

MAINE STATE LEGISLATURE

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THE
REVISED STATUTES

OF THE
STATE OF MAINE,

PASSED OCTOBER 22, 1840;

TO WHICH ARE PREFIXED

THE CONSTITUTIONS

OF THE

United States and of the State of Maine,

AND TO WHICH ARE SUBJOINED THE OTHER

PUBLIC LAWS OF 1840 AND 1841,

WITH AN

APPENDIX.

PRINTED AND PUBLISHED IN COMPLIANCE WITH A RESOLVE OF OCTOBER 22, 1840.

Augusta:

PUBLISHED BY WILLIAM R. SMITH & Co., PRINTERS TO THE STATE.

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1841.

CHAP. 153. justice of the peace, to the end, that the offender therein may be apprehended, and be amenable to justice, he shall be deemed guilty of misprision of treason; and shall be punished by imprisonment in the state prison, not more than five years, or by fine, not exceeding one thousand dollars, and by imprisonment in the county jail, not more than one year.

Necessary
proof.
1821, 1, § 5.

SECT. 4. No person shall be indicted and convicted of misprision of treason, unless the treason concealed and not informed of, as mentioned in the preceding section, shall be proved by the testimony of two witnesses to the same overt act, or by one witness to one overt act, and by another witness to another overt act of the same species of treason, or by voluntary confession in open court.

Limitation, as
to time of prosecution.
1821, 1, § 7.

SECT. 5. No person shall be indicted and convicted of treason or misprision of treason, unless the indictment therefor shall be found within three years next after the commission of the treason.

Usurpation of
jurisdiction by
foreign power,
within limits
defined by the
treaty of 1783.
1829, 446.

SECT. 6. If any person, not a citizen of the United States, or any person, under the authority or color or pretence of authority from any foreign prince, state or government, shall enter upon any lands, cut any timber, serve any civil or criminal process, or exercise any act of jurisdiction, authority or ownership, or shall pretend or attempt or claim any right, or threaten to do any of the said acts within the limits of this state, as described in and by the treaty of seventeen hundred and eighty three, between the United States and Great Britain, such person, and every person who shall aid or encourage the same, shall be deemed guilty of a high misdemeanor, and shall be punished, on conviction in the supreme judicial court or district court in any county in the state, by fine and imprisonment at the discretion of the court, according to the aggravation of the offence.

CHAPTER 154.

OF OFFENCES AGAINST THE LIVES AND PERSONS OF INDIVIDUALS.

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| <p>SECT. 1. Murder defined.</p> <p>2. Murder in the first degree.</p> <p>3. Murder in the second degree.</p> <p>4. Jury to find the degree on trial; but the court, on confession.</p> <p>5. Manslaughter.</p> <p>6. Jurisdiction in case of death in the state, from a wound in a duel, without the state.</p> <p>7. Seconds in any such fatal duel, deemed accessory to murder before the fact.</p> <p>8. Plea of former conviction or acquittal without the state.</p> <p>9. Party to a duel, whether as principal, second, surgeon or otherwise. Challenges.</p> | <p>SECT. 10. Accepting a challenge. Aiding or encouraging such challenge or acceptance.</p> <p>11. Going out of the state for the purpose of a challenge, or duel. Conviction in another state may be pleaded in bar.</p> <p>12. Posting, and contemptuous provocations to a duel.</p> <p>13. Maiming, and malicious disfiguring.</p> <p>14. Robbery.</p> <p>15. Punishment, if with a dangerous weapon.</p> <p>16. Punishment in other cases.</p> <p>17. Rape.</p> <p>18. Forcible abduction, and compulsion to marry, &c.</p> |
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28. If under ten years of age.
29. Assault by a person armed, with intent to murder, &c.
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31. Other felonious assaults.
32. Attempt to murder by poison, or other means, not constituting an assault.
33. Assault and battery defined.
34. Punishment thereof.
35. Jurisdiction of justices of the peace, in cases of assault and battery.

SECTION. 1. Whoever shall unlawfully kill any human being, with malice aforethought, either express or implied, shall be deemed guilty of murder.

Murder defined.
13 Mass. 356.

SECT. 2. Whoever shall commit murder with express malice aforethought, or in perpetrating or attempting to perpetrate any crime, punishable with death, or imprisonment in the state prison for life, or for an unlimited term of years, shall be deemed guilty of murder of the first degree, and shall be punished with death.

Murder in the first degree.
1821, 2, § 1.
9 Pick. 496.

SECT. 3. Whoever shall commit murder, otherwise than is set forth in the preceding section, shall be deemed guilty of murder of the second degree, and shall be punished by imprisonment for life in the state prison.

Murder in the second degree.

SECT. 4. Upon the trial of an indictment for murder, the jury, if they find the defendant guilty, shall inquire and, by their verdict, ascertain, whether he be guilty of murder of the first or second degree; but, if such defendant be convicted upon his confession in open court, the court shall proceed by the examination of witnesses, to determine the degree of the murder, and to award sentence accordingly.

Jury to find the degree, on trial; but the court, on confession.

SECT. 5. Whoever shall unlawfully kill any human being in the heat of passion, upon sudden provocation, without malice aforethought, either express or implied, or in any manner shall be guilty of manslaughter, at common law, shall be punished by imprisonment in the state prison, not more than ten years, or by fine, not exceeding one thousand dollars, and imprisonment in the county jail, not more than one year.

Manslaughter.
1821, 2, § 3.

SECT. 6. Every person, being an inhabitant or resident of this state, who shall, within the same, make an appointment or engagement to fight a duel with deadly weapons, and shall fight such duel, without the jurisdiction of this state, and, in so doing, shall inflict a mortal wound on any person, whereof such person shall afterwards die, within this state, shall be deemed guilty of murder of the first degree, within this state, and be punished accordingly; and may be indicted, tried and convicted in the county, where such death shall happen.

Jurisdiction, in case of death in the state, from a wound in a duel out of the state.

CHAP. 154. SECT. 7. Every person, being an inhabitant or resident of this state, who shall, by previous appointment or engagement made within the same, be the second of either party in such duel, as is mentioned in the preceding section, and shall be present, as such second, when such mortal wound is inflicted, whereof death shall ensue within this state, shall be deemed to be accessory, before the fact, to murder of the first degree within this state, and be punished accordingly; and may be indicted, tried and convicted, in the county where the death shall happen.

Plea of former conviction or acquittal without the state.

SECT. 8. Any person, indicted under either of the two preceding sections, may plead a former conviction or acquittal of the same offence in any other state or country; and such plea, if admitted or established, shall be a bar to all further or other proceedings against such person for the same offence within this state.

Party to a duel, whether as principal, second, surgeon, or otherwise. Challenges. 1821, 2, § 7.

SECT. 9. Every person, who shall fight a duel with deadly weapons, or who shall be present at the fighting of such duel, as an aid, second or surgeon, or shall advise, encourage or promote such duel, although no homicide ensue, and every person, who shall challenge another to fight a duel, or shall send or deliver any verbal or written message, purporting or intended to be such challenge, although no duel shall ensue, shall be punished by imprisonment in the state prison, not more than twenty years, or by fine, not exceeding one thousand dollars, and imprisonment in the county jail, not more than one year; and shall also be incapable of holding, being elected, or appointed to any office, or place of honor, trust or profit, under this state, for the term of twenty years after conviction.

Accepting a challenge. Aiding or encouraging such challenge or acceptance. 1821, 2, § 8.

SECT. 10. Every person; who shall accept such challenge, and every person, who shall engage to act as a second or as a surgeon on such acceptance, or who shall knowingly carry and deliver any such challenge or acceptance, or who shall advise, encourage or promote the same, although no duel ensue, shall be punished by imprisonment in the county jail, not more than one year, and by fine not exceeding one thousand dollars; and shall also be incapacitated, as mentioned in the preceding section, for the term of five years after conviction.

Going out of the state, for the purpose of a challenge or duel. Conviction in another state may be pleaded in bar.

SECT. 11. If any inhabitant or resident of this state, shall leave the same for the purpose of eluding the operation of the provisions of the two preceding sections, with intent to give or accept a challenge, or to fight a duel out of the state, or to aid, as a second or as a surgeon in any such duel out of the state, he shall be deemed as guilty, and be subject to like punishment, as if the offence had been committed within this state; and may be indicted, tried and convicted in the county where he may reside; and a former conviction or acquittal for the same offence, in any other state or country, may be pleaded on such trial, and, if admitted or established, shall be a bar to any further or other proceedings against such person for the same offence.

Posting, and contemptuous provocations to a duel.

SECT. 12. If any person shall post another, or, in writing or print, use any reproachful or contemptuous language to or concerning another, for not fighting a duel, or for not sending or not accepting a challenge, he shall be punished by imprisonment in the county jail, not more than one year, and by fine, not exceeding one hundred dollars.

SECT. 13. If any person, with malicious intent to maim or disfigure, shall cut or maim the tongue, put out or destroy an eye, cut or tear off an ear, cut, slit or mutilate the nose or lip, or cut off or disable a limb or any other member of another person, he shall be punished by imprisonment in the state prison, not more than twenty years.

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Maiming, and malicious disfiguring.
1821, 2, § 4.

SECT. 14. If any person shall, with force or violence, or by putting in fear, feloniously steal and take from the person of another any property, that is the subject of larceny, he shall be deemed guilty of robbery; and every such offender shall be punished according to the aggravation of the offence, as is provided in the two following sections.

Robbery.
1821, 7, § 7.
7 Mass. 242.

SECT. 15. If such offender, at the time of such robbery, shall be armed with a dangerous weapon, with intent, if resisted, to kill or maim the person robbed, or if, being so armed, he shall wound or strike the person robbed, or if he shall have any confederate aiding and abetting him in such robbery, present and so armed, he shall be punished by imprisonment in the state prison, for life.

Punishment, if with a dangerous weapon.
1821, 7, § 8.
1829, 430, § 1.
17 Mass. 359.

SECT. 16. If such offender shall commit such robbery otherwise than as mentioned in the preceding section, he shall be punished by imprisonment in the state prison for any term of years, or for life.

Punishment in other cases.
1821, 7, § 7.
1829, 430, § 1.

SECT. 17. If any man shall ravish and carnally know any female of the age of ten years or more, by force and against her will, or shall unlawfully or carnally know and abuse any female child under the age of ten years, he shall be punished by imprisonment in the state prison, for life.

Rape.
1821, 3, § 1.
1829, 430, § 5.

SECT. 18. If any person shall take any woman unlawfully and against her will, and, by force, menace or duress, compel her to marry him, or any other person, or to be defiled, he shall be punished by imprisonment in the state prison, for life, or any term of years.

Forcible abduction, and compulsion to marry, &c.

SECT. 19. If any person shall take any woman, unlawfully and against her will, with intent to compel her by force, menace or duress, to marry him or any other person, or to be defiled, he shall be punished by imprisonment in the state prison, not more than ten years.

Abduction, with intent to compel, &c.

SECT. 20. Whoever, without lawful authority, shall confine or imprison any person in this state against his will, or shall forcibly transport or carry any person out of the state, or from one place to another place within the state, without his consent, or shall forcibly seize, inveigle, convey or kidnap any person, with intent to cause such person to be so confined or imprisoned, or so transported or carried against his will and consent, or shall sell as a slave, or in any manner transfer, for any term, the service of any negro or mulatto, or other person of color, who shall have been unlawfully seized, inveigled or kidnapped as aforesaid, he shall be punished by imprisonment in the state prison, not more than five years, or by fine, not exceeding one thousand dollars, and imprisonment in the county jail not more than one year.

Forcible confinement and kidnapping.
1821, 22, § 1.
1838, 323, § 1.

SECT. 21. Every offence, mentioned in the preceding section, may be indicted and tried, either in the county, in which the same

Where the offence may be tried. Subsequent consent

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no justification, unless proved to be without duress, or fraud. 1838, 323, § 2.

Exposure and abandonment of children.

Masters of vessels, transporting minors and indentured servants out of the state. 1821, 22, § 2. 2 Fairf. 163.

Enlistment of minors into the U. S. army, without consent of parents, &c. 1821, 22, § 3.

Enticing such out of the state, for the purpose of enlisting. 1821, 22, § 4.

Threatening communications to extort money, or for other purposes.

Assault, with intent to ravish, if the female be ten years old or upwards. 1821, 3, § 3. 15 Mass. 187. 2 Pick. 380. 4 Pick. 252. If under ten years of age. 1821, 3, § 4. Assault, by a person armed,

may have been committed, or in which such person may have been taken or confined, or to which he may have been carried or brought; and, on the trial, the consent of such person shall not be a defence, unless it shall be made to appear to the jury, that such consent was not obtained by fraud, threats or duress.

SECT. 22. If the father or mother of any child, under the age of six years, or any person to whom such child shall have been confided, shall expose such child in any highway, street, field, house or outhouse, or in any other place, with intent wholly to abandon it, he or she shall be punished by imprisonment in the state prison, not more than five years, or by fine, not exceeding five hundred dollars, and imprisonment in the county jail, not more than one year.

SECT. 23. Every master or commander of any ship or vessel, who shall knowingly carry or transport, out of this state, any person under the age of twenty one years, or any apprentice, or indentured servant, without the consent of his parent, master and guardian, shall be punished by a fine not exceeding two hundred dollars, and shall be further liable to such parent, master or guardian, for all damages sustained, in an action on the case.

SECT. 24. If any person within this state shall enlist, or cause to be enlisted, into the army of the United States, any minor under the age of twenty one years, knowing him to be such minor, without the consent in writing of his parent, master and guardian, and such minor shall, within six months after his enlistment, be removed out of this state, so that he cannot be had before the tribunals of this state, by writ of habeas corpus, he shall be punished by a fine, not exceeding five hundred dollars, and imprisonment in the county jail, not more than one year.

SECT. 25. If any person, knowing one to be a minor under the age of twenty one years, shall persuade him to depart from this state, with intent to enlist into the army of the United States, without the consent of his parent, master and guardian, he shall be punished, as provided in the preceding section.

SECT. 26. If any person shall, either verbally or by any written or printed communication, maliciously threaten to accuse another of a crime or offence, or to do any injury to the person or property or another, with intent thereby to extort any money or pecuniary advantage whatever, or to compel the person, so threatened, to do any act against his will, he shall be punished by imprisonment in the state prison, not more than two years, or by fine, not exceeding five hundred dollars, and imprisonment in the county jail, not more than one year.

SECT. 27. If any person, with intent to commit a rape, shall assault any female of the age of ten years or more, he shall be punished by imprisonment in the state prison, not more than ten years, or by fine, not exceeding five hundred dollars, and imprisonment in the county jail, not more than one year.

SECT. 28. If any person, with intent to commit a rape, shall assault a female under the age of ten years, he shall be punished by imprisonment in the state prison, not more than twenty years.

SECT. 29. If any person, being armed with a dangerous weapon,

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shall assault another, with intent to murder, kill, maim, rob, steal, or to commit arson or burglary, he shall be punished by imprisonment in the state prison, not more than twenty years.

with intent to murder, &c. 1821, 2, § 5, 6. 1821, 7, § 9.

SECT. 30. If any person, not being armed with a dangerous weapon, shall assault another with intent to murder, kill, maim, rob, steal, or to commit arson or burglary, he shall be punished by imprisonment in the state prison, not more than ten years, or by fine, not exceeding one thousand dollars, and imprisonment in the county jail, not more than one year.

Assault, with such intent, by a person not armed. 1821, 2, § 6. 1821, 7, § 11. 1836, 241, § 1.

SECT. 31. If any person shall assault another with intent to commit any felony or crime, punishable with imprisonment in the state prison, where the punishment for such assault is not otherwise herein before prescribed, he shall be punished by imprisonment in the state prison, not more than five years, or by fine, not exceeding five hundred dollars, and by imprisonment in the county jail not more than one year.

Other felonious assaults.

SECT. 32. If any person, with intent to murder, shall mingle poison in any food, drink or medicine, or shall poison any spring, well or reservoir of water, or shall, in any way, attempt to kill or murder by poisoning, drowning, suffocating, or by any other means, not constituting an assault with an intent to kill or murder, he shall be punished by imprisonment in the state prison, not more than twenty years.

Attempt to murder by poison, or other means, not constituting an assault. 1836, 241, § 2.

SECT. 33. If any person shall unlawfully offer or attempt to strike, hit, touch, or do any violence, however small, to the person of another, in a wanton, wilful, angry or insulting manner, with or without a weapon, or through the instrumentality or intervention of any thing animate or inanimate, and under circumstances, where an intention and existing ability, at the time, to do some violence to the person of another is apparent, he shall be deemed guilty of an assault; and, if such attempt be effected, and the person of another be struck, hit, touched or injured, in however slight degree, in manner above mentioned, the offender shall be deemed guilty of an assault and battery.

Assault and battery defined.

SECT. 34. Whoever shall be convicted, upon indictment, of an assault, or an assault and battery, where no other punishment is prescribed, shall be punished by a fine, not exceeding two hundred dollars, and by imprisonment in the county jail, not more than one year.

Punishment thereof.

SECT. 35. Every justice of the peace shall have concurrent jurisdiction, with the district court, of all assaults and batteries committed in his county, which are not of a high and aggravated nature; and, on conviction, he may punish the offender by fine, not exceeding ten dollars, or by imprisonment in the county jail, not more than one month.

Jurisdiction of justices of the peace, in cases of assault and battery. 1821, 76, § 1.