

MAINE STATE LEGISLATURE

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L A W S

OF THE

STATE OF MAINE;

TO WHICH ARE PREFIXED

THE

CONSTITUTION OF THE U. STATES

AND OF SAID STATE,

IN TWO VOLUMES,

WITH AN APPENDIX.

.....
VOL. I.
.....

Published according to a resolve of the State, passed
March 8, 1821.

BRUNSWICK.

Printed by J. Griffin, for the State.

.....
1821.

ERRATA:

**The following leaf is
inserted because one or more pages
in this chapter have errors
noticed and corrected here.**

VOLUME THE FIRST.

Page.
 40 L. 12 of the page for 'preceding' read 'presiding'
 54 Sec. 4 L. 14 of Sec. for 'time' read 'term'
 55 7 2 for 'a' read 'or'
 55 7 9 before the word 'said' insert 'the'
 56 9 3 for 'the' read 'her'
 57 1 6 for 'to' read 'in'
 58 1 5 for 'and' after the word 'house'
 read 'or'
 61 in the title of the act, ch. vi. insert 'the' before the
 word 'crimes'
 62 Sec. 2 L. 9 of S. before the word 'offender' insert 'such'
 69 16 8 for 'Treasurer' read 'Treasury'
 73 1 15 after the word 'for' insert 'the'
 77 13 6 for 'to' read 'of'
 78 first line of the page, dele the word 'by'
 80 L. 2 of the p. after the word 'willingly' insert 'aid or'
 80 17 for 'counterfeited' read 'counterfeit'
 82 1 after the word 'in' insert 'all'
 82 Sec. 7 L. 4 of Sec. after the word 'devised' dele 'or'
 and insert '
 83 Sec. 7 L. last of S. for 'aggravations' read 'aggravation'
 84 10 6 for 'and' read 'or'
 90 1st L. of p. for 'Commissioner' read 'Commissioners'
 90 L. 20 before the word 'Commissioner' insert 'said'
 97 6 for 'assumst' read 'assumpsit'
 97 14 for 'cover' read 'covin'
 98 at the end of the act for 'January' read 'February'
 99 L. 17 of p. after the word 'year' dele ' ; ' & insert ' , and '
 100 15 at the end of the line insert 'the'
 105 at the end of the Act for '1820' read '1821'
 108 L. 14 of page, for 'nuisances' read 'nuisance'
 108 20 after the word 'each' insert 'one'
 111 25 after the word 'fail' insert 'of'
 113 11 for 'on' read 'or'
 144 last for 'performance' read 'performing'
 145 Sec. 2 L. 9 of Sec. after the word 'of' insert 'the'
 147 7 6 before the word 'release' for 'to'
 read 'a'
 150 Sec. 6 L. 2 of Sec. for 'in' read 'is'
 151 in the title, before the word 'Lands' insert 'reserved'
 153 1st line of the p. for 'whenever' read 'wherever'
 155 last before the word 'Court' for 'a' read 'any'
 156 Sec. 4 L. 26 of Sec. for 'notification' read 'notifications'
 159 9 8 for 'purpose' read 'purposes'
 167 14 5 for 'votes' read 'vote'
 193 4 10 dele 'such'
 199 17 1 for 'when' read 'where'
 202 22 6 after the word 'near, dele 'to'
 202 23 10 for 'be' read 'he'
 203 24 16 for 'of' read 'in'
 203 25 16 for 'meeting' read 'meetings'
 205 L. 18 of p. before the word 'estate' insert 'other'
 210 2 before the word 'tenement' insert 'other'
 215 4 before the word 'guardians' insert 'guard-
 dian or'
 226 Sec. 73 L. 6 of Sec. dele 'a'
 229 3 last for 'agreeably' read 'agreeable'
 230 7 19 for 'agreeably' read 'agreeable'
 231 8 6 for 'resided' read 'reside'
 242 2 5 for 'sentence' read 'sentences'
 245 7 3 after the word 'herein' insert 'be-
 fore'
 247 L. 7 of the act, ch. 56, after the word 'otherwise' in-
 sert 'interested'
 247 11 for 'statement' read 'statements'
 247 Sec. 1 L. 2 of Sec. for 'whenever' read 'wherever'
 248 3 1 for 'whenever' read 'wherever'
 248 3 14 for 'Justice' read 'Justices'

Page.
 252 L. 3 of p. for 'where' read 'wherein'
 257 5 after the word 'have' insert 'his or'
 265 Sec. 39 L. 3 of Sec. for 'when' read 'where'
 271 L. 1 and 3 of p. for 'affect' read 'effect'
 271 Sec. 6 L. 2 of Sec. before the word 'execution'
 insert 'the'
 278 19 4 for 'on' read 'in'
 280 L. 2 of p. for 'have' read 'had'
 281 22 for 'of' read 'on'
 283 13 for 'lies' read 'lays'
 283 last before the word 'defendant' insert 'the'
 284 Sec. 32 L. 2 of Sec. for 'a' read 'any'
 288 5 18 for 'whenever' read 'wherever'
 291 9 4 for 'as' read 'or'
 292 L. 4 of p. for 'examinations' read 'examination'
 293 Sec. 13 L. 5 of Sec. after the word 'article' in-
 sert 'or articles'
 297 7 5 for 'and' read 'or'
 301 L. 8 of p. for 'he' read 'be'
 309 24 between the words 'the' and 'day' should
 be a '
 310 20 for 'debt' read 'debtor'
 311 2 for 'with' read 'and of'
 312 7 for 'summon' read 'summons'
 312 9 between the words 'our' and 'Court'
 should be a '
 318 31 for 'writ' read 'writ a'
 328 Sec. 8 L. 4 of Sec. for 'grieved' read 'aggrieved'
 353 L. 14 of p. at the end of the line insert 'the'
 361 Sec. 1 L. 18 of Sec. for 'cause' read 'case'
 370 3 10 for 'to' read 'of'
 371 2 7 dele 'to'
 373 L. 15 of p. before the word 'require' insert 'to'
 376 Sec. 1 L. 10 of Sec. dele 'the' before the word
 'payment'
 378 at the end of the act, for '17' read '20'
 378 in the title, for 'selection' read 'selecting'
 379 Sec. 4 L. 5 of Sec. before the word 'divide' in-
 sert 'shall'
 394 1 9 for 'part' read 'parts'
 395 1 8 for 'acceptances' read 'accep-
 tance'
 404 1 34 before the word 'authorized'
 insert 'hereby'
 407 7 4 dele 'the'
 414 last word of the 1st act on the page, for 'therein'
 read 'thereon'
 423 Sec. 3 L. 15 of Sec. after the word 'assignments'
 insert 'thereof, and also of the assignments'
 424 Sec. 6 L. 13 of S. after the word 'papers' insert 'as'
 425 L. 7 of p. before the word 'action' insert 'an'
 428 22 for 'twelve' read 'twenty'
 431 8 for 'fifteen' read 'fifty'
 432 first line of the page should be put after the third
 432 L. 5 of the p. dele 'entering'
 432 between the 28th and 29th lines of the p. insert
 'Every blank writ of attachment, with a sum-
 mons thereon, fifteen cents'
 432 L. 37 of p. for 'judgment' read 'jurymen'
 435 9 for 'appear' read 'appears'
 435 10 for 'make' read 'makes'
 435 18 for 'taking' read 'taxing'
 444 Sec. 1 L. 6 of Sec. before the word 'records' in-
 sert 'the'
 445 1 9 for 'within' read 'of'
 445 1 19 after the word 'escape' insert
 'sickness'
 455 11 1 after the word 'of' insert 'the'

CHAPTER CX.

An Act for providing and regulating Prisons.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That the Justices of the Court of Sessions shall, from time to time, assess the polls and estates within their several counties, in such sums as may be necessary to erect and keep in repair a good and sufficient gaol in each town where a Court by law is to be holden; and to direct and order the building and repairing such gaols, according to their discretion. And in the prisons within the several counties within this State, there shall be provided by the Justices of the Court of Sessions, and at the expense of each county, respectively, sufficient and convenient apartments for receiving and lodging prisoners for debt, separate and distinct from felons and other criminals; and it shall be the duty of the said Justices, at the beginning of every session, to inquire into the state of the prisons in their respective counties, with respect to the security of such prisons from escape, the condition and accommodation of the prisoners; and shall, from time to time, take such measures as may best tend to secure them from escape and infection; *Provided nevertheless*, That the Courts of Sessions shall not assess any greater sum of money to defray county charges, than they shall be authorized by the Legislature to assess.

Court of Sessions in each county to raise money for building and repairing prisons,

and cause them to be built and repaired. Apartments to be furnished for debtors separate from felons and other criminals.

Court at every session to inquire as to the state of prison, &c. and prisoners.

Assessments to be authorized by legislature.

SEC. 2. *Be it further enacted*, That the Sheriffs of the respective counties shall keep a true and exact calendar, or register of all prisoners committed to any prison under his care, and that the same shall be kept in a large bound book, provided and kept for that only purpose; and in the same book shall be distinctly and fairly registered the names of all prisoners who shall, from time to time, be committed to prison (beginning with the names of those who may be prisoners when this law shall take place) with their names, places of abode, additions, the time of their commitment, for what cause, and by what authority committed; and of such as are committed for criminal offences, a description of their persons; and also from time to time, as any prisoner shall

Sheriff to keep a calendar of prisoners.

Form of it, and particulars to be entered,

be liberated, the Sheriff shall also register in the same book, the name and description of the person as aforesaid, the time when, and the authority by which, such liberation took place; and if any prisoner escapes, the time and manner of the escape shall be noted in the said book.

Warrants, mittimus-
esses, &c.
to be preserv-
ed, and

SEC. 3. *Be it further enacted,* That all warrants, mittimus-esses, writs and instruments of any kind, or the attested copies of them, by which any prisoner shall be committed, enlarged or liberated, shall be safely kept, regularly filed, in their order of time, and, together with the said calendar, or register, shall be safely kept in a suitable box for that purpose; and upon the death or removal of any Sheriff, shall be delivered to his successor in the office, on the penalty of two hundred dollars, to be paid by the Sheriff removed or his executors or administrators, in case of the death of the Sheriff; to be recovered by any person, who shall prosecute therefor, in any Court proper to try the same.

delivered over
to succeeding
sheriff, on pen-
alty, &c.

Gaol keeper at
the opening of
each Court to
return list of
prisoners, &c.

SEC. 4. *Be it further enacted,* That every gaoler or prison keeper, at the opening of the Supreme Judicial Court, or the Circuit Court of Common Pleas, within the county where he keeps the gaol shall return a list of prisoners in his custody, therein certifying the cause for which, and the persons by whom they were committed, and the names of all persons who shall be committed during the sitting of either of the said Courts, with the cause of their commitment, that the Justices of the same Courts respectively may take cognisance thereof, and as well for the state, as the parties, may proceed to make deliverance of such prisoners according to law, for the crimes proper to the jurisdiction of the same Courts respectively; and also shall have the said calendar or register of prisoners ready to be inspected by the said Courts; and if any gaoler shall make default herein, he shall be fined at the discretion of the Court.

Form of list,
&c.

Penalty for
neglect.

Prisoners
committed on
mesne process
to be detained
but 30 days af-
ter judgment,
unless taken in
execution,

SEC. 5. *Be it further enacted,* That no person, imprisoned upon mesne process, shall be held in prison, upon such process, above the space of thirty days next after the entering up final judgment upon the writ whereby he is committed, unless he shall be continued there, by having his body taken in execution, nor shall the prison keeper dis-

charge any such prisoner, unless judgment is given in his favor, until thirty days next after the said judgment is entered up, unless the party at whose suit he was committed, shall give order in writing for his discharge, and shall pay the legal fees of the gaoler.

and not to be discharged within 30 days. unless by order in writing.

SEC. 6. *Be it further enacted,* That it shall be the duty of the Sheriffs of the several counties within this State, to see that the gaols in their respective counties are kept in as cleanly and healthy condition as may be, and cause the walls thereof to be whitewashed with lime in April or May in every year, and as often as the Court of Sessions shall order the same, at the expense of the county; they shall also see that strict attention is paid to the personal cleanliness of the prisoners as far as may be.

Sheriff to cause prisons to be cleanly and white-washed annually in April or May, or often if, &c.

SEC. 7. *Be it further enacted,* That it shall be the duty of every gaoler or prison keeper to keep prisoners, committed for debt, separate and apart from felons, convicts, and prisoners committed upon charge of felony or other infamous crimes. And he shall also keep all minors who are committed to prison upon conviction or charge of any crime, and all prisoners in his custody upon a first conviction or charge of any crime, as separate and distinct from those who are notorious offenders, or who have been convicted more than once of any felony, or other infamous crime, as the construction and state of their respective prisons will admit.

Sheriff to keep debtors separate from convicts, &c.

and minors, &c. separate from notorious offenders, &c.

SEC. 8. *Be it further enacted,* That no prisoner who is confined in any gaol within this State, either upon conviction and sentence for any crime, or upon charge of any crime before conviction, shall be allowed to have or drink any ardent or spiritous liquor, or any mixed liquor, part of which is spiritous, unless the physician, who is authorized to attend upon the sick in such prison, shall certify in writing that the health of such prisoner requires it; in which case he shall be allowed the quantity prescribed by such physician and no more.

Prisoners committed for crimes, &c. not to be allowed spiritous liquors,

unless in case of sickness,

SEC. 9. *Be it further enacted,* That no person committed to gaol on execution or mesne process, who shall apply to the Overseers of the poor for relief, shall be permitted to have and use any spiritous liquors, without the consent of

nor prisoners committed for debt, if they apply to overseers for relief.

Penalty for violation and mode of recovery. the said Overseers. And if the keeper of any gaol, or other person shall give, sell or deliver to any such prisoner, or to any other person for his use, any spiritous liquors without the consent in writing of the said Overseers or one of them, first had and obtained, shall forfeit and pay for each offence a sum not less than five, nor more than ten dollars, to be recovered by complaint to any Justice of the Peace for the same county; one moiety thereof to him who shall prosecute for the same, the other moiety to the use of the poor of the town where the gaol is situated. And it is hereby made the duty of the Sheriff, Gaoler and Overseers of the poor to prosecute for all offences which may come to their knowledge against the provisions of this section.

Penalty for violating seventh and eighth sections of this Act.

SEC. 10. *Be it further enacted,* That any gaoler or prison keeper, who shall wilfully, negligently or unnecessarily cause or suffer prisoners of different descriptions to be confined and kept together in the prison under his care, contrary to the provisions of the seventh section of this Act, or shall voluntarily or negligently suffer any prisoner in his custody, upon conviction or charge of any crime, to have or drink any spiritous liquor, or mixed liquor, part whereof is spiritous, contrary to the provisions of the eighth section of this Act, shall, in each case, forfeit the sum of twenty five dollars for the first offence, to be recovered in an action of debt by any person who will sue for the same, to his own use, in any Circuit Court of Common Pleas, or by indictment in the same Court; in which case the forfeiture shall be to the use of the county. And for a second offence, such gaoler or prison keeper, shall forfeit the sum of fifty dollars, to be recovered in manner and to the uses aforesaid; and shall also be removed from his office, and be rendered and become incapable of holding the office of Sheriff, deputy Sheriff or gaoler, for the term of five years. And it shall be the duty of the Grand Jurors of the said Court, diligently to inquire of, and truly to present, all offences against the provisions of this Act.

Mode of recovery.

Grand Jurors to present violations.

Punishment for suffering a voluntary escape.

SEC. 11. *Be it further enacted,* That every gaoler or prison keeper that shall voluntarily suffer any prisoner committed unto him to escape, shall suffer and undergo the like pains, punishment and penalties, as the prisoner, so escap-

ing, should by law, for the crime or crimes wherewith he stood charged, if he had been convicted thereof.

SEC. 12. *Be it further enacted*, That if any gaoler or prison keeper shall, through negligence, suffer any prisoner accused of any crime to escape, he shall pay such fine as the Justices of the Court, before whom he is convicted, shall in their discretion inflict, according to the nature of the offence for which the escaped prisoner stood committed: *Provided nevertheless*, That if any person who stands committed for debt, shall escape from prison, and the Sheriff, the gaoler or prison keeper shall, within three months next after such escape, recover the prisoner so escaped, and return him back to prison again, then the Sheriff shall be liable to nothing further than the cost of any action that may have been commenced against him for such escape; and all fines arising upon the breach of this Act, excepting the ninth and tenth sections thereof, shall be applied to the use of building and repairing the gaol or gaols in the county where the offence is committed, and shall be paid to the Treasurer of the county, for that purpose.

Penalty for suffering a negligent escape.

Proviso, if retaken on fresh pursuit.

Appropriation of fines.

SEC. 13. *Be it further enacted*, That if any person shall directly or indirectly, without the knowledge or privity of the keeper, convey any instrument, tool or other thing whatsoever, to any prisoner, or into any prison, whereby any prisoner might break the prison, or work himself unlawfully out of the same, every person so offending shall forfeit and pay such fine as by the discretion of the Court shall be imposed, not exceeding three hundred dollars, according to the nature of the cause of the prisoner's commitment; or suffer such corporal punishment, not exceeding forty stripes, as the Court shall inflict; and if it shall so happen that any prisoner shall make his escape by means of any instrument, tool or other thing so conveyed, without the knowledge and privity of the keeper, the person so conveying the same shall be liable to pay all such sums of money as the prisoner stood committed for; and shall have inflicted upon him all such punishment as the escaped prisoner would be liable unto, if he had been convicted of the charge for which he stood committed, unless such prisoner would have been liable to capital punishment; in which case, the person assisting in such escape shall be punished by fine, imprisonment or sit-

Punishment for conveying tools, &c. to a prisoner to aid his escape, &c.

Punishment in case of actual escape.

ting on the gallows with a rope about his neck, or by solitary imprisonment for a term not exceeding three months, and confinement to hard labour for a term not exceeding five years; or any one or more of the said punishments, as the Court shall think proper to inflict.

Where escape happens through insufficiency of the gaol, Sheriff to be chargeable.

SEC. 14. *Be it further enacted*, That where the escape of any prisoner shall happen through the insufficiency of the gaol, or the negligence of the Sheriff or gaoler, the Sheriff of the county, in which the escape happens, shall stand chargeable to the plaintiff, creditor or other person at whose suit or for whose debt he was committed, or to whose use any forfeiture was adjudged against such prisoner; and in case the escape shall happen through the insufficiency of the gaol, the Court of Sessions in the county shall have power and authority to assess the sum or sums upon the polls and estates of the county, and to order the county Treasurer to pay the same over to the Sheriff of the county; and

Court of Sessions to assess on the county the sum recovered of the Sheriff.

And in case they do not in 6 months, Sheriff may sue the county, for indemnity.

if the Court of Sessions shall not make such assessment, and if the Treasurer shall not pay such sum or sums within six months next after the demand shall be laid before the Court of Sessions, then the Sheriff of the county may bring his action against the inhabitants of such county, to be heard and tried, either in that or one of the next adjoining counties, at his election; and an attested copy of the writ being left thirty days before the sitting of the Court, with the county Treasurer, shall be held and adjudged to be sufficient notice of the suit; and the Justices of the Court of Sessions shall have full power to appoint an agent or agents to appear and defend against such action; and when it shall so happen that the suit shall be commenced in another county, and no Court of Sessions shall be holden within the county sued, between the time of the service of the writ, and the sitting of the Court before which the action is brought, the cause shall be continued one term; and all advantages shall be saved to the defendants, as though they had appeared at the first term; and if judgment shall be given against the county, the debt may be levied by execution upon the goods, chattels or lands of any inhabitant or inhabitants of the county, who shall thereupon have his or their action jointly or severally in like manner against the county, to recover the monies so levied of him or them.

Mode of serving writ.

Court of Sessions may appoint an agent.

Action to be continued, in case, &c.

Debt may be collected of any inhabitants of the county.

SEC. 15. *Be it further enacted*, That the keepers of the several gaols within this State, shall under the penalties as by law are provided for the custody and safe keeping the prisoners thereof, take custody of, and safely keep all prisoners committed, under the authority of the United States, until they shall be discharged by due course of the laws thereof: *Provided*, That nothing contained in this Act shall be so construed, as to authorize the keepers of the said gaols to take custody of, and keep within said gaols any prisoners committed by any other authority than the Judicial authority of the United States.

Keepers of gaols to receive and detain United States Prisoners committed by judicial authority.

SEC. 16. *Be it further enacted*, That the several Treasurers of the respective counties within this State, and their successors, be and they are hereby authorized and directed, to receive for the use of their respective counties, to defray the county charges arising therein, all such monies as the United States have agreed to pay for the use and keeping of such gaols, and to account for the same according to law.

County Treasurers to receive the monies paid for keeping such prisoners.

[Approved March 19, 1821.]

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CHAPTER CXI.

An Act respecting Houses of Correction, and for suppressing and punishing of Rogues, Vagabonds, common Beggars and other idle or disorderly persons.

SEC. 1. **B***e it enacted by the Senate and House of Representatives, in Legislature assembled*, That there shall be erected built or otherwise provided by the Court of Sessions, in every county within this State, at the charge of such county, a fit and convenient house or houses of correction (where such house is not already provided) with convenient accommodations thereunto adjoining and belonging; to be used and employed for the keeping, correcting and setting to work of rogues, vagabonds, common beggars and other idle or disorderly persons. And until such house or houses of correction be erected, built or otherwise provided, the common prison in each county may be made use of for that purpose.

Each county to be provided with a house of correction.

SEC. 2. *Be it further enacted*, That the Court of Sessions in each county may nominate and appoint, at their will and pleasure, a suitable person to be master of such house of correction; and also to make, ordain and establish such

Common prisons to be used as such, until houses of correction are provided.

Court of Sessions may appoint master of such house and establish regulations. &c.