

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

THE
REVISED STATUTES

OF THE
STATE OF MAINE,

PASSED JANUARY 25, 1871;

TO WHICH ARE PREFIXED
THE CONSTITUTIONS

OF THE
UNITED STATES AND OF THE STATE OF MAINE:

WITH AN APPENDIX.

BY AUTHORITY OF THE LEGISLATURE.



PORTLAND:
PUBLISHED BY BAILEY & NOYES.

CHAPTER 124.

OFFENCES AGAINST CHASTITY, MORALITY AND DECENCY.

ADULTERY, INCEST, POLYGAMY, GROSS LEWDNESS AND FORNICATION.

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

CONCEALMENT OF BIRTHS AND PROCURING ABORTIONS.

- SEC. 7. Concealment by the mother of the birth of illegitimate issue, and how indicted with charge of murder.
 8. Punishment for procuring or attempting to procure abortion.

HOUSES OF ILL-FAME.

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

OBSCENE BOOKS AND PICTURES.

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

BLASPHEMY AND PROFANITY.

- SEC. 15. Blasphemy.
 16. Profanity.

DISTURBANCE OF RELIGIOUS MEETINGS, AND OBSERVANCE OF THE SABBATH.

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

PROTECTION OF DEAD BODIES IN GRAVES.

- SEC. 25. Punishment for an officer taking the body of a deceased person.

CHAP. 124. SEC. 26. Unauthorized disinterment or improper exposure or abandonment of dead bodies, not including bodies lawfully in the hands of surgeons and physicians.

27. Injury to monuments and places of burial.

CRUELTY TO ANIMALS.

SEC. 28. Punishment for cruelty to animals.

29. Railroad companies transporting animals, shall allow them food and rest.

30. Lien of railroad companies on animals for care and food.

31. Penalty for violation of sections 28 and 29.

32. Abandoned animals may be provided for at owner's expense.

33. Lien, how enforced.

34. Duty of officers to prosecute for violations.

35. Jurisdiction of courts and trial justices.

DRUNKENNESS.

SEC. 36. Punishment for first and second offence.

ADULTERY, INCEST, POLYGAMY, GROSS LEWDNESS AND FORNICATION.

Adultery.
R. S. c. 124, § 1.

SEC. 1. Whoever commits adultery shall be punished by imprisonment not less than one, nor more than five years; and when only one of the parties is married, and when they have been legally divorced from the bonds of matrimony, and afterwards cohabit, each shall be deemed guilty of adultery. (a)

Incest.
R. S. c. 123, § 2.

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

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

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

Polygamy, its punishment, and where tried.
R. S. c. 124, § 4.
6 Me. 148.

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

Lascivious cohabitation and lewdness.
R. S. c. 124, § 5.
7 Me. 57.

SEC. 5. If any man and woman, one or both being at the time married to another person, lewdly and lasciviously cohabit; or, married or unmarried, are guilty of open, gross lewdness and lascivious

(a) 8 Me. 75; 11 Me. 391; 19 Me. 155; 26 Me. 50; 35 Me. 205; 36 Me. 261; 43 Me. 258; 44 Me. 469.

behavior, they shall each be punished by imprisonment not more than CHAP. 124. five years, or by fine not exceeding three hundred dollars.

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

Fornication.
R. S. c. 124, § 6.

CONCEALMENT OF BIRTHS AND PROCURING ABORTIONS.

SEC. 7. If any woman is willingly delivered in secret of the issue of her body, which would be a bastard if born alive, and conceals the death thereof, so that it is not known whether it was born dead, or alive and was murdered, she shall be punished by imprisonment not more than three years, or by fine not exceeding one hundred dollars; and she may be charged with such offence, and also with murder of such child, in the same indictment, and convicted and punished for either, according to the verdict of the jury.

Concealment
by the mother
of the death of
illegitimate
issue, how in-
dicted, &c.
R. S. c. 124, § 7.
57 Me. 30.

SEC. 8. 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 were done as necessary for the preservation of the mother's life, shall be punished, if done with intent to destroy such child and thereby it was destroyed before birth, by imprisonment not more than five years, or by fine not exceeding one thousand dollars; if done with intent to procure the miscarriage of such woman, by imprisonment less than one year, and by fine not exceeding one thousand dollars.

Punishment
for procuring
or attempting
to procure
abortion.
R. S. c. 124, § 8.
32 Me. 369.
33 Me. 48.

HOUSES OF ILL-FAME.

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

Keeping
houses of ill-
fame.
R. S. c. 124, § 9.
1868, c. 222.

SEC. 10. Whoever fraudulently and deceitfully entices or takes away an unmarried female from her father's house, or wherever else she may be found for the purpose of prostitution at a house of ill-fame, assignation or elsewhere, and whoever aids therein, or secretes

Enticing un-
married fe-
males for pur-
poses of pros-
titution.
Enticing fe-

CHAP. 124. such female for such purposes; or whoever inveigles or entices any female, before reputed virtuous, to a house of ill-fame, or knowingly conceals or aids in concealing any such female, so enticed, for the purpose of prostitution or lewdness, shall be punished by imprisonment not less than one nor more than ten years.

males to
houses of ill-
fame.
R. S. c. 124, § 9.
1861, c. 4.

Warrants to
search for fe-
males suppos-
ed to be so en-
ticed.
R. S. c. 124,
§ 11.

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

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

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

OBSCENE BOOKS AND PICTURES.

Punishment
for making or
circulating ob-
scene books
and pictures.
R. S. c. 124,
§ 13.

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

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

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

BLASPHEMY AND PROFANITY.

Blasphemy.
R. S. c. 124,
§ 15.

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

Profanity.
R. S. c. 124,
§ 16.

SEC. 16. Whoever, being of years of discretion, profanely curses or swears, on complaint made within twenty days thereafter,

shall be punished by fine not exceeding two dollars; and if, after conviction, he is again guilty, by fine not exceeding five dollars. CHAP. 124.

DISTURBANCE OF RELIGIOUS MEETINGS AND OBSERVANCE OF THE
SABBATH.

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

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

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

Special police to preserve the peace at camp-meetings, how appointed.

Presiding officer or committee may appoint a person to keep boarders, &c.
R. S. c. 144,
§ 18.

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

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

SEC. 20. Whoever, on the Lord's day, keeps open his shop, workhouse, warehouse, or place of business, travels, or does any work, labor, or business on that day, except works of necessity or charity; uses any sport, game, or recreation; or is present at any dancing, public diversion, show, or entertainment, encouraging the same, shall be punished by a fine not exceeding ten dollars. (a)

Business, traveling and recreation prohibited on the sabbath.
R. S. c. 124,
§ 20.
1864, c. 281,
§ 3.

(a) 26 Me. 464; 28 Me. 326; 33 Me. 539; 34 Me. 391; 35 Me. 143; 36 Me. 466; 39 Me. 193; 42 Me. 89; 44 Me. 25; 46 Me. 520; 48 Me. 198; 49 Me. 432; 50 Me. 83; 55 Me. 555; 56 Me. 100.

CHAP. 124. SEC. 21. If any 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, shall be punished by fine not exceeding four dollars for each person thus suffered to abide; and if after conviction he is again guilty, by fine not exceeding ten dollars for each offence; and upon a third conviction, he shall also be incapable of holding any license; and every person so abiding shall be punished by fine not exceeding four dollars for each offence.

Time included in the Lord's day.
1864, c. 281, § 1.

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

Tythingmen to prosecute for offences.
R. S. c. 124, § 24.
1864, c. 281, § 5.

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

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

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

PROTECTION OF DEAD BODIES AND GRAVES.

Punishment for taking body of deceased person.
R. S. c. 124, § 25.

Disinterment or exposure or abandonment of dead bodies, &c.
R. S. c. 124, § 26.

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

SEC. 25. If any officer takes the body of any deceased person by writ or execution, he shall be punished by fine not exceeding five hundred dollars, and by imprisonment not more than six months.

SEC. 26. Whoever, without the permission of the board of health, municipal officers, or overseers of the poor of any town, therein willfully digs up or removes any human body or its remains from its place of burial, or aids in so doing; knowingly receives, conceals, or disposes of the same, or unnecessarily and indecently exposes, throws away, or abandons any human body or its remains in any public place, river, stream, or elsewhere, shall be punished by imprisonment not less than one, nor more than five years, or by fine not exceeding three thousand dollars; but any physician, surgeon, or medical student, may have in his possession or use human bodies or parts thereof lawfully obtained, for anatomical or physiological investigation and instruction.

SEC. 27. Whoever willfully destroys or injures any tomb, grave-stone, monument, or other thing placed or designed as a memorial of the dead, or any fence, railing, or other thing placed about or inclosing the burial place of the dead; or willfully injures, removes, or destroys, any tree, shrub, or plant, within such enclosure, shall be punished by imprisonment less than one year, or by fine not exceeding five hundred dollars.

SEC. 28. Every person who overdrives, overloads, overworks, tortures, tortures, deprives of necessary sustenance, cruelly beats, mutilates or kills any horse or other animal, or causes or procures the same to be done, or having the charge or custody of any such animal, as owner or otherwise, unnecessarily fails to provide such animal with proper food, drink and shelter or protection from the weather; every person owning or having the charge or custody of any animal, who shall knowingly and willfully authorize or permit the same to be subjected to or suffer any unnecessary torture or cruelty; and every owner, driver, possessor or person having the custody of an old, maimed, or disabled, or diseased horse, or other animal, who cruelly works the same when unfit for labor, or cruelly abandons the same; and every person who shall carry or cause to be carried in or upon any vehicle or otherwise, any animal in an unnecessarily cruel or inhuman manner, shall, for every such offence, be punished by imprisonment in the jail not exceeding one year, or by fine not exceeding two hundred dollars, or by both such fine and imprisonment.

CHAP. 124.

Penalty for cruelty to animals.
1869, c. 73,
§§ 1, 2, 3, 4.

SEC. 29. No railroad company in this state while transporting cattle, sheep, swine, or other animals, shall confine the same in cars for more than twenty-eight consecutive hours, unless delayed by storm or accidental cause, without unloading for rest, water, and feeding, for at least five consecutive hours. In estimating such period of confinement, the time the animals have been confined without such rest, on connecting roads from which they are received, shall be included. When so unloaded, they shall be properly fed, watered, and sheltered during such rest, by the owners or persons in custody thereof, and in case of their default, then by the railroad company transporting them, at the expense of said owners or persons in custody of the same.

Railroad companies transporting animals, shall allow them rest. Company to feed them if owners do not.
1869, c. 73, § 5.

SEC. 30. If any owner or person in charge of said animals refuses or neglects to pay for the care and feed of animals so rested, the railroad company may charge such expense to the owner or consignee, and retain a lien upon the animals until the same is paid; and no claim for damages for detention shall be recovered by the owner or shipper of any animals for the time they are detained under the provisions of this section.

Railroad companies to have a lien on animals for care and food.
1869, c. 73, § 6.

SEC. 31. Any railroad company, owner, consignee, or person in charge of such cattle, sheep, or other animals, who shall violate any provisions of the twenty-ninth section, shall, for every such violation, forfeit and pay a penalty of one hundred dollars.

Penalty for violation.
1869, c. 73, § 7.

SEC. 32. Any person may take charge of any animal whose owner has abandoned it, or is failing to properly take care and provide for it, and may furnish the same with proper shelter, nourishment and care at the owner's expense, and shall have a lien on such animal for the same.

Abandoned animals may be provided for at owner's expense.
1869, c. 73, § 8.

CHAP. 124.

Lien how
enforced.
1869, c. 73, § 9.

SEC. 33. In all cases where a lien is given under sections thirty and thirty-two, the persons or corporations having such lien, may sell such animal or animals at public auction, in the town or city where such animal was found or is detained, after giving the party claiming or owning the same three days' notice in writing; or in case such party cannot be found, then by publishing notice of the time and place of sale three times in any newspaper printed in the county where such animal was found or detained; and from the proceeds of such sale, may deduct all costs, charges and expenses, and a reasonable compensation for trouble in the matter, and hold the balance, if any, for and pay over the same, on demand, to the party or parties owning the said animal or animals, or his or their legal representatives.

Duty of officers to prosecute for violations.
1869, c. 73, § 10.

SEC. 34. It shall be the duty of all sheriffs, deputy sheriffs, police officers and constables, to prosecute all violations of the provisions of sections twenty-eight and twenty-nine, which shall come to their notice or knowledge; and all fines collected for each violation shall be paid over to the treasurer of the city or town where the offence for which the fine is imposed, was committed; and in case a society should be formed in such city or town for the prevention of cruelty to animals, then such fines shall inure and be paid over to such society, in aid of the benevolent objects for which it shall have been formed.

Jurisdiction of courts and trial justices.
1869, c. 73, § 11.

SEC. 35. The municipal and police courts and trial justices in this state shall have concurrent jurisdiction with the supreme judicial court of all offences described in sections twenty-eight and twenty-nine of this chapter.

DRUNKENNESS.

Penalty for drunkenness.
1859, c. 63.
See c. 27, § 49.

SEC. 36. Any intoxicated person found in any street, highway or other public place; or so found disturbing the peace of the public, or of his own or any other family in any private building or place, shall be punished for the first offence by fine of not more than five dollars, and upon any subsequent conviction, by fine not exceeding ten dollars, or imprisonment not more than sixty days. Prosecution for such offences shall be commenced within thirty days after they were committed, before a trial justice or judge of a municipal or police court; and said justice or judge may remit the punishment in whole or in part, when he is satisfied that the public welfare and the good of the offender requires it. Any such intoxicated person may be taken into custody by any sheriff, deputy sheriff, marshal or deputy marshal, police officer or watchman, and committed to the watch house or restrained in some suitable place until complaint can be made and a warrant issued against him.