

# MAINE STATE LEGISLATURE

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FOURTH REVISION.

THE  
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED AUGUST 29, 1883, AND TAKING EFFECT JANUARY 1, 1884.

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BY THE AUTHORITY OF THE LEGISLATURE.



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CHAP. 134. EXCEPTIONS AND BAIL AFTER VERDICT. NEW TRIALS. REVERSAL ON WRIT OF ERROR.

Respondent may give bail in bailable case, pending a question of law. R. S., c. 134, § 26. See c. 99, § 35. —form of recognizance. — after conviction of felony, he can be bailed only by justice trying him, or by some person appointed by him. 41 Me., 167. 42 Me., 385. 59 Me., 305. 70 Me., 334.

SEC. 26. 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 offence charged is bailable, recognize with sureties, in such sum as the court orders, with conditions substantially as follows: "The condition of this recognizance is such that, whereas there is now pending in the — court, within and for the county of —, an indictment against the said — — for the offence 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 he shall be committed. When a verdict of guilty is rendered against any person for an offence punishable by imprisonment in the state prison, he shall be admitted to bail only by the justice trying him, by some person by him appointed therefor, or by some justice of the supreme judicial court.

Three justices may grant a new trial in capital cases. 1883, c. 205, § 8.

SEC. 27. If a motion for new trial in a capital case is denied by the justice before whom the same is heard, the respondent may appeal from said decision to the next law term for such district; and the concurrence of but three justices shall be necessary to grant such motion.

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

SEC. 28. 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.

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CHAPTER 135.

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

WHAT SENTENCE MAY BE AWARDED.

- SEC. 1. No person shall be punished until convicted; what sentence may be passed, when none is provided. When punishment is by imprisonment and fine, or by imprisonment or fine, sentence may be to either or both. When convict shall pay costs.
2. Punishment may be for life, when a convict has before been sentenced to any state prison.
3. No convict shall be sent to the state prison for less than a year. Imprisonment for misdemeanors may be inflicted in jail or house of correction.
4. Crimes punishable in state prison for three years or less, may be punished in work-jails.

- SEC. 5. Alternative sentences to work-jails, how to be inflicted. Powers of jail inspectors in case of incorrigible, or dangerous convicts.
6. Convicts may be sentenced to any work-jail nearest to the county where the offence was committed. Imprisonment sentences include labor.
7. Expenses of prisoners from other counties, how to be paid.
8. In misdemeanors, sureties to keep the peace may be required, in addition to the other punishment.

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## EXECUTION OF SENTENCES.

- SEC. 9. Clerk's minutes are sufficient authority for officer to execute sentences for misdemeanors.
10. Removal of convicts to the state prison, must be upon clerk's warrant.

## EXECUTION OF SENTENCE IN CAPITAL CASES.

- SEC. 11. Copy of evidence shall be made; and on conviction, certified by presiding justice. In case of sentence of death, copy of the record and evidence shall be sent to the governor by the clerk.
12. Time for execution shall be fixed by the court, in the sentence.
13. Warrant, when and to whom to be issued.
14. Governor and council may respite the execution of a capital sentence.
15. How and where sentence of death shall be executed.
16. Sheriff's return shall be made, and filed in the office of secretary of state.

## LIBERATION OF POOR CONVICTS.

- SEC. 17. Convicts imprisoned for non-payment of fines or costs, may, after thirty days' labor, be liberated by the sheriff, on giving their notes, and a sworn schedule of their property.
18. Such notes are a lien on their real estate, and execution thereon may be proceeded with as in other cases.
19. Penalty for wilfully making a false schedule of property.

## WHAT SENTENCE MAY BE AWARDED.

SEC. 1. No person shall be punished for an offence 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 offence shall be imprisoned for less than one year or fined not exceeding five hundred dollars. When it is provided that he shall be punished by imprisonment and fine, or by imprisonment or fine, he may be sentenced to either or both. In all cases where a fine is imposed he may be sentenced to pay the costs of prosecution; and for violations of sections thirty-four, thirty-five, thirty-seven, forty and forty-five of chapter twenty-seven, he shall be sentenced to pay such costs.

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

SEC. 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 life, or any term of years.

Punishment may be for life, when convict has before been sentenced to any state prison.  
R.S., c. 135, § 3.  
See c. 140, § 42.

SEC. 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 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.

State prison sentences not to be less than a year.  
R.S., c. 135, § 2.  
69 Me., 182.  
—imprisonment for misdemeanor, may be in jail or house of correction.

SEC. 4. When the punishment provided by law may be imprison-

Work-jail

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sentences.  
1877, c. 183.  
See c. 78, § 12.  
Alternative sentences to work-jails, how to be inflicted.  
1874, c. 240.  
See c. 78, § 13.

—powers of inspector, in case of incorrigible or dangerous convicts.

Courts may sentence to any work-jail, nearest to the county where offence was committed.  
1879, c. 159.

—prison sentences include labor.

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

—service of precepts.  
1873, c. 133, § 10.

Expenses of prisoners from other counties, how to be paid.  
1873, c. 133, § 8.

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

Clerk's minutes are authority for officer to execute sentences for misdemeanors.  
R.S., c. 133, § 5.

ment 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.

SEC. 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 offence, with the condition that if such convict cannot be received at the work-jail to which he is sentenced, or if at any time before the expiration of said sentence, 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 alternate sentence is in the state prison, the sheriff of the county where such convict is imprisoned, shall forthwith, upon receiving the order of said inspectors, cause said convict to be conveyed to the state prison at the expense of the county where he was sentenced.

SEC. 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 sentence any person convicted of an offence punishable by imprisonment, to either of the work-jails nearest or most convenient to the county where the offence is committed, and all sentences of imprisonment shall include 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 preceding, 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. There shall be paid to the county to which a prisoner from any other county may be sentenced and committed, by such other county, such sum as may be agreed upon by the county commissioners of said counties, for subsistence and detention, deducting the amount received for labor, and if said commissioners do not agree upon the amount to be paid, representation of the facts may be made to the supreme judicial court, or any justice thereof, and the amount shall be determined by such court or justice, either in term time or vacation.

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

## EXECUTION OF SENTENCES.

SEC. 9. 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 the courts, as soon as may be, shall make out and deliver to the sheriff or some officer in court, a transcript of the minutes of the conviction and sentence duly certified by him; which shall be sufficient authority for the officer to execute such sentence.

SEC. 10. 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.

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Removal of convicts to state prison, must be on sentence and clerk's warrant. R. S., c. 135, § 6.

—clothing for convicts.

## EXECUTION OF SENTENCE IN CAPITAL CASES.

SEC. 11. At the trial of an indictment for a capital offence, the justice presiding shall, at the expense of the county, employ suitable means to preserve an accurate and full copy of the evidence; and in case of conviction, he shall correct and certify such evidence to be a true copy of all the evidence in the case. And in all cases of sentence of death, the clerk shall forthwith transmit to the governor a true and attested copy of such evidence, and a copy of the whole record in the case.

In capital sentence, copy of evidence and record to be certified by justice and sent to governor by clerk. R. S., c. 135, § 7. See 1883, c. 205, § 5.

SEC. 12. When a person is convicted of a crime punishable with death, and sentenced therefor, the time for the execution of such sentence shall be fixed by the court, which time shall be not less than twelve nor more than fifteen months from the day on which such sentence is passed, and the convict shall at the same time be sentenced to confinement in the state prison until such punishment is inflicted.

Time for execution in capital cases, to be fixed by the court, in the sentence. 1883, c. 205, § 2.

SEC. 13. The governor shall seasonably issue his warrant under the great seal of the State, directed to the sheriff of the county wherein the state prison is situated, or one of his deputies, commanding him to carry such sentence into execution at the time fixed by the court, unless the governor with the advice and consent of council, shall pardon or relieve the convict, or commute his sentence.

Warrant for execution, when and to whom to be issued. 1883, c. 205, § 3.

SEC. 14. The governor, with the advice and consent of council, may respite, from time to time, the execution of a sentence of death, for stated periods, so long as he may deem it necessary to afford him an opportunity of exercising his right of pardon and of investigating and considering the facts of the case for that purpose.

Governor may respite, with view of exercising the pardon-ing power. 1883, c. 205, § 11.

SEC. 15. Sentence of death shall, in all cases, be inflicted by hanging the convict by the neck until he is dead, and shall be executed, at the time directed in the warrant, within the walls or inclosed yard of the state prison; and the sheriff of the county, unless prevented by sickness, or other casualty, and two deputies designated by him, shall be present at the place of execution; he shall request the county attorney and twelve citizens, including a surgeon or physician, and permit the convict's counsel, relatives, such minister of the gospel as he may desire, and such officers of the prison, deputies, constables, and military guard as the sheriff sees fit, but no others, to be present.

How and where sentence of death shall be executed. R. S., c. 135, § 10. See 1883, c. 205, § 5.

SEC. 16. When a sheriff inflicts sentence of death as aforesaid, he shall immediately make return of the warrant therefor, under his hand, with his doings thereon, to the office of the secretary of state; and file

Sheriff's return to be filed in secretary's office.

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R. S., c. 135,  
§ 11.  
See 1883,  
c. 205, § 5.

an attested copy of the warrant and return in the office of the clerk of the court where the conviction was had; and the clerk shall file the same with the indictment, and submit to the record a brief abstract of such return.

## LIBERATION OF POOR CONVICTS.

Convict, unable to pay fine or costs, how to be liberated after thirty days.

1879, c. 132,  
74 Me., 220.

—convict's note and sworn schedule.

—such convict may be placed at labor.

Such notes are a lien on convict's real estate.

R. S., c. 135,  
§ 13.

Penalty, for making a false schedule of property.

R. S., c. 135,  
§ 14.

SEC. 17. 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.

SEC. 18. 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. 19. 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 136.

## COLLECTION AND DISPOSAL OF FINES AND COSTS IN CRIMINAL CASES.

## DUTY OF CLERKS IN RELATION THERETO.

- SEC. 1. Fines, forfeitures and criminal costs, shall be paid to the county. Criminal costs and expenses shall be paid by the county. Clerks shall make duplicate copies of such bills of costs, and certificates of fines.
2. Duty of clerks to collect fines and costs, or to issue process therefor.

## DUTY OF SHERIFFS AND OTHER OFFICERS.

- SEC. 3. Officers shall pay over to the county treasurer, fines and costs collected.
4. Penalty for their neglect. Duty of treasurer and county attorney.
5. Officers, receiving process for collection of fines, shall produce receipts to the court, or give a good excuse.
6. Sheriff shall deliver certain securities to the county treasurer, quarterly.

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

- SEC. 7. Magistrates shall account for, and pay over fines to the treasurer of the county or town. Duty of municipal and police judges, and their recorders and clerks. Penalty for neglect.