of intoxicating liquors. Whoever violates this section shall be punished by a fine of not less than one hundred nor more than five hundred dollars and costs, and in addition thereto be imprisoned not less than two nor more than six months, and in default of payment of said fine and costs he shall be imprisoned six months additional.

121 Me. 137; 124 Me. 267, 333.

**Sec. 12. Drinking houses and tipping shops; penalty.** R. S. c. 127, § 24. 1917, c. 291, § 5. No person shall keep a drinking house and tipping shop. Whoever sells intoxicating liquors in any building, vessel, or boat, contrary to law, and the same are there drank, is guilty of keeping a drinking house and

tippling shop, and upon conviction thereof shall be fined not less than one hundred nor more than five hundred dollars and costs and in addition thereto be imprisoned not less than two nor more than six months, and in default of payment of said fine and costs he shall be imprisoned six months additional.

**Sec. 13. Advertising liquors for sale, penalty.** R. S. c. 127, § 25. Whoever advertises or gives notice of the sale or keeping for sale of intoxicating liquors, or knowingly publishes any newspaper in which such notices are given, shall be fined for such offense the sum of twenty dollars and costs, to be recovered by complaint. One-half of said fine shall be paid to the complainant and one-half to the town in which said notice is published.

97 Me. 488; 101 Me. 483; \*104 Me. 291.

**Sec. 14. Furnishing liquors to persons in confinement.** R. S. c. 127, § 26. Whoever gives or delivers to a person confined in any jail, house of correction, or other place of confinement, or to a person in custody of any officer qualified to serve criminal processes, any spirituous or intoxicating liquor, or has in possession, within the precincts of any jail, house of correction, or other place of confinement, any such liquor, with intent to convey or deliver the same to any person confined therein, unless under the direction of the physician appointed to attend said prisoner, or of the officer in charge of said place of confinement of said prisoner, shall be punished by fine not exceeding twenty dollars, or by imprisonment in the jail or house of correction not exceeding thirty days.

See c. 147, § 1.

#### Possession.

**Sec. 15. Deposit, possession, etc., with intent of sale.** R. S. c. 127, § 27. 1917, c. 291, § 6. 1923, c. 167, § 2. No person shall deposit, or have in his possession, or order, transport, or cause to be transported into the state of Maine, or from place to place therein, any intoxicating liquors with intent to sell the same, or with intent that the same shall be sold by any person or aid or assist any person in such sale. Whoever violates this section shall be fined not less than one hundred dollars nor more than five hundred dollars and costs, and in addition thereto be imprisoned for not less than two months nor more than six months, and in default of payment of said fines and costs, he shall be imprisoned six months additional.

115 Me. 373; 117 Me. 235; \*117 Me. 335; 118 Me. 202; 118 Me. 314; 121 Me. 362; 121 Me. 519; \*122 Me. 44; \*124 Me. 226; 125 Me. 302; 126 Me. 340, 363.

**Sec. 16. Loitering with liquor on person; penalty.** 1917, c. 209, § 56. No person shall loiter on or about the streets and highways or in or about any building or place of business in this state with intoxicating liquors about his person. Whoever violates this section shall be fined one hundred dollars and costs and be imprisoned thirty days, and in default of payment of said fine and costs, he shall be imprisoned sixty days additional.

#### Intoxication.

**Sec. 17. Intoxication and disturbance; penalty.** R. S. c. 127, § 37. Whoever is found intoxicated in any street, highway, or other public place, shall be punished for the first offense by a fine not exceeding ten dollars, or by imprisonment not exceeding thirty days, and upon any subsequent conviction by imprisonment not exceeding ninety days, except that in any county where a county farm for the reformation of inebriates has been established, any male person who has been previously convicted of intoxication may be sentenced to said farm for a period of not less than ninety days or not exceeding one year.

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Whoever is found intoxicated in his own house, or in any other building or place, disturbing the public peace, or the peace of his own or any other family, shall be punished for the first and any subsequent conviction, as provided in the preceding clause of this section. Any such intoxicated person shall be taken into custody by any sheriff, deputy sheriff, constable, marshal, police officer, or watchman, and committed to the watch-house or police station or restrained in some other suitable place, until a complaint can be made and a warrant issued against him, upon which he may be arrested and tried.

Penalty for intoxication on part of engineer, conductor, brakeman, motorman, or switchman on railroad, c. 63, § 64.

County farm in Penobscot County, P. & S. L., 1913, c. 191.

47 Me. 464; \*78 Me. 421.

**Sec. 18. Responsibility for injuries by drunken persons. R. S. c. 127, § 38.** Every wife, child, parent, guardian, husband, or other person who is injured in person, property, means of support, or otherwise, by any intoxicated person, or by reason of the intoxication of any person, has a right of action in his own name against any one who by selling or giving any intoxicating liquors, or otherwise, has caused or contributed to the intoxication of such person; and in such action the plaintiff may recover both actual and exemplary damages. The owner, lessee, or person renting or leasing any building or premises, having knowledge that intoxicating liquors are sold therein, are liable, severally or jointly with the person selling or giving intoxicating liquors as aforesaid. And in actions by a wife, husband, parent, or child, general reputation of such relationship is prima facie evidence thereof, and the amount recovered by a wife or child shall be her or his sole and separate property.

\*66 Me. 472; 67 Me. 519; \*69 Me. 81, 84; 76 Me. 213; \*95 Me. 559; 96 Me. 88; \*99 Me. 366.

Note. The commissioner suggests that this section be amended by adding after the words "has caused or contributed to the intoxication of such person" the words "or who, being the owner or in control of a motor vehicle and knowingly permitting such intoxicated person to operate such motor vehicle, has caused or contributed to an injury resulting from such operation of said vehicle."

### Enforcement.

**Sec. 19. Indictment when necessary, jurisdiction, bail. R. S. c. 127, § 40. 1919, c. 108. 1923, c. 51.** Prosecutions for manufacturing liquors in violation of law, for keeping drinking-houses and tippling-shops, and for being common sellers of intoxicating liquors, shall be by indictment; but in all other prosecutions under this chapter, except when otherwise expressly provided, judges of municipal and police courts and trial justices have by complaint, jurisdiction, original and concurrent with the supreme judicial and superior courts. All prosecutions in the supreme judicial and superior courts shall be by indictment. Said magistrates, in cases not within their jurisdiction, may examine and hold to bail. And in appeals from any judgment or sentence before such magistrate, the penal sum in every recognizance shall be not less than five hundred dollars. No recognizance before such magistrate, shall be in a sum less than five hundred dollars; nor in the supreme judicial or superior court in less than five hundred dollars. And in no case shall the penal sum of the recognizance be reduced after being fixed by the court.

\*122 Me. 44.

Note. The commissioner suggests the omission of the words "for manufacturing liquors in violation of law." Experience has shown that some home manufacture of liquors should be classified with the lesser violations of the law.

**Sec. 20. Previous convictions to be alleged; indictments not to be dismissed, but by order of court; penalty for failure to prosecute. R. S. c. 127, § 41.**

Every trial justice, recorder, clerk, and judge of a municipal or police court, and every county attorney, having knowledge of a previous conviction of any person accused of violating this chapter, in preparing complaints, warrants, or indictments, shall allege such previous conviction thereon; and after such indictment is entered in court, no county attorney shall dismiss or fail to prosecute it except by special order of said court. If any trial justice, recorder, clerk or judge of a municipal or police court, or county attorney, neglects or refuses to allege such previous conviction, or if any county attorney fails so to prosecute, he forfeits one hundred dollars in each case, to be recovered in an action of debt, to be brought by the attorney-general in behalf of the state.

**Sec. 21. Appeal; affirmation of judgment; penalties not remitted nor surety discharged by surrender of principal after default, unless sentenced.** R. S. c. 127, § 43. In appeals, the proceedings shall be the same in the appellate court as they would be in the court of the magistrate, and shall be conducted in said appellate court by the attorney for the state. The jury shall find specially under the direction of the court, on all facts necessary to determine the adjudication thereof; and if a claimant or other respondent fails to appear for trial in the appellate court, the judgment of the court below, if against him, shall be affirmed. No portion of the penalty of any recognizance taken under so much of this chapter as relates to intoxicating liquors shall be remitted by any court in any suit thereon, nor shall a surety in any such recognizance be discharged from his liability therein by a surrender of his principal in court after he has been defaulted upon his recognizance unless the principal has been actually sentenced upon the indictment or complaint on which the recognizance was taken. The appeals of claimants provided for in section thirty-one, shall be entered as all other appeals in criminal cases, and be subject to the requirements of law appertaining to them.

See c. 145, § 26; 33 Me. 573; 37 Me. 161; 48 Me. 581; 49 Me. 286; \*60 Me. 105; 61 Me. 117; 93 Me. 43; 115 Me. 513; 124 Me. 58.

**Sec. 22. Action not maintainable upon promise to pay for liquors.** R. S. c. 127, § 44. No action shall be maintained upon any claim or demand, promissory note, or other security contracted or given for intoxicating liquors sold in violation of this chapter, or for any such liquors purchased out of the state with intention to sell the same or any part thereof in violation thereof; but this section shall not extend to negotiable paper in the hands of a holder for a valuable consideration and without notice of the illegality of the contract.

44 Me. 54; 46 Me. 527; 47 Me. 60, 126, 473; 48 Me. 188, 552; 50 Me. 79; 51 Me. 255; 55 Me. 356, \*431, 541; 57 Me. 180, 359; 59 Me. 443; 63 Me. 31; 66 Me. 141; \*70 Me. 257; 72 Me. 279; \*87 Me. 518; \*89 Me. 140; 92 Me. 388, 421; 93 Me. 299; 94 Me. 444; 95 Me. 536; 96 Me. 457; 100 Me. \*246, 544; 102 Me. 219; 108 Me. 340; 110 Me. 182.

**Sec. 23. Evidence of sale; duty of officials to prosecute; previous convictions alleged; amendment of process.** R. S. c. 127, § 45. 1917, c. 291, § 8. Whenever an unlawful sale is alleged, and a delivery proved, it is not necessary to prove a payment, but such delivery is sufficient evidence of sale. A partner in business is liable for the unlawful keeping or selling of his copartner, done in the copartnership business, or by any other person, in any shop, store, or other place of business, of such copartnership, with his knowledge or assent. A principal and his agent, clerk, and servant, may all be included in the same complaint and process. The mayor or aldermen, selectmen, or assessors, may cause a suit to be commenced on any bond or recognizance given under this chapter in which his city, town, or plantation is interested, and the same shall be prosecuted to final judgment unless paid in full with costs. The mayor,

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aldermen, selectmen, assessors, and constables, in every city, town, and plantation, shall make complaint and prosecute all violations and promptly enforce the laws of this chapter; and the wilful or corrupt neglect or refusal of any of the said officials to enforce the said laws shall be punished by a fine not exceeding one thousand dollars or by imprisonment not exceeding one year. If a municipal officer, after being furnished with a written notice of a violation of this chapter, signed by two persons competent to be witnesses in civil suits, and containing the names and residences of the witnesses to prove such offense, wilfully neglects or refuses to institute proceedings therefor, he shall be fined not less than twenty, nor more than fifty dollars, to be recovered by indictment. The oath required of any such officer to the complaint may be, in substance, that from a written notice signed by two persons competent to be witnesses in civil suits, he believes the complaint signed by him to be true. If an execution or other final process, issued in any civil or criminal suit instituted under this chapter is placed in the hands of any proper officer to be by him executed, and he unreasonably neglects or refuses so to do, an action may be commenced against him by any voter in the county, and prosecuted to final judgment which shall be for the full amount of the judgment and interest on such execution; and if it is a process that requires him to take and commit an offender to prison, the damages shall not be less than fifty, nor more than five hundred dollars. Selectmen of towns herein mentioned include assessors of plantations. In suits, complaints, indictments, or other proceedings for a violation of any provision of this chapter relating to intoxicating liquors, other than for the first offense, it is not requisite to set forth particularly the record of a former conviction, but it is sufficient to allege briefly, that such person has been convicted of a violation of any particular provision, or as a common seller, as the case may be, and such allegation in any criminal process, legally amendable in any stage of the proceedings before final judgment, may be amended, without terms, and as a matter of right. Any process civil or criminal, legally amendable, may, in any stage of the proceedings, be amended in any matter of form, without costs, on motion at any time before final judgment.

**Sec. 24. Persons engaged in liquor traffic not to sit on jury. R. S. c. 127, § 46.** No person engaged in the unlawful traffic in intoxicating liquors is competent to sit as a juror in any case arising under this chapter; and when information is communicated to the court that a member of any panel is engaged in such traffic, or that he is believed to be so engaged, the court shall inquire of the jurymen of whom such belief is entertained; and no answer which he makes shall be used against him in any case arising under this chapter; but if he answers falsely, he shall be incapable of serving on any jury; but he may decline to answer, in which case he shall be discharged by the court from all further attendance as a jurymen.

See c. 119, § 3.

**Sec. 25. Proceedings under this chapter not barred within six years; absence deducted. R. S. c. 127, § 47.** The offenses described in this chapter fall within section seventeen of chapter one hundred and forty-three, and no such offense is barred by any period of time less than six years after the commission thereof. No portion of time during which the offender is not usually and publicly a resident in this state shall be a part of said six years.

**Sec. 26. Law applies to importations in original package. R. S. c. 127, § 48.** All the provisions of this chapter, chapter twenty-six, section twenty-five of chapter one hundred and forty-five, and section one of chapter one hun-

dred and forty-seven, so far as they relate to intoxicating liquors, are hereby made to apply to all intoxicating liquor imported in the original package.

**Sec. 27. Special duty of sheriffs, deputies and county attorneys; penalty for refusal or neglect.** R. S. c. 127, § 49. Sheriffs and their deputies and county attorneys shall diligently and faithfully inquire into all violations of law, within their respective counties, and institute proceedings in case of violations or supposed violations of law, and particularly the law against illegal sale of intoxicating liquors, and the keeping of drinking-houses and tippling-shops, gambling-houses, or places, and houses of ill fame; sheriffs and their deputies shall promptly enter complaints before a magistrate and execute the warrants issued thereon, or shall furnish the county attorney promptly and without delay, with the names of alleged offenders, and of the witnesses. Any sheriff, deputy sheriff, or county attorney, who shall wilfully or corruptly refuse or neglect to perform any of the duties required by this section, shall be punished by fine not exceeding one thousand dollars or by imprisonment not exceeding one year.

See c. 135, §§ 13-17; 67 Me. 375; 101 Me. 353; 111 Me. 34, \*429; 122 Me. 297.

**Sec. 28. Attorney-general to take charge of investigations before grand jury under certain conditions.** R. S. c. 127, § 50. The attorney-general shall take charge of all investigations before the grand jury in case of refusal or neglect of any sheriff, deputy sheriff, or county attorney, to perform any of the duties required by this section, and in case of the finding of an indictment to conduct all subsequent proceedings in court in behalf of the state as prosecuting attorney. In all such prosecutions the attorney-general shall act in place of the county attorney, and is hereby invested with all the rights, powers, and privileges of the county attorney for that purpose, the powers of the county attorney with respect to prosecutions under this section being hereby suspended.

**Sec. 29. Compensation of deputy sheriffs.** R. S. c. 127, § 51. For services under the two preceding sections deputy sheriffs acting under the direction of the sheriffs, shall receive the same per diem compensation as is now allowed for attendance on the supreme judicial court, the same fees for travel as for the service of warrants in criminal cases, together with such necessary incidental expenses as are just and proper; bills for which shall be audited by the county commissioners, and paid from the county treasury. But said commissioners shall not allow any per diem compensation to said deputies, for any day for which they are entitled to fees or compensation for attendance at or service in any court. The provisions of this section as to compensation of deputy sheriffs and the provisions of section five of chapter one hundred twenty-six shall not apply to the deputies of the sheriff of Cumberland county, acting under the provisions of this section.

See c. 93, § 25; c. 125, § 48; c. 126, § 5; 91 Me. 316; 111 Me. 33.

**Sec. 30. Duty of county attorneys.** R. S. c. 127, § 52. County attorneys shall cause to be summoned promptly before the grand jury, all witnesses whose names have been furnished them by any sheriff or his deputies, as provided in section twenty-seven, and shall faithfully direct inquiries before that body into violations of law, prosecute persons indicted, and secure the prompt sentence of convicts.

**Sec. 31. Clerk of courts to publish disposition of appealed cases and indictments.** R. S. c. 127, § 53. *The clerk of courts, shall within thirty days after the adjournment of any superior or supreme judicial court, publish in some newspaper of the county, the disposition of each appealed case and indictment for violation of the laws regulating the use and sale of intoxicating liquors.*

Note. Linwood F. Crockett, Clerk of Courts, recommends the omission of this section as its provisions have fallen into disuse.

**Search and Seizure.**

**Sec. 32. Liquors kept or deposited for unlawful sale, forfeited; seizure without warrant.** R. S. c. 127, § 28. 1923, c. 167, § 3. Intoxicating liquors kept or deposited in the state, intended for sale, and the vessels in which they are contained, are contraband and shall be forfeited to the county in which they are seized under this chapter. And in all cases where an officer may seize intoxicating liquors or the vessels containing them, upon a warrant, he may seize the same without a warrant, and keep them in some safe place for a reasonable time until he can procure such warrant.

118 Me. 202.

**Sec. 33. Warrants for search and seizure; fluids poured out to prevent seizure, may be held to have been intended for unlawful sale; payment of U. S. special tax; or notice of liquors for sale, prima facie evidence of common sellers.** R. S. c. 127, § 29. 1917, c. 291, § 7. If any person competent to be a witness in civil suits makes sworn complaint before any judge of a municipal or police court or trial justice, that he believes that intoxicating liquors are unlawfully kept or deposited in any place in the state by any person, and that the same are intended for sale in violation of law, such magistrate shall issue his warrant directed to any officer having power to serve criminal process, commanding him to search the premises described and specially designated in such complaint and warrant, and if said liquors are there found, to seize the same, with the vessels in which they are contained, and them safely keep until final action thereon, and make immediate return of said warrant. The name of the person so keeping said liquors as aforesaid, if known to the complainant, shall be stated in such complaint, and the officer shall be commanded by said warrant if he find said liquors to arrest said person and hold him to answer as keeping said liquors intended for unlawful sale. Any person who may be suspected of selling from, or keeping for illegal sale in his pockets, intoxicating liquors, may be searched in the same manner and by the same process as is provided for the search of places, and if liquors are found upon his person, may be held to answer as though such liquors were kept and deposited by him in any place. If fluids are poured out or otherwise destroyed by the tenant, assistant, or other person, when premises are about to be searched, manifestly for the purpose of preventing their seizure by officers authorized to make such search and seizure, such fluids may be held to have been intoxicating and intended for unlawful sale, and the penalties shall be the same as if said liquors had been seized. If the name of the person keeping such liquors is unknown to the complainant, he shall so allege in his complaint, and the magistrate shall thereupon issue his warrant as provided in the first sentence of this section. If upon trial, the court is of the opinion that the liquor was so aforesaid kept and intended for unlawful sale, by the person named in said complaint, or by any other person with his knowledge or consent, he shall be found guilty thereof, and sentenced to a fine of not less than one hundred nor more than five hundred dollars and costs and in addition thereto be imprisoned not less than two nor more than six months, and in default of payment of said fine and costs he shall be imprisoned six months additional. The payment of the United States special tax as a liquor seller, or notice of any kind in any place of resort, indicating that intoxicating liquors are there sold, kept, or given away unlawfully shall be held to be prima facie evidence that the person or persons paying said tax, and the party or parties displaying said notices, are common sellers of intoxicating liquors, and the premises so kept by them common nuisances.

\*115 Me. 513; 122 Me. 44, 45; 122 Me. 285; 123 Me. 176; 123 Me. 220; 124 Me. 35.

**Sec. 34. Duty of officer on seizure; proceedings.** R. S. c. 127, § 30. When liquors and vessels are seized as provided in the preceding section, the officer who made such seizure shall immediately file with the magistrate before whom such warrant is returnable, a libel against such liquors and vessels, setting forth their seizure by him, describing the liquors and their place of seizure, and that they were deposited, kept and intended for sale in violation of law, and pray for a decree of forfeiture thereof, and such magistrate shall thereupon fix a time for the hearing of such libel, and shall issue his monition and notice of the same, to all persons interested, citing them to appear at the time and place appointed, and show cause why said liquors and the vessels in which they are contained should not be declared forfeited, by causing a true and attested copy of said libel and monition to be posted in two public and conspicuous places in the town or place where such liquors were seized, ten days at least before the day to which said libel is returnable.

33 Me. 561, 573; 47 Me. 400; 48 Me. 188, 581; 53 Me. 172; 54 Me. 37; 61 Me. 523; 62 Me. 265; 80 Me. \*93, 207; 122 Me. 285; 123 Me. 176.

**Sec. 35. Forfeiture in case no claimant appears; proceedings when claimant to be admitted as a party.** R. S. c. 127, § 31. If no claimant appears, such magistrate shall, on proof of notice as aforesaid, declare the same forfeited to the county in which they were seized. If any person appears and claims such liquors, or any part thereof, as having a right to the possession thereof at the time when the same were seized, he shall file with the magistrate such claim in writing, stating specifically the right so claimed, and the foundation thereof, the items so claimed, the time and place of the seizure and the name of the officer by whom the same were seized, and in it declare that they were not so kept or deposited for unlawful sale, as alleged in said libel and monition, and also state his business and place of residence, and shall sign and make oath to the same before said magistrate. If any person so makes claim, he shall be admitted as a party to the process; and the magistrate shall proceed to determine the truth of the allegations in said claim and libel, and may hear any pertinent evidence offered by the libelant or claimant. If the magistrate is, upon the hearing, satisfied that said liquors were not so kept or deposited for unlawful sale, and that the claimant is entitled to the custody of any part thereof, he shall give him an order in writing, directed to the officer having the same in custody, commanding him to deliver to said claimant the liquors to which he is so found to be entitled, within forty-eight hours after demand. If the magistrate finds the claimant entitled to no part of said liquors, he shall render judgment against him for the libelant for costs, to be taxed as in civil cases before such magistrate, and issue execution thereon, and shall declare said liquors forfeited to the county where seized. The claimants may appeal and shall recognize with sureties as on appeals in civil causes from a magistrate.

See § 37; 48 Me. 583; 61 Me. 523; 62 Me. 422; 69 Me. 525; 73 Me. 279; 83 Me. 161; \*101 Me. 164; \*110 Me. 181; 112 Me. 141; 113 Me. 494; \*119 Me. 13; 123 Me. 176.

**Sec. 36. Warrant to search dwelling house, when to be issued.** R. S. c. 127, § 32. No warrant shall be issued to search a dwelling-house occupied as such, unless it, or some part of it, is used as an inn or shop, or for purposes of traffic, or unless the magistrate before whom the complaint is made, is satisfied by evidence presented to him, and so alleges in said warrant, that intoxicating liquor is kept in such house or its appurtenances, intended for sale in violation of law.

62 Me. 422; 79 Me. 82; \*85 Me. 471; \*86 Me. 529; 101 Me. 49; 106 Me. 399; 109 Me. 253; 113 Me. 13, \*31.

**Sec. 37. Disposal of forfeited liquors.** R. S. c. 127, § 33. 1923, c. 151. 1927,

c. 51. All spirituous and distilled liquors and all other liquors, declared forfeited by any court under this chapter, which shall have been found by said court to contain more than twenty per cent of alcohol, shall, by order of the court rendering final judgment thereon, be turned over to the sheriff of the county where such seizure was made, by any officer competent to serve the process on which they were forfeited, and he shall make return accordingly to said court; and said sheriff shall receipt to said officer therefor; said sheriff shall mingle said liquors together and as soon as he has accumulated a quantity equal to five barrels, he shall ship the same to some responsible rectifying distiller, outside of this state, and have the alcohol redistilled therefrom, as is hereinafter provided. Said sheriffs shall annually contract with some responsible rectifying distiller, outside the limits of this state, to take such liquors and distill the alcohol therefrom, and to account for and pay over to the treasurer of the county from which said liquors are received, in cash, at an agreed price for each gallon of one hundred degrees strength, determined by the United States internal revenue inspector at place of rectification. Before delivering any liquor under the aforesaid contract, the said sheriff shall take a bond, with sureties residing in this state, and to be approved by the treasurer of the county, from said rectifying distiller to the treasurer of his county, in the penal sum of one thousand dollars, conditions that all of said liquors so received under said contract, shall be rectified and the alcohol distilled therefrom, and that the contractor will account for and pay over to the treasurer of said county from which said liquors are received, in cash, the amount due under said contract. In all suits upon bonds given under this section the damages shall be the full penal sum of said bond. All other liquors, and whenever by reason of the operation of any federal law or regulation it is impractical otherwise to comply with the provisions of this section, all liquors, except cider, declared forfeited by any court under this chapter, shall, by order of the court rendering final judgment thereon, be destroyed by any officer competent to serve the process on which they were forfeited, and he shall make return accordingly to said court. Such liquors shall be destroyed by pouring them upon the ground or into some public sewer. A record of vessels forfeited shall be kept by each officer, and returned to the county commissioners once in each three months, and once in six months, or oftener, if they deem it advisable the commissioners shall order such officers to sell the vessels at public or private sale, and pay the proceeds thereof into the county treasurer.

All cider, declared forfeited by any court under this chapter, shall by order of the court rendering final judgment thereon, be turned over to the sheriff of the county where such seizure was made, by any officer competent to serve the process on which they were forfeited, and he shall make return accordingly to said court; and said sheriff shall receipt to said officer therefor. Said sheriffs may sell and dispose of such cider to be used in the manufacture of vinegar and for no other purpose. A record of such sales shall be kept by each sheriff and he shall pay the proceeds from such sales into the county treasury. Before delivering any cider under any sale made in accordance with the provisions of this section, the said sheriff shall take a bond, with sureties residing in this state, and to be approved by the treasurer of the county, from the purchaser of such cider in the penal sum of double the amount of the value of such cider, conditioned that all of said cider so received under such sale, shall be used in the manufacture of vinegar and for no other purpose.

122 Me. 282.

**Sec. 38. Warrant, when to issue against claimant. R. S. c. 127, § 34. If**

complaint is made upon oath to any magistrate against any claimant under this chapter, alleging that the liquors so claimed by him were, prior to, and at the time when the same were seized, kept, or deposited by said claimant, or by some person by his authority, and intended for unlawful sale in this state, either by such person, or the said claimant, the magistrate shall issue his warrant against such claimant so charged, and he shall be arrested thereon, and be brought before such magistrate, and on conviction shall be punished as is provided in section thirty-three.

See c. 147, § 1.

**Sec. 39. Destruction of liquor to prevent seizure; proceedings in case of; arrest of owner; appliances and evidences to be seized.** R. S. c. 127, § 35. If an officer having a warrant, issued under this chapter, committed to him, directing him to seize any liquors, and to arrest the owner or keeper thereof, is prevented from seizing the liquors by their being poured out or otherwise destroyed, he shall arrest the alleged owner or keeper named in the warrant, and bring him before the magistrate, and make return upon the warrant that he was prevented from seizing said liquors by their being poured out or otherwise destroyed, as the case may be, and in his return he shall state the quantity so poured out or destroyed, as nearly as may be, and the magistrate shall put the owner or keeper so arrested upon trial; and if it is proved that such liquors as were described in the warrant were so poured out or destroyed, and that they were so kept or deposited and intended for unlawful sale, and that the person so arrested was owner or keeper thereof, he shall be punished in the same manner as if the liquors described in the warrant and in the return had been seized on the warrant and brought before the magistrate by the officer. All dumps or appliances for concealing, disguising, or destroying liquors, so that the same cannot be seized or identified, found in the possession or under the control of any person or persons, shall be taken by the officer making said search or seizure, so far as the same is practicable, together with all bottles and drinking-glasses or vessels found in the possession or under the control of any such person or persons, and carried before the next grand jury sitting in said county where said seizure and search is made, and the same, together with all evidences of such dumps or appliances for concealing, disguising, or destroying liquors, shall be presented to said grand jury for their consideration, and the same shall thereafter be subject to the order of the court issuing the warrant for said search and seizure.

47 Me. 360; 65 Me. 102; \*103 Me. 391.

**Sec. 40. Death of officer making seizure.** R. S. c. 127, § 36. If any deputy sheriff, after having executed such warrant by a seizure, dies or goes out of office before final execution in the proceedings is done, the liquors shall be held in the custody of the sheriff or another deputy. If any other officer dies or goes out of office under like circumstances, the magistrate before whom the proceedings were commenced, shall designate in writing some officer lawfully authorized to execute such a warrant, who shall hold such liquors in his custody until final judgment and order of the court thereon.

**Sec. 41. Liquors and vessels seized, not repleviable, pending proceedings.** R. S. c. 127, § 39. Liquors seized as hereinbefore provided, and the vessels containing them, shall not be taken from the custody of the officer by a writ of replevin or other process while the proceedings herein provided are pending; and final judgment in such proceedings is in all cases a bar to all suits for the recovery of any liquors seized or the value of the same, or for damages alleged to arise by reason of the seizure and detention thereof.

62 Me. 535; 91 Me. 479.

**Sec. 42. Seizure and forfeiture of vehicles containing liquors.** 1917, c. 294. 1921, c. 63. 1923, c. 204, § 1. 1925, c. 116, § 2. All automobiles, trucks, wagons, boats, or vessels and vehicles of every kind, not common carriers, containing intoxicating liquors intended for sale or containing intoxicating liquor in the possession of or in the control of any person transporting the same without being in possession of a permit therefor duly issued under authority by the provisions of the national prohibition act of October twenty-eight, nineteen hundred and nineteen, and amendments thereto, providing for the enforcement of the eighteenth amendment to the constitution of the United States, found within the state in the possession or in the control of any person, shall be seized by any officer seizing the liquors transported therein, shall be libeled as is provided for the libeling of intoxicating liquors and the vessels in which they are contained under the provisions of this chapter, and shall be declared forfeited by the court and sold in the same manner as is provided for the sale of vessels containing intoxicating liquors. In any proceeding under this section it shall not be incumbent on the state to allege and prove that such person was not in possession of such permit.

125 Me. \*319, 320, 433.

**Sec. 43. Claim of title of person other than person in possession of vehicle or boat to be substantiated by proof that use was without his knowledge or consent.** 1917, c. 294. 1921, c. 204, § 2. Any right, interest, or title of any person or corporation other than the person or persons in possession or control of any such automobile, truck, wagon, boat, vessel, or vehicle shall also be forfeited unless the use of the same for the transportation of intoxicating liquors as aforesaid was without his knowledge or consent. Any claimant of any right, interest, or title in such automobile, truck, wagon, boat, vessel, or vehicle must allege and prove that the use of the same for the transportation of intoxicating liquors as aforesaid was without his knowledge or consent and the court may determine in the proceeding on said claim the right, interest or title, if any, of said claimant.

#### Forms.

**Sec. 44. Forms; costs.** R. S. c. 127, § 54. The forms herein set forth, with such changes as adapt them for use in cities, towns, and plantations, are sufficient in law, for all cases arising under the foregoing provisions, to which they purport to be adapted; and the costs to be taxed and allowed for the libel, shall be fifty cents; for entering the same, thirty cents; for trying the same, one dollar; for a monition, fifty cents; for posting notices and return, one dollar; order to restore or deliver, twenty-five cents; executing the order, fifty cents.

59 Me. 384; 65 Me. 247, \*273; 67 Me. 129; \*69 Me. 576; \*80 Me. 94; \*86 Me. 527; 103 Me. 470; 113 Me. 16; 123 Me. 222; 123 Me. 394; \*115 Me. 200.

*Form of indictment in case of common seller.*

#### STATE OF MAINE.

“——, ss. — At the supreme judicial or superior court begun and held at ——, within and for the county of ——, on the —— Tuesday of ——, in the year of our Lord one thousand nine hundred and ——:

The jurors for said state upon their oath present, that A. B., of ——, in said county, at ——, in said county of ——, on the —— day of ——, in the year of our Lord one thousand nine hundred and ——, and on divers other days and times between said —— day of —— aforesaid and the day of the finding of this indictment, was a common seller of intoxicating liquors, against

the peace of said state, and contrary to the form of the statute in such case made and provided;" (in case of a former conviction add,) "and the jurors aforesaid, upon their oaths aforesaid, do further present, that said \_\_\_\_\_, has been \_\_\_\_\_ before convicted of being a common seller of intoxicating liquors, under the laws of the State of Maine regulating the sale of intoxicating liquors, to wit:—at a term of the supreme judicial court, begun and held at a \_\_\_\_\_ within and for the county of B. on the third Tuesday of \_\_\_\_\_ in the year of our Lord one thousand nine hundred and \_\_\_\_\_. A true bill:

\_\_\_\_\_, County Attorney. \_\_\_\_\_, Foreman."

65 Me. 234; \*80 Me. 118; \*92 Me. 422; 94 Me. 60.

*Form of complaint for single sale.*

STATE OF MAINE.

"\_\_\_\_\_, ss.—To \_\_\_\_\_, esquire, a trial justice within and for the county of \_\_\_\_\_.

A. B., of \_\_\_\_\_, in said county, on the \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord one thousand nine hundred and \_\_\_\_\_, in behalf of said state, on oath \_\_\_\_\_ complains, that \_\_\_\_\_, of \_\_\_\_\_, in said county, on the \_\_\_\_\_ day of \_\_\_\_\_, 19—, at said \_\_\_\_\_, in said county of \_\_\_\_\_, did then and there sell a quantity of intoxicating liquors, to wit: one \_\_\_\_\_ of intoxicating liquor to one \_\_\_\_\_," (or if the individual is unknown, "to some person to said complainant unknown,") "against the peace of said state, and contrary to the form of the statute in such case made and provided.

A. B.

On the \_\_\_\_\_ day of \_\_\_\_\_, 19—, said \_\_\_\_\_ makes oath, that the above complaint, by \_\_\_\_\_ subscribed, is true.

Before me, \_\_\_\_\_ Trial Justice."

\*65 Me. 247.

*Form of warrant upon the same.*

STATE OF MAINE.

"\_\_\_\_\_, ss.—To the sheriff of our said county of \_\_\_\_\_, or either of his deputies, or either of the constables of the town of \_\_\_\_\_, or of either of the towns in said county. Greeting.

[L. s.] Whereas, A. B., of \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord one thousand nine hundred and \_\_\_\_\_, in behalf of said state, on oath \_\_\_\_\_ complained to me, the subscriber, one of the trial justices within and for said county of \_\_\_\_\_, that \_\_\_\_\_, of \_\_\_\_\_, in said county, on the \_\_\_\_\_ day of \_\_\_\_\_, 19—, at said \_\_\_\_\_, in said county of \_\_\_\_\_, did sell a quantity of intoxicating liquors, to wit: one \_\_\_\_\_ of intoxicating liquor to one \_\_\_\_\_, against the peace of said state and contrary to the form of the statute in such case made and provided.

Therefore, in the name of the State of Maine, you are commanded forthwith to apprehend said \_\_\_\_\_, if he may be found in your precinct, and bring him before me, the subscriber, or some other trial justice within and for said county, to answer to said state upon the complaint aforesaid.

Witness, my hand and seal at \_\_\_\_\_ aforesaid, this \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord nineteen hundred and \_\_\_\_\_.

\_\_\_\_\_, Trial Justice."

*Form of recognizance in case of a single sale.*

"Be it remembered, that at a justice court held by me, the subscriber, one of the trial justices within and for the county of \_\_\_\_\_, at my office in \_\_\_\_\_, in said county, on the \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord one thousand nine hundred and \_\_\_\_\_, personally appeared \_\_\_\_\_ and \_\_\_\_\_, and severally acknowledged themselves to be indebted to the State of Maine, in the respective sums following, to wit:

The said \_\_\_\_\_, as principal, in the sum of \_\_\_\_\_ dollars, and the said \_\_\_\_\_ and \_\_\_\_\_, as sureties, in the sum of \_\_\_\_\_ dollars each, to be levied of their respective goods, chattels, lands or tenements, and in want thereof of their bodies, to the use of the state, if default is made in the condition following:

The condition of this recognizance is such, that whereas said \_\_\_\_\_ has been brought before said court, by virtue of a warrant duly issued upon the complaint on oath \_\_\_\_\_ of \_\_\_\_\_, charging him, said \_\_\_\_\_, with having sold at said \_\_\_\_\_, one \_\_\_\_\_ of intoxicating liquor to one \_\_\_\_\_, against the peace of said state, and contrary to the form of the statute in such case made and provided. And said \_\_\_\_\_, having pleaded not guilty to said complaint, but having been by said court found guilty of the same, and been sentenced to \_\_\_\_\_; and said \_\_\_\_\_ having appealed from said sentence to the supreme judicial" (or superior) "court, next to be held at \_\_\_\_\_, within and for the said county of \_\_\_\_\_, on the \_\_\_\_\_ Tuesday of \_\_\_\_\_, in the year of our Lord nineteen hundred and \_\_\_\_\_.

Now therefore, if said \_\_\_\_\_ shall appear at the court aforesaid, and prosecute his said appeal with effect, and abide the order and judgment of said court, and not depart without license, then this recognizance shall be void; otherwise shall remain in full force and virtue.

Witness,

\_\_\_\_\_, Trial Justice."

*Form of mittimus.*

STATE OF MAINE.

"County of \_\_\_\_\_, ss.—To the sheriff of the county of \_\_\_\_\_, or either of his deputies, or either of the constables of the town of \_\_\_\_\_, and to the keeper of the jail in \_\_\_\_\_, in our said county, Greeting.

[L. s.] Whereas, E. F., of \_\_\_\_\_, in our county of \_\_\_\_\_, now stands convicted before me, A. B., esquire, one of the trial justices in and for the said county of \_\_\_\_\_, on complaint of \_\_\_\_\_, who, on his oath \_\_\_\_\_ complains that" \_\_\_\_\_ (here insert the substance of the complaint) "against the peace of the state, and contrary to the form of the statute in such case made and provided, for which offense, he, the said E. F., is sentenced to pay a fine to the state, of \_\_\_\_\_ dollars, and costs of prosecution, taxed at \_\_\_\_\_ dollars and \_\_\_\_\_ cents, (and to stand committed until the sentence is performed, all which sentence said E. F., now before me, the said justice, fails and refuses to comply with and perform.)

These are therefore, in the name of the State of Maine, to command you, the said sheriff, deputies and constables and each of you, forthwith to convey said E. F. to the common jail in \_\_\_\_\_, in the county aforesaid, and to deliver him to the keeper thereof, together with this precept. And you the keeper of the said jail in \_\_\_\_\_ aforesaid, are hereby in like manner commanded, in the name of the State of Maine, to receive said E. F. into your custody, in said jail, and him

there safely to keep until he shall comply with said sentence, or be otherwise discharged by due course of law.

Given under my hand and seal, this \_\_\_\_\_ day of \_\_\_\_\_, A. D. \_\_\_\_\_.  
A. B., Trial Justice.”

*Form of complaint in case of seizure.*

STATE OF MAINE.

“\_\_\_\_\_, ss.—To A. B., esquire, one of the trial justices within and for the county of \_\_\_\_\_.

A. B., of \_\_\_\_\_, in said county, competent to be a witness in civil suits, on the \_\_\_\_\_ day of \_\_\_\_\_, in the year nineteen hundred and \_\_\_\_\_, in behalf of said state, on oath complains, that he believes, that on the \_\_\_\_\_ day of \_\_\_\_\_, 19—, at said \_\_\_\_\_, intoxicating liquors were, and still are kept and deposited by \_\_\_\_\_, of \_\_\_\_\_, in said county, in \_\_\_\_\_” (here describe with precision the place to be searched,) “and that said liquors then and there were, and now are intended by said \_\_\_\_\_ for sale in violation of law, against the peace of the state and contrary to the form of the statute in such case made and provided.

I therefore pray, that due process be issued to search the premises hereinbefore mentioned, where said liquors are believed to be deposited, and if there found, that said liquors and vessels be seized and safely kept until final action and decision be had thereon, and that said \_\_\_\_\_ be forthwith apprehended and held to answer to said complaint, and to do and receive such sentence as may be awarded against him.

A. B.

\_\_\_\_\_, ss.—On the \_\_\_\_\_ day of \_\_\_\_\_, 19—, said A. B. made oath that the above complaint by him signed is true.

Before me, \_\_\_\_\_ Trial Justice.”

47 Me. 431; 63 Me. 214; 64 Me. 532; 95 Me. 199.

*Form of warrant in case of seizure.*

STATE OF MAINE.

“\_\_\_\_\_, ss.—To the sheriff of our said county of \_\_\_\_\_, or either of his deputies, or either of the constables of the town of \_\_\_\_\_, or of either of the towns within said county.

[L. s.] Whereas A. B., of \_\_\_\_\_, in said county, competent to be a witness in civil suits, on the \_\_\_\_\_ day of \_\_\_\_\_, in the year nineteen hundred and \_\_\_\_\_, in behalf of said state, on oath complained to the subscriber, one of the trial justices within and for said county, that he believes, that on the \_\_\_\_\_ day of \_\_\_\_\_, 19—, at said \_\_\_\_\_, intoxicating liquors were and still are deposited and kept by \_\_\_\_\_, of \_\_\_\_\_, in said county, in \_\_\_\_\_” (here follows a precise description of the place to be searched,) “and that said \_\_\_\_\_ then and there intended and now intends that the same should be sold, in violation of law as fully appears by the complaint hereunto annexed, and prayed that due process be issued to search the premises hereinbefore mentioned, where said liquors are believed to be deposited, and, if there found, that said liquors and vessels be seized and safely kept until final action and decision be had thereon, and that said \_\_\_\_\_ be apprehended and held to answer to said complaint, and to do and receive such sentence as may be awarded against him:—

You are therefore required in the name of the state, to enter the \_\_\_\_\_ before

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named, and therein to search for said liquors, and, if there found, to seize and safely keep the same, with the vessels in which they are contained, until final action and decision is had on the same; and to apprehend said \_\_\_\_\_ forthwith, if he may be found in your precinct, and bring him before me, the subscriber, or some other trial justice within and for said county, to answer to said complaint, and to do and receive such sentence as may be awarded against him.

Witness, \_\_\_\_\_, esquire, at \_\_\_\_\_ aforesaid, this \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord nineteen hundred and \_\_\_\_\_.

\_\_\_\_\_, Trial Justice."

66 Me. 478; \*103 Me. 470; 113 Me. 16.

*Form of recognizance in case of seizure.*

"Be it remembered, that at a justice court held by me, the subscriber, one of the trial justices within and for the county of \_\_\_\_\_, at my office in said \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord nineteen hundred and \_\_\_\_\_, personally appeared A. B., C. D. and E. F. and severally acknowledged themselves to be indebted to the State of Maine, in the respective sums following, to wit:

The said \_\_\_\_\_, as principal, in the sum of \_\_\_\_\_ dollars, and the said \_\_\_\_\_ and \_\_\_\_\_, as sureties, in the sum of \_\_\_\_\_ dollars each, to be levied of their respective goods, chattels, lands or tenements, and in want thereof, of their bodies, to the use of the state, if default is made in the condition following:

The condition of this recognizance is such, that whereas said \_\_\_\_\_ has been brought before said court, by virtue of a warrant duly issued upon the complaint on oath, of G. H., of \_\_\_\_\_, a competent witness in civil suits, charging him, said \_\_\_\_\_, with having at \_\_\_\_\_, in the said county of \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, kept and deposited certain intoxicating liquors in \_\_\_\_\_" (here describe the place where the same are deposited) "with intent that the same should be sold in violation of law; and a search warrant having been issued upon said complaint, and said liquors above described, having been seized thereon, and said \_\_\_\_\_ arrested thereon; and said \_\_\_\_\_ having pleaded not guilty to said complaint, but having been by said court found guilty of the same, and been sentenced to \_\_\_\_\_. And said \_\_\_\_\_, having appealed from said sentence to the supreme judicial or superior court, next to be held at \_\_\_\_\_, within and for said county of \_\_\_\_\_, on the \_\_\_\_\_ Tuesday of \_\_\_\_\_, in the year of our Lord nineteen hundred and \_\_\_\_\_:

Now therefore, if said \_\_\_\_\_ shall appear at the court aforesaid, and prosecute his said appeal with effect, and abide the order and judgment of said court, and not depart without license; then this recognizance shall be void; otherwise shall remain in full force and virtue.

\_\_\_\_\_, Trial Justice."

*Form of libel.*

STATE OF MAINE.

"County of \_\_\_\_\_, ss.—To A. B., a trial justice, in and for said county:

The libel of C. D., of \_\_\_\_\_, shows that he has, by virtue of a warrant duly issued on the \_\_\_\_\_ day of \_\_\_\_\_, A. D. 19\_\_\_\_, by \_\_\_\_\_, esquire, a trial justice in and for said county, seized certain intoxicating liquors and the vessels

in which the same were contained, described as follows: ——” (here follows a description of the liquors,) “because the same were kept and deposited at ——” (describing the place) “in the said county of ——, and were intended for sale, in violation of law. Wherefore he prays for a decree of forfeiture of said liquors and vessels, according to the provisions of law in such case made and provided.

Dated at ——, in said county, this —— day of ——, in the year of our Lord nineteen hundred and ——.

(Signed.) —— ———.”

*Form of monition and notice.*

STATE OF MAINE.

“County of ——, ss.

[L. s.] To all persons interested in ——” (here insert the description of the liquors, as in the libel).

“The libel of C. D., hereunto annexed, this day filed with me, A. B., esquire, a trial justice, in and for said county, shows that he has seized said liquors and vessels, because” (insert as in the libel), “and prays for a decree of forfeiture of the same according to the provisions of law in such case made and provided.

You are, therefore, hereby notified thereof, that you may appear before me, the said justice, at ——, in said county, on the —— day of ——, 19—, and then and there show cause why said liquors and the vessels in which they are contained should not be declared forfeited.

Given under my hand and seal at ——, on the —— day of ——, in the year of our Lord nineteen hundred and ——.

—— ———, Trial Justice.”

*Form of complaint in case of seizure of automobile.*

STATE OF MAINE.

“——, ss.—To the Judge—Recorder—of our Municipal Court for the City of ——, in the County of ——:

A. B., of ——, in the said County, competent to be a witness in civil suits, on the —— day of ——, A. D., 19—, in behalf of said State, on oath complains, that he believes that on the —— day of —— in said year, at said ——, in said County, a certain automobile, hereinafter described, was knowingly used for the illegal transportation of intoxicating liquors and intoxicating liquors were kept and deposited by persons unknown —— of —— in said automobile, situated on —— Street, in said ——, in said County, near number —— on said street in said ——, and occupied by said persons unknown —— said persons unknown —— not being then and there authorized by law to transport liquors within said State, and said persons unknown —— not being then and there in possession of a permit therefor duly issued under authority conferred by provisions of the National Prohibition Act of October twenty-eight, nineteen hundred and nineteen, and amendments thereto providing for the enforcement of the Eighteenth amendment to the Constitution of the United States, and that the said liquors were then and there knowingly being transported within said State, in violation of law, against the peace of said State, and contrary to the form of the Statute in such case made and provided; and that the said liquors were then and there intended by said persons unknown —— for sale in viola-

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tion of law, against the peace of said State and contrary to the form of the Statute in such case made and provided.

And the said \_\_\_\_\_ on oath further complains that he, the said \_\_\_\_\_ at said \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, A. D., 19—, being then and there an officer, to wit, a Deputy Sheriff, within and for said County, duly qualified and authorized by law to seize automobiles used for the illegal transportation of intoxicating liquors and intoxicating liquors kept and deposited for unlawful sale and the vessels containing them, by virtue of a warrant therefor issued in conformity with the provisions of the law, did find upon the above described premises, one \_\_\_\_\_, bearing engine number \_\_\_\_\_, and the 19— license number plates numbered \_\_\_\_\_, which said automobile then and there contained \_\_\_\_\_, which said automobile was not then and there a common carrier, and which said automobile was not then and there engaged in the business of a common carrier; and which said automobile was then and there in the possession, care and control of the said \_\_\_\_\_ and which said automobile was then and there knowingly used by the said \_\_\_\_\_ for the illegal transportation of intoxicating liquors from place to place in said \_\_\_\_\_ with intent that the said intoxicating liquors should be sold in violation of law; and which intoxicating liquors as aforesaid, and the vessels containing the same, were then and there kept, deposited and intended for unlawful sale as aforesaid, and said automobile was then and there being used for the illegal transportation of said liquors as aforesaid, within said State by the said persons unknown, they not being in possession of such Federal license, and did then and there by virtue of this authority as a Deputy Sheriff as aforesaid, seize the above described automobile, intoxicating liquors and the vessels containing the same, to be kept in some safe place for a reasonable time, and hath since kept and does still keep said automobile, liquors and vessels to procure a warrant to seize the same.

He therefore prays, that due process be issued to seize said automobile, liquors and vessels, and them safely keep until final action and decision be had thereon, and that said persons unknown \_\_\_\_\_ be forthwith apprehended and held to answer to said complaint, and to do and receive such sentence as may be awarded against them.

On the \_\_\_\_\_ day of \_\_\_\_\_, the said \_\_\_\_\_ makes oath that the above complaint by him signed is true.

Before me, \_\_\_\_\_, Said Judge—Recorder.”

*Form of warrant in case of seizure of automobile.*

## STATE OF MAINE.

“\_\_\_\_\_, ss.—To the sheriff of our county of \_\_\_\_\_, or either of his deputies, or either of the constables or police officers of the City of \_\_\_\_\_, or of either of the towns within said county:

[L. s.]

In the name of said State you are commanded to seize the automobile, liquors and vessels containing the same, named in the foregoing complaint of the said \_\_\_\_\_ and now in his custody as set forth in said complaint, which is expressly referred to as a part of this warrant, and safely keep the same, until final action and decision be had thereon, and to apprehend the said persons unknown \_\_\_\_\_ forthwith, if they \_\_\_\_\_ may be found in your precinct, and them \_\_\_\_\_ bring before said court, holden at the municipal court room in said

——, to answer to said complaint, and to do and receive such sentence as may be awarded against them.

Witness, ——, ——, —— esquire, our said Judge—Recorder— at ——, aforesaid, this —— day of ——, A. D., 19—.

*Form of libel for automobile.*

STATE OF MAINE.

“——, ss.—To the Judge—Recorder of our municipal court for the City of ——, in the county of ——:

The libel of —— shows that he has by virtue of a warrant duly issued by the Judge—Recorder—of the municipal court for the City of ——, seized on the —— day of ——, A. D., 19—, a certain automobile, intoxicating liquors and the vessels in which the same were contained, described as follows:

One —— bearing engine number —— and the 19— license number plates numbered ——, which said automobile then and there contained ——, which said automobile was not then and there a common carrier, and which said automobile was not then and there engaged in the business of a common carrier; and which said automobile was then and there in the possession, care and control of the said ——, and which said automobile was then and there knowingly used by the said —— for the illegal transportation of intoxicating liquors from place to place in said ——, the said persons unknown not being then and there in possession of a permit therefor duly issued under authority conferred by provisions of the National Prohibition Act of October twenty-eighth, nineteen hundred and nineteen, and amendments thereto providing for the enforcement of the Eighteenth Amendment to the Constitution of the United States, and because the same were then and there kept, and deposited on the —— day of ——, A. D., 19—, on —— street, in said ——, in said county, near number —— on said street, in said ——, and because said automobile was being knowingly used for the illegal transportation of said liquors, without a permit as aforesaid, within the State in violation of law. Wherefore he prays for a decree of forfeiture of said automobile, liquors and vessels, according to the provisions of law in such case made and provided.

Dated at ——, in said county, the —— day of ——, A. D., 19—.

(Signed.) ——, Deputy Sheriff.”

*Form of monition and notice case of automobile.*

STATE OF MAINE.

“——, ss.

[L. s.] To all persons interested in the automobile, liquors and vessels described in the foregoing libel:

“The libel of —— hereunto annexed, this day filed with the Judge—Recorder—of our municipal court for the City of ——, in the county of ——, shows that he has seized said automobile, liquors and vessels because the same were used, kept and deposited as set forth in said libel, and said automobile was then and there knowingly used for the illegal transportation of intoxicating liquors, without a permit as aforesaid, and prays for a decree of forfeiture of the same, according to the provisions of law in such case made and provided.

You are, therefore, hereby notified thereof, that you may appear before said

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court, at the municipal court room, in said \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, A. D., 19—, at \_\_\_\_\_ o'clock, A. M. and then and there show cause why said automobile, liquors and vessels in which they are contained should not be declared forfeited.

Witness, \_\_\_\_\_, \_\_\_\_\_, Esquire, our said Judge—Recorder— at \_\_\_\_\_ aforesaid, this \_\_\_\_\_ day of \_\_\_\_\_, A. D., 19—.”

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## CHAPTER 138.

### Cheating by False Pretenses; Frauds, Conspiracies, Monopolies, and Profiteering.

Sections	1-18	False Pretenses and Frauds.
Section	19	Suppression of Wills.
Sections	20-23	Maritime Frauds.
Section	24	Burning Property for Insurance.
Sections	25-27	Conspiracies.
Sections	28-30	Monopolies.
Sections	31-34	Profiteering.

#### False Pretenses and Frauds.

**Sec. 1. Cheating by false pretenses, penalty. R. S. c. 128, § 1.** Whoever, designedly and by any false pretense 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, conveys, mortgages, or pledges to another, 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, is guilty of cheating by false pretenses and shall be punished by imprisonment for not more than seven years, or by fine not exceeding five hundred dollars.

See c. 43, § 7; 17 Me. 216; 24 Me. 77; 33 Me. 499; \* 64 Me. 157; 87 Me. 465; 98 Me. 286; 107 Me. 527; 116 Me. 332; \*117 Me. 254.

**Sec. 2. Uttering forged receipts of delivery or deposit of goods, bonds, or securities, penalty. R. S. c. 128, § 2.** Whoever fraudulently makes or utters a 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 for not less than one, nor more than ten years.

\*73 Me. 156.

**Sec. 3. False statements in writing for the purpose of obtaining credit, penalty. R. S. c. 128, § 3.** Whoever shall knowingly make or cause to be made, either directly or indirectly, or through any agency, whatsoever, any false statement in writing, by him signed, with intent that it shall be relied upon, respecting the financial condition, or means or ability to pay, of himself, or any other person, firm, or corporation, of which firm he is a member, or of which corpora-

tion he is an officer, or for which person, firm, or corporation he is acting, for the purpose of procuring in any form whatsoever, either the delivery of personal property, the payment of cash, the making of a loan or credit, the extension of a credit, the discount of an account receivable, or the making, acceptance, discount, sale, or indorsement of a bill of exchange, or promissory note, for the benefit of either himself, or of such person, firm or corporation; or, whoever knowing that any such false statement in writing has been so made and signed respecting the financial condition, or means or ability to pay, of himself, or such person, firm, or corporation, of which firm he is a member, or of which corporation he is an officer, or for which person, firm, or corporation he is acting, procures upon the faith thereof, for the benefit either of himself, or of such person, firm, or corporation, either or any of the things of benefit mentioned in the first sub-division of this section; or, whoever knowing that any such statement in writing has been so made and signed respecting the financial condition or means or ability to pay, of himself or such person, firm, or corporation, of which firm he is a member or of which corporation he is an officer, or for which person, firm, or corporation he is acting, represents on a later day in writing by him signed, that such statement theretofore made, if then again made on said day, would be then true, when in fact, said statement if then made would be false, and procures upon the faith thereof, for the benefit either of himself or of such person, firm, or corporation, either or any of the things of benefit mentioned in the first sub-division of this section, shall be guilty of a misdemeanor and shall be punished by a fine of not exceeding one thousand dollars or imprisonment for not more than one year.

116 Me. 332.

**Sec. 4. Parties to fraudulent conveyances, or assignments, penalty. R. S. c. 128, § 4.** 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 use, as genuine and made in good faith, shall be punished by fine not exceeding one thousand dollars, and imprisonment for less than one year.

61 Me. 365; 68 Me. 477; \*75 Me. 474.

**Sec. 5. Removal or concealment of mortgaged personal property, penalty. R. S. c. 128, § 5. 1921, c. 158.** Whoever with fraudulent intent to place mortgaged personal property, or property legally attached on original writ beyond the control of the mortgagee or the attaching officer, removes or conceals, or aids or abets in removing or concealing the same, and any mortgagor of such property, who assents to such removal or concealment, shall be punished by fine not exceeding one thousand dollars, or by imprisonment not exceeding one year.

**Sec. 6. Defrauding owner of garage; penalty; printed copy of this section to be posted in garage. R. S. c. 128, § 6.** Whoever puts an automobile in a public garage or other place where automobiles are stored for hire, and without having an express agreement for credit, procures supplies, accessories, or accommodation for himself or said automobile, and with intent to defraud the owner or keeper of said garage, removes or causes to be removed any such automobile from such garage without paying the reasonable charges due for repairs, supplies, accessories, and accommodation furnished thereon, shall be punished by imprisonment not exceeding three months or by fine not exceeding one hundred dollars. In order for the owner or keeper of such a garage to obtain the benefits of this section, a printed copy thereof must be posted in some conspicuous place in said garage.

**Sec. 7. Gross fraud at common law, penalty.** R. S. c. 128, § 7. Whoever is guilty of a gross fraud or cheat at common law shall be punished by imprisonment for not more than seven years, or by fine not exceeding one thousand dollars.

**Sec. 8. Procuring of money under false pretense of physical defects, penalty.** R. S. c. 128, § 8. Whoever engages in soliciting, procuring, or attempting to solicit or procure money or other thing of value, by falsely pretending and representing himself or herself to be deaf, dumb, blind, crippled, or physically defective, shall be punished by imprisonment for not more than ninety days.

**Sec. 9. Circulating advertisements in the similitude of bank-bills, penalty.** R. S. c. 128, § 9. Whoever puts in circulation or distributes any notice, advertisement or shop-bill, in the form and similitude of a bank-bill, forfeits fifty dollars for each offense, to be recovered by action of debt in the name and to the use of the prosecutor.

**Sec. 10. Unauthorized use of badge of G. A. R., or Sons of Veterans, penalty.** R. S. c. 128, § 10. 1921, c. 99. 1927, c. 6. Whoever wilfully wears the badge, button, or other insignia, of the Grand Army of the Republic, of the Sons of Union Veterans of the Civil War, of the United Spanish War Veterans, of the Veterans of Foreign Wars, or of the American Legion, or the official discharge button of the army, navy, or marine corps, or of any other military, naval, or patriotic organization legally incorporated, or uses or wears the same to obtain aid or assistance thereby within the state, unless he shall be entitled to use or wear the same under the rules and regulations respectively of the Department of Maine of the Grand Army of the Republic, of the Sons of Union Veterans of the Civil War, of the United Spanish War Veterans, of the Veterans of Foreign Wars, or of the American Legion, or under the regulations of the army, navy, or marine corps, or of any other military, naval, or patriotic organization legally incorporated, shall be punished by imprisonment for not more than thirty days, or by fine not exceeding twenty dollars, or by both such fine and imprisonment.

See c. 70, § 9.

**Sec. 11. Fraudulent issue of transfer tickets.** R. S. c. 128, § 11. Every conductor of a street railroad-car or other public conveyance, and every other person whose duty it is to collect fares on such car or conveyance, or issue a transfer ticket, or written or printed instrument, giving, or purporting to give, the right of transfer to another person or persons from a public conveyance operated upon one line or route of a street railroad, to a public conveyance upon another line or route of a street railroad, or from one car to another car upon the same line of a street railroad, who shall knowingly and with intent to defraud the person or corporation operating such public conveyance or car, issue, sell, or give any such transfer ticket or instrument to another person not lawfully entitled thereto, or receive, use, or return any such transfer ticket or instrument unlawfully issued or presented for fare in lieu of a regular cash fare, or substitute any such transfer ticket or instrument for any cash fare collected by him; and every person who shall fraudulently and with intent to evade the payment of fare receive and use or offer for passage any transfer ticket or instrument not originally issued to him; and every person who shall sell or give any such transfer ticket or instrument originally issued to him, to another person with intent to have such transfer ticket or instrument used or offered for passage by such other person, shall be fined not more than fifty dollars, or imprisoned not more than thirty days, or both.

**Sec. 12. Tampering with fare box or fare register of street railway company**

or depositing mutilated coins therein with intent to defraud; penalty. 1921, c. 121. Whoever, with intent to defraud, opens, defaces, or in any way tampers with any fare box or fare register of any street railway company, or in any way disarranges the mechanism thereof; and whoever, with intent to defraud, deposits, causes to be deposited, or furnishes to another person with intent that same shall be deposited in such fare box or register any coin which has been, or may hereafter be, coined at the mints of the United States, or any foreign coin, of a sort that is in actual use or circulation as money within this state, knowing that said coin has been defaced, mutilated, or altered in shape in such fashion that it will not be properly registered in such fare box or register, shall be punished by imprisonment for not more than sixty days, and by fine of not less than twenty-five nor more than one hundred dollars. Whoever, with intent to defraud, procures, or has in his possession any such coin so defaced, mutilated, or altered in shape knowing that said coin is so defaced, mutilated, or altered in shape and with intent to deposit such coin, or cause same to be deposited, in any fare box or fare register of any street railway company, or with intent to furnish same to any third person with intent that same shall be deposited in such fare box or register, shall be punished by imprisonment for not more than sixty days and by fine of not less than twenty-five nor more than one hundred dollars.

**Sec. 13. Issuing a fraudulent check, penalty.** 1917, c. 95, § 1. 1923, c. 7, § 1. Any person individually or as an officer of a corporation or member of a partnership or firm, who, with intent to defraud, makes or draws, or utters or delivers, any check, draft or order, in the name of the individual or in the name of any corporation or partnership, or under any name whatsoever for the payment of money, upon any bank or other depository, knowing at the time of such making, drawing, uttering, or delivering, that the maker, or drawer, has not sufficient funds in, or credit with, such bank or other depository, for the payment of such check, draft, or order, in full, upon its presentation, such person shall be guilty of a misdemeanor, and punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or both fine and imprisonment.

**Sec. 14. Prima facie evidence to defraud unless payment is made within five days.** R. S. c. 128, § 13. 1917, c. 95, § 2. 1923, c. 7, § 2. 1925, c. 84. As against the maker or drawer thereof, or as against the person signing a check, draft, or order for or in behalf of a corporation or partnership, or against a person signing a corporation, firm, or business name by him, the making, drawing, uttering, or delivery of a check, draft, or order, payment of which is refused by the drawee for lack of sufficient funds, shall be prima facie evidence of intent to defraud and of knowledge of insufficient funds in, or credit with, such bank or other depository, provided such maker or drawer shall have procured some benefit or induced some person or persons to surrender some legal right, money, or other valuable thing by reason of said check, draft, or order, and provided further that such maker or drawer shall not have paid the drawee or holder thereof the amount due thereon, together with all costs and protest fees, within five days after receiving notice that such check, draft, or order has not been paid by the drawee.

<sup>115 Me. 373.</sup>

**Sec. 15. Term "credit" defined.** 1917, c. 95, § 3. The word "credit" as used in the two preceding sections, shall be construed to mean an arrangement or understanding with the bank or depository, for the payment of such check, draft, or order.

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**Sec. 16. Securing false registration, etc., of domestic animals, penalty. R. S. c. 128, § 14.** Whoever by any false pretense, obtains from any club, association, society, or company for improving the breed of cattle, horses, sheep, swine, or other domestic animals, the registration of any animal in the herd register or other register of any such club, association, society, or company, or a transfer of any such registration, and whoever knowingly exhibits, makes, or gives a false pedigree of any animal, shall be punished by imprisonment for not more than ninety days, or by fine not exceeding three hundred dollars, or by both such fine and imprisonment.

See c. 39, § 26.

**Sec. 17. Entering for premiums any horse that has been disguised, etc., penalty. R. S. c. 128, § 15.** Whoever, for the purpose of competing for purses or premiums, knowingly and designedly enters or drives any horse that shall have been painted or disguised, or that represents any other or different horse from the one which is purported to be entered, or shall knowingly and designedly, for the purpose of competing for premiums or purses, enter or drive a horse in a class to which it does not properly belong, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding six months, and such horse, after such notice to the owner as the court may order, and a hearing thereon, may be forfeited in the discretion of the court and sold; one-half of the net proceeds of such sale shall go to the informant and the other half to the county in which the offense is committed. The pecuniary penalty shall be enforced by indictment and the forfeiture by a libel filed by the informant and proceedings in the manner provided in chapter one hundred and eleven.

**Sec. 18. Standard for sale of sterling and coin silver, false representation, penalty. R. S. c. 128, § 16.** Whoever makes or sells, or offers to sell or dispose of, or has in his possession with intent to sell or dispose of, any article of merchandise marked, stamped or branded with the words "sterling," "sterling silver," "coin" or "coin silver," or encased or enclosed in any box, package, cover, or wrapper or other thing in or by which the said article is packed, enclosed, or otherwise prepared for sale or disposition, having thereon any engraving or printed label, stamp, imprint, mark, or trade-mark, indicating or denoting by such marking, stamping, branding, engraving, or printing that such article is silver, sterling silver, solid silver, coin, or coin silver, shall, unless nine hundred and twenty-five one-thousandths of the component parts of the metal of which the said article so enclosed or so marked, stamped or branded with the words "silver," "sterling silver" or "solid silver," is manufactured are pure silver, or unless nine hundred one-thousandths of the component parts of the metal of which the article so enclosed or so marked, stamped, or branded with the words "coin" or "coin silver" is manufactured are pure silver, be punished by fine not exceeding one hundred dollars for each offense. Municipal and police courts and trial justices shall have original jurisdiction in all cases arising under this section.

### Suppression of Wills.

**Sec. 19. Suppression of last wills and testaments, penalty. R. S. c. 128, § 17.** Whoever wilfully 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 provided in section four.

**Maritime Frauds.**

**Sec. 20. Fraudulent destruction of vessels, and fitting them out for that purpose, penalty.** R. S. c. 128, § 18. Whoever, in any county, wilfully casts away, burns, sinks, or otherwise destroys a vessel, 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 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 for not more than twenty years, or by fine not exceeding five thousand dollars.

**Sec. 21. Making false invoices, bills of lading, or false estimates of property shipped, penalty.** R. S. c. 128, § 19. If an owner of a vessel, or of 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 such property, with intent to injure or defraud any insurer of such vessel or property, he shall be punished by imprisonment for not more than ten years, or by fine not exceeding five thousand dollars.

**Sec. 22. False affidavits and protests by master, officer, mariner, or owner of vessel or cargo, penalty.** R. S. c. 128, § 20. 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 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 for not more than ten years, or by fine not exceeding five thousand dollars.

**Sec. 23. Aiding sailors to desert, penalty.** R. S. c. 128, § 21. Whoever entices or persuades or attempts to entice or persuade, or aids, assists, or attempts to aid or assist a member of the crew of any vessel arriving in or about to sail from a port in this state to leave or desert such vessel before the expiration of his term of service therein, shall forfeit a sum not exceeding one hundred dollars for each offense and be punished by imprisonment for not more than six months nor less than thirty days. Municipal and police courts and trial justices shall have original jurisdiction in all cases arising under this section.

**Burning Property for the Insurance.**

**Sec. 24. Persons burning their own property to defraud insurers, penalty.** R. S. c. 128, § 22. If an 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, wilfully burns the same or causes it to be burned, with intent to defraud the insurer, he shall be punished by imprisonment for not less than one, nor more than twenty years.

117 Me. 474.

**Conspiracies.**

**Sec. 25. Conspiracies to prosecute an innocent person, penalty.** R. S. c. 128, § 23. If 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 offense of which he is innocent, whether he is prosecuted or not, they are guilty of a conspiracy, and each shall be punished

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by imprisonment for not more than five years, or by fine not exceeding one thousand dollars.

\*81 Me. 256.

**Sec. 26. Conspiracies in other cases, penalty.** R. S. c. 128, § 24. 1923, c. 98. If 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 for one or more of them to sell intoxicating liquor in this state in violation of law to one or more of the others; or to do any illegal act injurious to the public trade, health, morals, police, or administration of public justice; or to commit a crime punishable by imprisonment in the state prison, they are guilty of a conspiracy, and every such offender, and every person convicted of conspiracy at common law, shall be punished by imprisonment for not more than three years, or by fine not exceeding one thousand dollars.

15 Me. 102; 30 Me. 134; 31 Me. 388, 400; 34 Me. 321; 48 Me. 235; 64 Me. 370;  
121 Me. 368; 123 Me. 318.

**Sec. 27. Preventing by threats, any person from entering or leaving employment, penalty.** R. S. c. 128, § 25. Any employer, employee, or other person, who by threats of injury, intimidation or force, alone or in combination with others, prevents any person from entering into, continuing in, or leaving the employment of any person, firm, or corporation, shall be punished by imprisonment for not more than two years, or by fine not exceeding five hundred dollars.

### Monopolies.

**Sec. 28. Contracts in restraint of trade declared illegal; penalty.** R. S. c. 128, § 26. Every contract, combination in the form of trusts or otherwise, or conspiracy, in restraint of trade or commerce in this state is hereby declared to be illegal. Whoever shall make any such contract or engage in any such combination or conspiracy shall be punished by a fine not exceeding one thousand dollars or by imprisonment not exceeding six months, or by both such fine and imprisonment, in the discretion of the court.

See c. 55, § 56.

**Sec. 29. Conspiring to monopolize trade, penalty.** R. S. c. 128, § 27. Whoever shall monopolize or attempt to monopolize or combine or conspire with any other person or persons to monopolize any part of the trade or commerce of this state shall be punished upon conviction thereof by a fine not exceeding one thousand dollars or by imprisonment not exceeding six months or by both such fine and imprisonment in the discretion of the court.

**Sec. 30. Persons injured by violation may recover damages.** R. S. c. 128, § 28. Whoever shall be injured in his business or property by any other person or corporation by reason of anything forbidden or declared to be unlawful by the two preceding sections may sue therefor in an action on the case and shall recover three times the damages by him sustained.

### Profiteering.

**Sec. 31. Penalty prescribed for profiteering in the necessities of life; term "necessities of life" defined.** 1919, c. 256, § 1. 1921, c. 76, § 1. Any dealer, trader, manufacturer, or warehouseman who with intent to enhance the price or restrict the supply of the necessities of life wilfully destroys or permits preventable waste in the production, manufacture, storage, or distribution of the same, or, with such intent, prevents, limits, lessens, or restricts the manu-

facture, production, supply, or distribution of said necessities or hoards said necessities, or enters into any contract, combination, or conspiracy in restraint of trade or commerce, or exacts or demands any unjust or unreasonable profit in the sale, exchange, or handling of the said necessities, or unreasonably discriminates against any person in the sale of such necessities, or in any way aids or abets the doing of any act hereinbefore mentioned, shall be punished by fine not exceeding one thousand dollars or imprisonment for not more than three years, or by both such fine and imprisonment.

The term "necessities of life" shall include food for human consumption, food for domestic animals, wearing apparel, shoes, building materials, gas and electricity for light, heat, and power, ice, fuel of all kinds, fertilizer and fertilizer ingredients, together with tools, utensils, implements, machinery and equipment required for the actual production or manufacture of the same.

**Sec. 32. Profiteering in rents, penalty.** 1919, c. 256, § 2. Whoever demands or collects an unreasonable or unjust rent or charge, taking into due consideration the actual market value of the property at the time, with a fair return thereon, or imposes an unreasonable or unjust term or condition, for the occupancy of any building or any part thereof, rented or hired for dwelling purposes, shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.

**Sec. 33. Attorney general to investigate.** 1919, c. 256, § 3. 1921, c. 76, § 2. The attorney general upon his own initiative or upon petition of fifty or more citizens of this state shall investigate all seeming violations of sections thirty-one to thirty-four inclusive, all contracts, combinations, or conspiracies in restraint or trade or commerce and all monopolies, and may require, by summons, the attendance and testimony of witnesses and the production of books and papers before him relating to any such matter under investigation. Such summons shall be served in the same manner as summons for witnesses in criminal cases before said courts and all provisions of law relating thereto shall apply to summonses issued under this section so far as they are applicable. All investigations or hearings thereunder or connected therewith to which witnesses are summoned or called upon to testify or to produce books, records, or correspondence, shall be public and shall be held in the county wherein the act to be investigated is alleged to have been committed, or if the investigation is on petition it shall be held in the county where the petitioners reside. The expense of such investigation shall be paid from the appropriation provided by section seventy-two of chapter ninety.

If upon investigation, it appears to the attorney general that the laws of this state, including the provisions of sections thirty-one to thirty-four, inclusive, have been violated in any respect, he shall forthwith prosecute the guilty parties, and present all available information bearing upon such violation to the proper prosecuting officer of the United States.

Any justice of the supreme judicial court or of a superior court may by order, upon application of the attorney general, compel the attendance of witnesses, the production of books and papers, including correspondence, and the giving of testimony, before the attorney general in the same manner and to the same extent as before said courts; and any failure to obey such order may be punished by such court as a contempt thereof.

**Sec. 34. Invalidation of any part of sections thirty-one to thirty-four not to invalidate entire sections.** 1919, c. 256, § 4. If any clause, sentence, para-

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graph, or part of sections thirty-one to thirty-four, inclusive, shall be adjudged by any court of competent jurisdiction to be invalid, no other provision of said sections shall be impaired or held invalid in consequence thereof.

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## CHAPTER 139.

### Malicious Mischiefs and Trespases.

**Sec. 1. Maliciously killing or injuring domestic animals, penalty. R. S. c. 129, § 1.** Whoever wilfully or maliciously kills, wounds, maims, disfigures, or poisons any domestic animal, or dog, or exposes any poisonous substance with intent that the life of such animal or dog shall be destroyed thereby, or steals or entices away or confines or harbors such animal for the purpose of obtaining a reward or for any other illegal purpose, shall be punished by imprisonment for not more than four years or by fine of not less than twenty, and not exceeding five hundred dollars.

See c. 23, § 18; \*75 Me. 563; 114 Me. 443.

**Sec. 2. Unlawful taking of saddled or harnessed horse, penalty. R. S. c. 129, § 2.** Whoever unlawfully, wilfully, and with intent to injure the owner, takes away any horse, saddled or harnessed, or attached to a vehicle, and standing in any highway or other place, shall be punished by fine not exceeding one hundred dollars, or imprisonment in jail for not more than three months.

**Sec. 3. Unlawful taking and use of boats, vehicles, or draft animals, penalty; limitation. R. S. c. 129, § 3.** Whoever in any other case, wilfully 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 thereof; or whoever hires with intent to and does so use or drive any horse, ox, or other draft animal in excess of any contract made with the owner or keeper thereof, shall be punished by fine not exceeding three hundred dollars, or by imprisonment 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, or 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.

**Sec. 4. Injuries to public property, particularly to water systems, penalty. R. S. c. 129, § 4. 1917, c. 128.** Whoever knowingly and wilfully destroys or injures any public building, armory, breast work, trench, fortification, wharf, pier, or dock or whoever knowingly and wilfully destroys or injures any property, conduit, pipe line, reservoir, structure, or apparatus used in supplying water to the public or to any portion thereof, shall be punished by a fine not exceeding five thousand dollars or by imprisonment for any term of years.

See c. 69, § 10.

Note. Obviously a war measure. Could be modified.

**Sec. 5. Unlawful diversion of water, penalty. R. S. c. 129, § 5.** Whoever unlawfully and intentionally taps or interferes with the water-pipes or fixtures belonging to any water company, or to any city, town or water district, or pipes lawfully connected therewith, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than one year or by both such fine and imprisonment.

See § 11.

**Sec. 6. Wilful, wanton, or malicious injuries to ice, penalty. R. S. c. 129, § 6.** Whoever wilfully and wantonly or maliciously cuts, injures, mars, or otherwise destroys or damages ice upon any waters from which ice is or may be taken as an article of merchandise, whereby the taking thereof is hindered or the value of the same is diminished for that purpose; or whoever wilfully and wantonly or maliciously incites or procures another to do so, shall be punished by fine not exceeding five hundred dollars, or by imprisonment not exceeding one year; and it is not necessary to allege or prove the title or ownership of the ice so cut, injured, marred, damaged, or destroyed.

**Sec. 7. Wilful or malicious injury to property of any railroad, penalty. R. S. c. 129, § 7.** Whoever wilfully, mischievously, or maliciously breaks the seal upon any freight-car, or breaks and enters any railroad-car on any railroad in the state, or destroys, injures, defiles, or defaces any railroad-car on any railroad in the state, or mischievously or maliciously releases the brakes upon, moves, or sets in motion any railroad-car on the track or side-track of any railroad in the state, shall be punished by imprisonment not exceeding two years, or by fine not exceeding five hundred dollars, and shall also be liable to the corporation 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 deems reasonable.

\*III Me. 553.

**Sec. 8. Removal of waste from journal-boxes of cars, etc., penalty. R. S. c. 129, § 8.** Whoever wilfully and maliciously takes or removes the waste or packing from a journal-box or boxes of a locomotive, engine, tender, carriage, coach, car, caboose, or truck used or operated upon a railroad, whether operated by steam or electricity, shall be punished by imprisonment for not more than three years, or by fine of not more than five hundred dollars.

**Sec. 9. Destruction or removal of transit points, etc., penalty, R. S. c. 129, § 9.** Whoever wilfully or maliciously disturbs, removes, or destroys any transit point, reference point, stake, plug, hub, guard-stake, bench-mark, or other monument of any railroad, highway, or other engineering location or survey, shall be punished by a fine not exceeding twenty-five dollars, or by imprisonment for not exceeding thirty days; and in addition thereto shall be liable in an action of debt for the amount of damage done.

**Sec. 10. Injuries to dams, canals, mill machinery, ponds, engines, and electrical fixtures; obstruction of bridges and ways, penalty. R. S. c. 129, § 10. 1917, c. 127. 1923, c. 18.** Whoever wilfully or maliciously injures, removes, or destroys any dam, reservoir, fishway, fish screen, canal, trench, or their appurtenances, or the gear or machinery of a mill or manufactory; draws off the water from a mill pond, canal, or trench; destroys or injures any engine or its apparatus for the extinguishment of fire, or any posts, glass caps, wires, or other material used in the construction and operation of a telegraph, telephone, electric light, or electric power line; 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 persons or property passing thereon, shall be punished by imprisonment for any term of years or by fine not exceeding ten thousand dollars.

See c. 25, § 35; 30 Me. 183; 40 Me. 594; \*105 Me. 56.

See note § 4.

**Sec. 11. Injury to, or interference with apparatus used in furnishing gas or electricity; penalty. R. S. c. 129, § 11.** Whoever unlawfully and intentionally injures or destroys or suffers to be injured or destroyed any meter, pipe, conduit, wire, line, pole, lamp, or other apparatus belonging to an individual, copartnership, or corporation engaged in the manufacture or sale of gas or electricity for lighting

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purposes or power purposes, or belonging to any water company, or unlawfully and intentionally prevents an electric, water, or gas meter from duly registering the quantity of electricity, water, or gas supplied, or in any way interferes with its proper action or just registration, or without the consent of such individual, copartnership, or corporation unlawfully and intentionally diverts any electric current from any wire of such individual, copartnership, or corporation, or otherwise unlawfully and intentionally uses or causes to be used without the consent of such individual, copartnership, or corporation any electricity manufactured or distributed by such individual, copartnership, or corporation, or unlawfully and intentionally and without the consent of such company taps or interferes with the pipes or fixtures of any gas company, shall for every such offense be punished by a fine of not more than one hundred dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment.

See § 5.

**Sec. 12. Injuring, or interfering with telegraph or telephone lines, etc., penalty.** R. S. c. 129, § 12. Whoever unlawfully and intentionally injures, molests, or destroys any insulator, wire, post, cross-arm, bracket, or other structure or mechanism which forms part of, or is used in connection with an electrical transmission line constructed and maintained for the transmission of intelligence, heat, light, or power by electricity, or destroys or in any way interferes with the proper working of such transmission line, or anything pertaining thereto, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.

**Sec. 13. Injuries to logs intended for manufacture, penalty.** R. S. c. 129, § 13. Whoever wilfully or maliciously drives or causes to be driven into any log or logs intended to be sawed or manufactured, any nail, spike, bolt, or other article such as is likely to cause injury to or destruction of any saw or instrument used in the manufacture of such logs, or endanger the life or person of any one engaged in such manufacture, shall be punished by fine of not less than one hundred, nor more than five hundred dollars, and imprisonment for not less than one, nor more than five years; and shall also be liable to any person injured in an action on the case for double the damages sustained by such person.

**Sec. 14. Injuring or cutting loose booms, rafts, vessels, or boats, penalty; civil action for double damages.** R. S. c. 129, § 14. Whoever wilfully or maliciously, without consent of the owner, cuts away, lets loose, injures, or destroys any boom, raft of logs, or other lumber, or any vessel, gondola, scow, or other boat, fastened to any place of which he is not the owner or legal possessor, shall be punished by fine not exceeding five hundred dollars, and imprisonment for 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.

124 Me. 344.

**Sec. 15. Mooring vessels or rafts to buoys or beacons, and for destroying them, penalty.** R. S. c. 129, § 15. Whoever moors a vessel, boat, scow, or raft, to any buoy or beacon, placed by the United States in any of the navigable waters of the state, or in any manner makes the same fast thereto, forfeits fifty dollars; and whoever wilfully destroys any such buoy or beacon, shall forfeit one hundred dollars and be imprisoned for three months. Said forfeitures may be recovered by complaint or action of debt; half to the plaintiff or informer, and half to the county in which the trial is had.

**Sec. 16. Trespass upon lands appurtenant to certain state institutions, penalty.** R. S. c. 129, § 16. 1921, c. 92. Whoever wilfully trespasses upon lands which belong to the state and are appurtenant to the Maine school for feeble-

mind, reformatory for women, reformatory for men, state school for girls, or state school for boys, or whoever shall unlawfully interfere with the inmates of either of said institutions, or after notice from an officer of said institutions to leave said lands, remains thereon, shall be punished by imprisonment for not more than three months or by a fine of not more than fifty dollars.

**Sec. 17. Malicious injuries to trees, fences, gates, or produce, penalty. R. S. c. 129, § 17.** Whoever wilfully and wantonly or 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 for less than one year, and by fine not exceeding one hundred dollars.

See c. 108, § 9; 3 Me. 178; 5 Me. 409; 37 Me. 331; 60 Me. 410; \*78 Me. 31.

**Sec. 18. Advertising on fences, rocks, etc., penalty. R. S. c. 129, § 18.** Whoever advertises his wares or occupation by painting notices of the same on, or affixing them to fences or other private property, or to rocks or other natural objects, without the consent of the owner in writing, or if in the highway or any other public place, without the consent of the municipal officers in writing, shall be punished for each offense by a fine of not less than five dollars, nor more than twenty dollars.

**Sec. 19. Advertising signs on highways prohibited; signs approved by state highway commission for safeguarding travel, excepted. 1925, c. 188, § 1. 1927, c. 160.** No person shall post, erect, display, or maintain or cause to be posted, erected, displayed, or maintained any sign, bill-board, panel, placard, poster, notice, or other advertising device, in, upon, or above any public highway or so situated with respect to any public highway as to obstruct clear vision of an intersecting highway or highways or otherwise so situated as to prevent the safe use of the public highway; and such public highway shall be deemed the full width of the road as laid out by the county or the town.

Provided, that the provisions hereof shall not apply to the state or to any political subdivision thereof or to signs erected or maintained with the approval of the state highway commission solely for the purpose of safeguarding, facilitating, or protecting travel along the highway; and provided further that the state highway commission may order the placing of directional signs of such design as it shall determine, not exceeding twenty inches in length and six inches in width to designate places of interest; to be posted without expense to the state at the junction of roads in the town where the place is located and in adjoining towns.

**Sec. 20. Penalty for violation of § 19; jurisdiction of offenses; state highway police to remove signs. 1925, c. 188, § 2.** Any person found guilty of violating the provisions of the preceding section shall be punished by a fine of not less than five dollars nor more than five hundred dollars; and whoever after conviction of such violation unlawfully maintains any such sign, billboard, panel, placard, poster, notice, or other advertising device for ten days after such conviction may be punished by a further fine of not more than fifty dollars for each day upon which such sign, billboard, panel, placard, poster, notice, or other advertising device is maintained. Municipal courts and trial justices shall have jurisdiction to punish offenses under said section. The state highway police shall remove all signs, billboards, panels, placards, posters, notices, or other advertising devices existing within the limits of the highway in violation hereof.

**Sec. 21. Trespasses on improved lands, penalty. R. S. c. 129, § 19. 1917, c. 105.** Whoever wilfully commits any trespass, or knowingly authorizes or

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employs another to do so, by entering the garden, orchard, pasture, cranberry ground, improved blueberry ground, arboretum, botanic garden, or improved land, of another, with intent to take, carry away, destroy, or injure trees, shrubs, plants, flowers, grain, grass, hay, fruit, vegetables, turf, or soil thereon, shall be punished by fine not exceeding one hundred dollars, and imprisonment for not more than ninety days.

See c. 108, § 11.

**Sec. 22. Wilfully entering or passing over the land of another after being forbidden, is trespass; penalty.** R. S. c. 129, § 20. Whoever wilfully enters on or passes over the garden, orchard, mowing land, or other enclosed or cultivated land of another, between the first days of April and December, 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, is guilty of trespass, and shall be punished by fine not exceeding twenty dollars, and section twenty four applies to violations of this section.

**Sec. 23. Injuries to fruit gardens, penalty.** R. S. c. 129, § 21. Whoever enters an orchard, fruit garden, vineyard, or any field or enclosure, kept for the purpose of cultivating any domestic fruit therein, without consent of the owner or occupant, and with intent to take, injure, or destroy anything there growing; and whoever wilfully cuts down, injures, or destroys any tree, shrub, or vine, within any of the places before named, or injures any building, trellis, framework, or appurtenance belonging to or upon any of said places, shall be punished by a fine of twenty dollars and costs, and imprisonment for not less than thirty days, and in default of payment of said fine and costs, shall be further imprisoned at the rate of two days for each dollar of said fine and costs.

See c. 108, § 11.

**Sec. 24. Arrest of offenders.** R. S. c. 129, § 22. The owner of such place, or any person employed in its cultivation, or rightfully in the possession thereof, may arrest any person found violating the preceding section, and carry him before any magistrate within the county where the arrest is made.

**Sec. 25. Trespass on timber, or wood standing, etc., penalty.** R. S. c. 129, § 23. Whoever, except a road commissioner acting within the scope of his lawful authority, wilfully commits any trespass by cutting, destroying, or carrying away timber or wood, on the land of another; by digging up, taking, and carrying away therefrom earth, stone, grass, corn, grain, fruit, hay, or other vegetables, or by carrying away from any wharf or landing place goods in which he has no interest, shall be punished by imprisonment for not more than two months, and by fine not exceeding fifty dollars.

5 Me. 409.

**Sec. 26. Malicious injuries to monuments, landmarks, guide-boards, lamps, penalty.** R. S. c. 129, § 24. Whoever wilfully and wantonly or 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 milestone or guide-board erected on a 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 for less than one year, and by fine not exceeding one hundred dollars.

**Sec. 27. Malicious injury to buildings, fixtures, goods, or valuable papers, penalty.** R. S. c. 129, § 25. Whoever wilfully and wantonly or 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 imprisonment for 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 deems reasonable.

<sup>12 Me. 215; 21 Me. 345; 30 Me. 477, 485; 33 Me. 147, 362; \*66 Me. 64.</sup>

**Sec. 28. Wanton injury to books, pictures, and statues, penalty. R. S. c. 129, § 26.** Whoever wantonly mars, defaces, or injures a book, picture, statue, or painting, belonging to any public library, or library of any association open to the public, or to any literary or educational institution, or any statue erected in any public park or square, or upon any ground open to the public, shall be punished by imprisonment for not more than three months, or by a fine not exceeding fifty dollars.

**Sec. 29. False alarm of fire, penalty. R. S. c. 129, § 27.** Whoever knowingly and wilfully gives or causes to be given a false alarm of fire in any city, town, or village corporation maintaining an organized fire department, shall upon conviction thereof be punished by a fine of not more than fifty dollars. Judges of municipal and police courts and trial justices shall have jurisdiction of all prosecutions under this section.

<sup>See c. 129, § 22.</sup>

**Sec. 30. Placing obstructions on any traveled road, penalty. R. S. c. 129, § 28.** Whoever places rocks, stones or other obstructions, in a traveled road, and leaves them there, shall be fined one dollar for each offense, to be recovered on complaint, to the use of the town where the offense is committed.

**Sec. 31. Dumping waste material in public ways, penalty. R. S. c. 129, § 29.** Whoever deposits or dumps refuse or waste material of any kind, within the limits of any public way, except upon written authority of the municipal officers, shall be punished by a fine not exceeding ten dollars, to be recovered to the use of the town where the offense is committed.

**Sec. 32. Riding with a naked scythe, penalty. R. S. c. 129, § 30.** Whoever rides in the highways or in any lanes, streets, or alleys with a naked scythe, sharpened and hung in a snath, forfeits two dollars for each offense.

**Sec. 33. Certain pageantry in streets in the night; bonfires in streets and towns, penalty. R. S. c. 129, § 31.** If three or more persons, between sunset and sunrise, assemble in any street or lane in a town and have any imagery or pageantry for a public show, whether armed or disguised, or requiring or receiving money, or other valuable things or not, on account thereof; and if any person sets fire to a pile of combustible stuff, or is concerned in making or causing a bonfire in any street, lane, or other part of the town within ten rods of any building, all such offenders shall forfeit eight dollars, or be imprisoned not more than one month for each offense.

**Sec. 34. Limitations of prosecutions, and jurisdiction of offenses. R. S. c. 129, § 32.** Prosecutions for offenses hereinbefore described, except those set forth in sections one, ten, eleven, twelve and fourteen, must be commenced within four years after the commission thereof; and trial justices, and municipal and police courts, shall have jurisdiction when the property destroyed or injury done, is not alleged to exceed ten dollars in value, in which case the punishment shall be by fine not exceeding ten dollars and imprisonment for not more than thirty days, unless otherwise specially provided.

<sup>See c. 49, § 94.</sup>

**Transportation of Baggage and Wilful Injury Thereof.**

**Sec. 35. Wilful destruction of, or injury to baggage; penalty.** R. S. c. 129, § 33. Any baggage-master, express agent, stage driver, hackman, or other person whose duty it is to handle, remove, or take care of trunks, valises, boxes, packages, or parcels, whether in the employment of a railroad, steamboat, or stage company or not, who, while loading, transporting, unloading, delivering, or storing such property wantonly or recklessly injures or destroys the same, shall be punished by imprisonment for less than one year or by fine not exceeding one hundred dollars; and such offenders may be prosecuted by the owner of property so destroyed or injured, or by his authorized agent, within one year from the day of the offense, half of the fine to be paid to such owner, and half to the county in which the offense was committed.

**Sec. 36. Jurisdiction of offenses.** R. S. c. 129, § 34. Trial justices, and municipal and police courts, have jurisdiction of offenses described in the preceding section, when the property destroyed or injury done is not alleged to exceed twenty dollars.

**Wearing of Spiked Boots.**

**Sec. 37. Wearing of spiked boots and shoes in public places, forbidden.** R. S. c. 129, § 35. No person wearing boots or shoes with spikes or calks in the sole or heel thereof shall enter any public building, hotel, railroad station, railroad-car, or steamboat, without special permission from the owner, lessee, person in charge thereof, or some officer, agent, or servant of either of them, or having entered, shall remain therein after having been requested to leave such public building, hotel, railroad station, railroad-car, or steamboat, by the owner, lessee, person in charge thereof, or some officer, agent, or servant of either of them.

**Sec. 38. Penalty for violation of § 37.** R. S. c. 129, § 36. Whoever violates either of the provisions of the preceding section shall, on complaint and conviction, be fined not less than one, nor more than ten dollars, but a person having entered as aforesaid without permission and remaining after having been requested to leave as above provided, shall only be convicted of violating one of the provisions of section thirty-seven.

**Sec. 39. Printed copies of §§ 37 to 40 must be posted in public places.** R. S. c. 129, § 37. No person shall be convicted of any offense under section thirty-seven unless a printed copy of sections thirty-seven to forty, inclusive shall have been posted in a conspicuous place in the public building, hotel, railroad station, railroad-car, or steamboat where said offense is committed, for at least thirty days prior to the commission of said offense, and is also posted at the time of said offense.

**Sec. 40. Penalty for destroying notices.** R. S. c. 129, § 38. Whoever wilfully destroys, defaces, or tears down any such printed copy posted under the preceding section, shall forfeit not less than one, nor more than ten dollars to be recovered on complaint.

Note. Malicious injury to the structure of meridian lines, c. 52, § 42; to toll-gate or toll-bridge, c. 30, § 19.

## CHAPTER 140.

**Offenses Against the Public Health, Safety and Policy.**

Sections 1-14	Unwholesome Provisions and Drinks.
Section 15	Expectoration in Public Places.
Sections 16-17	Fireworks.
Sections 18-20	Lotteries.
Sections 21-23	Candy and Cigarettes.
Sections 24-33	Tramps.
Section 34	Regulation of Radio Waves.

**Unwholesome Provisions and Drinks.**

**Sec. 1. Corrupting water used for domestic or other uses, penalty. R. S. c. 130, § 1. 1917, c. 126.** Whoever knowingly and wilfully poisons, defiles, or in any way corrupts the waters of any well, spring, brook, lake, pond, river, or reservoir, used for domestic purposes for man or beast, or knowingly corrupts the sources of any public water supply, or the tributaries of said sources of supply in such manner as to affect the purity of the water so supplied, or knowingly defiles such water in any manner, whether the same be frozen or not, or puts the carcass of any dead animal or other offensive material in said waters, or upon the ice thereof, shall be punished by a fine not exceeding five thousand dollars, or by imprisonment for any term of years.

\*118 Me. 13.

**Sec. 2. Holding any diseased meat or milk, for human food, penalty. R. S. c. 130, § 2.** Whoever, having charge of any animal, or meat or milk of any animal affected with tuberculosis or other contagious or infectious disease, knowing that the animal is thus affected, shall hold the animal, or its meat or milk, for human food, shall be punished by a fine of not less than five, nor more than fifty dollars.

**Sec. 3. Sale of impure or adulterated milk or cream; penalty; standard milk; skimmed milk excepted. R. S. c. 130, § 3.** Whoever by himself, clerk, servant, or agent, sells, exchanges, or delivers, or has in his custody or possession with intent to sell, exchange or deliver, or exposes or offers for sale or exchange milk which is not of good standard quality, adulterated milk or milk to which water or any foreign substance has been added, or milk produced from sick or diseased cows, or milk in or from cans or other utensils that are not in a clean or sanitary condition, or as pure milk, milk from which the cream or a part thereof has been removed; and whoever by himself, clerk, servant, or agent, sells, exchanges, or delivers, or has in his custody with intent to sell, exchange, or deliver, cream containing less than eighteen per cent of milk fat, shall for the first offense be punished by a fine not exceeding fifty dollars, for a second offense by a fine of not less than fifty, nor more than one hundred dollars and for a subsequent offense by a fine of one hundred dollars and by imprisonment for not less than thirty, nor more than sixty days. And in prosecutions hereunder milk, which upon analysis is shown to contain less than eleven and seventy-five hundredths per cent of milk solids or less than three and twenty-five hundredths per cent of fat shall not be considered milk of good standard

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quality. Nothing in this section shall be construed to prohibit the sale of skimmed milk as such.

**Sec. 4. Sale of unwholesome provisions or drinks; killing for sale, or selling meat of calves killed when less than four weeks old, penalty; meat to be seized and destroyed.** R. S. c. 130, § 4. Whoever sells diseased, corrupted or unwholesome provision for food or drink, knowing it to be such, 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 for not more than five years, or by fine not exceeding one thousand dollars; and whoever kills or causes to be killed for the purpose of sale, any calf less than four weeks old, or knowingly sells, or has in possession with intent to sell for food, the meat of any calf killed when less than four weeks old, shall be punished by imprisonment in the jail or house of correction, not exceeding thirty days, or by fine not exceeding fifty dollars; and all such meat exposed for sale, or kept with intent to sell, may be seized and destroyed by any board of health or health officer, or any sheriff, deputy sheriff, constable, or police officer.

**Sec. 5. Warrants may be issued to search for such veal.** R. S. c. 130, § 5. When complaint is made on oath to any court or justice authorized to issue warrants in criminal cases, that meat of calves killed when less than four weeks old, is kept or concealed with intent to sell the same for purposes of food, such magistrate, when satisfied that there is reasonable cause for such belief, may issue a warrant to search therefor.

**Sec. 6. Imitations of butter or cheese not to be manufactured or sold.** R. S. c. 130, § 6. 1927, c. 119. No person shall manufacture, sell, expose for sale or have in his possession with intent to sell, or take orders for the future delivery of any article, substance or compound made in imitation of yellow butter or cheese, and not made exclusively and wholly of cream or milk, or containing any fats, oil or grease not produced from milk or cream, whether said articles, substance, or compound be named oleomargarine, butterine, or otherwise named. Nor shall any person, firm or corporation sell, expose for sale, or have in his possession with intent to sell oleomargarine unless the original package in which the same is shipped or conveyed from place of manufacture shall have the word "oleomargarine" in letters three-quarters inch high and of proportionate width plainly printed or stencilled on the top or side thereof and unless each carton or wrapper containing said oleomargarine and in which such oleomargarine is sold or kept for sale shall have the word "oleomargarine" printed on two principal display panels in plain Gothic letters not less than twenty point type. When said oleomargarine is sold from a tub or box or other container in which it is kept for sale in bulk, said oleomargarine must be wrapped in wrappers plainly stamped or printed on the outside thereof with the word "oleomargarine" in plain Gothic letters not less than twenty point size, and shall also contain the name and address of the seller thereof and the quantity sold. For the purpose of this section any article, substance or compound manufactured from animal fats or oils, vegetable oils, or from compounds or mixtures of animal fats or oils and vegetable oils which has been churned in cream, milk, or water or bathed in a solution of brine, shall be considered oleomargarine. Nor shall any person, firm, or corporation within this state use in any way in connection or association with the sale, or exposure for sale or advertisement of any oleomargarine or any substance designed to be used as a substitute for butter, the word "butter," "creamery," "dairy," or the name or representation of any breed of dairy cattle, or any combination of such word or words and representation,

or any other words or symbols or combinations thereof commonly used in the sale of butter.

**Sec. 7. Oleomargarine. R. S. c. 130, § 7. 1925, c. 156.** No person shall by himself, his clerk, servant, or agent, furnish oleomargarine or any other substitute instead of butter in any hotel, restaurant, boarding house, lunch room, or lunch cart to a guest or patron thereof without notifying said guest or patron that the substance so furnished is not butter by placing on the walls of said hotel, restaurant, boarding house, lunch room or lunch cart where oleomargarine or other substitute is served, a white placard on which is printed in black ink, in plain roman letters of not less than three inches in length and not less than two inches in width the words "Oleomargarine sold or used here," or the name of substitute displayed on the placard instead of the word oleomargarine, such placard to be displayed at all times exposed in such conspicuous place as to be readily seen by any and all persons entering such hotel dining room, restaurant, boarding house, lunch room, or lunch cart, where oleomargarine or other substitutes, is served.

**Sec. 8. Imitations not to be sold. R. S. c. 130, § 8.** No person shall sell or offer for sale to any person who asks, sends, or inquires for butter or cheese, any substance or compound made in imitation of butter or cheese.

**Sec. 9. Renovated butter to be labelled as such. R. S. c. 130, § 9.** No person shall sell, offer or expose for sale any renovated butter, unless the words "renovated butter" shall be conspicuously and plainly stamped, labeled or marked, so that said words cannot be easily defaced, upon the top and side of every tub, firkin, box, or package containing said article or compound. The seller at retail of said article or compound, which is not in the original package, shall attach to each package so sold and deliver therewith to the purchaser a label or wrapper bearing in a conspicuous place upon the outside of the package the words "renovated butter."

**Sec. 10. Penalty for violation of four preceding sections. R. S. c. 130, § 10.** Whoever violates any provision of the four preceding sections shall be punished for the first offense by a fine not exceeding one hundred dollars and for the second offense by a fine not exceeding two hundred dollars.

See c. 41, § 23.

**Sec. 11. Duty of officers to make complaints; suspected articles to be analyzed. R. S. c. 130, § 11.** Every inspector of milk, sheriff, deputy sheriff, or constable shall institute complaint for violations of sections six to nine, both inclusive, whenever he has reasonable cause for suspicion, and on the information of any person who shall lay before him satisfactory evidence of the same. Said inspector or officer shall take specimens of suspected butter or cheese and cause the same to be analyzed or otherwise satisfactorily tested. The expense of such analysis or test, not exceeding twenty dollars in any one case, may be included in the costs of prosecution, and taxed and allowed to the officer paying the same.

**Sec. 12. Butter and cheese, defined. R. S. c. 130, § 12.** For the purposes of this chapter, the terms "butter" and "cheese," mean the products usually known by those names, and which are manufactured exclusively from milk or cream, or both, with salt and rennet, and with or without coloring matter.

**Sec. 13. Swelling of scallop meats prohibited, penalty; jurisdiction. R. S. c. 130, § 14.** No person shall swell, or expand scallop meats, by the use of fresh water, baking-soda, or by any other artificial means. Whoever violates this section shall be punished by a fine of five dollars for each gallon of scallops

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so treated. Municipal and police courts and trial justices shall have jurisdiction of prosecutions for offenses under this section.

**Sec. 14. Bread offered for sale to be enclosed in sanitary wrapper; penalty; jurisdiction. 1921, c. 133.** No person, firm, or corporation shall distribute, transport, or sell for distribution or transportation any bread, in loaf form, which is not properly enclosed in a sanitary wrapper. Any person, firm, or corporation who violates any provision of this section shall be punished by a fine of not more than one hundred dollars for the first offense and by a fine of not more than two hundred dollars for each subsequent offense. Municipal and police courts and trial justices all have jurisdiction of the above offenses.

**Expectoration in Public Places.**

**Sec. 15. Spitting in public places, prohibited; penalty. R. S. c. 130, § 15.** No person shall expectorate or spit on any public sidewalk, or public street crossing, or cross walk, or, except in receptacles provided for the purpose, upon the floor in any city or town hall, in any court-house or court-room, in any factory, in any public library or museum, in any church or theatre, in any lecture or music-hall, in any ferryboat or steamboat, in any railroad-car, except a smoking-car, in any street or interurban railroad-car, in any railroad station, or waiting-room or any sidewalk or platform connected therewith. Whoever violates this section shall be punished by a fine of not more than twenty dollars.

**Fireworks.**

**Sec. 16. Sale of fireworks without license, penalty. R. S. c. 130, § 16.** Whoever sells, or offers for sale, crackers, squibs, rockets, or other fireworks, in any town, without the license of the municipal officers thereof, shall be fined not exceeding ten dollars, to the use of such town.

**Sec. 17. Toy pistols, sale of, prohibited. R. S. c. 130, § 17.** Whoever has in his possession a toy pistol for the explosion of percussion caps or blank cartridges, with intention to sell it, or sells or offers to sell or give it away, shall be fined not less than five, nor more than one hundred dollars, and shall be liable for all damages resulting from such selling, or giving away, to be recovered in an action on the case.

**Lotteries.**

**Sec. 18. Lotteries and schemes of chance of all kinds, prohibited; penalty; printing of tickets, prima facie evidence. R. S. c. 130, § 18. 1921, c. 29.** Every lottery, policy, policy lottery, policy shop, 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 whoever is concerned therein, directly or indirectly, by making, writing, printing, advertising, purchasing, receiving, selling, offering for sale, giving away, disposing of, or having in possession with intent to sell or dispose of, any ticket, certificate, share or interest therein, slip, bill, token or other device purporting or designed to guarantee or assure to any person or to entitle any person to a chance of drawing or obtaining any prize or thing of value to be drawn in any lottery, policy, policy lottery, policy shop, scheme or device of chance of whatever name or description; by printing, publishing or circulating the same, or any handbill, advertisement or notice thereof, or by knowingly suffering the 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 ten, nor more than one thousand dollars, to be recovered by complaint or indictment to the use of the county, and he may 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 fifteen of chapter one hundred and thirty-six, excepting that all personal property used for prizes in any such lottery or device of chance shall be ordered forfeited and turned over to an officer to be sold by him and the proceeds paid into the treasury of the county where seized. The printing, advertising, issuing, or delivery of any ticket, paper, document, or material representing or purporting to represent the existence of, or an interest in a lottery, policy lottery, game, or hazard, shall be prima facie evidence of the existence, location and drawing of such lottery, policy lottery, game, or hazard, and the issuing or delivery of any such paper, ticket, document, or material shall be prima facie evidence of value received therefor by the person or persons, company or corporation who issues or delivers or knowingly aids or abets in the issuing or delivering of such paper, ticket, document, or material.

7 Me. 502; 15 Me. 123; 78 Me. 73; \*82 Me. 319; 85 Me. 238; 99 Me. 70, \*488;  
\*117 Me. 102; \*117 Me. 163.

**Sec. 19. Attorney general may have injunction to restrain any lottery. R. S. c. 130, § 19.** When it appears to the attorney-general that any person has formed or published such a lottery, or taken any measures for that purpose; or is engaged in selling or otherwise distributing tickets, certificates, shares, or interests therein, whether such lottery 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 further proceedings therein; and if 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, necessary to restrain and suppress 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 expenses, as the court deems reasonable.

**Sec. 20. Payments and securities for lotteries are void, and may be recovered back. R. S. c. 130, § 20.** 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, are received without consideration and against law and equity, and may be recovered back.

82 Me. 319.

### Candy and Cigarettes.

**Sec. 21. Sale of adulterated candy and brandy drops, penalty. R. S. c. 130, § 21.** Whoever, by himself, his servant, or as agent of any other person or corporation, manufactures for sale, or knowingly sells or offers for sale any candy adulterated by the admixture of terra alba, barytes, talc, or any other mineral or metallic substance, or by poisonous colors or flavors, or containing

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brandy, whiskey, rum, wine, or any alcoholic liquor in liquid form or other ingredients deleterious or detrimental to health, or offers for sale any candy under the name of brandy, whiskey, rum, or wine drops, shall be punished by a fine of not less than fifty, nor more than one hundred dollars. The candy so adulterated shall be forfeited and destroyed under the direction of the court. County attorneys shall prosecute all complaints under this section, in all the courts in their respective counties.

**Sec. 22. Penalty for offering prize candy for sale; liability to summary arrest.** R. S. c. 130, § 22. Whoever sells or offers for sale, prize candy in packages containing or purporting to contain a prize or gift, shall, for each offense be punished by imprisonment in any jail or house of correction not exceeding thirty days, or by fine not exceeding twenty dollars, and if discovered in the commission of such offense in any railroad-car, steamboat, public conveyance, or other place, by any officer qualified to serve criminal process, he may be arrested by such officer and detained by imprisonment or otherwise not exceeding twenty-four hours, until a complaint has been made and a warrant issued against him.

**Sec. 23. Sale of cigarettes to minors; penalty; jurisdiction.** R. S. c. 130, § 23. Whoever by himself, clerk, servant, or agent, directly or indirectly, sells, offers for sale, has in his possession with intent to sell, or gives away to, or in any way obtains for any person under the age of twenty-one years, any cigarette, cigarette paper, so called, or tobacco such as is used for making any cigarette, shall be punished by a fine not exceeding fifty dollars or by imprisonment not exceeding sixty days. Trial justices and municipal and police courts shall have jurisdiction of offenses under this section.

See c. 129, § 38.

## Tramps.

**Sec. 24. Begging, etc., evidence of being a tramp; refusing to labor, penalty; jurisdiction.** R. S. c. 130, § 24. Whoever goes about from town to town, or from place to place in any town, asking for food or shelter or begging or subsisting upon charity shall be deemed a tramp and be imprisoned in the county jail for not less than thirty days nor more than ten months, at hard labor for ten hours each day, Sundays excepted. And should any person so sentenced refuse to labor in accordance with the provisions of this section, he shall be provided with no food, except bread and water, until he shall consent to labor in conformity with the requirements of this section. Trial justices and judges of municipal and police courts, shall have jurisdiction of all offenses arising under this section.

**Sec. 25. Tramps entering dwelling, kindling fire in highway, etc., without leave, penalty.** R. S. c. 130, § 25. If a tramp enters a dwelling-house, or kindles a fire in the highway, or on the land of another without the consent of the owner or occupant, or is found carrying any firearm or other dangerous weapon, or threatens to do 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 for not more than two years.

119 Me. 546.

**Sec. 26. Malicious injury to person or property, penalty.** R. S. c. 130, § 26. If a tramp wilfully and maliciously does 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 for not more than five years.

**Sec. 27. State prison sentences for less than a year.** R. S. c. 130, § 27. Any court imposing any punishment provided by either of the three preceding sec-

tions may, at its discretion, sentence to the state prison for a term less than one year.

**Sec. 28. Arrest by any citizen; exceptions. R. S. c. 130, § 28.** Any person, upon view of an offense described in sections twenty-four to thirty, inclusive, of this chapter, 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.

**Sec. 29. Non-resident tramps sleeping or lodging in barns, etc., without permission; penalty; arrest and detention. R. S. c. 130, § 29.** If any tramp, not resident in the state, sleeps or lodges in any barn or other outbuilding without consent of the owner or occupant, he shall be fined 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 offense, and not less than six months for every subsequent offense. A non-resident committing any act of beggary or vagrancy shall be deemed a tramp, and may be arrested by any officer and detained not exceeding twenty-four hours until a warrant, issued on complaint of some resident of the state, can be obtained.

**Sec. 30. Fees of officers; when costs to be paid by the state. R. S. c. 130, § 30.** The fees of officers and magistrates under the preceding section shall be the same as in case of common vagrants, except that the 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 shall be paid by the state, upon the order of the county commissioners, out of the state pauper fund; provided, that the governor and council are satisfied that the person confined is a tramp, having no pauper settlement in the state.

See c. 32, § 25.

**Sec. 31. Vagrant, tramp or beggar, refusing to leave a dwelling-house on request, penalty. R. S. c. 130, § 31.** If any public vagrant, tramp, beggar, or other person who goes about from place to place asking or subsisting upon charity, or without means of support, having entered a dwelling-house, remains therein to the terror or fright of any of its occupants, or refuses or neglects, on request, to depart, he shall be punished by imprisonment and labor not exceeding thirty days in any jail, work-house, house of correction or at any town farm or almshouse in the town in which the offense was committed, and by fine not exceeding ten dollars, and in default of payment he shall be imprisoned for an additional thirty days.

**Sec. 32. Such convict may be required to labor; keeper may be appointed; convict is entitled to the net profits of his labor. R. S. c. 130, § 32.** The keeper of the jail, workhouse, house of correction, or in case of a sentence to any town farm or almshouse, the overseers of the poor of such town, or the keeper or agent of such town farm or almshouse, may require such convict to labor at any lawful work within the town where such institution is situated, and may appoint any suitable person keeper over him, and may collect and receive the wages, compensation or profits of his labor, and at the expiration of such sentence pay to the convict such reasonable compensation, as in their judgment the profits of his labor will warrant, deducting therefrom, the costs of commitment and any fine imposed under the preceding section.

**Sec. 33. Special constables. R. S. c. 130, § 33.** Mayors and selectmen shall appoint special constables to arrest and prosecute all tramps in their respective municipalities.

**Regulation of Radio Waves.**

**Sec. 34. Regulation of radio waves; penalty for disturbing reception. 1927, c. 215.** It shall be unlawful to use within the state of Maine any radio receiving set which radiates radio waves, between two hundred and five hundred and fifty meters wave length, thereby causing interference with the reception of any other radio receiving set unless said radiating set shall be rebuilt or re-designed to prevent said radiation. Whoever knowingly, maliciously, or wantonly by any means unreasonably disturbs the reception of radio waves used for radiotelephony, between two hundred and five hundred and fifty meters wave length, shall be punished by a fine of not less than ten dollars and not more than fifty dollars to be recovered by complaint in any municipal or police court or before any trial justice.

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**CHAPTER 141.**

**Libels.**

**Sec. 1. Definition of a libel and of a publication. R. S. c. 131, § 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 libeled, is a publication.

32 Me. 533; 72 Me. 21; \*89 Me. 293; 112 Me. 502.

**Sec. 2. Penalty for libel. R. S. c. 131, § 2.** Whoever makes, composes, dictates, writes, or prints a libel; directs or procures it to be done; wilfully publishes or circulates it, or knowingly and wilfully aids in doing either, shall be punished by imprisonment for less than one year, and by fine not exceeding one thousand dollars.

66 Me. 327; 112 Me. 502.

**Sec. 3. Responsibility for libels printed or published. R. S. c. 131, § 3.** Whoever manages or controls the business of a printing-office, book-store, 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, is responsible for any libel printed or published therein, unless he proves 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.

**Sec. 4. Punishment for securing the publication of any false or libelous statement. R. S. c. 131, § 4.** Whoever wilfully and maliciously states, delivers, or transmits by any means whatever to the manager, editor, publisher, or reporter of any newspaper, magazine, publication, periodical, or serial, for publication therein, any false or libelous statement concerning any person or corporation, and thereby secures the actual publication of the same, shall, upon conviction thereof, be punished by fine not exceeding five hundred dollars, or by imprisonment not exceeding one year, or by both fine and imprisonment.

**Sec. 5. How far the truth of a publication is a justification. R. S. c. 131,**

§ 5. 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.

**Sec. 6. Jury to judge law and fact. R. S. c. 131, § 6.** In all indictments for libel, the jury after receiving the direction of the court, may determine at their discretion, the law and the fact.

See Const. Me., Art. I, § 4; 18 Me. 348; \*53 Me. 342; \*62 Me. 510; 89 Me. 293.

**Sec. 7. Publishing lists of debtors prohibited. R. S. c. 131, § 7.** No person, firm or corporation, shall publicly advertise for sale in any manner whatever, or for any other purpose whatever, any list or lists of debts, dues, accounts, demands, notes, or judgments, containing the names of any or all of the persons who owe the same. Any such public advertisement containing the name of but one person who owes as aforesaid, shall be construed as a list within the meaning of this section. Any person, firm, or corporation, violating the provisions of this section shall be liable in an action of debt to a penalty not exceeding one hundred, and not less than twenty-five dollars, to each and every person, severally and not jointly, whose name appears in any such list.

<sup>102 Me. 132.</sup>

**Sec. 8. Sec. 7 does not apply to executors, etc., or officials. R. S. c. 131, § 8.** The provisions of the preceding section shall not apply to executors, administrators, guardians, trustees, trustees in bankruptcy, assignees in insolvency, sheriffs, deputy sheriffs, constables, collectors of taxes, town treasurers, or any other officials whose official duties require them to publish any such list or lists.

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## CHAPTER 142.

### Proceedings for Prevention of Crime.

**Sec. 1. Security to keep the peace may be required. R. S. c. 132, § 1.** Any such magistrate, on complaint that any person threatens to commit an offense 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 that there is just cause to fear the commission of such offense, 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 section nine of chapter one hundred forty-four.

**Sec. 2. On complaint that an offense is threatened, proceedings. R. S. c. 132, § 2.** The justices of the supreme judicial and superior courts, and judges of municipal and police courts, in vacation or in court, and trial justices in their counties, 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.

See c. 147, § 9.

**Sec. 3. Accused may be ordered to find sureties to keep the peace, and to pay costs. R. S. c. 132, § 3.** When the accused is brought before the magistrate

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and his defense is heard, he may be ordered to recognize, with sufficient sureties, in the sum required by the magistrate, to keep the peace toward all persons, and especially toward 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 offense requiring it.

<sup>10</sup> Me. 332; 96 Me. 567.

**Sec. 4. If he complies, he shall be discharged; otherwise, he shall be committed.** R. S. c. 132, § 4. If the accused complies with such order, he shall be discharged; if he does not, he shall be committed to jail for the time for which he was required to find sureties, or until 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 or superior court in said county, and such court shall have cognizance of the case, as if the accused had appealed thereto.

**Sec. 5. Proceedings, if complaint is not sustained; if frivolous or malicious, proceedings.** R. S. c. 132, § 5. If the magistrate, on examination of the facts, is not satisfied that there is just cause to fear the commission of any offense, he shall immediately discharge the accused; and if he judges the complaint to be unfounded, frivolous, or malicious, he may order the complainant to pay the costs of prosecution, who shall thereupon be answerable to the magistrate, officer, and witnesses for their fees as for his own debt.

**Sec. 6. Appeal and proceedings thereon.** R. S. c. 132, § 6. Any person aggrieved by the order of such magistrate requiring him thus to recognize, may on giving the security required, appeal to the next supreme judicial or superior court in the 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 it deems reasonable.

**Sec. 7. Consequences, if appellant fails to prosecute.** R. S. c. 132, § 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 shall stand as security for any costs which he is ordered by the court to pay.

**Sec. 8. Recognizance after commitment.** R. S. c. 132, § 8. A person committed for not recognizing as aforesaid may be discharged by a justice of the supreme judicial court or a bail commissioner, on giving the security required.

**Sec. 9. When magistrate on view, may require sureties without a formal complaint.** R. S. c. 132, § 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 to 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.

**Sec. 10. Persons going armed, without reasonable cause.** R. S. c. 132, § 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.

**Sec. 11. Recognizance to be returned to court, which may remit penalty.** R. S. c. 132, § 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 be 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 it thinks proper.

**Sec. 12. Sureties on recognizances may surrender their principals; new recognizances.** R. S. c. 132, § 12. Any surety in such recognizance may surrender the principal the same as bail in civil cases, and he shall thereupon be discharged from 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.

**Sec. 13. Threatening display of firearms or weapons.** 1917, c. 217, § 1. No person shall in a threatening manner display any firearm, slung-shot, knuckles, bowie knife, dirk, stiletto, or other dangerous or deadly weapon, nor shall wear under his clothes or concealed about his person any such firearm, slung-shot, knuckles, bowie knife, dirk, stiletto, or other dangerous or deadly weapon unless first licensed so to do in the following manner.

**Sec. 14. Municipal officers may issue license.** 1917, c. 217, § 2. The chief of police or city marshal or in his absence, either of his captains of police of any city or the selectmen of any town, may upon written application issue to any person of good moral character, a certificate setting forth that such person has complied with the requirements of this law and that he has been duly licensed to carry such weapon or weapons. Said license shall continue in effect until revoked by the chief of police or by the selectmen of the town in which said license was issued.

**Sec. 15. Exceptions.** 1917, c. 217, § 3. Nothing in the foregoing section shall be construed as prohibiting the carrying or wearing of such weapons by United States marshals, sheriffs and their deputies, constables, and police officers and other officers duly commissioned by the commissioners of inland fisheries and game.

**Sec. 16. Penalty for violation.** 1917, c. 217, § 4. 1919, c. 63. Whoever violates the provisions of this law shall be fined not more than one hundred dollars or confined in the county jail for a period not exceeding ninety days.

#### Private Detectives.

**Sec. 17. Detectives, license of the governor; unlawful to advertise as state detective; penalty.** R. S. c. 132, § 13. 1917, c. 200. The governor, with the advice of the council, may license not exceeding thirty-five licensed detectives for the detection, prevention, and punishment of crime, to serve for the term of four years, unless such license is sooner revoked for cause. Each person so licensed shall give bond in the sum of five hundred dollars, with two sureties, approved by the governor and council, conditioned for the proper discharge of the services which he may perform by virtue of such license; but nothing herein contained shall be construed to confer on any person so licensed, any of the power and authority of sheriffs or police officers, except in cases of felonies and offenses under chapter one hundred and thirty and the first fifteen sections of chapter one hundred thirty-six. No person so licensed shall advertise or represent himself as a state detective, under penalty of the forfeiture of his license and a fine not to exceed twenty dollars, to be recovered upon complaint.

**Sec. 18. Authority to arrest for offenses.** R. S. c. 13, § 14. Private detec-

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tives, licensed as aforesaid, shall have the same authority to arrest in cases of offenses under chapters one hundred and thirty and the first fifteen sections of chapter one hundred and thirty-six, and of felonies in any part of the state, and shall receive the same fees, as sheriffs within their respective counties in similar cases. No extra compensation shall be paid to them in any case from the state or county treasury.

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## CHAPTER 143.

### Jurisdiction of Offenses and General Provisions Relating Thereto.

- Sections 1- 7 Jurisdiction of Crimes.  
 Sections 8- 9 Accessories.  
 Section 10 Attempts to Commit Offenses.  
 Sections 11-17 General Provisions.

#### Jurisdiction of Crimes.

**Sec. 1. Jurisdiction of the supreme judicial and superior courts.** R. S. c. 133, § 1. In the counties of Cumberland, Kennebec, Androscoggin, and Penobscot, the superior court, and in other counties the supreme judicial court has original jurisdiction, exclusive or concurrent, of all offenses except those of which the original exclusive jurisdiction is conferred by law on municipal and police courts and trial justices, and appellate jurisdiction of these.

\*72 Me. 468; \*73 Me. 281; \*112 Me. 248.  
 See c. 90, §§ 2, 52, 84, 88, 93, 97.

**Sec. 2. Offenses committed near the boundary of two counties.** R. S. c. 133, § 2. When an offense is committed on the boundary between two counties or within one hundred rods thereof; or a mortal wound or other violence or injury is inflicted, or poison is administered, in one county, whereby death ensues in another, the offense may be alleged in the complaint or indictment as committed, and may be tried, in either.

\*84 Me. 461; \*85 Me. 193; 119 Me. 541.

**Sec. 3. County lines terminating at or in tide-waters; course.** R. S. c. 133, § 3. The lines of the several counties of the state which terminate at or in tide-waters shall run by the principal channel in such directions as to include, within the counties to which they belong, the several islands in said waters, and after so including such islands shall run in the shortest and most direct line to the extreme limit of the waters under the jurisdiction of this state, and all waters between such lines off the shores of the respective counties shall be a part of, and held to be within such counties, respectively.

**Sec. 4. Warrants for offenses at or in tide-waters; authority of officers.** R. S. c. 133, § 4. Any official authorized to issue warrants within any county, may issue warrants for offenses committed in or upon the waters so made a part of such county, or the waters of any adjoining county; and said warrant shall be returnable in the county where issued, and the courts in such county shall have jurisdiction of the offense. Officers have the same authority upon all such waters as they have upon land within the county where the warrant is issued.

**Sec. 5. Death within the state, from an injury inflicted without the state.** R. S. c. 133, § 5. If a mortal wound or other violence or injury is inflicted, or poison administered, on the high seas or without the state, whereby death ensues within the state, such offense may be tried in the county where the death ensues;

and if such act is done within and death ensues without the state, the offense may be tried in the county where the act was done, as if death had there ensued.

\*76 Me. 334.

**Sec. 6. Acquittal of part of an indictment, and conviction of the residue. R. S. c. 133, § 6.** When a person, indicted for an offense, is acquitted of a part by verdict of the jury, and found guilty of the residue thereof, such verdict may be received and recorded by the court; and he may be considered as convicted of the offense, if any, which is substantially charged by such residue, and be punished accordingly, although such offense would not otherwise be within the jurisdiction of said court.

39 Me. 68, 70; \*87 Me. 78.

**Sec. 7. Trial of an accessory, before or after the fact. R. S. c. 133, § 7.** Every accessory, before or after the fact, may be tried in the county having jurisdiction of the principal offense, although the accessory offense was committed on the high seas or without the state; and if the principal offense was committed in one county and the accessory offense in another, the latter may be tried in either.

**Sec. 8. Accessory before the fact; punishment; conviction with or without principal. R. S. c. 133, § 8.** Whoever aids in the commission of a felony, or is accessory thereto before the fact, by counseling, hiring or otherwise procuring the same, shall be punished in the manner prescribed for the punishment of the principal felon; and such accessory, when a felony is committed within or without the state by his procurement in the state, may be indicted and convicted as an accessory with the principal, or after his conviction; or he may be indicted for and convicted of a substantive felony, whether the principal is convicted or is amenable to justice or not, and shall be punished as aforesaid. Whoever is accessory after the fact to a felony, may be indicted, tried, and sentenced, whether his principal has or has not been convicted.

29 Me. 86; 39 Me. 68; 68 Me. 546.

**Sec. 9. Who are accessories after the fact. R. S. c. 133, § 9.** Every person, not standing in the relation of husband or wife, parent or child, to the principal offender, who harbors, conceals, maintains, or assists any principal felon or accessory before the fact, knowing him to be such, with intent that he may escape detection, arrest, trial, or punishment, is an accessory after the fact, and shall be punished by imprisonment for not more than seven years, and by fine not exceeding one thousand dollars; but in no case shall such punishment exceed the punishment to which the principal felon on conviction would be liable.

92 Me. 73.

#### Attempts to Commit Offenses.

**Sec. 10. Attempt with an overt act to commit an offense, how punishable. R. S. c. 133, § 10.** Whoever attempts to commit an offense, and does anything towards it, but fails, or is interrupted, or is prevented in its execution, where no punishment is expressly provided for such attempt, shall, if the offense thus attempted is punishable with imprisonment for life, be imprisoned for not less than one, nor more than ten years; and in all other cases, he shall receive the same kind of punishment that might have been inflicted, if the offense attempted had been committed, but not exceeding one-half thereof.

32 Me. 599; 70 Me. 198; \*99 Me. 331; \*101 Me. 517.

**General Provisions.**

**Sec. 11. Definition of "felony". R. S. c. 133, § 11.** The term "felony," includes every offense punishable by imprisonment in the state prison.

<sup>29</sup> Me. 86; <sup>32</sup> Me. 373; <sup>33</sup> Me. 57; <sup>48</sup> Me. 236; \*<sup>69</sup> Me. 182; \*<sup>99</sup> Me. 334; <sup>116</sup> Me. 421; <sup>117</sup> Me. 336; <sup>121</sup> Me. 96; <sup>123</sup> Me. 414.

**Sec. 12. Of "owner" of property, as used in an indictment. R. S. c. 133, § 12.** In an offense in any way relating to real or personal estate, it is sufficient and not a variance, if it is proved at the trial that, when the offense was committed, the actual or constructive possession of, or the general or special property in the whole of such estate or in any part thereof, was in the person or community alleged in the indictment to be the owner thereof.

\*<sup>119</sup> Me. 146.

**Sec. 13. Unimportant variance between written or printed matter in evidence, is not material; process, except for infamous crime, may be amended in matters of substance. R. S. c. 133, § 13. 1927, c. 133.** No variance between any matter in writing or in print, produced in evidence on the trial of a criminal cause, and the recital or setting forth thereof in the complaint, indictment, or other criminal process whereon trial is had, is material, provided, that the identity of the instrument is evident, and the purport thereof is sufficiently described to prevent prejudice to the defendant; and any criminal process may be amended, in matters of form, at any time before final judgment. Any complaint, indictment, or other criminal process for any offense, except for a capital or infamous crime, may be amended in matters of substance, provided the nature of the charge is not thereby changed.

**Sec. 14. General allegation of intent to defraud, is sufficient. R. S. c. 133, § 14.** When an intent to defraud is necessary to constitute an offense, it is sufficient to allege generally in the indictment an intent to defraud; and if there appears on trial an intent to defraud the United States, any state, county, town, person, or corporation, it is sufficient.

**Sec. 15. Complaints and indictments not to be quashed for technicalities; nor for unimportant defect in venires. R. S. c. 133, § 15.** No indictment or complaint shall be quashed, or adjudged bad, nor shall the proceedings or judgment thereon be arrested, reversed, or affected by reason of the omission or misstatement of the title, occupation, estate, or degree of the accused; of the name of the city, town, plantation, or county, of his residence, or of the words "feloniously," "force and arms," "against the peace," or "contrary to the form of the statute;" if such omission or misstatement does not tend to his prejudice; nor by reason of any defect, want of form, or irregularity in the venires for grand or traverse jurors, or in the issuing or return of the same, or in the drawing or summoning of grand or traverse jurors, unless it appears to the court that the respondent has been or may be injured thereby.

<sup>15</sup> Me. 124, 477; <sup>67</sup> Me. 336; <sup>69</sup> Me. 182; <sup>82</sup> Me. 342; <sup>87</sup> Me. 81.

**Sec. 16. Fines and forfeitures may be recovered by indictment. R. S. c. 133, § 16.** All fines and forfeitures, imposed as punishment for offenses or for violations or neglects of statute duties, may, when no other mode is expressly provided, be recovered by indictment; and when no other appropriation is expressly made, they inure to the county where the offense is prosecuted.

<sup>59</sup> Me. 191.

**Sec. 17. Limitation of prosecutions. R. S. c. 133, § 17.** When no other limitation is provided, no indictment for any offense, except treason, murder, arson, or manslaughter, shall be found after six years from the commission thereof; but any time, during which the offender is not usually and publicly resident in the state, shall not be a part of said six years.

See c. 127, § 3; c. 137, § 25; c. 139, § 24.

## CHAPTER 144.

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

- Sections 1- 2 Appointment of Municipal and Police Judges.  
 Sections 3-10 Criminal Jurisdiction of Magistrates.  
 Sections 11-13 Summonses for Witnesses, and Their Fees.  
 Sections 14-17 Search Warrants.  
 Sections 18-21 Appeals from Magistrates.  
 Sections 22-25 Provisions Relating to the Fees of Magistrates.

**Appointment of Municipal and Police Judges.**

**Sec. 1. Appointment of police and municipal and police judges; salaries; all fees to be paid over.** R. S. c. 134, § 1. Judges of municipal and police courts shall be appointed and shall hold their offices as provided in the constitution. Their salaries, unless established by law, shall be fixed by the municipal officers of their towns, and paid quarterly from the treasuries thereof, and shall not be diminished during their continuance in office; and all fees received by them shall be paid quarterly into said treasuries, except when their compensation is fixed by law, by the allowance to them in whole or in part, of the fees accruing in their courts. All fees of such courts paid to the jailer after commitment, shall be paid over by him, quarterly, into said treasuries.

See Constitution Me. Art. vi, § 8.

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

**Sec. 3. Magistrates may administer oaths; magistrates may require aid.** R. S. c. 134, § 2. Judges of municipal and police courts, clerks of courts, trial justices and justices of the peace; *also women, otherwise eligible under the constitution, appointed by the governor with the advice and consent of the council* may administer all oaths required by law, unless another officer is specially required to do it. Upon view of an affray, riot, assault, or battery, within their county, such judges and justices may, without warrant, command the assistance of any sheriff, deputy sheriff, constable, or person present to repress the same, and to arrest all concerned therein.

See \*104 Me. 354.

**Sec. 4. Jurisdiction of larcenies, when the value does not exceed ten dollars.** R. S. c. 134, § 3. Such judges and trial justices have jurisdiction of the offenses described in sections one, six, seven, eight, ten, and twelve of chapter one hundred thirty-one, when the value of the property is not alleged to exceed ten dollars; they may punish for the first offense by fine not exceeding ten dollars, and by imprisonment for not more than two months; and on a second conviction, by fine not exceeding twenty dollars, and by imprisonment for not more than six months.

<sup>27</sup> Me. 282; 37 Me. 133; \*72 Me. 468; 104 Me. 354.

**Sec. 5. Jurisdiction of breaches of the peace and violations of law.** R. S. c. 134, § 4. They have jurisdiction of assaults and batteries, breaches of the peace,

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and violations of any statute or by-law of a town, village corporation, or local board of health, when the offense is not of a high and aggravated nature, and of offenses and misdemeanors, jurisdiction of which is conferred by law, and of all attempts to commit offenses of which they now have jurisdiction by law; and may cause affrayers, rioters, breakers of the peace, and violators of the law, to be arrested; and they may try and punish by fine not exceeding ten dollars, or by imprisonment not exceeding thirty days, and may require such offenders to find sureties for keeping the peace.

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

354.

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

- Of complaints as to vicious dogs, c. 5, § 174.
- Of assaults upon, and obstruction of officers, c. 133, § 24; in cases relating to protection of children, c. 72, § 53; of prosecutions under child labor law, c. 53, § 36.
- Violations of truancy laws, c. 19, §§ 81, 136; of laws relating to public health, c. 22, § 73; of laws as to sale of poisons, c. 23, § 27.
- Obstruction of ditch or drain in public way, c. 27, § 82; neglect to maintain guideposts on public highway, § 107.
- Violations of law relating to use of wide-rimmed wheels, c. 29, § 13; building laws, c. 34, § 35; law for the protection of innkeepers, c. 35, § 19; requiring licenses for public exhibitions, c. 36, § 13.
- Violations of law relating to inland fisheries and game, c. 37, §§ 116, 117.
- Of prosecutions under pure food law, c. 40, § 54; for neglect to mark apple barrels and boxes, c. 40, § 54; under law regulating sale of milk and dairy products, c. 41, § 25; under law for protection of nursery stock, c. 42, § 12; to enforce authority of commissioner of labor and industry, c. 53, § 12.
- Violations of law regulating intelligence offices, c. 46, § 12; sea and shore fisheries, c. 49, § 97; itinerant vendors, c. 45, § 27; law relating to weights and measures, c. 52, § 32.
- Violations of insurance laws, c. 59, § 93; fraternal beneficiary laws, c. 60, § 26.
- Of prosecutions for desertion and non-support of families, and for crimes against children, c. 129, § 47.
- Violations of law prohibiting prize-fights, c. 134, § 6; keeping houses of ill fame, c. 135, § 13; circulation of criminal news among children, § 21; fights between animals, § 52; cruelty to animals, §§ 63, 72; of law against gambling-houses, c. 136, § 1; relating to sale of intoxicating liquors, c. 137, § 19; relating to sterling and coin silver, c. 138, § 18; desertion of vessel by seamen, c. 138, § 23; giving false fire alarms, c. 139, § 29; malicious mischiefs, § 34; wanton injury to baggage, § 36; sale of cigarettes, c. 129, § 47, c. 140, § 23; relating to tramps, c. 140, § 24.
- Penalty for swelling scallop meats by artificial means, c. 140, § 14.
- To order removal of paupers, c. 32, §§ 38, 40; to commit to house of correction, c. 32, § 42; c. 153, § 6; to state school for boys, c. 154, § 3; to state school for girls, c. 154, §§ 23, 24.
- Judges of municipal and police courts and trial justices required to make returns of prosecutions under law relating to inland fisheries and game, c. 37, § 121.

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

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

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

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

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

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

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

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

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

As to signature of recorder or clerk of a municipal or police court, c. 96, § 7; 34 Me. 222; 36 Me. 368.

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

**Sec. 11. Summonses to witnesses; when witnesses shall recognize. R. S. c. 134, § 10.** Any judge or justice named in section three, when a warrant is issued by him, may cause such witnesses only as he is satisfied can testify to material facts, to be summoned to attend the trial, by inserting their names in the warrant or otherwise; and when the case is appealed or the person is required to appear before a higher tribunal, he may order such witnesses only to recognize for their appearance where the case is to be tried or examined. He may issue summonses for witnesses in criminal cases to appear before any judicial tribunal, at the request of the attorney-general, a county attorney or the party accused, and he shall express in the summons at whose request they are summoned; and when summoned for the accused, the witnesses are not required to attend without payment or tender of their legal fees.

39 Me. 61.

**Sec. 12. Limitation of costs and fees. R. S. c. 134, § 11.** No costs shall be allowed by such magistrate to complainants in any capacity; but this shall not prevent the allowance of their fees as officers, to police officers and constables complaining under authority of their town, or when it is made their duty to do so. No witness shall be allowed in a criminal case for more than one travel, or for travel and attendance in more than one case at the same time before any judicial tribunal.

**Sec. 13. Witnesses may be required to attend any court in New England, in a criminal case pending; penalty for neglect. R. S. c. 134, § 12.** When, on affidavit filed, the clerk of any court in any other New England state certifies that a criminal case is pending in such court, and that a person named is declared to be a material witness therein, a justice of the peace, on such certificate, or on a paper annexed thereto, shall issue a summons requiring such person to appear and testify at such court; and if, upon payment or tender to him of twelve cents a mile to and from such court, and two dollars for each day's attendance required, he unreasonably neglects to attend and testify, he forfeits two hundred dollars to any prosecutor.

127 Me. 236.

**Search Warrants.**

**Sec. 14. Warrants for search, in what cases may be issued.** R. S. c. 134, § 13. A magistrate may issue warrants to search, within the limits of his jurisdiction, any house or place for property stolen, embezzled, or obtained by false tokens or pretenses; for forged or counterfeit coins, bank-bills, or other writings; for tools, machines, or materials, used or designed for making the same; or for a dead body unlawfully disinterred, carried away and concealed; and in other cases when such a warrant is authorized by law. Such warrants can be issued only according to the following provisions.

See c. 34, § 22; c. 37, § 113; c. 41, § 35; c. 48, § 32; c. 49, § 5; c. 135, §§ 26, 29; c. 136, §§ 12, 13; c. 137, § 33; c. 140, § 5; 79 Me. 104; 95 Me. 199.

**Sec. 15. Complaint for such a warrant.** R. S. c. 134, § 14. The complaint for a warrant to search must be made in writing, sworn to and signed by the complainant, must specially designate the place to be searched, the owner or occupant thereof, and the person or thing to be searched for, and allege substantially the offense in relation thereto; and that the complainant has probable cause to suspect and does suspect, that the same is there concealed.

See Const. Me., Art. 1, § 5; 33 Me. 570; \*79 Me. 104; 96 Me. 153; 100 Me. 448; 117 Me. 399.

**Sec. 16. Warrant, its contents, and how directed and served.** R. S. c. 134, § 15. Such warrant shall recite, by reference to the complaint annexed or otherwise, all the essential facts alleged in the complaint, be directed to a proper officer or to a person therein named, and be made returnable like other warrants; and the person or thing searched for, if found, and the person in whose possession or custody the same was found, shall be returned with the warrant before a proper magistrate.

<sup>25</sup> Me. 491; 96 Me. 153; \*117 Me. 401.

**Sec. 17. Search of a dwelling-house.** R. S. c. 134, § 16. To authorize the search of a dwelling-house in the night time, the magistrate must be satisfied that it is necessary to prevent the escape or removal of such person or property, and must in his warrant expressly require it.

\*95 Me. 199.

**Appeals from Magistrates.**

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

1 Me. 230; 96 Me. 498; 100 Me. 126; 104 Me. 354; 115 Me. 513; 124 Me. 58; \*126 Me. 334.

**Sec. 19. Copies sent to appellate court; failure to prosecute appeal.** R. S. c.

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

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

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

109 Me. 283.

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

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

**Sec. 22. Limitation of fees of magistrates. R. S. c. 134, § 21.** When several warrants are issued by a magistrate where only one is necessary, he shall be allowed only the costs for one complaint and warrant; and when he binds over a party, and the grand jury do not find an indictment against him, or convicts a party and he appeals and is finally acquitted, the magistrate shall have no fees in the case unless the same are certified and approved by the county attorney, and in no case shall he tax other or greater fees than are expressly allowed by law.

**Sec. 23. Costs paid; how to be disposed of. R. S. c. 134, § 22.** When the costs in a criminal case are paid to the magistrate as a part of the sentence, he may retain his fees, and pay over the other fees to the persons entitled thereto; but if such other fees are not called for in one year, they shall be forfeited to the state, and paid over to the county treasurer within the time, and under the penalty, provided in section seven of chapter one hundred and forty-eight.

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

87 Me. 297.

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

87 Me. 297.

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## CHAPTER 145.

### Commencement of Proceedings in Criminal Case.

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

### Issue of Process and Arrest.

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

I. When prosecutions by information are expressly authorized by statute.

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

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

39 Me. 213, 482.

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

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

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

81; 114 Me. 537.

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

17 Me. 195.

**Sec. 6. Right to be discharged upon recognizance, in the county where he was arrested.** R. S. c. 135, § 6. If the offense charged is not punishable with 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 examination, may take his recognizance with sufficient sureties for his appearance at the next court, or before any magistrate having cognizance of the offense 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, who shall immediately deliver them to the clerk of the court or magistrate before whom the accused recognized to appear.

#### **Transfer of Persons, Charged with Crime in Two Counties.**

**Sec. 7. Removal of persons when charged with crime in two counties. R. S. c. 135, § 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 his removal 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, before issuing such order, he shall be satisfied that the administration of speedy and impartial justice requires it.

**Sec. 8. Duties of officer holding prisoner, and of officer holding court's order of removal. R. S. c. 135, § 8.** The officer holding the person described in such order, shall deliver him to the officer presenting it, upon receiving 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.

#### **Examination of Offenders.**

**Sec. 9. Examination of persons arrested. R. S. c. 135, § 9.** Every person arrested for an offense 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.

**Sec. 10. Adjournment of an examination, on recognizance or commitment. R. S. c. 135, § 10.** A magistrate may adjourn an examination before him, from time to time, for not more than ten days at a time, and the accused may recognize with sufficient sureties for his appearance before him at the time of adjournment; if the accused fails to appear at the time of adjournment, the magistrate may issue a *capias* to bring said accused before him; but if no sufficient sureties are offered, or the offense is not bailable, the accused shall be committed to jail by an order of the magistrate, stating briefly the offense 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.

113 Me. 495.

**Sec. 11. Proceedings if party fails to appear. R. S. c. 135, § 11.** If the party so recognizing does not appear at the time of such adjournment, the magistrate shall record his default, and certify the recognizance and such record to the

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appellate court, there to be proceeded with as forfeited recognizances in criminal cases.

**Sec. 12. Examination. R. S. c. 135, § 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 for the prosecution, as to all pertinent facts, and then the witnesses in defense; 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.

<sup>\*71 Me. 204.</sup>

**Sec. 13. Proceedings upon examination; complaint may be adjudged frivolous or malicious; appeal; proceedings; if there is probable cause to charge the accused. R. S. c. 135, § 13.** If on the whole examination it appears that no offense 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 may receive and pay over said costs to the county treasurer for the use of the county, and if the same are not paid, the magistrate shall return said execution to the county commissioners, for the use of the county. The complainant has the same right of appeal as in civil cases. But if it appears that an offense has been committed and that there is probable cause to charge the accused, and the offense 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 await trial. If the offense is within the jurisdiction of the magistrate, he shall try it, and award sentence thereon.

<sup>35 Me. 131; 37 Me. 136; 41 Me. 431; 47 Me. 464; \*50 Me. 51; \*71 Me. 204; 75 Me. 111; 89 Me. 43; 100 Me. 78.</sup>

### Proceedings on Commitment or Binding Over.

**Sec. 14. Sureties for respondent in criminal prosecution to make statement of property. R. S. c. 135, § 14.** Any person offering to recognize before any trial justice, judge of a police or municipal court, or bail commissioner, as surety for the appearance before the supreme judicial court or a superior court of any respondent in a criminal prosecution, whether such respondent be an appellant from the finding of a trial justice or judge of a police or municipal court, or be ordered to recognize to await the action of the grand jury, or be arrested in vacation on *capias* issued on an indictment pending in such supreme judicial or superior court, may be required to file with said trial justice, judge or bail commissioner, a written statement signed and sworn to by said surety, describing all real estate owned by him within the state with sufficient accuracy to identify it, and giving in detail all incumbrances thereon and the value thereof, such valuation to be based on the judgment of said surety. Said certificate shall remain on file with the original papers in said case and a certified copy thereof shall be transmitted by the magistrate taking such bail to the clerk of the court before which said respondent so recognizes for his appearance.

**Sec. 15. Responsibility of bail. R. S. c. 135, § 15.** All bail shall be responsible for the appearance of their principal at all times during the term of court at which they agree to have him, until verdict or certification of the case to the

law court on demurrer or exceptions, unless said bail shall have sooner surrendered him into the custody of the sheriff or jailer of the county in which the case is pending.

**Sec. 16. Magistrate to recognize material witnesses, or commit them.** R. S. c. 136, § 16. When the accused is committed, or is bound over to a higher court for trial, 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 no 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, in either case, he refuses to recognize as required, he may be committed to prison and remain until discharged by law.

**Sec. 17. How minors may recognize.** R. S. c. 135, § 17. Any person may so recognize for a minor to appear as a witness, or the magistrate may take the recognizance of such minor in a sum not exceeding twenty dollars, which shall be valid notwithstanding such disability.

**Sec. 18. Bail after commitment.** R. S. c. 135, § 18. 1923, c. 97. 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 offense, or for not finding sureties to recognize for him, may inquire into the case and admit him to bail. In any prosecution for violation of the statutes relating to manufacture or sale of intoxicating liquor a respondent therein who has failed to comply with the term of any recognizance entered into by him in such case, shall not again be admitted to bail in such case or upon arrest on any *capias* issued therein, except by a justice of the court in which such prosecution is pending.

85 Me. 544; \*95 Me. 453.

**Sec. 19. Examinations and recognizances to be returned.** R. S. c. 135, § 19. All 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.

\*61 Me. 175; 75 Me. 111.

#### Dismissal of Prosecutions.

**Sec. 20. Dismissal of prosecutions on satisfaction for private injury.** R. S. c. 135, § 20. When a person has recognized or is committed by a magistrate, or is indicted, or held upon a complaint and warrant for an assault and battery or other misdemeanor, for which the party injured has a remedy by 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, the court, on payment of all costs, may stay 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.

\*92 Me. 411.

**Sec. 21. Discharges to be filed with clerk or jailer.** R. S. c. 135, § 21. Any order discharging recognizances shall be filed in 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.

\*92 Me. 411.

**Remedies on Recognizances. Discharge of Bail.**

**Sec. 22. Forfeited recognizances to be defaulted.** R. S. c. 135, § 22. When a 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; and 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.

33 Me. 200, 539; 41 Me. 345; 79 Me. 176.

**Sec. 23. Bail exonerated by surrender before default upon recognizance.** R. S. c. 135, § 23. 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.

**Sec. 24. Court may remit penalty; or sureties may surrender principal in court.** R. S. c. 135, § 24. When the penalty of a recognizance in a criminal case is forfeited, on scire facias against the 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 costs of suit, provided, that the court is satisfied as aforesaid.

41 Me. 536; \*50 Me. 56.

**Sec. 25. Liquor cases excepted.** R. S. c. 135, § 25. The preceding section is not applicable to recognizances taken under chapter one hundred thirty-seven.

See c. 137, §§ 21, 26.

**Sec. 26. Suit on any recognizance may be dismissed.** R. S. c. 135, § 26. Whenever, in any suit of scire facias on a recognizance taken in any criminal case, it appears that the surety has surrendered the principal into court for sentence, and that the principal has actually been sentenced upon the indictment or complaint on which the recognizance was taken, such suit shall be dismissed upon payment of costs.

See c. 137, § 21.

**Sec. 27. Unessential omissions and defects in recognizances, not fatal.** R. S. c. 135, § 27. No action on 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 offense charged, that the magistrate was authorized to require and take the same.

59 Me. 413; \*60 Me. 107; \*71 Me. 204; 73 Me. 555; \*81 Me. 410; 100 Me. 77; 105 Me. 488; 112 Me. 104.

**Sec. 28. Personal recognizance and cash bail.** R. S. c. 135, § 28. When a person arrested on a criminal process has been ordered to recognize with sureties for his appearance before any court, he may, instead of giving sureties, at any time give his personal recognizance and deposit in money the amount of the bail which he is ordered to furnish, with the clerk of such court; in case there is no clerk, with the justice of such court, and such justice or clerk shall give

him a certificate thereof, and upon delivering such certificate to the officer having him in custody, he shall be discharged from such custody.

**Sec. 29. Respondent may surrender before default.** R. S. c. 135, § 29. If money has been deposited as aforesaid, the respondent at any time before default, may surrender himself in the same manner that sureties in criminal cases may surrender their principal, and thereupon the money so deposited shall be returned to the respondent or his order.

**Sec. 30. Court may order deposit forfeited.** R. S. c. 135, § 30. In case of the default of the respondent, said court may at any time thereafter order the money deposited as aforesaid to be forfeited, and the said justice or clerk with whom said deposit is made shall thereupon immediately pay over the said money to the county treasurer.

**Sec. 31. Surrender of respondent after default.** R. S. c. 135, § 31. At any time after a default, and before the money has been declared forfeited in accordance with the preceding section, the respondent may surrender himself in the manner provided in section twenty-nine, and after deducting any amount which the state has disbursed for the apprehension of the said respondent, the court may order the whole or any part of the remainder of the said money to be returned to the respondent as justice may require.

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## CHAPTER 146.

### Proceedings in Court in Criminal Cases.

Sections 1-9	Oath and Duties of Grand Jurors.
Sections 10-25	Bail. Arraignment and Trial of Prisoners.
Section 26	Payment of Private Claims from Forfeited Recognizances.
Sections 27-30	Proceedings after Verdict.

### Oaths and Duties of Grand Jurors.

**Sec. 1. Clerk shall prepare list of grand jurors.** R. S. c. 136, § 1. Prior to the commencement of each term of the court to which grand jurors are returned, in any county, the clerk of the court shall make out, from the returns on the venire, an alphabetical list of such jurors.

See c. 119, § 14; 36 Me. 130; 38 Me. 201, 300; 49 Me. 576, 594; 51 Me. 397; \*126

Me. 335

**Sec. 2. Grand jurors' oath.** R. S. c. 136, § 2. When the grand jury is to be impaneled, 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 \_\_\_\_\_, 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 unrepresented 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."

64 Me. 284.

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**Sec. 3. Form of affirmation for grand juror.** R. S. c. 136, § 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. Election of foreman.** R. S. c. 136, § 4. The grand jury, having been impaneled 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.

**Sec. 5. Term of foreman's office.** R. S. c. 136, § 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.

**Sec. 6. Oaths of witnesses before grand jury.** R. S. c. 136, § 6. The attorney-general, county attorney or foreman of the grand jury, shall swear or affirm, in presence of the jury, all witnesses who are to testify before them, and a list thereof, stating the cases in which they testify, shall be returned into the court by the foreman before the jury is discharged, and filed and entered on record by the clerk. The clerk shall not make such list public, until the criminal cases at such terms have been tried or otherwise disposed of.

\*67 Me. 129; 76 Me. 317.

**Sec. 7. Grand jury shall present all offenses; sufficient indictment for murder or manslaughter.** R. S. c. 136, § 7. Grand juries shall present all offenses 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, wilfully, 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, in either case, setting forth the manner or means of death.

4 Me. 444; 32 Me. 373; 54 Me. 413; 65 Me. 266.

**Sec. 8. Disclosures improper to be made by grand jurors and officers of the court.** R. S. c. 136, § 8. 1927, c. 39. No grand juror or officer of the court, unless by order of the court, shall disclose that an indictment for felony 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 this section.

115 Me. 544.

**Sec. 9. Recognizance of witnesses.** R. S. c. 136, § 9. When an indictment has been returned into court, any justice of the supreme judicial court or superior court may order the material witnesses against the respondent or respondents named in the indictment to recognize with sufficient sureties to appear and testify at the trial of said indictment in said court; and if said witnesses refuse or fail to recognize they may be committed to prison and remain until discharged by law, and such justice may issue *capias* to bring such witness before the court to give his recognizance, or upon failure or refusal so to recognize to be committed as aforesaid.

\*120 Me. 10.

**Bail. Arraignment and Trial of Prisoners.**

**Sec. 10. When persons in prison may be bailed or discharged, if not indicted.** R. S. c. 136, § 10. Any person in prison charged with a crime punishable by imprisonment 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.

**Sec. 11. Right of person indicted to speedy trial.** R. S. c. 136, § 11. Any person in prison under indictment shall be tried or bailed at the next term 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 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.

\*118 Me. 203.

**Sec. 12. Standing mute.** R. S. c. 136, § 12. When a person indicted stands mute, the court shall order the plea of not guilty to be entered, with the same effect as if he had pleaded not guilty.

**Sec. 13. Jury for trials of offenses punishable by imprisonment for life, how to be impaneled; challenges.** R. S. c. 136, § 13. When a person indicted for an offense punishable by imprisonment 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 not challenge more than ten of the jurors peremptorily, and the person indicted shall not challenge peremptorily more than twenty of the jurors while the panel is being formed; but he may, before the trial commences, challenge peremptorily, two of the jurors from the panel. The supreme judicial court may, by general rules, prescribe the mode of exercising the right of challenge from the panel in all criminal cases.

67 Me. 337; \*74 Me. 507.

**Sec. 14. Trial of cases of murder and treason.** R. S. c. 136, § 14. One justice of the supreme judicial court may hold a term thereof in any county, except the counties of Cumberland, Kennebec, [Androscoggin and Penobscot] for the trial of persons indicted for treason or murder and exceptions may be taken as in other cases, to their rulings and decisions.

**Sec. 15. Persons indicted for felony furnished with copy of indictment; witnesses summoned at state's expense; counsel to be assigned in certain cases; compensation.** R. S. c. 136, § 15. The clerk shall, without charge, furnish to any 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 for life, the clerk shall 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; if for a crime punishable by imprisonment for a term of years, witnesses shall be summoned and paid at the expense of the state only at the discretion of the court. Competent counsel shall be assigned by the court in cases punishable by imprisonment for life, when it appears that the accused

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has not sufficient means to employ counsel; and reasonable compensation for the services of counsel shall be allowed by the court, to be paid out of the county treasury.

76 Me. 207.

**Sec. 16. Prosecuting officer may summon witnesses; no tender of fees to state witnesses.** R. S. c. 136, § 16. The prosecuting officer has the same power as the clerk of the court to issue a summons for witnesses in criminal cases; 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 recognized so to attend, or were summoned by order of the grand jury or prosecuting officer; nor is it necessary to tender fees to witnesses summoned in behalf of the state.

**Sec. 17. Punishment of state witness for not attending.** R. S. c. 136, § 17. Whoever, having been 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, shall be punished, on indictment, by imprisonment for less than one year, or by fine not exceeding one hundred dollars.

See c. 95, § 120.

**Sec. 18. Witnesses are not entitled to fees until the second or third day in continued cases, etc.** R. S. c. 136, § 18. 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 they were summoned at an earlier day; and in all criminal cases, previous to the determination thereof, the court 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 upon oath, or on other evidence, they find such additional charges reasonable.

**Sec. 19. Prisoner need not be asked how he will be tried.** R. S. c. 136, § 19. When a person is arraigned on an 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.

See c. 90, § 4.

15 Me. 107; 23 Me. 114; 36 Me. 132; 37 Me. 333; 38 Me. 300; 39 Me. 361.

**Sec. 20. Depositions may be taken out of the state; also in the state; respondent may testify; not compelled to incriminate himself; failure to testify; husband or wife may testify.** R. S. c. 136, § 20. 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, upon interrogatories in the same manner, with the same effect, and subject to 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. And upon like application by the defendant in a criminal case, a like commission may issue to take the deposition of a material witness living in the state; but the prosecuting officer shall not name therein any material witness to be examined on the part of the state. 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 is a competent witness.

59 Me. 300; 63 Me. 211; \*65 Me. 240; 72 Me. 534; \*74 Me. 508; 76 Me. 410; 78 Me. 492; 85 Me. 96.

**Sec. 21. Facts tried, challenges allowed, as in civil cases. R. S. c. 136, § 21.** Issues of fact joined on indictments, shall be tried by a jury drawn and returned in the same 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.

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, 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, 579; 55 Me. 213; 65 Me. 469; 67 Me. 337; 74 Me. \*507, \*511; 80 Me. 416; 81 Me. 256.

**Sec. 22. Juror's oath or affirmation. R. S. c. 136, § 22.** The following oath shall be administered to jurors in cases punishable by imprisonment 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.

**Sec. 23. Respondent must be present at trial for felony. R. S. c. 136, § 23.** No person indicted for felony shall be tried, unless present during the trial; but persons indicted for less offenses, at their own request and by leave of court, may be tried in their absence, by their attorney.

67 Me. 424; \*118 Me. 215.

**Sec. 24. View. R. S. c. 136, § 24.** The court may order a view by any jury in a criminal case.

**Sec. 25. When court may postpone or continue. R. S. c. 136, § 25.** The trial of any criminal case, except for a crime punishable 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.

85 Me. 171; 117 Me. 319; \*118 Me. 203.

#### Payment of Private Claims from Forfeited Recognizances.

**Sec. 26. Private claims may be paid out of forfeited recognizances. R. S. c. 136, § 26.** 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 that he would have been entitled to receive from the penalty affixed to the offense, if paid on conviction, and not on recognizance.

#### Proceedings After Verdict.

**Sec. 27. Sentence to be imposed upon conviction; proviso; form of recognizance; stay of execution of sentence may be had after commitment. R. S. c. 136, § 27. 1917, c. 156, § 3.** Sentence shall be imposed upon conviction, either by verdict or upon demurrer, of a crime which is not punishable by imprison-

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ment for life, provided that the court at the term of conviction may in its discretion continue the matter for sentence, suspend sentence or stay the execution of sentence, although exceptions are alleged. Questions of law 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 offense 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 offense 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 said \_\_\_\_\_ shall personally appear before said \_\_\_\_\_ court, to be held in and for 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, the court, on request of the defendant upon whom sentence is imposed may allow stay of execution of sentence, in which case commitment shall be to await final decision; otherwise, such commitment shall be in execution of sentence. When a verdict of guilty is rendered against any person for an offense punishable by imprisonment in the state prison, or any person is committed pending decision on report or exceptions, as herein provided, and remains imprisoned after the adjournment of court, he shall be admitted to bail only by the justice trying him, by some person by him appointed therefor, or by some justice of the supreme judicial court. If a person shall be so admitted to bail after commitment in execution of sentence, as above provided, such admission to bail shall vacate the effect of the original commitment, and the full term of imprisonment shall commence from the date of commitment after final decision.

See c. 112, § 35; 41 Me. 167; 42 Me. 385; 59 Me. 305; 70 Me. 334; 80 Me. 82; 89 Me. 209; 98 Me. 286; 105 Me. 209; 123 Me. 221; 123 Me. 341; \*126 Me. 330.

Note: The Chief Justice suggests that confusion has arisen by reason of an apparent limitation on the power of the court to continue for sentence, suspend sentence, or stay execution in c. 147, §§ 12, 14. See c. 147, § 12 for suggested amendment.

**Sec. 28. Appeal when punishment is imprisonment for life and in certain other criminal cases. R. S. c. 136, § 28.** If a motion for a new trial in any case, in which a person has been convicted of any offense for which the punishment is imprisonment for life, is denied by the justice before whom the same is heard, the respondent may appeal from said decision to the next law term; and the concurrence of a majority of the justices shall be necessary to grant such motion. And in all other criminal cases amounting to a felony, where like motion is filed and appeal taken to the law court the concurrence of a majority of the justices shall be necessary to grant such motion, and sentence shall be imposed upon conviction, either by verdict or demurrer.

76 Me. 324; 82 Me. 285; 107 Me. 536; 109 Me. 201; 112 Me. 544; 113 Me. 29; \*115 Me. 220; 115 Me. 203; 115 Me. 373; 117 Me. 226; 118 Me. 164; 119 Me. 18; 121 Me. 117; 123 Me. 312; 123 Me. 341; \*124 Me. 245; 125 Me. 454; 125 Me. 465.

**Sec. 29. Copy of proceedings in murder cases to be filed with clerk of court and in office of secretary of state; provisions retroactive in certain cases. R. S. c. 136, § 29. 1917, c. 246.** Whenever any person is convicted of murder, a copy of the indictment, plea, evidence, and charge of the presiding justice, certified by the official stenographer, shall be filed with the clerk of the court where such trial is held. If such stenographer is paid an annual salary, the making and filing of said copy shall be without extra compensation, otherwise the expense thereof

shall be paid by the county; but this section shall not apply to cases where a motion for a new trial is filed and granted, as to the evidence and charge in any trial but the last. A copy of the indictment, plea, evidence, and charge of the presiding justice, certified by the official stenographer, shall also be filed in the office of the secretary of state, so that it may be used in any pardon hearing before the governor and council, and the expense thereof shall be paid by the state. The state shall pay the expense of having the evidence and charge transcribed by the official stenographer in any murder cases heretofore tried, where a pardon is sought by one serving a life sentence in the state prison, who is unable to pay therefor, if he, or she, claims to be innocent of the crime, the transcript to be filed in the office of the secretary of state, for use as above provided.

**Sec. 30. In case of error in the sentence, proceedings. R. S. c. 136, § 30.** 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.

## CHAPTER 147.

### Sentence, and Its Execution in Criminal Cases, and the Liberation of Poor Convicts.

Sections 1-9	Sentences and the Imposition thereof.
Sections 10-24	Probation Officers and their Duties.
Sections 25-44	Indeterminate Sentences.
Sections 45-48	Execution of Sentences.
Sections 49-51	Liberation of Poor Convicts.

#### Sentences and the Imposition Thereof.

**Sec. 1. No person to be punished until convicted; sentence to imprisonment and fine; costs. R. S. c. 137, § 1. 1917, c. 156, § 2.** No person shall be punished for an offense until convicted thereof in a court having jurisdiction of the person and case. When no punishment is provided by statute, a person convicted of an offense shall be imprisoned for less than one year or fined not exceeding five hundred dollars. In all cases where a fine is imposed he may be sentenced to pay the costs of prosecution; and for violations of sections six to thirteen of chapter forty-six, and of sections seven, eleven, twelve, thirty-three and thirty-eight of chapter one hundred thirty-seven, he shall be sentenced to pay such costs.

115 Me. 513.

**Sec. 2. Punishment when convict has been previously sentenced to any state prison. R. S. c. 137, § 2.** When a person is convicted of a crime punishable by imprisonment in the state prison, and it is alleged in the indictment and proved or admitted on trial, that he had been before convicted and sentenced to any 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 any term of years.

**Sec. 3. State prison sentence; imprisonment for misdemeanor. R. S. c. 137, § 3.** Unless otherwise specially provided, all imprisonments for 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 jail, the

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sentence may be for imprisonment there or in a house of correction; and it may be conditional that the convict shall pay a fine and costs, but that if it is not paid in ten days, then he shall be imprisoned for not more than six months.

See c. 153, § 6; \*69 Me. 182; 84 Me. 33; 99 Me. 334; 117 Me. 336; 123 Me. 414.

**Sec. 4. Work jail sentences. R. S. c. 137, § 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.

See c. 91, § 13; 123 Me. 414.

**Sec. 5. Alternative sentences to work-jails; authority of inspectors, in case of incorrigible or dangerous convicts. R. S. c. 137, § 5.** When a convict is sentenced to imprisonment and labor in either of the work-jails, the court or magistrate may in addition sentence him to the other punishment provided by law for the same offense, 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, in the judgment of the inspectors of jails, he becomes incorrigible, or unsafe, they may order that he suffer such alternative sentence or punishment; and if said alternative sentence is to the state prison, the sheriff of the county where such convict is imprisoned, shall forthwith, upon receiving the order of said inspectors, cause said convict to be conveyed to the state prison at the expense of the county where he was sentenced.

See c. 91, § 13; 110 Me. 100.

**Sec. 6. Courts may sentence to any work-jail, nearest to the county where offense was committed; prison sentences include labor. R. S. c. 137, § 6.** The supreme judicial court, the superior court and any municipal or 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, subject to the provisions of the following section, sentence any person convicted of an offense punishable by imprisonment, to either of the work-jails nearest or most convenient to the county where the offense is committed, and all sentences of imprisonment shall include labor. The keeper of such work-jail shall receive and detain such prisoner in the same manner as if committed by a 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 this section and the preceeding, whether such service is performed in whole or in part in one or more counties, and processes shall be issued and directed accordingly.

**Sec. 7. Commitment to be in county where convicted. R. S. c. 137, § 7.** Any person sentenced by any trial justice or judge of any municipal or police court to a term of imprisonment in a jail, not exceeding four months, shall be committed to the jail in the county in which such person is convicted, provided such county has a suitable jail, otherwise such commitment may be to any jail in the state.

**Sec. 8. Expenses of prisoners from other counties, how to be paid. R. S. c. 137, § 8.** 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. 9. In cases of misdemeanors, sureties to keep the peace may be required. R. S. c. 137, § 9.** In addition to the punishment prescribed by law,

the court may require any person convicted of an offense 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 to stand committed until he so recognizes.

110 Me. 99.

### Probation Officers and Their Duties.

**Sec. 10. Probation officers, appointment of; tenure, and compensation; appointment of additional officer.** R. S. c. 137, § 10. 1917, c. 203. 1919, c. 76, § 1. 1921, c. 167. 1923, c. 6. The governor, by and with the consent of the council, shall appoint in any county of the state where in his judgment such an appointment is advisable, one probation officer, who shall be a citizen in the county for which said appointment is made, and of good moral character, and shall hold office during the pleasure of the governor and council, receiving as compensation therefor such sums as the county commissioners shall fix, which shall be paid from the county treasury in equal monthly installments. The county commissioners of such county shall at their next session after such appointment by the governor, determine and fix the amount of such compensation, which shall not be diminished during the term of office of the probation officer, but may be increased if it seems just to the county commissioners so to do. In addition to such compensation, each probation officer shall receive monthly such sums as are reasonably and properly paid for expenses incurred in the performance of the officer's duty. Each probation officer shall on or before the last day of each month submit under oath to the county commissioners of such county an itemized statement of such expenditures. If in any county it seems to the governor and council necessary to have more than one probation officer, the governor, by and with the consent of the council, may appoint one or more associates, who shall have all the authority under the direction of the probation officer which such probation officer has, and who shall receive for compensation and expenses such sum as the county commissioners of such counties shall deem just and proper.

The county of Cumberland is expressly exempted from the provisions of this section and nothing in this section shall affect or modify provisions of chapter three hundred and forty-six of the private and special laws of nineteen hundred and five, as amended by chapter twenty-seven of the private and special laws of nineteen hundred and fifteen as amended by chapter one hundred and eleven of the private and special laws of nineteen hundred and seventeen as amended by chapter one hundred and four of the private and special laws of nineteen hundred and nineteen as amended by chapter one hundred and fifty-three of the private and special laws of nineteen hundred and twenty-one as amended by chapter fifty-five of the private and special laws of nineteen hundred and twenty-five; nor affect or modify the provisions of chapter three hundred and thirty-six of the private and special laws of nineteen hundred and seven; nor affect or modify any private or special law now in force pertaining to the appointment of probation officers and their duties within and for the county of Cumberland.

120 Me. 297.

**Sec. 11. Authority and duties of probation officers.** R. S. c. 137, § 11. Each probation officer shall have the authority to perform the duties prescribed in sections ten to twenty-four, of this chapter, both inclusive, and for the purpose of performing such duties is hereby invested with all the authority necessary therefor. Such probation officers in each county shall attend the supreme judicial court or superior court during the times when persons convicted of crime are sentenced, and shall give to the court upon request such information with refer-

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ence to any individual accused or convicted of crime as shall be in his possession. Such probation officer shall attend the sessions of other courts within his county having criminal jurisdiction as often and as continuously as the performance of his duties shall permit, and shall give to such other courts information of the kind above mentioned.

**Sec. 12. Court may continue for sentence, suspend sentence, or suspend the execution of any sentence, and place respondent in custody of probation officer; respondent to report to probation officer. R. S. c. 137, § 12.** When any person by plea of guilty, or upon trial, is convicted of any offense other than an offense punishable by imprisonment for life before any court having criminal jurisdiction, such court may in its discretion continue the matter for sentence, suspend sentence, or *suspend* [stay] the execution of any sentence, [and when so doing, may in its discretion provide that it] to be done under the provisions of sections ten to twenty-four, of this chapter, both inclusive; but nothing herein contained shall be held to take away the right of appeal from any respondent, or any right to have his case reviewed or retried under the provisions of law as they now exist. The court at or before the time for sentence shall inquire into the circumstances of the respondent and of his offense, and if the matter is continued for sentence, the respondent shall be placed in the custody and under the control of the probation officer in the county where such respondent has been convicted. Such sentence may be continued by the court indefinitely, or to a definite time, and in every instance the court may order the respondent to report to the probation officer at such times and places as the court shall designate, and shall cause a writing signed by the clerk or by the court, to be given to the respondent, showing such continuance for sentence, the time during which the same is continued, and the times and places when the respondent is to report to such probation officer.

116 Me. 196; 120 Me. 297; \*126 Me. 330.

Note. The Chief Justice suggests that a confusion exists between this chapter and § 27 of chapter 146. The commissioner suggests adding the words in brackets to make it clear that the probation law does not purport to limit the discretionary power of the court as defined in c. 146, § 27.

**Sec. 13. Court may impose sentence and release respondent to custody of probation officer, with opportunity to pay fine. R. S. c. 137, § 13.** If the offense of which the respondent is convicted is within the jurisdiction of the court trying the same, the court may in its discretion impose a fine, or an alternative sentence of imprisonment, and release respondent into the custody of the probation officer, with an opportunity to pay such fine and costs to the probation officer within a definite time. When such respondent pays such fine and costs, or any part thereof, to the probation officer, such officer shall give the respondent a receipt therefor.

120 Me. 297; \*126 Me. 330.

**Sec. 14. Court may suspend sentence and place respondent on probation; violation of terms of probation. R. S. c. 137, § 14.** The court may in its discretion, if the offense is within the jurisdiction of the court trying the cause, suspend sentence for a definite period of time, or for an indefinite time not exceeding one year, and such respondent may be committed to the custody and control of the probation officer. In all cases where the respondent is committed to the custody or control of the probation officer, the court shall give to each respondent a writing showing the terms of his probation and the times and places when and where such respondent is to report to such probation officer. And if at any time any such respondent violates the terms of his probation, the probation officer shall forthwith report the same to the court which finally tried the cause, and the court may thereupon decree said probation ended, and either impose the sentence, if

the cause has been continued for sentence, or in all other cases order the respondent to forthwith comply with the original sentence; and in all cases where sentence has not been imposed, the court may forthwith impose sentence.

\*116 Me. 196; 120 Me. 297; \*126 Me. 330.

**Sec. 15. Personal recognizance of parent of child under sixteen years. R. S. c. 137, § 15.** Whenever a child under the age of sixteen years is arrested and charged with an offense other than a felony, or a crime which if committed by an adult would be a felony, the officer making such arrest may accept in lieu of bail, and without committing such child to any jail or police station, the personal recognizance in writing, without security, of the parent, guardian, or other lawful custodian of such child to produce such child before the proper court or magistrate on the following day at a time and place to be specified in said recognizance; and thereupon such officer shall place such child in the care and custody of the person executing such recognizance, who on failure to so produce such child, pursuant to the terms of such recognizance, shall be liable to punishment by the court or magistrate as for criminal contempt. And similar recognizance may be taken by the court or magistrate for the subsequent production of such child at a time and place to be specified therein pending the final termination of the proceedings, and non-compliance therewith shall subject the person giving the same to the same punishment.

**Sec. 16. Child convicted of offense may be placed in custody of probation officer. R. S. c. 137, § 16.** When any such child has been convicted of any offense other than an offense punishable by imprisonment for life, the court or magistrate having jurisdiction, instead of committing such child to confinement in any institution, or *the* ordering of [the] payment of fine and costs, may place such child in the custody of the probation officer under suspension of such sentence, or a continuance of the same for a period not exceeding one year. At any time within such year, if it appears to the court that justice requires it, said court or magistrate may cause such child to be brought into court and either impose sentence, if the case has been continued for sentence, or order such child to enter upon the execution of his sentence, if the execution of the same has been suspended.

**Sec. 17. Notice of arrest to parent, guardian, or legal custodian of child, and to probation officer. R. S. c. 137, § 17.** Whenever any child under the age of sixteen years has been arrested for any offense and is confined in any jail or police station, the officer making such arrest shall forthwith notify the parent, guardian, or legal custodian of such child of the fact of such arrest, and of the time and place where his trial is to be held. Such officer shall also notify a probation officer in his county of the fact of such arrest, and of the time and place of such trial. And any court having jurisdiction of the offense may upon application of such probation officer, by an order in writing, cause such child to be forthwith placed in the custody of such probation officer pending the trial and final determination of said cause.

**Sec. 18. Continuance without trial; child in custody of probation officer; discharge of respondent without trial. R. S. c. 137, § 18.** When any child under the age of sixteen years is brought before any court or magistrate for trial charged with any offense other than an offense punishable by imprisonment for life, the court may in its discretion continue such cause without trial from time to time, not exceeding thirty days at any one time, and release such child into the custody and control of the probation officer, who shall have authority to permit such child to remain in the home of such child if the same seems to him proper, or he may retain such child in his own custody, if the same can be done without

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expense to the county or the state. If at any time it seems to the court just and proper to discharge any such respondent without trial, the same may be done, and no child so discharged, nor any other person, shall have any right of action against any officer or other person on account of any of the proceedings in such case.

**Sec. 19. Court may appoint officer pro tempore. R. S. c. 137, § 19. 1919, c. 76, § 2.** In case of the absence of the probation officer at the time and place when any such child is so arrested or to be tried, the court having jurisdiction may appoint some discreet male or female citizen of the county a probation officer pro tempore for the purpose of that particular case, who shall perform his duties without compensation or expense, and such probation officer shall have all the authority to perform all of the duties of the probation officer under sections ten to twenty-four, both inclusive of this chapter; but the authority of such probation officer shall cease when he shall have performed the duties with reference to that particular cause.

**Sec. 20. Record of commitment to custody of probation officer; proceedings if terms of probation are violated. R. S. c. 137, § 20.** Whenever any such child has been committed to the custody and control of any probation officer, the court or magistrate shall cause to be entered upon the records of such court the fact of such commitment and the terms thereof, and the court shall have authority to order such probationer to report to the probation officer at such times and places as the court in its order shall direct. If at any time it appears to the court that such probationer has violated the terms of his probation, or that justice requires it, the court may order such child brought before it and may summarily deal with such child as the law provides.

**Sec. 21. Authority of probation officer. R. S. c. 137, § 21.** Any probation officer having committed to his custody any child or other person, shall have the same authority with reference to the person of such child or other person as he would have were he surety upon the recognizance of such child or other person.

**Sec. 22. Continuance for sentence for purpose of restitution. R. S. c. 137, § 22.** If any person commits an offense against another for which the latter would have a civil action for damages, and such damages do not exceed the sum of twenty dollars, the court trying such offender may in its discretion, if such offender is found guilty, continue the matter for sentence and commit the respondent to the custody of the probation officer for a definite period, within which time such offender may make restitution to the person injured. And if within such period such offender has made such restitution, the court at the expiration of such period may make such legal disposition of the case as seems proper to the court.

**Sec. 23. Investigation into school attendance. R. S. c. 137, § 23.** All probation officers shall investigate as fully as may be and order the attendance at some school of all children between the ages of five and sixteen, and for this purpose such probation officer shall have all authority of attendance officers.

See c. 19, §§ 73-81.

**Sec. 24. County of Cumberland excepted. R. S. c. 137, § 24.** The county of Cumberland is expressly excepted from the provisions of the fourteen preceding sections; nor shall the provisions of chapter three hundred and forty-six of the special laws for the year nineteen hundred and five and of chapter three hundred and thirty-six of the special laws for the year nineteen hundred and seven and acts amendatory thereof be in any way thereby affected.

Note. Probation officer for Cumberland county, P. & S. L. 1905, c. 346; P. & S. L. 1915, c. 27; P. & S. L. 1917, c. 111; P. & S. L. 1919, c. 104; P. & S. L. 1921, c. 153; P. & S. L. 1925, c. 55; for city of Westbrook, P. & S. L. 1907, c. 336.

**Indeterminate Sentences.**

**Sec. 25. Maximum and minimum terms; judge to examine into causes of criminal character of prisoner. R. S. c. 137, §§ 25, 26. 1917, c. 130, § 7. 1919, c. 59, § 1.** When any person shall be convicted of crime the punishment for which prescribed by law may be imprisonment in the state prison, the court imposing sentence shall not fix a definite term in said state prison, but shall fix maximum and minimum terms. The maximum sentence shall not exceed the longest term fixed by law for the punishment of the offense of which the person sentenced is convicted, and the minimum sentence shall not exceed one-half of the maximum term of imprisonment fixed by statute and shall not be less than six months in any case. The judge, before or at the time of pronouncing such sentences, shall ascertain by examination of the prisoner, and by such other evidence as can be obtained, any facts tending to indicate briefly the causes of the criminal character or conduct of such prisoner, which facts, and such other facts as shall appear to be pertinent to the case, he shall cause to be entered upon the minutes of the court.

**Sec. 26. Persons subject to imprisonment for life excepted. R. S. c. 137, § 27.** The provisions of sections twenty-five to forty-three, both inclusive, of this chapter, shall not apply to any person convicted of an offense the only punishment for which prescribed by law is imprisonment for life. Provided, that in all cases where the maximum sentence, in the discretion of the court, may be for life or any number of years, the court imposing sentence shall fix both the minimum and maximum sentence. The minimum term of imprisonment thus fixed by the court shall not exceed one-half of the maximum term so fixed.

**Sec. 27. Record to be forwarded to warden. R. S. c. 137, § 28. 1919, c. 59, § 2.** Whenever a person shall be convicted of a crime and sentenced to imprisonment pursuant to the provisions of sections twenty-five to forty-three, both inclusive, of this chapter, the clerk of the court shall make and forward to the warden of the prison a record containing a copy of the information or complaint, the sentence pronounced by the court, the name and residence of the judge presiding at the trial, prosecuting attorney, and sheriff, and the names and post-office addresses of the jurors and the witnesses sworn on the trial, together with a statement of any fact or facts which the presiding judge may deem important or necessary for a full comprehension of the case, and a reference to the statute under which the sentence was imposed. Such record shall be delivered to the warden at the time the prisoner is received into the prison.

**Sec. 28. Prison commissioners to make rules and regulations; prisoners must serve minimum sentence. R. S. c. 137, § 30. 1919, c. 59, § 3.** The board of prison commissioners may adopt such rules as it may deem wise or necessary properly to carry out the provisions of sections twenty-five to forty-three, both inclusive, of this chapter and may amend such rules at pleasure. Provided, that prisoners, under the provisions of said sections, shall be eligible to parole only after the expiration of their minimum term of imprisonment.

See c. 152, §§ 5, 11.

**Sec. 29. Application for parole; action thereon by board of prison commissioners. R. S. c. 137, § 31.** Application shall be made to the board of prison commissioners, upon uniform blanks prescribed by them, or to the warden of the prison. The warden when requested by a prisoner whose minimum term of imprisonment has expired and who is eligible to parole, shall furnish such prisoner with a blank application for parole. The application shall be filled out and delivered to the warden who shall immediately forward the same to the board

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of prison commissioners with his recommendation indorsed thereon. Upon receipt of such application and recommendation, the board of prison commissioners shall make such investigation in the matter as they may deem advisable and necessary, and may, in their discretion, grant such application and issue a parole or permit to such applicant to go at large without the enclosures of the prison.

**Sec. 30. Prisoner on parole deemed to be serving his sentence. R. S. c. 137, § 32.** The prisoner so paroled, while at large by virtue of such parole, shall be deemed to be still serving the sentence imposed upon him, and shall be entitled to good time the same as if confined in prison. Provided, that whenever the prisoner so paroled shall have been committed to or confined in the prison from a county other than the county in which the prison is situated, it shall be made a condition of his parole that he shall not live or remain in the county in which the prison is situated, without the express consent of the officers or board granting such parole, which consent may be granted or revoked by such officer or board, for cause shown at any time before such convict is finally discharged.

**Sec. 31. Certain convicts in the state prison, March 14, 1913, eligible to parole. R. S. c. 137, § 33.** Every person confined in the state prison on the fourteenth day of March, nineteen hundred and thirteen, under sentence for a definite term for a felony, unless the term be for life, who has never before been convicted of a crime punishable by imprisonment in a state prison, shall be subject to the jurisdiction of the board of prison commissioners in the matter of paroles and may be paroled in the same manner and subject to the same conditions and penalties as prisoners confined under indeterminate sentences under the provisions of sections twenty-five to forty-three, both inclusive, of this chapter. The minimum and maximum terms of the sentences of said prisoners are hereby fixed and determined to be as follows: The definite term for which each person is sentenced shall be the maximum limit of his term and if the definite term for which the person is sentenced is two years or less the minimum limit of his term shall be one year. If the definite term for which the person is sentenced is more than two years, one-half of the definite term of his sentence shall be the minimum limit of his term.

**Sec. 32. Arrangements for employment of prisoner; bond. R. S. c. 137, § 34. 1919, c. 59, § 4.** No prisoner shall be released on parole until the board of prison commissioners shall have satisfactory evidence that arrangements have been made for such honorable and useful employment of the prisoner as he is capable of performing, and some responsible person shall agree to act as his "first friend and adviser," who shall execute an agreement to employ the prisoner, or use his best efforts to secure suitable employment for him. Said "first friend and adviser" may, in the discretion of said board, be required to furnish a bond, or other satisfactory security, to the treasurer of state for the faithful performance of his obligation as such "first friend and adviser." All money collected upon such bond or security shall be turned over to the treasurer of state and credited by him to the general fund of the state.

**Sec. 33. Prisoners on parole to be in legal custody of warden; may be returned to prison. R. S. c. 137, § 35.** Every such prisoner, while on parole, shall remain in the legal custody and under the control of the warden of the prison from which he is paroled and shall be subject at any time to be taken back within the enclosure of said prison for any reason that may be satisfactory to the warden, and full power to retake and return any such paroled prisoner to the prison from which he was allowed to go at large is hereby expressly conferred upon the warden of such prison, whose written order shall be a sufficient warrant authorizing all officers named therein to return such paroled prisoner to actual

custody in the prison from which he was permitted to go at large. When the warden shall return to prison any paroled prisoner, he shall at once report the fact, and his reasons therefor, to the board of prison commissioners and his action shall stand approved unless reversed by a majority vote of said board, but no prisoner shall be returned twice for the same offense.

**Sec. 34. A prisoner violating his parole to be considered as an escaped prisoner. R. S. c. 137, § 36.** A prisoner violating the provisions of his parole and for whose return a warrant has been issued by the warden or superintendent shall, after the issuance of such warrant be treated as an escaped prisoner owing service to the state, and shall be liable, when arrested, to serve out the unexpired portion of his maximum imprisonment, and the time from the date of his declared delinquency to the date of his arrest shall not be counted as any part or portion of the time to be served.

**Sec. 35. Crime by paroled prisoner while at large. R. S. c. 137, § 37.** Any prisoner committing a crime while at large upon parole or conditional release and being convicted and sentenced therefor shall serve the second sentence to commence from the date of the termination of the first sentence whether such sentence is served or annulled.

**Sec. 36. Duration of parole; final discharge. R. S. c. 137, § 38. 1919, c. 59, § 5.** At the time of granting parole to any prisoner the board of prison commissioners shall determine the length of time the prisoner shall remain on parole, which time may be subsequently extended or reduced, but which shall not be more than four years in any case. After any prisoner has faithfully performed all the obligations of his parole for the period of time fixed, and has regularly made his monthly reports as required by the rules providing for his parole, he shall be deemed to have fully served his entire sentence, and shall then receive a certificate of final discharge from the warden in whose custody he is. A copy of such final discharge shall be kept on file by the clerk of the board.

**Sec. 37. Monthly report of paroled prisoner; duty of officer receiving report; summary of paroles in annual report of commissioners. R. S. c. 137, § 39.** On the last day of each month, each paroled prisoner shall make a written report to the warden of the prison, from which he was released, showing his conduct during the current month, his employment, earnings, and expenditures, his probable post-office address and place of employment for the coming month, and the warden in charge of said institution shall, not later than the fifteenth day of each month, tabulate and report to the board of prison commissioners, in writing, the information thus received, and he shall immediately communicate to the board of prison commissioners all violations and infractions of the rules governing such paroled prisoners. In their annual report to the governor, the board of prison commissioners shall include a summary of the paroles and releases under sections twenty-five to forty-four, both inclusive, of this chapter, the names of all prisoners who have violated their paroles, the nature of such violations, together with such information concerning the operations under the law as may be deemed to be of public interest.

See c. 152, § 14.

**Sec. 38. Record to be kept at institution where prisoner was confined. R. S. c. 137, § 40.** There shall be kept in the prison by the warden thereof, a book containing a full and accurate record of each and every transaction had under the provisions of this chapter relating to paroles. A summary of such record shall be filed with the board of prison commissioners, to be by said board compiled and included in its annual report.

See c. 152, § 14.

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**Sec. 39. Secretary of board to furnish blanks.** R. S. c. 137, § 41. The secretary of the board of prison commissioners is hereby authorized to provide all blanks required for the proper execution of the provisions of this chapter relating to paroles, after the forms for such blanks have been approved by the board.

**Sec. 40. State to furnish clothing to paroled prisoner; ticket.** R. S. c. 137, § 42. 1919, c. 59, § 6. Whenever any prisoner is released upon parole he shall receive from the state, clothing not exceeding twenty dollars in cost, and a non-transferable ticket, at his own expense, to the county where his "first friend" resides. The warden may, in his discretion, at the risk of the state, advance to any paroled prisoner the cost of a ticket as above provided and expenses not to exceed two dollars, and failure on the part of the paroled prisoner to return the money so advanced within sixty days may be declared a violation of parole warranting the return of the violator to prison.

**Sec. 41. Notice to sheriff or chief of police.** R. S. c. 137, § 43. Whenever the parole of any prisoner shall be ordered by the board of prison commissioners, the secretary of said board shall at once notify the sheriff of the county or the chief of police of the city to which he is paroled, of the issuance of such parole, naming the county where convicted, the crime for which convicted, the name and address of the "first friend," and the length of time during which said prisoner shall be required to report before receiving final discharge.

**Sec. 42. Sheriff, chief of police, or probation officer may act as "first friend."** R. S. c. 137, § 44. Any sheriff, chief of police, or probation officer, shall upon the request of the board of prison commissioners, act as "first friend" and adviser for paroled prisoners while on parole from any prison or reformatory in the state, and shall, upon the approval of the secretary of said board, be paid from the general fund of the state not otherwise appropriated, one dollar per month for each paroled prisoner for such service. Whenever the term of office of any such officer, acting as "first friend," shall expire while any such parole is in force, the duties of such "first friend" shall be assumed by the successor in office of such officer.

**Sec. 43. Power of governor to grant pardons not impaired.** R. S. c. 137, § 45. Nothing in the eighteen preceding sections shall be construed to interfere or impair the power of the governor to grant pardons or commutations of sentence; nor shall anything therein contained be construed to interfere with the rights of any person who may be serving out a term of imprisonment in any penal institution in this state by virtue of a sentence imposed under any law heretofore or now in force.

See Const. Me. Art. V, Part I, § 11.

Note. Sections 25-43 have been slightly changed to eliminate the state school for boys, P. L. 1919, c. 59; and providing further for the duties of the prison commissioners, P. L. 1917, c. 195, § 8. It may be that a further revision should be made to include the trustees of the reformatories.

### Execution of Sentences.

**Sec. 44. Clerk's minutes are authority for officer to execute sentence.** R. S. c. 137, § 46. When a convict is sentenced to pay a fine or costs, or to be imprisoned in the county jail or house of correction, the clerk of 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; which shall be sufficient authority for the officer to execute such sentence.

93 Me. 44; 115 Me. 513.

**Sec. 45. Sentence in default of payment of fine and costs.** R. S. c. 137, § 47. Whoever is convicted in any court or by a trial justice, of a crime which

is punishable by a fine only, without imprisonment, and is liable to imprisonment in a county jail for the non-payment of said fine, may be sentenced to pay said fine and the costs of prosecution, and in default of payment thereof to be imprisoned in accordance with law; but the payment of said fine and costs at any time before the expiration of the imprisonment shall be a full performance of the sentence.

**Sec. 46. Removal of convicts to state prison; clothing for convict. R. S. c. 137, § 48.** When a 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 such convict, without needless delay, to be removed from the county jail to the state prison; the warden and all sheriffs and jail keepers shall strictly 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.

**Sec. 47. Identification of criminals by Bertillon method. R. S. c. 137, § 49.** Prisoners who have been convicted of a felony and committed under sentence may, if deemed advisable, for the purpose of subsequent identification be measured and described in accordance with the Bertillon method for the identification of criminals, and their photographs and finger-prints taken.

#### Liberation of Poor Convicts.

**Sec. 48. Convict, unable to pay fine or costs, may be liberated; proceedings. R. S. c. 137, § 50.** 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 persons sentenced to imprisonment and labor.

74 Me. 220; 115 Me. 176; 115 Me. 513; \*125 Me. 433.

**Sec. 49. Notes are a lien on convict's real estate. R. S. c. 137, § 51.** Such note continues a lien on all the maker's real estate until it 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. 50. Penalty for making a false schedule of property. R. S. c. 137, § 52.** If such convict is convicted of knowingly and wilfully 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 again imprisoned until the performance of the original sentence.

## CHAPTER 148.

### Collection and Disposal of Fines and Costs in Criminal Cases.

- Sections 1- 2 Duty of Clerks of Court.  
Sections 3- 6 Duty of Sheriffs and other Officers.  
Sections 7-10 Duty of Trial Justices and Judges of Municipal and Police Courts.  
Sections 11-15 Duty of County Treasurers.  
Sections 16-17 Duty of County Attorneys.

#### Duty of Clerks of Court.

**Sec. 1. Fines, forfeitures, and criminal costs, to be paid to county; criminal costs and expenses to be paid by the counties; duties of clerks as to bill of costs, and certificates of fines.** R. S. c. 138, § 1. 1917, c. 116. All fines, forfeitures, and costs in criminal cases shall be paid into the treasury of the county where the offense 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 courts 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 they accrued, including actual expenses incurred by county attorneys in the performance of their official duties, payment of which is hereby expressly provided. Clerks of 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.

**Sec. 2. Duty of clerks to collect fines and costs, or to issue process for their collection.** R. S. c. 138, § 2. Each clerk, in default of payment to him of fines, forfeitures, and bills of costs, shall 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.

**Sec. 3. Officers to pay over to county treasurer fines and costs collected.** R. S. c. 138, § 3. 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 executions in favor of the state, shall forthwith pay them to the treasurer of the county in which they accrued.

**Sec. 4. Penalty for neglect.** R. S. c. 138, § 4. If any such officer neglects to pay over such fine, forfeiture, or costs, for 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 forfeits to the county 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.

**Sec. 5. Duty of officers receiving process for recovery of fines. R. S. c. 138, § 5.** Every sheriff or other officer, to whom any process for the recovery of such fine, forfeiture or costs, is committed by the clerk of 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 so doing; and in case of neglect, the court shall order a prosecution to be commenced therefor by the county attorney.

**Sec. 6. Sheriff to deliver notes and securities to treasurer. R. S. c. 138, § 6.** Each sheriff, as often as every three months, shall deliver 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.**

**Sec. 7. Magistrates to pay over fines to those entitled to same. R. S. c. 138, § 7.** Every trial justice or judge of a municipal or police court shall render, under oath, an account of all fines and forfeitures upon convictions and sentences before him, and pay them over within two months after he receives the same; to the treasurer of the town if they accrue to the town, and to the treasurer of the county if they accrue to the state or county, or to any corporation, person, society, or association, in whole or in part, for the use of the party entitled thereto; and for any neglect in making such payments, he forfeits in each instance double the amount so neglected to be paid over, to be recovered by indictment for the parties entitled to such fines and forfeitures, and in default of payment, according to the sentence of the court, he shall be imprisoned in jail not exceeding six months.

See c. 144, § 23.

**Sec. 8. Magistrates to give bond for faithful performance of duties; penalty for acting without bond. R. S. c. 138, § 8.** Every trial justice or judge of a municipal or police court, before he performs any official act as such justice or judge, pertaining to any criminal process or proceeding, shall give bond to the county in such sum and with such sureties as the county commissioners of said county shall approve, conditioned that he will, during his continuance in office, faithfully perform, as the law requires, all his duties relating to the collection and payment over all fines and forfeitures which may come into his hands by virtue of his office. Such bond shall be held by the county treasurer and enforced for the security of any and all parties entitled to such fines and forfeitures, and a suit on such bond for the benefit of one party shall not bar a suit thereon for the benefit of any other party. Every such justice or judge who shall perform any such official acts before giving such bond, forfeits not exceeding one hundred dollars, to be recovered by indictment, but a failure to give such bond shall not render invalid such official acts.

**Sec. 9. Trial justices and municipal and police judges to keep docket of fines and forfeitures; examination of docket and magistrate by county commissioners. R. S. c. 138, § 9.** Every such trial justice, or judge shall keep a correct docket of all examinations and trials before him of persons accused of offenses, setting forth therein a true account of all fines and forfeitures by him imposed or received upon conviction or sentence; and once a year shall deliver or transmit to the county commissioners of his county at one of their regular

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sessions such docket, or a copy thereof, accompanied by his affidavit that he has faithfully complied with the requirements of section seven; 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 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 official requirements of law he shall be allowed a reasonable compensation for his travel and expenses, to be paid from the county treasury.

**Sec. 10. Upon failure to appear, capias may issue.** R. S. c. 138, § 10. If 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 collection of the same.

#### Duty of County Treasurers.

**Sec. 11. Fees must be claimed within three years.** R. S. c. 138, § 11. 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.

**Sec. 12. Treasurer to exhibit schedule of notes to county commissioners; proceedings thereon.** R. S. c. 138, § 12. 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.

**Sec. 13. County treasurer to publish list of costs.** R. S. c. 138, § 13. Each county treasurer shall, at the close of each criminal term of the supreme judicial or superior court, and of each term of the court of county commissioners, in his county, publish in some paper printed in said county for 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.

**Sec. 14. Treasurer to make annual report to attorney-general.** R. S. c. 138, § 14. 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 on the first day of said November, for costs of prosecutions in the supreme judicial court, and in the superior court; upon bills of costs allowed by county commissioners for support of prisoners in jail; and to grand jurors and to traverse jurors at terms of court held for criminal business; also the amount received from fines, costs and forfeitures in said courts, from magistrates, jailers, and other officers.

\*69 Me. 368.

**Sec. 15. Neglect, a breach of a treasurer's bond; penalty.** R. S. c. 138, § 15. Neglect to make and forward such report is a breach of his official bond, and for every day of such neglect he forfeits five dollars to the state, and the attorney-general shall bring an action on such treasurer's official bond, to recover such forfeiture.

\*69 Me. 368.

**Duty of County Attorneys.**

**Sec. 16. Each county attorney to examine records of clerks and treasurers. R. S. c. 138, § 16.** County attorneys shall examine the records and files in the offices of clerks, and the certificates and accounts in the offices of treasurers, relating to fines, forfeitures, and bills of costs accruing to their counties; ascertain, so 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.

**Sec. 17. He shall summon delinquent sheriff or other officer before court. R. S. c. 138, § 17.** 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 it and paying it over; and he shall carry into execution all lawful orders of the court relating to the collection and payment thereof, and shall, by all other means pertaining to his office, promote and enforce the same.

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**CHAPTER 149.****Disposal of Insane Criminals.**

**Sec. 1. Proceedings when a person, committed to jail on a criminal charge, pleads insanity. R. S. c. 139, § 1.** When a person is indicted for an offense, or is committed to jail on a charge thereof by a trial justice, or judge of a police or municipal court, any justice of the court before which he is to be tried, if 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 either insane hospital, to be detained and observed by him until further order of court, that the truth or falsity of the plea may be ascertained. The superintendent of the hospital to which such person is committed shall, within the first three days of the term next after such commitment, and within the first three days of each subsequent term so long as such person remains in his care, report to the judge of the court before which such person is to be tried, whether his longer detention is required for purposes of observation.

107 Me. 340.

**Sec. 2. Proceedings when grand jury omit to indict, or traverse jury acquit on account of the insanity of the accused. R. S. c. 139, § 2.** When the grand jury omit to find an indictment against any person arrested to answer for an offense, by reason of his insanity, they shall certify that fact to the court; and when a traverse jury, for the same reason, acquit 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 department for the criminal insane at the Augusta state hospital or to either insane hospital; and any person so committed 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 is on satisfactory proof again found insane and dangerous, any justice of the supreme judicial court may, by a precept stating the fact of his insanity, recommit him to the department for the criminal insane at the Augusta state hospital or to either insane hospital.

**Sec. 3. Discharge of person so committed to the hospital; recommitment.** **R. S. c. 139, § 3.** Any person so committed to an insane hospital may be discharged by any justice 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 such justice may, on application, commit him to the custody of any friend who will give bond to the judge of probate for the county of Kennebec, if such commitment was to the Augusta state hospital, or to the judge of probate for the county of Penobscot, if such commitment was to the Bangor state hospital, 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 justice of the supreme judicial court may, by a precept stating the fact of his insanity, recommit him to the insane hospital from which he was discharged.

**Sec. 4. Support at hospital.** **R. S. c. 139, § 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. Governor to appoint an examiner of insane convicts, in each county; proceedings when a prisoner becomes insane.** **R. S. c. 139, § 5.** The governor shall appoint in each county in the state a competent physician, who shall be a resident of the county, to act as an examiner of insane convicts in the county jail of the county. When a convict in the state prison or the county jail becomes insane or a convict whose sentence has expired is there detained, and in the opinion of the warden of the state prison or keeper of the jail is insane, the warden shall forthwith notify the prison physician and the jailer shall forthwith notify such examiner in the county of the fact, and the prison physician or such examiner shall forthwith investigate the case and make a personal examination of the convict or party so detained; and if such physician finds such convict or person detained to be insane he shall forthwith certify such fact in writing to the warden of the state prison or keeper of such jail. Said warden shall apply in writing to the judge of the municipal court for the city of Rockland in the county of Knox, and such keeper shall apply to the judge of the municipal court in the place where such jail is located, if any; otherwise to the judge of the nearest municipal court in the county, and if there is no municipal court in such county, to any judge of the supreme judicial court, stating the facts connected therewith, and praying that the condition of such convict or person detained as aforesaid may be inquired into and such decree made as to his commitment or detention as justice may require.

**Sec. 6. Hearing to be appointed by judge; proceedings thereat; appointment of guardian ad litem and counsel.** **R. S. c. 139, § 6.** Such judge shall thereupon appoint a time and place for a hearing by him of the allegations of such application, and shall cause a true copy of said application to be given in hand to the person so alleged to be insane at least twenty-four hours prior to the time of said hearing, together with a notice of the time and place of said hearing, and that he has a right and will be given an opportunity then and there to be heard in the matter; he shall call before him all testimony necessary for a full understanding of the case, and shall personally examine and interview such person, whether he shall or shall not appear at such hearing, and shall require and receive evidence of at least two reputable physicians not in the employ of the state prison or either of the said jails, all such evidence being given under oath before such judge, with the certificate signed by such physicians and filed with the papers in the case, that in their opinion such person is or is not insane. Such evidence and

certificate shall be based upon due inquiry and personal examination of the person to whom insanity is imputed. At said hearing the judge shall appoint a guardian ad litem for the person so alleged to be insane, and may in his discretion appoint counsel for such person. The compensation of such guardian and counsel shall be fixed by the judge and included in the expense of the proceedings to be paid by the state or county.

**Sec. 7. Commitment, if person is adjudged insane. R. S. c. 139, § 7.** If upon the foregoing proceedings such judge shall determine that such convict or person detained as aforesaid is insane and that his comfort and safety or that of others interested will thereby be promoted, he shall, in case of such convict or person so detained in the state prison, commit him to the department for the criminal insane at the Augusta state hospital and in the case of a convict or person so detained in either of the county jails he shall commit him to one of the insane hospitals, with a certificate stating the fact of his insanity and directing that he shall be received and detained accordingly until he is restored or discharged by law. The certificate of said judge shall state the town in which the prisoner or person detained so committed resided at the time of his original commitment to prison or jail. A certified copy of the certificate signed by the prison physician shall accompany said order of commitment made hereunder, and said judge shall keep a record of his doings and furnish a copy to any interested person requiring and paying for it.

**Sec. 8. Persons recovering before expiration of sentence. R. S. c. 139, § 8.** If a person so committed as insane is restored or discharged from such commitment before the expiration of the term of the sentence on which he was originally committed, he shall be returned to the prison or jail in which he was serving his original sentence, and shall be there detained until the time when his original sentence would have expired.

**Sec. 9. Fees for examination and certificate. R. S. c. 139, § 9.** The fee of each physician for such examination and certificate and testifying before said judge shall be five dollars. All the fees, costs and expenses incident to any such hearing shall be taxed by the judge, and in any case relating to the state prison, audited and allowed by the state auditor, and in any cases arising in either of the county jails, by the county commissioners for such county, who shall include therein a reasonable compensation for such judge, and said fees and costs shall be paid by the state and county respectively.

**Sec. 10. Commitment of inmates of jails and persons under indictment. R. S. c. 139, § 10.** Inmates of the county jails and persons under indictment becoming insane before final conviction may be committed to either insane hospital by any judge of the supreme judicial court, or judge of the superior court in the county where such person is to be tried, or the case is pending, for observation, under such limitations as such judge may direct.

**Sec. 11. Inquiry into cases of alleged unreasonable detention. R. S. c. 139, § 11.** A friend of any person adjudged insane and committed to the department for the criminal insane at the Augusta state hospital under the foregoing proceedings, thinking such person is unreasonably detained, may apply in writing to any justice of the supreme judicial court, who shall inquire into the case and summon before him such witnesses as in his judgment may be necessary and upon such application vacate such commitment, and if the original sentence has expired, discharge such person. He shall tax legal costs and shall decide whether they shall be borne by the petitioner or by the state. If such application is unsuccessful, it shall not be renewed until the expiration of one year.

**Sec. 12. Municipal judges may hold court in towns where prison or jails are located.** R. S. c. 139, § 12. The judge of the municipal court of the city of Rockland is hereby authorized for the purposes provided in the nine preceding sections, if he shall see fit, to hold his court in the town of Thomaston in the county of Knox, and the judge of any municipal court to which application is made by any jailer, and which court is located in a town other than that in which the jail is situated, may hold his court for the purposes herein provided in the town where such jail is located.

**Sec. 13. Transfer of criminal insane.** R. S. c. 139, § 13. The superintendent of the Augusta state hospital and the hospital trustees may transfer any patients that are now or may be hereafter committed to the building for the criminal insane at Augusta to any other building of the Augusta state hospital used for the care of the insane, whenever in their judgment it appears necessary, and the safety of the other patients requires it.

**Sec. 14. Commitment of persons insane when motion for sentence is made; proceedings if insane at expiration of term of commitment; support.** R. S. c. 139, § 14. If a person convicted of any crime, in the supreme judicial court or either superior court, is found by the judge of such court to be insane when motion for sentence is made, the court may cause such person to be committed to the department for the criminal insane at the Augusta state hospital under such limitations as the court may direct; provided that the crime of which such person is convicted is punishable by imprisonment in the state prison; otherwise such commitment shall be to one of the insane hospitals; if at the expiration of the period of commitment to the department for the criminal insane at the Augusta state hospital such person has not become of sound mind in the opinion of the superintendent of the Augusta state hospital, he shall be removed to one of the insane hospitals. Persons committed by a judge of the supreme judicial or a superior court before final conviction, or after conviction and before sentence whether originally committed or subsequently removed thereto, and insane convicts after the expiration of their sentences, shall be supported while in the insane hospital in the manner provided by law in the case of persons committed by municipal officers, and the provisions of sections twenty-eight to thirty inclusive, of chapter one hundred fifty-five shall apply to such cases.

**Sec. 15. Reformatories; preliminary proceedings when inmate becomes insane or is feeble minded.** 1917, c. 88. 1923, c. 160, § 1. Whenever a woman committed to the reformatory for women, a man committed to the reformatory for men, a girl committed to the state school for girls or a boy committed to the state school for boys has become insane, or in the opinion of the superintendent thereof is in such a condition that she or he is a fit subject for the Pownal State School, the superintendent shall notify the institutional physician of the fact, and the institutional physician shall forthwith investigate the case and make a personal examination of such person; and if such physician finds such person to be insane or a fit subject for the Pownal State School he shall forthwith certify such fact in writing to the superintendent. Said superintendent shall apply in writing to the judge of the municipal court having jurisdiction of offenses in the town where such institution is located, stating the facts connected therewith and praying that the condition of such person may be inquired into and such decree made as to her or his commitment as justice may require.

**Sec. 16. Court proceedings.** 1917, c. 88. 1923, c. 160, § 2. Such judge shall thereupon appoint a time and place for a hearing by him of the allegations of such application and shall cause a true copy of such application to be given

in hand to the person so alleged to be insane or a fit subject for the Pownal State School, at least twenty-four hours prior to the time of said hearing, together with a notice of the time and place of said hearing, and that she or he has a right and will be given an opportunity then and there to be heard in the matter; if such person is a minor, notice shall also be given to his or her parents or guardian, if known, as the court may order; he shall call before him all testimony necessary for the full understanding of the case, and shall personally examine and interview such person, whether she or he shall or shall not appear at such hearing, and shall require and receive evidence of at least two reputable physicians not in the employ of either of said institutions, all such evidence being given under oath before such judge, with the certificate signed by such physicians and filed with the papers in the case, that in their opinion such person is or is not insane or is or is not a fit subject for the Pownal State School. Such evidence and certificate shall be based upon due inquiry and personal examination of the person to whom insanity is imputed or who is alleged to be a fit subject for the Pownal State School. At said hearing the judge shall appoint a guardian ad litem for the person so alleged to be insane or a fit subject for the Pownal State School, and may in his discretion appoint counsel for such person. The compensation for such guardian and counsel shall be fixed by the judge and included in the expense of the proceedings to be paid by the state.

**Sec. 17. Manner of commitment.** 1917, c. 88. 1923, c. 160, § 3. If upon the foregoing proceedings such judge shall determine that such person so committed is insane or that she or he is a fit subject for the Pownal State School and that her or his comfort and safety, or that of others interested, or her or his welfare will thereby be promoted, he shall, in case such person is insane, commit her or him to one of the insane hospitals, with a certificate stating the fact of her or his insanity and directly that she or he shall be received and detained accordingly until she or he is restored or discharged by law; or in case such person is a fit subject for the Pownal State School he shall commit her or him to said school by order of commitment directed to the hospital trustees, directing that she or he shall be received and detained accordingly until she or he is restored or discharged by law, providing that no order of commitment to the Pownal State School be made until application for admission of such person has first been made to the hospital trustees by the superintendent of such institution, which application shall be placed on file at the Pownal State School and evidence thereof presented to the judge accompanied by a certificate of the superintendent of said Pownal State School, stating in substance that such person will be received under provision of section fifty-one of chapter one hundred fifty-five of the revised statutes. The certificate of said judge shall state the town in which the person so committed resided at the time of original commitment. A certified copy of the certificate, signed by the institutional physician, shall accompany such order of commitment made hereunder, and said judge shall keep a record of his doings and furnish a copy to any interested person requiring and paying for it.

**Sec. 18. Sections 8, 9, and 11 applicable.** 1917, c. 88. 1923, c. 160, § 4. The provisions of sections eight, nine and eleven of this chapter are hereby extended to and made applicable to the case of any woman committed from the reformatory for women, any man committed from the reformatory for men, any girl committed from the state school for girls and any boy committed from the state school for boys, in the foregoing manner, except that said fees and costs shall be audited and allowed by the state auditor and shall be paid by the state.

## CHAPTER 150.

### Pardons, and Fugitives from Justice.

#### Pardons.

**Sec. 1. Notice to be given to county attorney, on all petitions for pardon; his attendance if required; statement of facts to be furnished.** R. S. c. 140, § 1. On all petitions to the governor for pardon or commutation of sentences, written notice thereof shall be given to the county attorney for the county where the case was tried at least three weeks before the time of the hearing thereon, and three weeks' notice in some newspaper printed and published in said county; and if the crime for which said pardon is asked is punishable by imprisonment in the state prison, the county attorney for the county where the case was tried shall upon the request of the governor and council, attend the meeting of the governor and council at which the petition is to be heard, and the governor and council shall allow him his necessary expenses for such attendance, and a reasonable compensation for his services to be paid from the state treasury out of the appropriation for costs in criminal prosecutions. The governor and council may require the judge and prosecuting officer who tried the case to furnish them a concise statement thereof as proved at the trial and any other facts bearing on the propriety of granting pardon or commutation.

**Sec. 2. When state prison sentence may be commuted to imprisonment in jail.** R. S. c. 140, § 2. When a person is sentenced to confinement in the state prison, the governor, with the advice and consent of the council, may, if he deems 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.

#### Conditional Pardons.

**Sec. 3. Governor may grant conditional pardons.** R. S. c. 140, § 3. In any case in which the governor is authorized by the constitution to grant a pardon, he may, by and with the advice and consent of the council, and upon petition of the person convicted, grant it upon such conditions, and with such restrictions and under such limitations as he deems proper, and he may issue his warrant to all proper officers to carry such pardon into effect; which warrant shall be obeyed and executed instead of the sentence originally awarded.

See Constitution, Art. v, Part 1, § 11.

**Sec. 4. Conditions under which convict may be again arrested.** R. S. c. 140, § 4. When a convict has been pardoned on conditions to be observed and performed by him, and the warden of the state prison, or keeper of the jail, where the convict was confined, has reason to believe that he has violated the same, such officer shall forthwith cause him to be arrested and detained until the case can be examined by the governor and council; and the officer making the arrest shall forthwith give them notice thereof, in writing.

**Sec. 5. If governor and council find that conditions have been violated, convict to be remanded to prison.** R. S. c. 140, § 5. The governor and council

shall, upon receiving such notice, examine the case of such convict, and if it appears by his own admission or by evidence, that he has violated the conditions of his pardon, the governor, with the advice and consent of the council, shall order him to be remanded and confined for the unexpired term of the sentence. In computing the period of his confinement, the time between the pardon and the subsequent arrest shall not be reckoned as part of the term of his sentence. If it appears to the governor and council that he has not broken the conditions of his pardon, he shall be discharged.

**Sec. 6. Officer, to whom warrant for pardon or commutation is issued, to make return.** R. S. c. 140, § 6. When a convict is pardoned, or his punishment is commuted, the officer to whom the warrant for that purpose is issued shall, as soon as may be after executing the same, make return thereof, under his hand, with his doings thereon, to the office of the secretary of state; and he shall also file in the clerk's office of the court in which the offender was convicted, an attested copy of the warrant and return, a brief abstract whereof the clerk shall subjoin to the record of the conviction and sentence.

### Fugitives From Justice.

**Sec. 7. Governor may appoint an agent to demand fugitives in other states.** R. S. c. 140, § 7. 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 by the state auditor and paid from the treasury by order of the governor and council.

See U. S. Constitution, Art. iv, § 2, ¶ 2.

**Sec. 8. Reward for the arrest and return of escaped prisoners and fugitives from justice.** R. S. c. 140, § 8. Whenever a prisoner convicted of, or charged with, a capital crime or other high offense, escapes from prison in this state; or there is reasonable cause to believe that a person who is charged with such offense and has not 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 offense was committed, and upon such terms and conditions as he deems expedient and proper, offer a suitable reward, not exceeding one thousand dollars, for the arrest, return, and delivery into custody of such escaped prisoner or fugitive from justice; and upon satisfactory proof that the terms and conditions of such offer have been complied with, he may, with the advice and consent of the council, draw his warrant upon the treasurer for the payment thereof.

**Sec. 9. Governor may issue his warrant to surrender fugitives found in this state.** R. S. c. 140, § 9. When such demand as is mentioned in section seven is made on the governor of this state, he may investigate all the material facts which come to his knowledge and determine the expediency of complying therewith, and if 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.

**Sec. 10. Court or magistrate may issue a warrant for the arrest of a fugitive**

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from another state. R. S. c. 140, § 10. When such fugitive from justice in another state is found in this state, any court or magistrate authorized to issue warrants in criminal cases, may, on complaint under oath, setting forth the offense and other facts necessary to bring the case within the provisions of law, grant a warrant and have the accused arrested for examination as in other cases.

Sec. 11. Examination of case. R. S. c. 140, § 11. 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 offense is bailable, the accused may recognize with sufficient sureties to appear at the adjournment; and if he does not so recognize, or the offense 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.

Sec. 12. When such prisoner shall be discharged at the adjourned day. R. S. c. 140, § 12. 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, or the two preceding sections, shall prevent the arrest of any accused by an executive warrant, and such arrest discharges any such existing recognizance.

Sec. 13. The complainant is answerable for costs. R. S. c. 140, § 13. The complainant is 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.

See c. 123, § 81.

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## CHAPTER 151.

### Medical Examiners and Their Duties.

Sec. 1. Appointment of medical examiners; their number and duties. R. S. c. 141, § 1. 1917, c. 252, § 1. The governor, with the advice and consent of the council, shall appoint for a term of four years, medical examiners for each county in the state, who shall be able and discreet men, learned in the science of medicine and anatomy, and bona fide residents of the county for which they are appointed. The number of medical examiners so to be appointed shall be as follows: For the counties of Knox, Lincoln, Sagadahoc and Waldo, one each; for the counties of Androscoggin, Franklin, Hancock, Oxford, Piscataquis, Somerset and Washington, two each; for the counties of Aroostook, Kennebec, Penobscot, three each; for the county of York, four, and for the county of Cumberland, five; and they shall be appointed with reference to territorial distribution. In addition to the number of medical examiners in the several counties, as above provided for, the governor may, however, with the advice and consent of the council, appoint as many more medical examiners in the several counties as he deems necessary and proper. They shall be liable to removal from office by the governor and council at any time, for cause. Each medical examiner before entering upon the duties of his office, shall be duly sworn to the faithful performance of his duty. They shall make examinations as hereinafter provided upon the view of the dead bodies of such persons only

as are supposed to have come to their death by violence or unlawful act of some person or persons, the committing of which act is punishable in accordance with sections one, two and three of chapter one hundred twenty-nine.

**Sec. 2. Notice of finding of the body of a person supposed to have come to his death by violence.** R. S. c. 141, § 2. 1917, c. 252, § 2. Whoever finds a body of any person who may be supposed to have come to his death by violence or unlawful act, of some person or persons, the committing of which act is punishable in accordance with sections one, two and three of chapter one hundred twenty-nine, shall immediately notify one of the municipal officers, a police officer, or constable, member of the board of selectmen, or a constable, if in a town, a member of the board of assessors, if in a plantation, and if in an unorganized place, the most readily accessible of such officials in any city, town, or plantation within the county; the official so notified shall at once take charge of such body and retain custody thereof without removal until the arrival of a medical examiner, the county attorney or the attorney general. The persons so finding such body, or the official taking charge thereof shall then immediately notify the most readily accessible medical examiner in the county wherein the body is found and the county attorney thereof, who shall at once notify the attorney general.

**Sec. 3. Proceedings by medical examiner upon receiving such notice.** R. S. c. 141, § 3. 1917, c. 252, § 3. Upon notice that there has been found or is lying within his county the body of a person who is supposed to have come to his death by violence or unlawful act, of some person or persons, the committing of which act is punishable in accordance with sections one, two and three of chapter one hundred twenty-nine, the medical examiner shall forthwith repair to the place where such body lies and take charge of the same and before said body is removed he shall reduce or cause to be reduced to writing a description of the location and position of the body and any and all facts that may be deemed important in determining the cause of death. He shall then make an autopsy in the presence of a physician and one other discreet person sufficient in his judgment to disclose such facts as may be attainable thereby which may be of assistance in determining the cause of death. He may compel the assistance of such physician and person, by subpoena, if necessary, and he shall then and there at the time of such autopsy reduce or cause to be reduced to writing every fact and circumstance disclosed by such autopsy tending to show the manner and cause of death, which record shall be signed by himself and the witnesses who have attended, who shall in addition to their names subscribe their address and place of business. In case at the time of finding of such body there be no medical examiner within the county by reason of vacancy in the office, incapacity or absence from the county, any medical examiner in an adjoining county may be notified whose duty it shall be to attend and perform all duties prescribed by this chapter as though he were a medical examiner within the county.

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**Sec. 4. Notice to attorney general; return of death to town clerk.** R. S. c. 141, § 4. If upon such view with personal inquiry or autopsy as is required by the preceding section, the medical examiner is of the opinion that the death of the person was caused by violence, criminal or otherwise, he shall at once so notify the county attorney and the attorney-general, and file with each a duly attested copy of the record of the case. He shall also make a return of the death of such person to the city or town clerk as required by law, which

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shall be supplemented with a personal description of the deceased for identification.

**Sec. 5. Autopsy may be ordered by attorney-general; inquest may be held; proceedings.** R. S. c. 141, § 5. The county attorney or attorney-general may require the medical examiner to perform an autopsy if in their judgment the same is advisable, in cases where the medical examiner has not deemed it necessary to do so, and on receiving from a medical examiner the report of an autopsy made by him in pursuance of the provisions of this chapter, and finding some person or persons probably implicated, may, when deemed necessary, authorize the medical examiner to take an inquest upon the view of the dead body of the person whose death is supposed to have been occasioned unlawfully; such medical examiner shall thereupon summon to appear before him such witnesses as the county attorney or attorney-general may direct, who shall be examined under oath by said county attorney or attorney-general. All such testimony shall be reduced to writing by the medical examiner or under his direction and shall be signed by the witness and sworn to. The medical examiner shall preside at such inquest and shall report in writing his conclusions, when and where and by what means the person came to his death, to the county attorney or attorney-general, and if it appears to him that it was a case of homicide, he shall so state and may state the name of the person, who in his judgment there is probable cause to believe contributed to such death, if known to him. The county attorney and the attorney-general shall then proceed to execute the laws of the state governing the office which they hold and may direct the holding of witnesses as they shall deem necessary.

**Sec. 6. Inquest when county attorney or attorney-general disagree with medical examiner.** R. S. c. 141, § 6. If a medical examiner reports that a death was not caused by violence or unlawful act and the county attorney or attorney-general is of a contrary opinion, nothing in this chapter shall be construed to prevent either of these officers directing an inquest in accordance with this chapter.

**Sec. 7. Expert aid may be called; compensation therefor.** R. S. c. 141, § 7. The medical examiner with the advice and consent of the county attorney or attorney-general, may if he deems necessary call a chemist or other expert to aid in the examination of the body or of substance supposed to have caused or contributed to the death of such person and such chemist or other expert shall be entitled to such compensation for his services as the medical examiner and the county attorney shall certify to be just and reasonable. Any person employed to reduce to writing the results of any of the proceedings provided for in this chapter shall be sworn and shall be allowed reasonable compensation.

**Sec. 8. Disposal of dead body after autopsy; if body is unidentified; expense of burial.** R. S. c. 141, § 8. The medical examiner upon the completion of his examination, autopsy, or inquest shall deliver the dead body upon their claim therefor, to one or more of the persons hereinafter named, and they shall be entitled thereto as follows: First, the husband or wife, as the case may be; second, the next of kin; third, any friend of the deceased. But if the dead body is unidentified or is unclaimed for a period of not less than forty-eight hours following the view thereof, the medical examiners shall deliver the body to the overseers of the poor in the town or if in a plantation or unorganized place to the county commissioners who shall decently bury the same, or shall deliver it to the board of distribution as provided in section three of chapter twenty-one. The expense of burial shall be borne by the municipality liable for the support of the deceased, if any within the state, and if not by the state.

**Sec. 9. Personal effects, how disposed of.** R. S. c. 141, § 9. In all cases arising under the provisions of this chapter the medical examiner shall take charge of any money or any other personal effects of the deceased found upon or near the body and subject to the right of the state to use the same as evidence, shall deliver them to the person or persons entitled thereto, or if there is any doubt regarding to whom they shall be delivered, this fact shall be made known to the judge of probate for the county, whose directions in the case shall be followed.

**Sec. 10. Compensation of medical examiner.** R. S. c. 141, § 10. Every medical examiner shall render an account of the expenses of each case, including his fees, to the county attorney, who shall audit and approve the same before it is submitted to the county commissioners for their approval, and the fees allowed the medical examiner shall not exceed the following, viz: For a view and inquiry without an autopsy, ten dollars; for a view and autopsy, twenty-five dollars; for an inquest, ten dollars per day for the time actually spent in holding such inquest, and for all necessary travel at the rate of six cents per mile. Witnesses summoned to testify at such inquest shall be allowed the same fees as witnesses in the supreme judicial court. The physician and other person required to be present at an autopsy as provided in section three hereof shall be allowed a reasonable compensation to be audited by the medical examiner and county attorney.

**Sec. 11. Preparation and distribution of record books and blanks.** R. S. c. 141, § 11. The attorney-general and secretary of state shall prepare for the use of medical examiners, forms of record books, blank returns, and other papers necessary to carry out the provisions of this chapter; they shall be printed at the expense of the state and distributed to the several medical examiners who shall take care of the same, each entering thereon all the work and reports of his office, keeping the books open for the inspection of the county attorney and attorney-general; whenever a medical examiner resigns or ceases to hold office, all books and papers pertaining to the office shall be delivered to his successor.