

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:

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1841.

shall be found within six years after the offence shall have been committed; provided, that the offender shall not flee from justice; and that no other limitation for the prosecution of such offender is provided by law; but any period, during which the party charged was not usually and publicly resident within this state, shall not be reckoned as a part of the said six years.

CHAP. 167.
1839, 362.
1840, 11.

CHAPTER 168.

OF SENTENCE AND EXECUTION THEREOF IN CRIMINAL CASES.

- SECT. 1. What sentence to be passed, when none is provided by statute.
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4. When sentence may be either fine or imprisonment, or both.
5. Sureties to keep the peace, &c. required in some cases of conviction.
6. Minutes made by the clerk, when sufficient authority for the officer.

- SECT. 7. Removal of convicts to the state prison, upon sentence.
8. Convicts under sentence of death, to be also sentenced to labor in the state prison, in the mean time.
9. Execution not to take place within one year. Warrant of the executive therefor.
10. How sentence of death shall be executed.
11. Sheriff and certain designated persons to be present.
12. Sheriff's return to be made and filed in the office of secretary of state.

SECTION 1. When a person shall be legally convicted of any offence, for the punishment of which no provision is made by statute, the court shall award such sentence as is conformable to the common usage and practice in this state, according to the nature of the offence, and not repugnant to the constitution.

What sentence to be passed, when none is provided by statute.
1821, 54, § 1.

SECT. 2. Any person convicted before the supreme judicial court or district court, of any crime or offence punishable, in part or in whole, by imprisonment in the county jail, may be sentenced to suffer imprisonment, either in the county jail or house of correction at their discretion, to be employed and kept at work there, in the same manner as rogues, vagabonds, and idlers are by law to be employed, when committed to such house.

Where imprisonment may be either in the county jail, or house of correction.
1821, 111, § 7.

SECT. 3. Either of said courts may sentence any person, convicted of any offence mentioned in the preceding section, conditionally, to pay a fine with costs of prosecution, or, in case he do not pay the same within ten days, that he be immediately thereafter conveyed to the house of correction, and there be kept at work as aforesaid, for a term, not exceeding six months.

Conditional sentence, to pay fine and costs, or to be sent to the house of correction in ten days.
1821, 111, § 8.

SECT. 4. Whenever it is provided that an offender shall be punished by imprisonment and a fine, the court may sentence him to either of those punishments without the other, or to both.

When sentence may be either fine or imprisonment, or both.

SECT. 5. Every court, before whom any person shall be convicted of an offence, not punishable by death or confinement in the state prison, may, in addition to the punishment by law prescribed, require such person to recognize to the state, with suffi-

Sureties to keep the peace, &c. required in some cases of conviction.

CHAP. 168.

cient sureties, in a reasonable sum, to keep the peace or be of good behavior, or both, for a term not exceeding two years, and stand committed till he shall so recognize.

Minutes made by the clerk, when sufficient authority for the officer.

SECT. 6. When a person, convicted of an offence, shall be sentenced to pay a fine or costs, or to be imprisoned in the county jail or house of correction, the clerk of the courts shall, as soon as may be, make out and deliver to the sheriff or some officer in court, a transcript of the minutes of the court of the conviction and sentence duly certified by him; and this shall be a sufficient authority for the officer to execute such sentence.

Removal of convicts to the state prison upon sentence. 1824, 282, § 1.

SECT. 7. When any convict is sentenced to confinement in the state prison, the clerk of the court, before whom the conviction may take place, 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; and the warden and all sheriffs and jail keepers are required strictly to obey the directions of it; and the clerk shall, as soon as may be, deliver the same warrant to the sheriff of the county, who is required forthwith to deliver the same to said warden.

Convicts, under sentence of death, to be also sentenced to labor in the state prison, in the mean time. 1837, 292, § 1.

SECT. 8. When any person shall be convicted of any crime punishable with death, and sentenced to suffer such punishment, he shall, at the same time, be sentenced to hard labor in the state prison, until such punishment of death shall be inflicted.

Execution not to take place within one year. Warrant of the executive therefor. 1837, 292, § 2.

SECT. 9. And no person, so sentenced and imprisoned, shall be executed in pursuance of such sentence, within one year from the day such sentence of death was passed, nor until the whole record of such proceedings or case shall be certified by the clerk of said court, under the seal thereof, to the supreme executive authority of the state, nor until a warrant shall be issued by said executive authority, under the great seal of this state, directed to the sheriff of the county wherein the state prison shall be situated, commanding the sheriff to cause the said sentence of death to be carried into execution.

How sentence of death shall be executed.

SECT. 10. The punishment of death shall, in every case, be inflicted by hanging the convict by the neck until he is dead, and the sentence shall, at the time directed by the warrant, be executed within the walls of the state prison, or the inclosed yard of the same.

Sheriff, and certain designated persons to be present.

SECT. 11. The sheriff of the county shall be present at the place of execution, unless prevented by sickness or other casualty, and also two of his deputies designated by him. He shall request the county attorney and twelve citizens, including a surgeon or physician, and shall permit the counsel of the prisoner, such minister of the gospel as the criminal shall desire, and his relations, to be present, and such officers of the prison, deputies, constables and military guard as he may see fit, but no others.

Sheriff's return to be made, and filed in the office of the secretary of state.

SECT. 12. Whenever a sheriff shall inflict the punishment of death upon any convict, in obedience to a warrant from the governor, he shall make return thereof under his hand with his doings thereon, to the secretary's office as soon as may be; and shall also file in the clerk's office of the court, where the conviction was had, an attested copy of the warrant and return thereon; and the clerk

shall place the same on file with the indictment, and subjoin to the record of the sentence a brief abstract of the sheriff's return on the warrant. CHAP. 168.

CHAPTER 169.

OF PROCEEDINGS FOR PREVENTION OF CRIMES.

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| <p>SECT. 1. Of the commencement of criminal proceedings.</p> <p>2. Magistrates may require sureties for the peace and good behavior.</p> <p>3. Of the examination of the complainant.</p> <p>4. When a warrant may issue.</p> <p>5. In certain cases sureties required, for keeping the peace, &c. without binding to appear at any court.</p> <p>6. Party to be discharged, on complying.</p> <p>7. On refusal, to be committed to the county jail; but still entitled to a hearing on his appeal.</p> <p>8. Proceedings, if the complaint be not sustained. Costs, if malicious or frivolous.</p> | <p>SECT. 9. When party, complained of, shall pay costs.</p> <p>10. Appeal to the next district court.</p> <p>11. Proceedings upon the appeal.</p> <p>12. Consequences, if the appellant fail to prosecute.</p> <p>13. Recognizance may be taken, after commitment.</p> <p>14. Return of such recognizance.</p> <p>15. When magistrate may require sureties, without a formal complaint.</p> <p>16. Persons going armed, without reasonable cause.</p> <p>17. Power of court, to remit the penalty of a recognizance.</p> <p>18. Sureties on recognizances may surrender their principals, as in case of bail in civil actions.</p> |
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SECTION 1. No person shall be held to answer in any court for an alleged crime or offence, other than contempt of court, unless upon an indictment by a grand jury, except in the following cases:

Of the commencement of criminal proceedings.

First. When a prosecution by information is expressly authorized by statute.

Second. In proceedings before a municipal or police court, or a justice of the peace.

Third. In proceedings before courts martial.

SECT. 2. The justices of the supreme judicial court, of the district court, justices of municipal courts and police courts in vacation, as well as in open court, and justices of the peace, in their respective counties, shall have power to cause all laws made for the preservation of the public peace to be kept; and, in the execution of that power, may require persons to give security to keep the peace, or be of the good behavior, or both, in the manner provided in this chapter.

Magistrates may require sureties for the peace and good behavior.

SECT. 3. Any such magistrate, on complaint made to him, that any person has threatened to commit an offence against the person or property of another, shall examine the complainant on oath, and also any witnesses who are produced, and reduce the complaint to writing, and cause the complainant to subscribe the same.

Of the examination of the complainant.

SECT. 4. If there should appear to such magistrate, on an examination of the facts, that there is just cause to apprehend and fear the commission of such offence, he shall issue a warrant under his hand and seal, containing a recital of the substance of the com-

When a warrant may issue. 1821, 76, § 1.