

MAINE STATE LEGISLATURE

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PUBLIC ACTS

OF THE

STATE OF MAINE,

PASSED BY THE

FOURTH LEGISLATURE,

AT ITS SESSION, HELD IN JANUARY, 1824.

PUBLISHED AGREEABLY TO THE RESOLVE OF THE 28TH JUNE, 1820.



PORTLAND:

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1824.

the time of arrest on execution as aforesaid, or afterwards and before the time of taking such oath or affirmation, any lands, money, goods or demands not exempted from attachment, whereby he might have discharged the debt, in whole or in part, or shall have sold, leased or otherwise conveyed, concealed, or disposed of, or intrusted his estate or any part thereof, directly or indirectly, contrary to the oath or affirmation aforesaid, he shall, on conviction thereof, not only be liable to the pains and penalties of wilful perjury, but shall receive no benefit from said oath or affirmation.

Limitation of this act.

SECT. 4. *Be it further enacted*, That the provisions of this act shall not be considered as extending to any debts or contracts existing prior to the first day of July next; and that all provisions of any former laws, inconsistent with this act, or any part thereof, be, and they hereby are repealed.

[*This Act passed February 25, 1824.*]

CHAPTER CCLXXXII.

AN ACT providing for the government of the State Prison, and for the punishment of convicts.

Sentences of confinement to hard labor and solitary imprisonment, or either, to be executed in the State Prison.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled*, That criminals convict, who may be sentenced to confinement to hard labor for life or any other term, or to solitary imprisonment, or to solitary imprisonment and hard labor, shall and may be imprisoned, restrained and employed in and within the precincts of the State Prison, situate in Thomaston, in the county of Lincoln; and the court before whom such conviction may be, is hereby authorized and empowered by warrant under its seal, directed to the warden of said prison, to cause all such convicts, as soon as conveniently may be, after sentence, to be removed from any gaol in the respective counties of

the State to the state prison ; and the said warden, and all sheriffs and keepers of the gaols aforesaid, are hereby required to observe and obey the directions, contained in any such warrant ; and it shall be the duty of the clerk of any such court to make out such warrant, as soon as may be, and to deliver the same to the sheriff of the county where such conviction may be, who is hereby directed to cause the same to be transmitted and delivered to said warden, who shall by himself or such person as he may appoint for that purpose, forthwith cause the same to be executed and returned, pursuant to the precept thereof.

SECT. 2. *Be it further enacted,* That it shall be the duty of said warden to receive such persons as may be convicted before any court of the United States, at any term thereof holden within this State, and sentenced to solitary confinement and hard labor, or either of them, by any such court, and all such convicts safely to keep, pursuant to their sentence, until they shall be discharged by due course of the laws of United States.

Warden to receive convicts so sentenced by Courts of the U. States.

SECT. 3. *Be it further enacted,* That the Governor, by and with the advice of Council, be, and he hereby is authorized to appoint and commission, during pleasure, a suitable person as warden of said prison, who shall reside at the keeper's house of said prison, and who shall have the care, custody, rule and charge of the said prison and of all persons confined therein, and of all lands, buildings, machines, implements, tools, materials, stock and provisions appurtenant or belonging to the same or the precincts thereof. And it shall be his duty to serve, execute and return all process within the precincts of said prison, and such process shall be directed to him accordingly. And he shall also be commander of all the force for guarding said prison ; and all officers and persons in any way employed under the warden, in superintending and guarding said prison, are hereby required to obey all his lawful commands. And he shall be treasurer of said prison, and receive, pay out, and be accountable for all the

Warden to be appointed by the Governor and Council, and to reside at the prison.

His powers, duties, &c.

to be commander of the guard,

and Treasurer.

money granted for maintaining the same, or derived from the manufactures and all other concerns of the prison. And he shall make or cause to be made, in the books of the prison, regular entries of all the pecuniary and other necessary concerns of the establishment. And it shall be his duty on or before the second Wednesday of January annually, to render to the Legislature a fair account, examined and approved by the inspectors of said prison, of all the expenses and disbursements, and of all the receipts and profits on account of said prison, and a statement of its general affairs. And the warden shall give bond to the Treasurer of the State and his successors in office, in the sum of ten thousand dollars with sufficient surety or sureties to be approved by the Governor and Council, and upon condition that said warden shall faithfully perform all the duties incumbent upon him as warden of said prison.

To render account of expenses and disbursements;

give bond, &c.

Inspectors of the prison and other officers and agents of the prison to be appointed by Governor & Council.

Rules, by-laws &c. for regulating prison and its officers, and concerns to be made by Governor & Council

SECT. 4. *Be it further enacted,* That the Governor and Council for the time being, may appoint during pleasure, three discreet persons to be inspectors of the state prison, and may also appoint all other such officers and military guard, agents and servants as they may deem necessary for the well ordering, upholding and maintaining of the state prison, which military guard shall be exempted from ordinary military duty; and may define their powers, prescribe their duties, and ascertain and fix their compensations: and may make, ordain and establish all such rules, by-laws, orders and regulations, not repugnant to the laws of the State, as they may from time to time see fit, for the government and direction of said warden and inspectors, and all other officers, agents and servants of said prison, and as may be proper for the maintenance, employment, instruction and government of the convicts, and for the purchase of all materials, machines, tools and implements, provisions, medicines, and clothing for the use of the convicts, and for the sale and disposition of any articles, tools and manufactures which may belong to said prison: and may regulate the diet and clothing of the convicts. And all by-laws

rules and regulations established by the Governor and Council for the government of the state prison shall be communicated to the Legislature at the first session after the same shall have been established and adopted.

Such rules &c. to be communicated to Legislature.

SECT. 5. *Be it further enacted,* That it shall be the duty of the warden of the state prison to inspect and oversee the conduct of the convicts, and to cause all the rules, by-laws, orders and regulations established by the Governor and Council for the discipline, government, instruction, employment and maintenance of the convicts to be strictly and promptly enforced ; and he shall give immediate information to the Governor and Council of any failure, or neglect of any officer to enforce strictly the discipline that may be established. And the Governor and Council shall forthwith remove any officer, who shall be guilty of such neglect of duty. And said warden shall have authority to punish any such convict for disobedience, disorderly behaviour, or indolence, in such manner, as may or shall be prescribed in the rules, by-laws, orders and regulations established by the Governor and Council as aforesaid : and shall have power to cause any prisoner to labor, wearing chains and a clog or other impediment, when the safety of the prison, or the behavior of the prisoner may require it : and shall keep, or cause to be kept a register of all such punishments, and the cause for which they were inflicted.

Duty of warden in the police of the prison.

Governor and Council to remove delinquent officers.

Warden may punish refractory convicts, and to keep a register of his punishments.

SECT. 6. *Be it further enacted,* That all contracts relative to the employment of the convicts within said prison, or the precincts thereof, or for the supply of any articles of food or manufacture within the same, or for the sale of any articles, tools and manufactures which may belong to said prison, shall be made by and with the warden of said prison or the inspectors or such other officers thereof as the Governor, with the advice of the Council shall direct ; and any suit upon any contract, relative to the employment of the convicts within the said prison, or the precincts thereof, or for the supply of any arti-

Contracts relative to the employment of convicts, supplies, manufactures, &c. how made.

Suits upon such contracts regulated.

cles of food or manufacture within the same, or for any demand due the State for the labor of the convicts, or for any articles, tools and manufactures, which may belong to said prison, shall and may be commenced and prosecuted to final judgment and execution by and in the name of said warden: and if during the pendency of any such suit, the warden should die, or be removed from office, the successor of said warden, in his own name, may be permitted to prosecute the same; and such suit shall not abate by such death or removal.

Warden may
appoint deputy.

His powers &
duties.

Warden not li-
able to arrest
in civil suits
and processes;

but may be re-
moved in case
of delinquency

Additions and
alterations of
prison build-
ings how to be
made.

SECT. 7. *Be it further enacted,* That the warden of said prison shall have power to appoint a deputy to execute any process to him directed; which deputy may serve and return the same accordingly, and for whose acts and doings his principal shall be answerable; but such deputy shall be further liable to such punishment as deputy sheriffs are now liable by law to suffer for any misconduct in executing process. And the warden shall not be arrested upon mesne process or upon execution awarded upon judgment in any civil action, while he is in office; and when judgment shall be rendered against him in any such action the execution shall be issued thereon against his goods, chattels, and lands, but not against his body; and if any execution issued as aforesaid, shall be returned not satisfied, the said warden shall be liable to be removed by the Governor, with the advice of Council, in the same manner as any person holding the office of sheriff, may, by law, be removed from the same, in case of any such execution against said sheriff being returned not satisfied.

SECT. 8. *Be it further enacted,* That the warden shall have power, with the approbation of the Governor and Council, upon the recommendation of the inspectors, to make, or cause to be made, such additional buildings or alterations within the bounds of the prison, or the precincts thereof, as they may think proper. And it shall be the duty of said inspectors to meet together statedly, once at least in every three months, at said prison, and oftener if

necessary, to attend to and inspect the concerns of the prison, the manner of keeping the books and accounts, and the register of punishments kept by the warden thereof; which books and register it shall be their duty from time to time to examine; and to cause a record to be kept of their doings; and by turns to visit the prison once at least in every month, for the purpose of seeing that the laws and regulations relating to the same are duly observed, and of inspecting the various concerns of the establishment. And said inspectors, as soon as may be after each stated meeting as aforesaid, and oftener if necessary, shall transmit to the Governor, to be by him laid before the Council, a transcript of the record of their doings; and such other information relating to said prison, its convicts and the government of the same, as to said inspectors may seem fit.

Inspectors duties and powers relating to the concerns of the prison.

Their reports to be made to Governor and Council.

SECT. 9. *Be it further enacted,* That if the warden or any other person in any way employed in the state prison, or within the precincts thereof, shall fraudulently contrive, procure, aid, connive at, or otherwise voluntarily suffer the escape of any convict therein committed under sentence of confinement, every such person on due conviction thereof, in the Supreme Judicial Court, shall and may be punished by solitary imprisonment for a term not exceeding six months, and by confinement to hard labor, at the discretion of the said Court.

Punishment of officers of prison aiding or assisting convict to escape.

SECT. 10. *Be it further enacted,* That if the Warden, or any other person employed as aforesaid, shall negligently suffer any convict committed and in custody as aforesaid, under sentence of solitary imprisonment, to be at large without the cell or apartment assigned to such convict, or to be there visited, conversed with, comforted, or relieved, contrary to the rules and regulations of said prison, or shall negligently suffer such convict or any convict there committed, under sentence of confinement to hard labor, to be at large, without the precincts of said prison, or contrary to the rules thereof to be out of close confinement, the Warden or any other person so neglecting his duty in the premises, being

Punishment of officers of prison for suffering convict under sentence of solitary imprisonment to be out of his cell, visited, &c.

thereof duly convicted before the Supreme Judicial Court, shall be punished by a fine not exceeding five hundred dollars.

SECT. 11. *Be it further enacted,* That if any person shall forcibly or fraudulently rescue, or attempt to rescue any convict from the custody of any officer, or other person authorized or employed by any warrant of commitment as aforesaid, or from the state prison, or from any other prison or gaol where such convict may be lawfully committed, pursuant to any sentence to solitary imprisonment, or confinement to hard labor, or shall convey to any convict in custody or committed as aforesaid, or into said state prison, or any other prison or gaol, any tool, instrument, weapon or other aid, with intent to enable such convict to escape, or to procure the escape of any such convict, whether such escape be effected or not, every person so offending, on being duly convicted thereof before the Supreme Judicial Court, shall, and may be punished by solitary imprisonment not exceeding six months, and by confinement to hard labor at the discretion of said Court; or may, at the discretion of said Court, be punished with a fine not exceeding five hundred dollars, and by binding to good behavior for a time not exceeding three years, according to the nature and aggravation of the offence.

Punishment of persons rescuing or attempting to rescue convicts in custody under sentence to state prison,

or furnishing tools or aid to enable convicts to escape

Punishment for assault &c. on warden &c. by convicts sentenced for life.

SECT. 12. *Be it further enacted,* That if any convict committed to the state prison, under sentence of confinement to hard labor during life, shall assault the warden or any other person employed in the government thereof, or shall forcibly attempt to break from the said prison, or shall escape therefrom, every such convict, so offending, upon conviction thereof before the Supreme Judicial Court, shall and may be punished by solitary imprisonment for any term of time not exceeding one year, at the discretion of the said Court, and shall be afterwards holden in custody upon such former sentence.

Punishment for like assault by convicts for a limited time.

SECT. 13. *Be it further enacted,* That if any convict committed to the state prison, under sentence for a limited time, shall assault the warden, or any other person employed in the government, direction

or custody of the said state prison, or shall escape or attempt by violence to escape therefrom, every such convict, so offending, upon due conviction thereof before the Supreme Judicial Court, shall and may be punished by solitary imprisonment, not exceeding three months in addition to any former like sentence, or to precede the fulfilment of any former sentence to hard labor, as the case may be; and at the discretion of the Court may be further punished by confinement to hard labor for a limited time, or during life, to commence after such solitary imprisonment, or such former sentence shall have been completed.

SECT. 14. *Be it further enacted*, That if any convict committed to said prison, shall resist the authority of any officer, or refuse to obey his lawful commands, it shall be the duty of such officer immediately to enforce obedience, and for that purpose to use such weapons and such aid as may be effectual. And if such convict, so resisting, shall be wounded, maimed or slain by such officer, or his assistants, they shall be justified and held guiltless.

Duty of officers of Prison to enforce obedience, & their justification in case of resistance.

SECT. 15. *Be it further enacted*, That in all cases of insurrection within the State Prison of the convicts therein, and in all attempts of any such convict or convicts to escape from said Prison, or of any person or persons convicted and sentenced to the State Prison, to escape from any other prison, or from the custody of any officer or other person having the legal custody of any such convict, and in all attempts of others to rescue any such convict or convicts from any prison or officer or other person having the legal custody of such convict or convicts, it shall be the duty of all officers, and all other citizens of this State, by every means in their power, to suppress such insurrection, and prevent such escape or rescue; and if in so doing, or in apprehending any convict or convicts who may have escaped from custody, any convict or other person attempting to assist in the escape or rescue of any such convict or convicts, shall be wounded, maimed or killed, all persons in any way aiding in suppressing such insurrection or preventing such

Duty of officers in case of insurrection of convicts, and attempts to escape.

escape or rescue, or in apprehending any such convict, shall be justified and held guiltless.

Convicts not to be discharged until punishment for misconduct is executed in addition to sentence.

SECT. 16. *Be it further enacted,* That no convict committed to the State Prison, shall be entitled to his discharge therefrom until he shall have completed the full term for which he was sentenced exclusive of the time he may have been in solitary imprisonment for any misconduct or violation of the regulations of the prison.

Criminals on first conviction may be sentenced to solitary imprisonment not exceeding six months,

SECT. 17. *Be it further enacted,* That whenever any person or persons shall hereafter be convicted in any Court of this State, of any crime or offence, the punishment whereof is solitary imprisonment and confinement to hard labor, or either of them, the Court before whom such conviction may be had, may at their discretion, sentence such person or persons upon the first conviction to solitary imprisonment in the state prison for a term not exceeding six months ; and if any person or persons who shall have been sentenced to solitary imprisonment in the state prison at Thomaston, shall be afterward convicted of any crime or offence, which is now punishable by solitary imprisonment and confinement to hard labor for life, the Court before whom such conviction shall be had, shall sentence such person or persons to hard labor for life in said state prison.

and in certain cases on subsequent conviction to hard labor for life.

SECT. 18. *Be it further enacted,* That whenever any person who shall be convicted of any crime before any Court competent to try the same, the punishment whereof shall by law be solitary imprisonment and confinement to hard labor for any term of time, or either of them, shall have been before sentenced to a like punishment, by any Court of this or any other of the United States, or any Court of the United States, whether such convict shall have been pardoned or not, he shall and may at the discretion of the Court, before whom he shall be thus convicted, in lieu of the punishment by law prescribed, be punished by confinement to hard labor in the state prison, for a limited term or for life : And whereas at the time of indictment and trial of any persons charged with crimes to be punished as afore-

Punishment of certain convicts on second conviction

said, it may not be known to the Grand Jury, or to the Attorney of the State or of the county, attending therein on behalf of the State, whether the person so charged has been before convicted or not : Therefore,

SECT. 19. *Be it further enacted,* That whenever it shall appear to the warden of the state prison, or the inspectors thereof that any convict received into the same, pursuant to the sentence of any Court, shall have before been sentenced by competent authority of this or any other State, or of the United States, to solitary imprisonment and confinement to hard labor, or either of them, for any term of time, it shall be the duty of said warden and of the said inspectors, or either of them, to make representation thereof to the Attorney General or to the Attorney for the county of Lincoln, as soon as may be ; and they or either of them shall by information or other legal process cause the same to be made known to the Justices of the Supreme Judicial Court, or the Court of Common Pleas, respectively, at any term of either of said Courts to be holden within the county of Lincoln : and the Justices of either of said Courts shall cause each and every person, so informed against, to be brought before them, in order that if he deny the fact of a former conviction, it may be tried according to law, whether the charge contained in such information be true : and if it appear by the confession of the party, verdict of a jury, or otherwise according to law, that said information is true, the Court shall forthwith proceed to award against said convict the punishment provided in the foregoing section, in lieu of the punishment prescribed by law, to which he may have been sentenced ; otherwise the convict shall be remanded to prison, there to be held on his former sentence.

Mode of ascertaining former convictions in certain cases.

SECT. 20. *Be it further enacted,* That whenever any convict shall be sentenced by the Justices of the Supreme Judicial Court, or the Court of Common Pleas, to be punished by solitary imprisonment and confinement to hard labor, or either of them, in and within the precincts of the state prison, the warden

Warden may inflict solitary imprisonment at intervals, or otherwise in case, &c.

of said prison shall have power and authority to inflict the punishment of solitary imprisonment without any intermission until the term of it shall expire, or may inflict the same at different times and at such intervals as in his opinion the public good and the circumstances and condition of the prisoner may require, and when any such convict shall be so relieved from solitary imprisonment at the discretion of the warden, he shall confine and restrain such convict during the interval or intervals of such solitary imprisonment within the hospital or at hard labor within the precincts of the prison.

Courts may punish by fine and costs in certain cases.

SECT. 21. *Be it further enacted,* That this act shall not be construed to deprive any Court from exercising their discretion in imposing upon convicts a fine and costs, instead of imprisonment, where the offence is now punishable by imprisonment, or by fine and costs; nor to take from any Court the right of imposing a fine or other sentence in addition to the imprisonment or confinement to hard labor, provided for in the seventeenth section of this act.

Warden may give convicts discharged, a certificate of good behavior, if deserving,

SECT. 22. *Be it further enacted,* That whenever any convict shall be discharged from said state prison, who shall have uniformly conducted well during his imprisonment or confinement, the warden, if he shall see fit, may, at the request of such convict, give him a recommendation, or assist him in procuring employment: and shall give to each convict when discharged from said prison a sum not less than five nor more than fifteen dollars, at the discretion of said warden, having regard in such gift to the good conduct of such convict.

and money not exceeding \$15.

Salary & perquisites of warden.

SECT. 23. *Be it further enacted,* That the warden aforesaid shall receive seven hundred dollars annually, in full compensation for all services by him rendered in that office, without any other support or maintenance whatever, except the exclusive use and occupation of such part of the keeper's house, and the lands and buildings in said Thomaston, belonging to the State, appurtenant to said prison and prison yard, as the Governor and Council may direct; and the free use of store rooms, and fuel for

his use, which shall be furnished by the prison without charge.

SECT. 24. *Be it further enacted,* That a sum not exceeding one hundred dollars shall be annually paid under the direction of the Governor and Council for the purpose of procuring the performance of Divine service in the state prison ; and also a further sum not exceeding one hundred dollars, shall be annually paid in like manner, for the purpose of procuring such medical aid and advice as may be required for the prisoners.

Appropriation for Divine service and medical aid.

SECT. 25. *Be it further enacted,* That the Governor, with the advice of the Council, be, and he hereby is authorized, from time to time to draw his warrant upon the Treasurer of the State in favor of said warden, for all such sums of money or parts thereof, as they may deem proper, which shall be appropriated by the Legislature for the support of the state prison.

Governor and Council to draw on treasurer in favor of warden for support of prison.

SECT. 26. *Be it further enacted,* That the Governor, with the advice of Council, shall have power to raise and organize a volunteer company of militia in the immediate vicinity of the prison, to consist of not more than forty persons including officers ; and it shall be in the power of the Governor, with the advice of Council, if they deem it necessary for the raising of such a company, to authorize enlistments for that purpose from and out of any company or companies of militia, which are now formed and constituted ; any law to the contrary notwithstanding : and the persons so enlisted shall be held to perform no other military duty than such as shall be required of said company so to be raised ; and each private and non-commissioned officer of said company shall be bound to be well armed and equipped at all times, and keep constantly on hand twenty-four rounds of good ammunition, and shall parade at or near the state prison on the first Tuesday of May annually for inspection ; and at all times in case of alarm or insurrection at the prison, shall forthwith appear armed and equipped at the state prison, and there obey the orders of the warden

Governor and Council to raise and organize a militia company for defence of prison,

their duties & exemptions,

In case of insurrection at prison, company to appear, &c.

Officers &c. at prison liable to do duty in said company.

Penalty for neglect of members of company to appear, &c. at prison in cases of alarm,

and how recovered.

thereof in quelling any insurrection of the convicts and assist in apprehending any prisoners who may escape therefrom. The said company shall be attached and belong to the regiment within whose limits they reside ; but shall be exempted from all other military duty than what is herein required, except in cases of invasion or insurrection. And all the officers and all persons employed in the state prison for the safe keeping of the prisoners and superintending the state prison, who may be liable to perform duty in the militia, shall belong to the aforesaid company. And the officers, non-commissioned officers, clerk and privates, which shall belong to said company, shall respectively have and possess the like power and command, and perform the like duties and be subject to the like control, authority and subordination, and be liable to like penalty or penalties for disobedience of orders, neglect of duty or deficiency of arms and equipments for which other penalty or penalties are not provided in this act, as are provided for by an act of this State, entitled "An Act to organize, govern and discipline the Militia of this State." And in case of any alarm or insurrection at the prison aforesaid, if any non-commissioned officer or private who shall belong to such company upon any verbal or other sufficient notice thereof being given, by direction of the warden of said prison, or either of the commissioned officers of said company, shall unreasonably neglect or refuse forthwith to appear, armed and equipped as aforesaid, at the said prison, or being there, shall refuse to obey the lawful commands of the warden thereof, or of either of the officers of said company, he shall forfeit and pay for each such neglect, refusal, disobedience or deficiency, a sum not exceeding ten dollars nor less than two dollars. And if any of the non-commissioned officers or privates aforesaid, shall unreasonably neglect at any time to be provided with the arms and ammunition required by this act, every such non-commissioned officer and private, guilty of such neglect, shall forfeit and pay the sum of two dollars. And the penalties provided for in this act shall be recovered by the Clerk of said com-

pany, in an action of debt to be brought before any Justice of the Peace within the county of Lincoln. And the warden of said prison is hereby directed and required to furnish, at the expense of the State, each non-commissioned officer and private of said company, with a sufficiency of ammunition for all the uses provided for by this act.

Warden to furnish company with ammunition.

SECT. 27. *Be it further enacted,* That as soon as the Governor shall deem the state prison to be in a suitable condition to be occupied by the confinement of convicts therein, he may, and he hereby is authorized by warrant under his hand, directed to the warden of said prison or such other person as he may think proper, to require him or them to remove to the state prison in Thomaston, from any gaol within this State, such convicts as he may think expedient, who have been sentenced to solitary imprisonment and confinement to hard labor, or either of them, for terms not then expired, there to be detained in execution of such sentence. And the warden of said prison and all officers and keepers of the gaols in the several counties in this State, are hereby required to obey and execute such warrants.

Governor to cause convicts in county gaols to be removed to state prison, when prepared

SECT. 28. *Be it further enacted,* That all acts or parts of acts inconsistent with the provisions of this act, be, and the same are repealed.

Repeal of other acts inconsistent with this.

[*This Act passed February 25, 1824.*]

CHAPTER CCLXXXIII.

AN ACT additional to an Act to organize, govern and discipline the Militia of this State.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That no member of any Company of Artillery, Cavalry, Light Infantry or Riflemen, shall be appointed an Engineman, during the time for which he may have enlisted into such Company, and when by such appointment any such company would be reduced

Light companies not to be reduced below 48 privates by appointment of enginemen.