

MAINE STATE LEGISLATURE

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CHAPTER 305

APPEALS

Sec.

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§ 2111. Time to appeal

Any person aggrieved at the decision or sentence of a District Court Judge may, within 5 days after such decision or sentence is imposed, Sunday not included, appeal therefrom to the next Superior Court to be held in the same county, and the judge shall thereupon order such appellant to recognize in a reasonable sum, not less than \$20 with sufficient sureties, or in lieu thereof, when offered, a good and sufficient surety bond duly executed by a surety company authorized to do business in this State, to appear and prosecute his appeal and to be committed until the order is complied with. When such appeal is not taken before the adjournment of the session of court at which said sentence is imposed, mittimus shall issue and the respondent shall be committed thereon, under such sentence, but if, after adjournment and commitment and within said 5 days, application in writing is made to such judge to enter such appeal, he shall supersede such commitment by his written order to the jailer or other officer, and the respondent shall be brought before him and such appeal allowed and entered as if claimed before adjournment.

R.S.1954, c. 146, § 22; 1959, c. 143, § 1.

§ 2112. Copies sent to appellate court; failure to prosecute appeal

The judge shall send to the appellate court a copy of the whole process and of all writings before the judge. If the appellant does not appear and prosecute his appeal, his default shall be noted on the record. The court may order the case to be laid before the grand jury, or may issue a capias against the body of the

appellant, bring him into court and then affirm the sentence of the judge with additional costs.

R.S.1954, c. 146, § 23.

§ 2113. Withdrawal of appeal; fees of jailer

The appellant may, at any time before such copy has been sent to the appellate court, come personally before such judge, who may permit him, on motion, to withdraw his appeal and abide by the sentence appealed from. Whereupon, he shall be ordered to comply with said sentence and the sureties taken upon the recognizance upon such appeal shall be discharged. If the appellant is detained in jail for want of sureties to prosecute his appeal, he may give notice in writing to the jailer of his desire to withdraw his appeal and abide by the sentence appealed from. Whereupon, such jailer shall cause him to be taken before such judge, who shall order him to comply with the sentence appealed from, as provided. In such case the jailer, or officer taking the appellant before the judge by his direction, shall be entitled to the same fees, to be taxed and paid as a part of the costs of prosecution, as are allowed to an officer for serving a mittimus.

R.S.1954, c. 146, § 24.

§ 2114. Respondent may appeal without trial

In all prosecutions before the District Court, the respondent may plead not guilty and waive a hearing, whereupon the same proceedings shall be had as to sentence and appeal as if there had been a full hearing.

R.S.1954, c. 146, § 25; 1963, c. 402, § 248.

§ 2115. Appeals; life imprisonment and certain other cases

If a motion for a new trial in any case, in which a person has been convicted of any offense for which the punishment is imprisonment for life, is denied by the Justice of the Superior Court before whom the same is heard, the respondent may appeal from said decision to the next law term of the Supreme Judicial Court; and if 3 justices concur the motion shall be granted. In all other criminal cases amounting to a felony, where like motion is filed and appeal taken to the law court, the concurrence of a majority of the justices sitting and qualified to act in the case shall be necessary to sustain the appeal, and if the appeal is not sustained, judgment for the State shall follow.

R.S.1954, c. 148, § 30.

§ 2116. Court action after Federal Court has acted

Whenever any Federal Court finds that a prisoner in any penal institution in this State has been deprived of any of the rights guaranteed to him by the Constitution of the United States before, at or after his trial, so that the judgment or sentence or both are erroneous and said court holds the case on its docket pending corrective action by the proper state official, the Attorney General may act as follows. He may file a petition in the Superior Court of the county where the prisoner was tried and convicted in term time or with any justice of said court in vacation, setting forth the petition of the prisoner to the Federal Court and the decision of that court, and the Superior Court of conviction or any justice thereof in vacation shall then recall the judgment and sentence held erroneous and order it stricken from the records of said court and shall set the prisoner down for trial if in term time or bind him over to the next criminal term in said county if in vacation, after setting his bail. If the sentence only is erroneous, the Superior Court of the county of conviction in term time or any justice thereof in vacation, on presentation of the Attorney General's petition, shall recall the erroneous sentence and order it stricken from the records and shall, in term time or in vacation, sentence the prisoner anew in accordance with the indictment against said prisoner.

1955, c. 121.

§ 2117. Exceptions in criminal cases; motions for new trial

When the Superior Court is held by one justice, a party aggrieved by any of his opinions, directions or judgments in any criminal proceeding may, during the term, present written exceptions in a summary manner signed by himself or counsel, and when found true they shall be allowed and signed by such justice. In all cases, such exceptions shall be presented within 30 days after the verdict is rendered or the opinion, direction or judgment is announced in the case in which such verdict, opinion, direction or judgment is made; but if the justice deems them frivolous and intended for delay, he may so certify on motion of the party not excepting. Such exceptions may then be transmitted at once by such justice to the Chief Justice and shall be argued in writing on both sides within 30 days thereafter, unless the presiding justice for good cause enlarges the time, and they shall be considered and decided by the justices of said court as soon as may be and the decision certified to the clerk of the county where the case is pending. This section applies to excep-

tions filed in any criminal proceedings in the Superior Court. If the justice disallows or fails to sign and return the exceptions or alters any statement therein, in criminal proceedings, and either party is aggrieved, the truth of the exceptions presented may be established before the Supreme Judicial Court sitting as a court of law, upon petition setting forth the grievance, and thereupon, the truth thereof being established, the exceptions shall be heard and the same proceedings had as if they had been duly signed and brought up to said court with the petition. The Supreme Judicial Court shall make and promulgate rules for settling the truth of exceptions alleged and not allowed. All motions for new trials in criminal cases, as against law or evidence, shall be filed during the term at which verdict is rendered, but in no case later than 30 days after verdict rendered.

R.S.1954, c. 106, § 14; 1959, c. 317, § 76.