

MAINE STATE LEGISLATURE

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PART 4

**JUDGMENT AND PROCEEDINGS
AFTER JUDGMENT**

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SENTENCES

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SUBCHAPTER I

GENERAL PROVISIONS

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§ 1701. Sentence; proviso; form of recognizance; stay of execution

Sentence shall be imposed upon conviction, either by verdict or upon demurrer, of a crime which is not punishable by impris-

onment for life. The court at the term of conviction may in its discretion continue the matter for sentence, suspend sentence or stay the execution of sentence, although exceptions are alleged. 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 offense 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 offense 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, the court, on request of the defendant upon whom sentence is imposed may allow stay of execution of sentence, in which case commitment shall be to await final decision; otherwise, such commitment shall be in execution of sentence. When a verdict of guilty is rendered against any person for an offense punishable by imprisonment in the State Prison, or any person is committed pending decision on report or exceptions, as provided, and remains imprisoned after the adjournment of court, he shall be admitted to bail only by the justice trying him, by some person by said justice appointed therefor or by some other Justice of the Superior Court, or by some Justice of the Supreme Judicial Court. If a person shall be so admitted to bail after commitment in execution of sentence, as provided, such admission to bail shall vacate the effect of the original commitment and the full term of imprisonment shall commence from the date of commitment after final decision.

R.S.1954, c. 148, § 29.

§ 1702. No punishment until conviction; costs; concurrent or consecutive sentences

No person shall be punished for an offense until convicted thereof in a court having jurisdiction of the person and case. In all cases where a fine is imposed he may be sentenced to pay the costs of prosecution, except before the District Court in

which court he may be sentenced to pay a fine sufficient to cover said costs as provided in Title 4, section 173; and except before a District Court, for violations of Title 28, sections 1055, 1057, 1203 and 1207, and Title 30, chapter 215, subchapter IV, he shall be sentenced to pay such costs.

The court shall rule, and in appropriate cases shall endorse, on the mittimus, that the terms of imprisonment shall be served concurrently or consecutively; or in the event of sentences by payment of a fine, that the commitment for the nonpayment thereof under section 1904 be served concurrently or consecutively. In the event the court fails so to rule or endorse, said sentences shall be served concurrently. This paragraph shall likewise apply to sentences by payment of a fine and sentences by imprisonment for separate offenses.

R.S.1954, c. 149, § 1; 1957, c. 334, § 14; c. 387, § 19; c. 429, § 87; 1961, c. 242; 1963, c. 402, § 252.

§ 1703. State Prison sentence; imprisonment for misdemeanor

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. It may be conditional that the convict shall pay a fine and costs, but that if it is not paid in 10 days, then he shall be imprisoned for not more than 6 months.

R.S.1954, c. 149, § 4.

§ 1704. Commitment in county where convicted

Any person sentenced by the District Court to a term of imprisonment in a jail, not exceeding 4 months, shall be committed to the jail in the county in which such person is convicted, provided such county has a suitable jail, otherwise such commitment may be to any jail in the State.

R.S.1954, c. 149, § 8; 1963, c. 402, § 254.

§ 1705. Expenses of prisoners from other counties

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 commis-

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sioners of said counties for subsistence and detention, deducting the amount received for labor. If said commissioners do not agree upon the amount to be paid, representation of the facts may be made to the Superior Court or any justice thereof, and the amount shall be determined by such court or justice, either in term time or vacation.

R.S.1954, c. 149, § 9.

§ 1706. Sureties to keep peace for misdemeanor

In addition to the punishment prescribed by law, the court may require any person convicted of an offense 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 2 years, and to stand committed until he so recognizes.

R.S.1954, c. 149, § 10.

§ 1707. Record to warden

Whenever a person shall be convicted of a crime and sentenced to imprisonment, the clerk of the court shall make and forward to the warden of the prison a record containing a copy of the information or complaint, the sentence pronounced by the court, the name and residence of the justice presiding at the trial, prosecuting attorney and sheriff, and the names and post-office addresses of the jurors and the witnesses sworn on the trial, together with a statement of any fact or facts which the presiding justice may deem important or necessary for a full comprehension of the case, and a reference to the statute under which the sentence was imposed. Such record shall be delivered to the warden at the time the prisoner is received into the prison. Prisoners shall not be received until a copy of the record forwarded to the warden and a warrant of commitment is given to the receiving officer at the State Prison.

R.S.1954, c. 149, § 13; 1955, c. 176, § 2.

§ 1708. Error in sentence

When a final judgment in any criminal case is reversed 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.

R.S.1954, c. 148, § 32.

§ 1709. Motion for new trial; newly discovered evidence

In criminal cases tried in the Superior Court, motions for new trials on the ground of newly discovered evidence may be filed with the clerk after as well as before judgment, and before or after the adjournment of the term at which judgment is rendered regardless of when the judgment was rendered, but such motions may be filed after judgment only with the consent of a Justice of the Superior Court upon good cause shown and must be filed within 2 years from the date of said judgment.

The clerk shall give immediate written notice of such filing by mail or otherwise to the prosecuting attorney.

The evidence in support thereof, or in rebuttal or impeachment, shall be taken within such time and in such manner as the court or any justice thereof in vacation shall order, and shall be certified to the law court for determination.

R.S.1954, c. 106, § 15.

SUBCHAPTER II

PENALTIES AND DURATION OF TERM

Sec.

1741. General penalty.

1742. Punishment when previous sentence to State Prison.

1743. Maximum and minimum terms.

§ 1741. General penalty

When no punishment is provided by statute, a person convicted of an offense shall be punished by a fine of not more than \$500 or by imprisonment for less than one year.

R.S.1954, c. 149, § 2.

§ 1742. Punishment when previous sentence to State Prison

When a person is convicted of a crime punishable by imprisonment in the State Prison, and it is alleged and proved in a trial, or admitted in a 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, unless pardoned therefor, he may be punished by imprisonment in the State Prison for any term of years. Allegation of such prior conviction and sentence shall be by indictment separately found, and upon which the de-

defendant shall not be arraigned until after such time as he shall have been convicted upon the current principal offense.

R.S.1954, c. 149, § 3; 1961, c. 268, § 2.

§ 1743. Maximum and minimum terms

When any person shall be convicted of crime, the punishment for which prescribed by law may be imprisonment in the State Prison, the court imposing sentence shall not fix a definite term in said State Prison but shall fix maximum and minimum terms. The maximum sentence shall not exceed the longest term fixed by law for the punishment of the offense of which the person sentenced is convicted, and the minimum sentence shall not exceed $\frac{1}{2}$ of the maximum term of imprisonment fixed by statute. For the purpose of aiding in post conviction review of the sentence imposed, the justice presiding shall record as part of the case the facts acquired and considered by him in imposing sentence.

R.S.1954, c. 149, § 11; 1957, c. 253; 1959, c. 191; 1961, c. 90.

SUBCHAPTER III

WORK-JAIL SENTENCES

Sec.

1791. Work-jail sentences.

1792. Alternative sentences to work-jails; authority of inspectors over incorrigible or dangerous convicts.

1793. Sentence to any work-jail nearest county of offense; prison sentence includes labor.

§ 1791. Work-jail sentences

When the punishment provided by law may be imprisonment in the State Prison for 3 years or less, such punishment may be inflicted by the court, in its discretion, in any of the work-jails.

R.S.1954, c. 149, § 5.

§ 1792. Alternative sentences to work-jails; authority of inspectors over incorrigible or dangerous convicts

When a convict is sentenced to imprisonment and labor in any of the work-jails, the court or judge may in addition sentence him to the other punishment provided by law for the same offense, 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 ex-

piration 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. If said alternative sentence is to 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.

R.S.1954, c. 149, § 6.

§ 1793. Sentence to any work-jail nearest county of offense; prison sentence includes labor

The Superior Court and the District Court, in the county where a work-jail is situated or in any county where there is no work-jail may, subject to section 1704, sentence any person convicted of an offense punishable by imprisonment to any of the work-jails nearest or most convenient to the county where the offense 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 section 1792, whether such service is performed in whole or in part in one or more counties, and processes shall be issued and directed accordingly.

R.S.1954, c. 149, § 7; 1963, c. 402, § 253.

SUBCHAPTER IV

EXECUTION OF SENTENCE

Sec.

- 1841. Clerk's minutes authority to execute sentence.
- 1842. Sentence in default of payment of fine and costs.
- 1843. Removal to State Prison; clothing.

§ 1841. Clerk's minutes authority to execute sentence

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 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 convic-

tion and sentence duly certified by him, which shall be sufficient authority for the officer to execute such sentence.

R.S.1954, c. 149, § 39.

§ 1842. Sentence in default of payment of fine and costs

Whoever is convicted in any court of a crime which is punishable by a fine only, without imprisonment, and is liable to imprisonment in a county jail for the nonpayment of said fine, may be sentenced to pay said fine and the costs of prosecution, and in default of payment thereof to be imprisoned in accordance with law, but the payment of said fine and costs at any time before the expiration of the imprisonment shall be a full performance of the sentence.

R.S.1954, c. 149, § 40; 1963, c. 402, § 255.

§ 1843. Removal to State Prison; clothing

When a convict is sentenced to confinement in the State Prison, such clerk of courts shall make out a warrant under seal of the court, directed to the sheriff of said county, requiring him to cause such convict, without needless delay, to be removed from the county jail to the State Prison. All sheriffs and jailkeepers shall strictly obey its directions. The clerk, as soon as may be, shall deliver such warrant to the sheriff of the county, and he shall forthwith deliver it and the convict to said warden. The sheriff shall provide the convict with comfortable clothing in which to be removed to the State Prison.

R.S.1954, c. 149, § 41; 1955, c. 405, § 52.