

MAINE STATE LEGISLATURE

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Sec. 20. Proceedings do not abate by death, resignation, or removal. R. S. c. 116, § 20. If such third person is admitted, the proceedings shall not abate or be discontinued by the death, resignation, or removal from office by lapse of time or otherwise, of the person to whom the writ was directed, and any peremptory writ shall be directed to his successor.

Quo Warranto

Sec. 21. Quo warranto proceedings regulated. R. S. c. 116, § 21. Petitions, informations, and other processes in quo warranto proceedings may be made returnable before the supreme judicial court or the superior court, in term time or in vacation, as and when the court or any justice thereof may order, and by like order the cause may be heard in vacation if the justice hearing the same shall determine that justice so requires.

115 Me. 268; 137 Me. 122.

Sec. 22. Proceedings when attorney-general need not be a party. R. S. c. 116, § 22. When in quo warranto proceedings the title to office in a private corporation is involved, the petition or information may be brought in the name of the interested party and the attorney-general need not be a party thereto.

137 Me. 122.

CHAPTER 117.

CRIMES AGAINST THE PERSON.

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- Sections 8-9 Manslaughter.
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Murder, Assault With Intent and Attempt to Murder

Sec. 1. Murder, definition; penalty. R. S. c. 129, § 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.

See c. 118, § 1, re burning of building may constitute murder; 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; 131 Me. 228; 135 Me. 470; 136 Me. 243; 138 Me. 151.

Sec. 2. Murder, by unlawful acts to railroad property causing death; endangering life, or injuring property; penalties. R. S. c. 129, § 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 10 years.

See c. 118, § 1, re murder by burning dwelling house causing death; 107 Me. 479.

Sec. 3. Murder by duelling, definition; penalty. R. S. c. 129, § 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. 4. Murder, by a second to such duel; penalty. R. S. c. 129, § 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. 5. Trial in another state, effect. R. S. c. 129, § 9. A person indicted under the provisions of sections 3 or 4 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. 6. Assault with intent to murder or kill; penalty. R. S. c. 129, § 24. Whoever assaults another with intent to murder or kill, if armed with a dangerous weapon, shall be punished by imprisonment for not less than 1 year, nor more than 20 years; when not so armed, by a fine of not more than \$1,000, or by imprisonment for not more than 10 years.

See c. 118, §§ 4, 10, re assault with intent to commit arson or burglary; 37 Me. 469; 39 Me. 66; 42 Me. 385; 84 Me. 250; 87 Me. 76; 88 Me. 197; 90 Me. 273.

Sec. 7. Attempt to murder, without assault; penalty. R. S. c. 129, § 26. 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 1 year, nor more than 20 years.

Manslaughter

Sec. 8. Manslaughter, definition; penalty. R. S. c. 129, § 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 necessities 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 a fine of not more than \$1,000, or by imprisonment for not more than 20 years.

See c. 19, § 122, re operating motor vehicle; 32 Me. 374; 33 Me. 55; 39 Me. 67; 109 Me. 207; 122 Me. 120; *125 Me. 455; *135 Me. 470.

Sec. 9. Manslaughter, by misconduct or gross neglect, respecting steam in steamboats and boilers; interference with safety valve; penalties. R. S. c. 129,

§ 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 inspector's 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 a fine of not more than \$500, or by imprisonment for not more than 5 years.

See c. 33, § 41, sub-§ 6-A, re carelessly shooting and killing a person while hunting.

Rape, Assault With Intent

Sec. 10. Rape, definition; penalty. R. S. c. 129, § 16. Whoever ravishes, and carnally knows, any female of 14 or more years of age, by force and against her will, or unlawfully and carnally knows and abuses a female child under 14 years of age, shall be punished by imprisonment for any term of years.

39 Me. 323; 63 Me. 210; 116 Me. 260; 117 Me. 69; 118 Me. 380; *122 Me. 106; *124 Me. 360; *128 Me. 141; 130 Me. 519.

Sec. 11. Carnal knowledge of girls between 14 and 16 years; penalty. R. S. c. 129, § 31. Whoever, being more than 18 years of age, has carnal knowledge of the body of any female child, between the ages of 14 and 16 years, shall be punished by a fine of not more than \$500, or by imprisonment for not more than 2 years. The provisions of this section shall not apply to cases of rape as defined in section 10.

*132 Me. 443.

Sec. 12. Assault with intent to commit rape; penalty. R. S. c. 129, § 23. Whoever assaults a female of 14 years of age or more, with intent to commit a rape, shall be punished by a fine of not more than \$500, or by imprisonment for not more than 10 years. If such assault is made on a female under 14 years, such imprisonment shall be for not less than 1 year, nor more than 20 years.

Abduction of Women and Kidnapping

Sec. 13. Abduction of women; penalty. R. S. c. 129, § 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 1 year, nor more than 10 years.

Sec. 14. Kidnapping; penalty; jurisdiction; consent. R. S. c. 129, § 18. 1935, c. 39. 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, by any means whatever and holds him for ransom or reward, shall be punished by imprisonment for life.

Provided further, that if two or more persons enter into an agreement, confederation, or conspiracy to violate the provisions of this section and do any overt act toward carrying out such unlawful agreement, confederation, or conspiracy, such person or persons shall be punished by imprisonment for such term of years as the court in its discretion shall determine. 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. 15. Shipmasters, carrying apprentices and minors out of state; penalty. R. S. c. 129, § 19. If the master of a vessel carries out of the state an apprentice, indented servant, or person under 21 years of age, without the consent of his parent, master, or guardian, he shall be punished by a fine of not more than \$200; and be liable in an action on the case to such parent, master, or guardian for all damages thereby sustained.

11 Me. 106.

Robbery, Assault With Intent

Sec. 16. Robbery, definition; penalty. R. S. c. 129, § 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.

86 Me. 430; 136 Me. 282.

Sec. 17. Assault with intent to rob or steal; penalty. R. S. c. 129, § 24. Whoever assaults another with intent to rob or steal, if armed with a dangerous weapon, shall be punished by imprisonment for not less than 1 year, nor more than 20 years; when not so armed, by a fine of not more than \$1,000, or by imprisonment for not more than 10 years.

See c. 118, §§ 4, 10, re assault with intent to commit arson or burglary; 136 Me. 282.

Mayhem, Assault With Intent to Maim

Sec. 18. Mayhem, definition; penalty. R. S. c. 129, § 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 1 year, nor more than 20 years.

Sec. 19. Assault with intent to maim; penalty. R. S. c. 129, § 24. Whoever assaults another with intent to maim, if armed with a dangerous weapon, shall be punished by imprisonment for not less than 1 year, nor more than 20 years; when not so armed, by a fine of not more than \$1,000, or by imprisonment for not more than 10 years.

See c. 118, §§ 4, 10, re assault with intent to commit arson or burglary; 87 Me. 76; 136 Me. 282.

Assault With Intent to Commit Other Felony

Sec. 20. Assault with intent to commit other felony; penalty. R. S. c. 129, § 25. Whoever commits an assault with intent to commit a felony, which has not been otherwise described, or for which no penalty has been provided, shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than 5 years.

69 Me. 182.

Assault, Assault and Battery

Sec. 21. Assault, and assault and battery, definitions; penalty. R. S. c. 129, § 27. 1931, c. 80. 1933, c. 92, § 6. 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. Any person convicted of either offense, when it is not of a high and aggravated nature, shall be punished by a fine of not more than \$100, or by imprisonment for not more than 6 months, or by both such fine and imprisonment; and when the offense is of a high and aggravated nature, the person convicted of either offense shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than 5 years, when no other punishment is prescribed.

See c. 123, § 6, re unlawful assembly and riot; c. 122, § 21, re assaults upon or interference with officer; 59 Me. 575; 69 Me. 182; 73 Me. 281; 98 Me. 424; 114 Me. 494; 120 Me. 173; *122 Me. 483; 123 Me. 417; *136 Me. 322.

Sec. 22. Sending or causing to be sent any bomb or infernal machine; penalty. R. S. c. 129, § 28. 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 20 years.

Sec. 23. Possession of bomb or infernal machine; penalty. R. S. c. 129, § 29. 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 a fine of not more than \$1,000, or by imprisonment for not more than 15 years, or by both such fine and imprisonment.

Conspiracies, Blacklisting, Threatening Communications, and Malicious Vexations

Sec. 24. Conspiracies to prosecute an innocent person; penalty. R. S. c. 138, § 25. 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 by a fine of not more than \$1,000, or by imprisonment for not more than 5 years.

*81 Me. 256.

Sec. 25. Conspiracies in other cases; penalty. R. S. c. 138, § 26. 1937, c. 12. 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 a fine of not more than \$1,000, or by imprisonment for not more than 10 years.

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. 26. Preventing, by threats, any person from entering or leaving employment; maintaining of black list; penalty. R. S. c. 138, § 27. 1933, c. 108. 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, and any employer, agent of an employer, or other person who, alone or in combination with others, attempts to prevent a wage earner in any industry from obtaining employment at his trade, by maintaining, or being a party to the maintaining of, a black list, shall be punished by a fine of not more than \$500, or by imprisonment for not more than 2 years.

Sec. 27. Threatening communication; penalty. R. S. c. 129, § 30. Whoever makes, publishes, or sends to another any communication, written or oral, containing a threat to injure the person or property of any person shall be punished by a fine of not more than \$500, or by imprisonment for not more than 5 years, or by both such fine and imprisonment; 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 a fine of not more than \$1,500, or imprisonment for not more than 10 years, or by both such fine and imprisonment; 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 15 years.

Sec. 28. Threats to accuse or injure, with intent to extort or compel; penalty. R. S. c. 129, § 22. 1937, c. 94. 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 to procure any advantage from him, or to compel him to do any act against his will, 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 \$500, or by imprisonment for not more than 2 years; but when such offense is not of a high and aggravated nature, shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than \$100, or by imprisonment for not more than 11 months.

See c. 123, § 16, re false alarm of fire; 24 Me. 72; 68 Me. 474; 85 Me. 195; 99 Me. 227; 111 Me. 230; 123 Me. 310; 136 Me. *432.

Sec. 29. Maliciously vexing or tormenting another by a person more than 16 years of age; penalty. R. S. c. 129, § 22. 1937, c. 94. Whoever being more than 16 years of age wilfully and wantonly or maliciously vexes, irritates, harasses, or torments any person in any way, after having been forbidden to do so, by any sheriff, deputy sheriff, constable, police officer, or justice of the peace, and whoever without reasonable cause or provocation wilfully and wantonly or maliciously vexes, irritates, harasses, or torments any person by communications to or conversation with such person over or by means of any telephone, 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 \$500, or by imprisonment for not more than 2 years; but when such offense is not of a high and aggravated nature, shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than \$100, or by imprisonment for not more than 11 months.

104 Me. 125.

Libels

Sec. 30. Libel; definitions; publication; penalty. R. S. c. 141, §§ 1, 2. 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, including the person libeled, is a publication. 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 a fine of not more than \$1,000, and by imprisonment for less than 1 year.

See c. 100, § 47, re truth justification; c. 100, § 48, re mitigation of damages; 32 Me. 533; 66 Me. 327; 72 Me. 21; *89 Me. 293; 112 Me. 502.

Sec. 31. Responsibility for libels printed or published. R. S. c. 141, § 3. Whoever manages or controls the business of a printing-office, bookstore, 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. 32. Publication of any false or libelous statement; penalty. R. S. c. 141, § 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 be punished by a fine of not more than \$500, or by imprisonment for not more than 11 months, or by both such fine and imprisonment.

Sec. 33. Truth of publication is justification if not made maliciously; jury to judge law and fact. R. S. c. 141, §§ 5, 6. In prosecutions for any publication relative to the official conduct of men in their public capacities, or to 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. 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. of Me., Art. I, § 4, re libel; 18 Me. 348; *53 Me. 342; *62 Me. 510; 89 Me. 293.

Sec. 34. Publishing lists of debtors prohibited; certain officials excepted; penalty. R. S. c. 141, §§ 7, 8. No person, firm, or corporation shall publicly advertise for sale in any manner whatever, or for any purpose whatever, any list or lists of debts, dues, accounts, demands, notes, or judgments containing the names of any of the persons who owe the same. Any such public advertisement

containing the name of but 1 person who owes as aforesaid shall be construed as a list within the meaning of this section. Any person, firm, or corporation violating any of the provisions of this section shall be liable in an action of debt to a penalty of not less than \$25, nor more than \$100, to each and every person, severally and not jointly, whose name appears in any such list. The provisions of this 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.

102 Me. 132.

False Reports Concerning Banks, Loan and Building Associations, and Insurance Companies

Sec. 35. False reports concerning banks, loan and building associations, and insurance companies; penalty. 1931, c. 40. 1933, c. 49. Whoever maliciously makes, publishes, utters, repeats, or circulates any false report concerning any savings bank, national bank, trust company, loan and building association, or insurance company shall be deemed guilty of a misdemeanor and shall upon conviction be punished by a fine of not more than \$1,000, or by imprisonment for not more than 11 months, or by both such fine and imprisonment.

CHAPTER 118.

CRIMES AGAINST HABITATIONS, BUILDINGS, AND PROPERTY.

- Sections 1-7 Arson and Other Burnings.
Sections 8-12 Burglary, Assault with Intent. Breaking and Entering with Intent to Commit a Felony.
Sections 13-37 Malicious Mischiefs.
Sections 38-42 Trespass.

Arson and Other Burnings

Sec. 1. Burning of dwelling-houses; offense may constitute murder; penalties. R. S. c. 130, § 1. 1935, c. 71. 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, his wife, or to another, or to any building adjoining thereto owned wholly or in part by himself, his wife, or another, with intent to burn such dwelling-house or building, shall be punished by imprisonment for not less than 1 year, nor more than 20 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 his wife or of another shall be punished by imprisonment for not less than 1 year, nor more than 20 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.

See § 6; § 12, re definition of dwelling-house; c. 88, § 44, re lodging-house; 55 Me. 367; 63 Me. 135; 66 Me. 307; 71 Me. 355; 116 Me. 419; *121 Me. 564; 132 Me. 246; 135 Me. 423; 136 Me. 516.