

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SECOND LEGISLATURE

Legislative Document

No. 1140

S. P. 356

In Senate, February 11, 1965

Referred to Committee on Judiciary. Sent down for concurrence and ordered printed.

EDWIN H. PERT, Secretary

Presented by Senator Violette of Aroostook.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-FIVE

AN ACT Affecting Certain Statutes Pertaining to Court Process and Procedure in Criminal Cases and to Kindred Matters.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., T. 4, § 57, amended. The first paragraph of section 57 of Title 4 of the Revised Statutes is amended to read as follows:

The following cases only come before the court as a court of law: Cases on appeal from the Superior Court or a single Justice of the Supreme Judicial Court; ~~criminal cases in which there are motions for new trials upon evidence reported by the justice;~~ questions of law arising on reports of cases, including, ~~in civil cases~~ interlocutory orders or rulings of such importance as to require, in the opinion of the justice, review by the law court before any further proceedings in the action; ~~bills of exceptions in criminal cases;~~ agreed statement of facts; cases, ~~civil or criminal~~ presenting a question of law; all questions arising in cases in which equitable relief is sought; motions to dissolve injunctions issued after notice and hearing or continued after a hearing; questions arising on writs of habeas corpus, mandamus and certiorari. They shall be marked "law" on the docket of the county where they are pending, and there continued until their determination is certified by the clerk of the law court to the clerk of courts of the county and the court shall immediately after the decision of the question submitted to it make such order, direction, judgment or decree as is fit and proper for the disposal of the case, and cause a rescript in all civil actions, briefly stating the points therein decided, to be filed therein, which rescript shall be certified by the clerk of the law court to the clerk of courts of the county where the action is pending and to the Reporter of Decisions. If no further opinion is written out, the reporter shall publish in the next volume of reports

thereafter issued the case, together with such rescript, if the reporter deems the same of sufficient importance for publication.'

Sec. 2. R. S., T. 4, § 160, amended. The last paragraph of section 160 of Title 4 of the Revised Statutes is repealed.

Sec. 3. R. S., T. 4, § 167, repealed. Section 167 of Title 4 of the Revised Statutes is repealed.

Sec. 4. R. S., T. 4, § 171, repealed and replaced. Section 171 of Title 4 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 171. Duty on receipt of complaints

When complaint is made to the proper officer of the District Court charging a person with the commission of an offense, he shall issue a warrant for his arrest in such form and under such circumstances as the Supreme Judicial Court shall by rule provide.

He may, and on complaint shall, cause to be arrested persons found within his county charged with offenses; and those having committed offenses therein who have escaped therefrom; and all persons charged with felonies, offenses and misdemeanors, and all affrayers, rioters, breakers of the peace and violators of the law, and may require such offenders to find sureties for keeping the peace. When the offense upon examination is found to be one not within the jurisdiction of the District Court, the district judge may admit the offender to bail to appear before the superior court, and, in default thereof, shall commit him.

A district judge may try those brought before him for offenses within his jurisdiction, although the penalty or fine accrues wholly or partly to his town.'

Sec. 5. R. S., T. 4, § 173, sub-§ 2, amended. Subsection 2 of section 173 of Title 4 of the Revised Statutes is amended to read as follows:

'2. Defendant not to be sentenced to pay costs of court as such. The District Court may not, in any criminal proceeding, sentence any ~~respondent~~ defendant to pay costs of court as such, but may take the costs into consideration and include in any fine imposed a sum adequate to cover all or any part of them without reference to such costs and without taxing them, provided the maximum fine for the particular offense is not exceeded.'

Sec. 6. R. S., T. 4, § 176, amended. Section 176 of Title 4 of the Revised Statutes is amended to read as follows:

§ 176. Fees for entering appeal

No judge of a District Court shall demand or receive any fees for entering an appeal or ~~taking a recognizance~~ admitting to bail to prosecute it, in a criminal case. The legal fees therefor may be taxed in the bill of costs, and certified and paid like other fees.'

Sec. 7. R. S., T. 4, § 569, additional. Title 4 of the Revised Statutes is amended by adding a new section to be numbered section 569 and to read as follows:

‘§ 569. Clerks; taking of bail authorized

Clerks of the Superior Court, during the pendency of a term of the Superior Court at which criminal cases are cognizable in their county may, subject to the control of the justice presiding at such term, fix and take bail for the appearance of a defendant. No fee shall be charged for the taking of bail during the hours when the clerk's office is open for business.’

Sec. 8. R. S., T. 4, § 1055, repealed. Section 1055 of Title 4 of the Revised Statutes is repealed.

Sec. 9. R. S., T. 14, § 508, amended. Section 508 of Title 14 of the Revised Statutes is amended to read as follows:

‘§ 508. Change of venue

Any Justice of the Superior Court, on motion of either party, shall, for cause shown, order the transfer of any civil action ~~or criminal case~~ pending in said court to the docket thereof in any other county for trial, preserving all attachments.’

Sec. 10. R. S., T. 14, § 754, amended. Section 754 of Title 14 of the Revised Statutes is amended to read as follows:

‘§ 754. One year

No action shall be commenced against bail unless within one year after judgment was rendered against the principal; nor against sureties ~~in recognizances~~ on bonds in criminal cases unless within one year after default of the principal; nor against any person adjudged trustee, unless within one year from the expiration of the first execution against the principal and his goods, effects and credits in the hands of the trustee. No action in behalf of the State against sureties ~~and recognizances~~ in criminal cases shall be brought unless within one year after default of the principal.’

Sec. 11. R. S., T. 14, § 1105, amended. Section 1105 of Title 14 of the Revised Statutes is amended to read as follows:

‘§ 1105. Charge to jury

During a jury trial the presiding justice shall rule and charge the jury, orally or in writing, upon all matters of law arising in the case but shall not, during the trial, including the charge, express an opinion upon issues of fact arising in the case, and such ~~an~~ expression of opinion is sufficient cause for a new trial if either party aggrieved thereby and interested desires it, and the same shall be ordered accordingly by the law court ~~upon exceptions in a criminal case or on appeal in a civil or criminal case.~~

Sec. 12. R. S., T. 14, § 1204, amended. The 5th sentence of section 1204 of Title 14 of the Revised Statutes is amended to read as follows:

‘Before proceeding to the trial of any civil ~~or criminal~~ case, ~~other than for an offense punishable by imprisonment for life~~ the clerk may, under direction of the court, at the request of either party, place the names of all jurors legally summoned and in attendance, and not engaged in the trial of any other cause,

separately upon tickets in a box and the names shall be drawn from the box by the clerk after having been thoroughly mixed, one at a time, for the purpose of constituting a jury.'

Sec. 13. R. S., T. 14, § 1204, amended. The 2nd paragraph of section 1204 of Title 14 of the Revised Statutes is amended to read as follows:

'Whenever by reason of the prospective length of a **civil** trial or other **civil** cause the court in its discretion shall deem it advisable, it may direct that not more than 2 jurors in addition to the regular panel be called and impaneled to sit as alternate jurors. Such alternate jurors in the order in which they are called shall replace jurors who, prior to the time the jury retires to consider its verdict, become unable or disqualified to perform their duties. Such alternate jurors shall be drawn in the same manner, shall have the same qualifications, shall be subject to the same examination and challenges, shall take the same oath and shall have the same functions, powers, facilities and privileges and **may** be subject to the same obligations and penalties as jurors on the regular panel. An alternate juror who does not replace a juror on the regular panel shall be discharged when the jury retires to consider its verdict. If one or more alternate jurors are called, each party shall be entitled to one peremptory challenge in addition to those otherwise allowed by law ~~except as already provided as to alternate jurors under Title 15, section 1258.~~

Sec. 14. R. S., T. 14, § 1302, amended. Section 1302 of Title 14 of the Revised Statutes is amended to read as follows:

§ 1302. Peremptory

In addition to challenges otherwise provided, either party **to a civil action** may, before the trial commences, peremptorily challenge one juror from the panel unless the right of challenge provided in section 1204 ~~and Title 15, section 1258~~ has been exercised. The court may, by rules, prescribe the manner in which such right shall be exercised.'

Sec. 15. R. S., T. 14, § 5542, amended. The first paragraph of section 5542 of Title 14 of the Revised Statutes is amended to read as follows:

'When a person is confined in a jail for a bailable offense or for not finding sureties ~~on a recognizance~~, except when a verdict of guilty has been rendered against him for an offense punishable in the State Prison and except when such person is committed pending decision on report ~~or exceptions as provided in Title 15, section 1701~~, any such commissioner, on application, may inquire into the case and admit him to bail and exercise the same power of any Justice of the Supreme Judicial Court or Superior Court can; and may issue a writ of habeas corpus and cause such person to be brought before him for this purpose, and ~~may take such recognizance~~ **admit him to bail**. During a term of the Superior Court, a bail commissioner is not authorized to admit to bail any person confined in jail or held under arrest by virtue of a precept returnable to said term. When a person is confined in jail for a bailable offense or for not finding sureties ~~on a recognizance~~ and the amount of his bail has been fixed by a Justice of the Supreme Judicial Court or of the Superior Court or by a Judge of the District Court, a bail commissioner is not authorized to change the amount of such bail.'

Sec. 16. R. S., T. 14, § 5542, amended. The last paragraph of section 5542 of Title 14 of the Revised Statutes is amended to read as follows:

'No attorney at law who has acted as bail commissioner in any proceeding shall act as attorney for or in behalf of any ~~respondent defendant~~ for whom he has taken bail in such proceeding; nor shall any attorney at law who has acted as such attorney for a ~~respondent defendant~~ in any offense act as bail commissioner in any proceeding growing out of the offense with which the ~~respondent defendant~~ is charged or for not finding sureties ~~on a recognizance growing out of such proceeding.~~'

Sec. 17. R. S., T. 15, §§ 51 - 54, repealed. Sections 51 to 54 of Title 15 of the Revised Statutes are repealed.

Sec. 18. R. S., T. 15, § 55, repealed and replaced. Section 55 of Title 15 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 55. District Court or complaint justice

A District Court Judge or a complaint justice may issue warrants to search within the limits of the jurisdiction of the District Court in the manner and for such purposes as the Supreme Judicial Court shall by rule provide.'

Sec. 19. R. S., T. 15, § 453, amended. The first sentence of section 453 of Title 15 of the Revised Statutes is amended to read as follows:

'When a verdict of guilty is rendered against any person for an offense punishable by imprisonment in the State Prison, and such person is committed to jail pending decision by the Supreme Judicial Court on ~~exceptions, report, motion in arrest of judgment, writ of error~~ appeal or otherwise, or is committed to jail to await action of a grand jury after a finding of probable cause, a sheriff of the county in which such person is committed to jail may certify, in writing, to any Justice of the Superior or Supreme Judicial Court ~~in term time or in vacation~~ that in his opinion such person is dangerous and liable to attempt to escape from such jail.'

Sec. 20. R. S., T. 15, § 702, amended. Section 702 of Title 15 of the Revised Statutes is amended to read as follows:

§ 702. Justices and judges may issue processes

The Justices of the Supreme Judicial Court and of the Superior Court and Judges of the District Court ~~in the manner provided in this Title and in Title 7, in vacation or term time~~ may issue processes for the arrest of persons charged with offenses.'

Sec. 21. R. S., T. 15, § 705, amended. Section 705 of Title 15 of the Revised Statutes is amended to read as follows:

§ 705. Arrests in other counties

When a person charged with an offense in any county, before or after the issue of the warrant, removes, escapes or is found out of it, the officer having the warrant may pursue and arrest him in any other county and command aid

as in his own county ~~and convey him to the county where the offense was committed.~~

Sec. 22. R. S., T. 15, § 706, amended. The first paragraph of section 706 of Title 15 of the Revised Statutes is amended to read as follows:

‘Judges of District Courts shall have all authority and powers now granted by law to judges of municipal courts, provided ~~that~~ no judge of the District Court may sit as the trial judge in any case arising from a complaint to such judge and warrant of arrest resulting therefrom, unless by consent of the ~~respondent~~ defendant.’

Sec. 23. R. S., T. 15, § 706, amended. The 2nd paragraph of section 706 of Title 15 of the Revised Statutes is repealed and the following is enacted in place thereof:

‘When complaint is made to any Judge of the District Court, to a complaint justice or to any other officer of the District Court authorized to issue process charging a person with the commission of an offense, such Judge, complaint justice or other officer shall issue a warrant in the name of the District Court for the arrest of such person, in such form and under such circumstances as the Supreme Judicial Court shall by rule provide. Such complaint justice or other officer shall not have authority to preside at any trial, and neither shall appear as counsel in any criminal case in which he has heard the complaint. A clerk of the District Court may accept a guilty plea upon payment of fines as set by the judge.’

Sec. 24. R. S., T. 15, § 706, amended. The last sentence of section 706 of Title 15 of the Revised Statutes is repealed.

Sec. 25. R. S., T. 15, § 707, additional. Title 15 of the Revised Statutes is amended by adding a new section, to be numbered section 707, as follows:

‘§ 707. Certain District Court clerks may issue process

The Chief Judge of the District Court may authorize any clerk of the District Court, who is also a justice of the peace, to issue process for the arrest of persons charged with offenses, if the Chief Judge of the District Court is satisfied that such clerk has the necessary training and learning to perform such function.

Any process issued by a clerk so authorized shall be issued in his capacity as a justice of the peace.’

Sec. 26. R. S., T. 15, §§ 754 and 755, repealed. Sections 754 and 755 of Title 15 of the Revised Statutes are repealed.

Sec. 27. R. S., T. 15, §§ 801 to 805, repealed. Sections 801 to 805 of Title 15 of the Revised Statutes are repealed.

Sec. 28. R. S., T. 15, § 806, amended. Section 806 of Title 15 of the Revised Statutes is amended to read as follows:

‘§ 806. Complaint adjudged frivolous or malicious; appeal

If ~~on the whole~~ following an examination, it appears that no offense has been committed or that there is not probable cause to charge the accused, ~~he shall be discharged, and on motion of the respondent defendant the judge shall render judgment whether or not the complaint is frivolous or malicious. If the judge judges the complaint to be frivolous or malicious, he shall order the complainant to pay the costs of prosecution and shall issue execution in favor of the county and against the complainant for such sum, and may receive and pay over said costs to the county treasurer for the use of the county, and if the same are not paid, the judge shall return said execution to the county commissioners, for the use of the county. The complainant has the same right of appeal as in civil cases. If it appears that an offense has been committed and that there is probable cause to charge the accused, and the offense is bailable and sufficient bail is offered, it shall be taken and the accused discharged; but if it is not bailable, no sufficient bail is offered, the accused shall be committed to await trial. If the offense is within the jurisdiction of the judge, he shall try it and award sentence thereon.~~

Sec. 29. R. S., T. 15, § 807, repealed. Section 807 of Title 15 of the Revised Statutes is repealed.

Sec. 30. R. S., T. 15, § 809, repealed. Section 809 of Title 15 of the Revised Statutes is repealed.

Sec. 31. R. S., T. 15, § 810, amended. The 2nd sentence of section 810 of Title 15 of the Revised Statutes is amended to read as follows:

‘If he is indicted for a crime punishable by imprisonment for life, the clerk shall furnish a copy of the indictment, a list of the jurors returned and process to obtain witnesses, to be summoned and paid at the expense of the State; if for a crime punishable by imprisonment for a term of years, witnesses shall be summoned and paid at the expense of the State only ~~at the discretion~~ **by order** of the court **under such circumstances as the Supreme Judicial Court shall by rule provide.**’

Sec. 32. R. S., T. 15, § 811, repealed. Section 811 of Title 15 of the Revised Statutes is repealed.

Sec. 33. R. S., T. 15, § 851, amended. Section 851 of Title 15 of the Revised Statutes is amended to read as follows:

‘§ 851. Sureties to make statement of property

Any person ~~who offers offering to recognize before any Judge of the District Court or bail commissioner to act as surety for the appearance before the Superior Court of any respondent defendant in a criminal prosecution, whether such respondent defendant be an appellant from the finding of a Judge of the District Court, or to be ordered to recognize admitted to bail to await the action of the grand jury, or be arrested in vacation on capias a warrant issued on an indictment pending in such Superior Court, may be required to file with said judge or bail commissioner a written statement signed and sworn to by said surety, describing all real estate owned by him within the State with sufficient~~

accuracy to identify it, and giving in detail all incumbrances thereon and the value thereof, such valuation to be based on the judgment of said surety. Said certificate shall remain on file with the original papers in said case and a certified copy thereof shall be transmitted by the magistrate taking such bail to the clerk of the court before which said ~~respondent~~ **defendant** ~~so recognizes for his appearance is to appear.~~

Sec. 34. R. S., T. 15, § 852, amended. Section 852 of Title 15 of the Revised Statutes is amended to read as follows:

‘§ 852. Responsibility of sureties

All ~~bail~~ **sureties** shall be responsible for the appearance of their principal at all times ~~during the term of court at which they agree to have him, until verdict or certification of the case to the law court on demurrer or exceptions,~~ unless said ~~bail~~ **sureties** shall have sooner surrendered him into the custody of the sheriff or jailer of the county in which the case is pending.’

Sec. 35. R. S., T. 15, § 853 and 854, repealed. Sections 853 and 854 of Title 15 of the Revised Statutes are repealed.

Sec. 36. R. S., T. 15, § 855, amended. Section 855 of Title 15 of the Revised Statutes is amended to read as follows:

‘§ 855. Bail after commitment

Any Justice of the Supreme Judicial or Superior Court, or bail commissioner within his county, on application of a prisoner committed before verdict of guilty for a bailable offense ~~or for not finding sureties to recognize for him~~ may inquire into the case and admit him to bail.’

Sec. 37. R. S., T. 15, § 856, repealed. Section 856 of Title 15 of the Revised Statutes is repealed.

Sec. 38. R. S., T. 15, § 891, amended. Section 891 of Title 15 of the Revised Statutes is amended to read as follows:

‘§ 891. Dismissal on satisfaction of private injury; discharge of bail

When a person has ~~recognized~~ **been admitted to bail** or is committed by a judge, or is indicted, or held upon a complaint and warrant for an assault and battery or other misdemeanor, for which the party injured has a remedy by civil action, except felonious assaults, assaults upon or resistance of an officer of justice in the execution of his duty, and assaults and batteries of such officers, if the injured party appears before the judge or court, and in writing acknowledges satisfaction for the injury, the court, on payment of all costs, may stay further proceedings and discharge the defendant. The judge may ~~discharge the recognizance~~ **exonerate the bail and release the obligors**, supersede the commitment by his written order and ~~discharge the recognizance~~ **exonerate the bail** of the witnesses.’

Sec. 39. R. S., T. 15, § 892, amended. Section 892 of Title 15 of the Revised Statutes is amended to read as follows:

‘§ 892. Discharge filed with clerk or jailer; bar to civil action

Any order ~~discharging recognizances exonerating bail~~ shall be filed in the office of the clerk of the court at which the party and witnesses are to appear. An order superseding a commitment shall be delivered to the jailer. If so filed or delivered, and not otherwise, such order shall bar all remedy by civil action for such injury.’

Sec. 40. R. S., T. 15, § 931, repealed and replaced. Section 931 of Title 15 of the Revised Statutes is repealed and the following enacted in place thereof:

‘§ 931. Forfeiture of bail; enforcement

When a person admitted to bail in a criminal case fails to perform the conditions of his bond, the court shall declare a forfeiture of the bail. The obligation of the principal and any sureties may then be enforced by motion in the court in which the bail was posted, in such manner as the Supreme Judicial Court shall by rule provide.’

Sec. 41. R. S., T. 15, §§ 932 - 940, repealed. Sections 932 to 940 of Title 15 of the Revised Statutes are repealed.

Sec. 42. R. S., T. 15, § 941, amended. Section 941 of Title 15 of the Revised Statutes is amended to read as follows:

‘§ 941. Private claims paid out of forfeited bail

When the penalty of a ~~recognizance bond~~ to prosecute an appeal is paid to the clerk of the court or county treasurer, the court may award to any person therefrom the same sum that he would have been entitled to receive from the penalty for the offense, if paid on conviction and not on ~~recognizance forfeiture of bail.~~

Sec. 43. R. S., T. 15, § 1201, repealed and replaced. Section 1201 of Title 15 of the Revised Statutes is repealed and the following enacted in place thereof:

‘§ 1201. Power of court unaffected by existence or expiration of term

The existence or expiration of a term of court in no way affects the power of a court to act in a criminal proceeding.’

Sec. 44. R. S., T. 15, §§ 1203 and 1204, repealed. Sections 1203 and 1204 of Title 15 of the Revised Statutes are repealed.

Sec. 45. R. S., T. 15, § 1255, repealed. Section 1255 of Title 15 of the Revised Statutes is repealed.

Sec. 46. R. S., T. 15, § 1257, repealed. Section 1257 of Title 15 of the Revised Statutes is repealed.

Sec. 47. R. S., T. 15, § 1258, repealed and replaced. Section 1258 of Title 15 of the Revised Statutes is repealed and the following is enacted in place thereof:

‘§ 1258. Juries for criminal offenses; challenges

When a person charged with a criminal offense, who has not waived his right to trial by jury, is put upon his trial, the clerk, under the direction of the court,

shall place the names of all the traverse jurors summoned and in attendance in a box upon separate tickets, and the names, after being mixed, shall be drawn from the box by the clerk, one at a time, for the purpose of constituting a trial jury. No peremptory challenges or challenges for cause shall be exercised until 12 names have been drawn. The Supreme Judicial Court shall by rule provide the manner of exercising all challenges, and the number and order of peremptory challenges. When a juror has been challenged and excused another name shall be drawn to replace said juror, and so on until the regular panel is completed.

Whenever by reason of the prospective length of a criminal trial the court in its discretion shall deem it advisable, it may direct that jurors in addition to the regular panel be called and impanelled to sit as alternate jurors. Such alternate jurors in the order in which they are called shall replace jurors who, prior to the time the jury retires to consider its verdict, become unable or disqualified to perform their duties. Such alternate jurors shall be drawn in the same manner, shall have the same qualifications, shall be subject to the same examination and challenges, shall take the same oath and shall have the same functions, powers, facilities and privileges and be subject to the same obligations and penalties as jurors on the regular panel. An alternate juror who does not replace a juror on the regular panel shall be discharged when the jury retires to consider its verdict. The Supreme Judicial Court shall by rule provide the number of alternate jurors, the manner of exercising all challenges to alternate jurors, and the order and number of peremptory challenges to alternate jurors.'

Sec. 48. R. S., T. 15, § 1259, repealed and replaced. Section 1259 of Title 15 of the Revised Statutes is repealed and the following enacted in place thereof:

‘§ 1259. Challenges for cause

Challenges for cause shall be allowed to the prosecuting officer and the accused as in civil cases, but no member of a grand jury finding an indictment shall sit on the trial thereof, if challenged therefor by the accused.’

Sec. 49. R. S., T. 15, § 1311, repealed. Section 1311 of Title 15 of the Revised Statutes is repealed.

Sec. 50. R. S., T. 15, § 1312, amended. Section 1312 of Title 15 of the Revised Statutes is amended to read as follows:

‘§ 1312. No fees to state witnesses

~~The prosecuting officer has the same power as the clerk of the court to issue summonses for witnesses in criminal cases. No costs shall be taxed for witnesses before the grand jury in a case where no bill is found nor in complaints against towns for defect of road, unless they recognized were admitted to bail so to attend or were summoned subpoenaed by order of the grand jury or at the request of the prosecuting officer; nor is it necessary to tender fees to witnesses summoned subpoenaed in behalf of the State.’~~

Sec. 51. R. S., T. 15, § 1313, amended. Section 1313 of Title 15 of the Revised Statutes is amended to read as follows:

‘§ 1313. Punishment of state witness for nonattendance

Whoever, having been ~~summoned subpoenaed~~ as a witness in behalf of the State before any court or grand jury, without reasonable cause fails to appear at the time and place designated in the ~~summons subpoena~~, if he is not punished therefor as for contempt, shall be punished, on indictment, by a fine of not more than \$100 or by imprisonment for less than one year.'

Sec. 52. R. S., T. 15, § 1316, repealed. Section 1316 of Title 15 of the Revised Statutes is repealed.

Sec. 53. R. S., T. 15, § 1361, repealed. Section 1361 of Title 15 of the Revised Statutes is repealed.

Sec. 54. R. S., T. 15, § 1701, repealed and replaced. Section 1701 of Title 15 of the Revised Statutes is repealed and the following is enacted in place thereof: '**§ 1701. Effect of bail following conviction and commitment**

If a person is admitted to bail after conviction and commitment in execution of sentence, such admission to bail shall vacate the effect of the original commitment and the full term of imprisonment shall commence on the day of commitment after final decision.'

Sec. 55. R. S., T. 15, § 1702, amended. The 2nd paragraph of section 1702 of Title 15 of the Revised Statutes is amended to read as follows:

'The court shall rule, and in appropriate cases shall ~~endorse, on the mittimus state in the judgment~~ 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 state~~, 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.'

Sec. 56. R. S., T. 15, §§ 1708 and 1709, repealed. Sections 1708 and 1709 of Title 15 of the Revised Statutes are repealed.

Sec. 57. R. S., T. 15, § 1841, repealed. Section 1841 of Title 15 of the Revised Statutes is repealed.

Sec. 58. R. S., T. 15, § 1843, amended. Section 1843 of Title 15 of the Revised Statutes is amended to read as follows:

'§ 1843. Removal to State Prison; clothing

When a convict is sentenced to confinement in the State Prison, ~~such clerk of court shall make out a warrant under seal of the court, directed to the judgment of the court shall direct the sheriff of said the county in which trial was had, requiring him~~ to cause such convict, without needless delay, to be removed from the county jail to the State Prison. All sheriffs and jail keepers shall strictly obey ~~its~~ the directions of the judgment. The clerk, as soon as may be, shall deliver a certified copy of such ~~warrant judgment~~ 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.'

Sec. 59. R. S., T. 15, § 2111, repealed and replaced. Section 2111 of Title 15 of the Revised Statutes is repealed and the following enacted in place thereof:

‘§ 2111. Time to appeal

As aggrieved defendant may appeal from a judgment of the District Court to the Superior Court in the county in which the division of the District Court entering judgment is located. The appeal may be taken within 5 days after pronouncement of the judgment appealed from, in such manner and upon such conditions as the Supreme Judicial Court may by rule prescribe.’

Sec. 60. R. S., T. 15, § 2112, amended. Section 2112 of Title 15 of the Revised Statutes is amended to read as follows:

‘§ 2112. 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 ~~caus~~ ~~against~~ ~~the body~~ ~~warrant for the arrest~~ of the appellant, bring him into court and then affirm the sentence of the judge with additional costs.’

Sec. 61. R. S., T. 15, § 2113, repealed. Section 2113 of Title 15 of the Revised Statutes is repealed.

Sec. 62. R. S., T. 15, § 2114, amended. Section 2114 of Title 15 of the Revised Statutes is amended to read as follows:

‘§ 2114. Defendant may appeal without trial

In all prosecutions before the District Court, the ~~respondent~~ **defendant** 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.’

Sec. 63. R. S., T. 15, § 2115, repealed and replaced. Section 2115 of Title 15 of the Revised Statutes is repealed and the following enacted in place thereof:

‘§ 2115. Appeals from the Superior Court

If any criminal case in the Superior Court any defendant aggrieved by a judgment, ruling or order may appeal therefrom to the law court within 10 days or such further time as may be granted by the court pursuant to a rule of court.

In an appeal from a judgment imposing a sentence of imprisonment for life, if 3 justices concur, the judgment shall be reversed and may be remanded for a new trial. In all other criminal cases, the judgment shall be affirmed unless a majority of the justices sitting and qualified to act in the case concur in its reversal.’

Sec. 64. R. S., T. 15, § 2117, repealed and replaced. Section 2117 of Title 15 of the Revised Statutes is repealed and the following enacted in place thereof:

‘§ 2117. Objections in criminal cases

For all purposes for which an exception has heretofore been necessary in criminal cases, it is sufficient that a party, at the time the ruling or order of the

court is made or sought, makes known to the court the action which he desires the court to take or his objection to the action of the court and his grounds therefor. If a party has no opportunity to object to a ruling or order, the absence of an objection does not thereafter prejudice him.'

Sec. 65. R. S., T. 16, §§ 460 - 462, repealed. Sections 460 to 462 of Title 16 of the Revised Statutes are repealed.

Sec. 66. R. S., T. 19, § 631, amended. Section 631 of Title 19 of the Revised Statutes is amended to read as follows :

'§ 631. Certain marriages void, without process

Marriages prohibited in sections 31, 32 and 33, if solemnized in this State, are absolutely void and the ~~sentence of~~ **entry of a final judgment sentencing** either party to imprisonment for life and confinement under it dissolves the bonds of matrimony ; without legal process in either case.'

Sec. 67. R. S., T. 28, § 1102, amended. Section 1102 of Title 28 of the Revised Statutes is amended to read as follows :

'§ 1102. Bail after commitment for illegal manufacture or sale

In any prosecution for violation of the statutes relating to manufacture or sale of intoxicating liquor a ~~respondent defendant~~ therein who has failed to comply with the term of any ~~recognizance bond~~ entered into by him in such case shall not again be admitted to bail in such case or upon arrest on any ~~capias warrant~~ issued therein, except by a justice of the court in which such prosecution is pending.'

Sec. 68. R. S., T. 30, § 503, amended. Section 503 of Title 30 of the Revised Statutes is amended to read as follows :

'§ 503. Dismissal of civil or criminal cases

In order to dismiss civil ~~or criminal~~ cases, the county attorney shall endorse upon the back of the writ ~~indictment~~ or complaint in such cases a written order of dismissal, together with a statement of reasons for dismissal, and said order of dismissal shall not take effect unless approved in writing by the justice presiding at the term when the said dismissal is made.

The county attorney may dismiss criminal cases in such manner and under such circumstances as the Supreme Judicial Court may by rule provide.'

Sec. 69. Effective date. This Act shall become effective December 1, 1965. It shall apply to all criminal proceedings commenced after December 1, 1965, and also to all criminal proceedings then pending, except to the extent that in the opinion of the court the application of this Act in a particular proceeding pending on December 1, 1965, would not be feasible or work an injustice in which event the laws in effect prior to December 1, 1965 will prevail.