

MAINE STATE LEGISLATURE

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REVISION II.

REPORT

OF THE

COMMISSIONER

APPOINTED TO

REVISE THE PUBLIC LAWS

OF THE

STATE OF MAINE.

CRIMES, AND CRIMINAL PROCEEDINGS.

TITLE XI.

Augusta:

FULLER & FULLER, PRINTERS TO THE STATE.

1856.

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TITLE ELEVENTH.

CRIMES AND OFFENSES, PROCEEDINGS IN CRIMINAL CASES, PUNISHMENTS AND INCIDENTAL PROVISIONS.

- Chap.* 117. Offenses against the sovereignty of the state.
118. Offenses against the lives and persons of individuals.
 119. Offenses against habitations and other buildings.
 120. Larceny and receiving stolen goods.
 121. Forgery and counterfeiting, and fraudulent stocks.
 122. Offenses against public justice.
 123. Offenses against the public peace.
 124. Offenses against chastity, morality and decency.
 125. Gambling.
 126. Cheating by false pretenses, frauds, and conspiracies.
 127. Malicious mischiefs and trespasses on property.
 128. Offenses against the public health, safety and policy.
 129. Libels.
 130. Proceedings for the prevention of crimes.
 131. Jurisdiction of offenses and general provisions relating thereto.
 132. Election of municipal and police judges and proceedings of magistrates in criminal cases.
 133. Commencement of proceedings in criminal cases.
 134. Proceedings in court in criminal cases.
 135. Sentence and its execution in criminal cases, and the liberation of poor convicts.
 136. Collection and disposal of fines and costs in criminal cases.
 137. Disposal of insane criminals.
 138. Pardons and fugitives from justice.
 139. Coroners' inquests.

Chapter 117.

OFFENSES AGAINST THE SOVEREIGNTY OF THE STATE.

- Sect.* 1. Treason, its definition proof and punishment.
2. Misprision of treason, its definition proof and punishment.
 3. Limitation of prosecutions therefor to three years.
 4. Usurpation of jurisdiction by a foreign power.

SECT. 1. Treason consists in levying war against the state,
2 adhering to its enemies and giving them aid and comfort.
3 No person can be convicted of it without the testimony of
4 two witnesses to the same overt act or confession in open
5 court. Its punishment is death.

Treason, its
definition, proof,
and punishment.

R. S., c. 153,
§ 1, 2.

SECT. 2. Misprision of treason consists in a knowledge,
2 that treason has been or is to be committed and in the con-

Misprision of
treason, its
definition, &c.

CHAP. 118.

3 concealment of it or omission to give information thereof to the
 4 governor, a judge of a court of record, or a justice of the
 5 peace. No person can be convicted of it without the testi-
 6 mony of two witnesses, but one of them may be to one and
 7 another to a different overt act of the same species of trea-
 8 son, or by confession in open court. It shall be punished by
 9 imprisonment not exceeding five years or by fine not exceed-
 10 ing one thousand dollars. (a)

Idem, § 3, 4.

Limitation of
prosecutions to
three years.

Idem, § 5.

Usurpation of
jurisdiction by
a foreign power.

SECT. 3. No person can be convicted of treason or mis-
 2 prison of treason unless the indictment therefor be found
 3 within three years after commission of the treason.

SECT. 4. If a person deriving authority from any foreign
 2 government or magistrate enters upon any lands, cuts any
 3 timber, serves any process, or exercises any jurisdiction an-
 4 thority or ownership, claims any right, or threatens to do any
 5 of said acts within the limits of this state as described by
 6 the treaties of seventeen hundred and eighty-three *and*
 7 *eighteen hundred and forty-two* between the United States
 8 and Great Britain, he and every person aiding and encour-
 9 aging the same shall be punished by imprisonment and fine
 10 at the discretion of the court according to the aggravation
 11 of the offense.

Idem, § 6.

Chapter 118.**OFFENSES AGAINST THE LIVES AND PERSONS OF INDIVIDUALS.***Sect. 1. Murder defined.*

2. Murder of the first degree defined and punished.
3. Murder of the second degree defined and punished.
4. Degree of murder how ascertained.
5. Manslaughter defined and punished.
6. Willful disturbance or obstruction of a railroad, by which human life is destroyed, murder of second degree, if not how punished.
7. Misconduct or gross neglect respecting steam in steamboats occasioning loss of life or danger of it.
8. Murder of the first degree by dueling defined.
9. Murder of the first degree by a second to such duel.
10. Conviction or acquittal in another state a bar to an indictment under eighth, ninth, and thirteenth sections.
11. Fighting, challenging, or aiding a duel.
12. Accepting a challenge or aiding it.
13. Leaving the state to elude provisions of the two preceding sections and doing such acts out of the state.
14. Posting for not fighting a duel or sending or accepting a challenge.
15. Maim defined and punished.

(a) The place of imprisonment in cases in this title will be found in chapter 135. This is done to avoid the repetition in almost every section, of state prison and county jail, and to prevent inconsistent provisions respecting imprisonment.

- Sect.* 16. Robbery defined and punished.
 17. Rape defined and punished.
 18. Abduction defined and punished.
 19. Forcible confinement, kidnapping, selling as a slave.
 20. Abandonment of children.
 21. Apprentices and minors carried out of the state by masters of vessels.
 22. Enlistment of minors into army of United States.
 23. Extortion or compulsion by threats.
 24. Assault with intent to commit a rape.
 25. Assault with intent to murder, kill, maim, rob, steal, or to commit arson or burglary.
 26. Assault with intent to commit other felonies.
 27. Attempts to murder or kill without assault.
 28. Assaults, and assaults and batteries.

SECT. 1. Murder is the unlawful killing of a human being
 2 with malice aforethought either express or implied. Murder defined.
R. S., c. 154, § 1.

SECT. 2. When murder is committed with express malice
 2 aforethought, or in perpetrating or attempting to perpetrate
 3 a crime punishable by death or imprisonment for life or for
 4 an unlimited term of years, it shall be deemed murder of
 5 the first degree and punished with death. Murder of the
first degree
defined and
punished.

Idem, § 2.

SECT. 3. When murder is committed otherwise than is set
 2 forth in the preceding section, it shall be deemed murder of
 3 the second degree and be punished by imprisonment for life. Murder of the
second degree
defined and
punished.
Idem, § 3.

SECT. 4. The jury, which finds a person guilty of murder,
 2 shall find whether he is guilty of murder of the first or sec-
 3 ond degree. When a person is found guilty of murder by
 4 confession in open court, the court from testimony shall de-
 5 termine the degree of murder and sentence accordingly. Degree of mur-
der, how
ascertained.

Idem, § 4.

SECT. 5. Whoever unlawfully kills a human being in the
 2 heat of passion on sudden provocation without express or
 3 implied malice aforethought, or commits manslaughter as
 4 defined by the common law, shall be punished by imprison-
 5 ment not more than ten years or by fine not exceeding one
 6 thousand dollars. Manslaughter
defined and
punished.

Idem, § 5.

SECT. 6. Whoever willfully and maliciously displaces a
 2 switch or rail, disturbs, injures, or destroys, any part of a
 3 track or bridge of any railroad, or places any obstruction
 4 thereon with intent, that any person or property passing on
 5 the same should be thereby injured, and human life is thereby
 6 destroyed, shall be deemed guilty of murder of the second
 7 degree and be punished accordingly. If human life is thereby
 8 endangered and not destroyed, or property is injured, he
 9 shall be punished by solitary imprisonment not less than
 10 thirty days and afterwards to hard labor not more than twenty
 11 nor less than five years. Willful distur-
bance or obstruc-
tion of a railroad
by which human
life is destroyed,
&c.

1846, c. 197,
§ 1, 2, 3.

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Misconduct and gross neglect respecting steam in steamboats, &c.

1848, c. 70, § 1.

Murder of the first degree by dueling, defined and punished.

R. S., c. 154, § 6.

The same by a second to such duel.

Idem, § 7.

Conviction or acquittal in another state a bar to indictment under eighth, ninth and thirteenth sections.
Idem, § 8, 11.

Fighting, challenging, or aiding a duel, punished.

Idem, § 9.

Accepting a challenge or aiding, punished.

Idem, § 10.

SECT. 7. Any person having charge of a steamboat used for conveyance of passengers, or of the boiler or other apparatus for generating steam therein, who through ignorance, gross neglect, or for the purpose of racing, creates or allows to be created such a quantity of steam as to break such boiler apparatus or machinery connected therewith and thereby human life is destroyed, shall be punished by imprisonment not more than four nor less than two years; and if human life is endangered and not destroyed by imprisonment not less than one year and by fine not exceeding two hundred and fifty dollars.

SECT. 8. Any person residing in this state, who within it engages to fight a duel and fights such duel without the state and thereby inflicts a mortal wound on any person, of which he dies in this state, shall be deemed guilty of murder of the first degree and be punished accordingly; and he may be indicted and tried in the county, where the death happens.

SECT. 9. A person, who by an engagement made within the state is the second to either party in such duel and present, when a mortal wound is inflicted of which the person dies within the state, shall be deemed an accessory before the fact to murder of the first degree, and he may be indicted tried and punished, as the principal may be.

SECT. 10. A person indicted under either of the two preceding sections or under the thirteenth section of this chapter may plead a former conviction or acquittal of the same offense in another state, which being admitted or established shall entitle him to an acquittal in this state.

SECT. 11. Whoever fights a duel with deadly weapons, or is present thereat as aid second surgeon, or as advising encouraging or promoting it, though no homicide ensues; or sends or delivers a verbal or written message intended to be a challenge, though no duel ensues, shall be punished by imprisonment not more than twenty years or by fine not exceeding one thousand dollars; and be incapable of holding any office or place of honor trust or profit for twenty years after conviction.

SECT. 12. Whoever accepts such a challenge or engages to act as second or surgeon to one accepting, or knowingly delivers such acceptance, or advises encourages or promotes it, though no duel ensues, shall be punished by imprisonment less than one year and by fine not exceeding one thousand

6 dollars, and be incapable as in the preceding section for five CHAP. 118.
7 years after conviction.

SECT. 13. If any resident of this state leaves it for the
2 purpose of eluding the operation of the two preceding sec- Leaving the
state to elude
provisions of
the two preced-
ing sections, and
doing such acts,
punished.
3 tions with intent to do *and does* acts out of the state which
4 would be a violation of their provisions if done within the
5 state, he shall be subject to the same punishment as if the
6 offense had been committed in the state; and he may be in- Idem, § 11.
7 dicted and tried in the county where he resides. (a)

SECT. 14. If a person posts another or uses in writing or
2 in print any reproachful or contemptuous language concern- Posting for not
fighting a duel
or sending or accept-
ing a challenge.
3 ing him for not fighting a duel, or for not sending or accept-
4 ing a challenge, he shall be punished by imprisonment less
5 than one year and by fine not exceeding one hundred dol- Idem, § 12.
6 lars.

SECT. 15. If a person with malicious intent to maim or
2 disfigure cuts or maims the tongue, puts out or destroys an Maim defined
and punished.
3 eye, cuts or tears off an ear, cuts slits or mutilates the nose
4 or lip, cuts off or disables a limb or other member, of another
5 person, he shall be punished by imprisonment not less than Idem, § 13.
6 one nor more than twenty years.

SECT. 16. Whoever by force and violence or by putting in
2 fear feloniously steals and takes from the person of another Robbery defined
and punished.
3 property, that is the subject of larceny, shall be deemed
4 guilty of robbery, and if at the time he is armed with a dan-
5 gerous weapon with intent if resisted to kill or maim such
6 person, or if being so armed he wounds or strikes him, or if
7 he has any confederate present so armed to aid or abet him, Idem, § 14,
15, 16.
8 he shall be punished by imprisonment for life; otherwise
9 for any term of years or for life.

SECT. 17. Whoever ravishes and carnally knows any female
2 of ten or more years of age by force and against her will, Rape defined
and punished.
3 or unlawfully and carnally knows and abuses a female child
4 under ten years of age shall be punished by imprisonment Idem, § 17.
5 for life.

SECT. 18. Whoever takes a woman unlawfully and against
2 her will and by force menace or duress compels her to marry Abduction
defined and
punished.
3 him or any other person or to be defiled shall be punished
4 by imprisonment for life or any term of years. And
5 whoever so takes a woman with intent by such means to Idem, § 18, 19.

(a) This section as in the revised statutes and without the words "and does" now inserted, created, it is believed, no punishable offense. It made the intention without any act done an offense, and declared it should be punished as if committed in this state, while no law did or does exist in this state to punish such an intention in the state without any act done.

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Forcible confinement, kidnapping, selling as a slave, and trial.

6 compel her to do so shall be punished by imprisonment not
7 less than one nor more than ten years.

SECT. 19. Whoever unlawfully confines or imprisons an-
2 other, or forcibly transports or carries him out of the state
3 or from place to place within it, or so seizes conveys inveigles
4 or kidnaps any person with intent to cause him to be so
5 dealt with, or sells as a slave or transfers for any term of
6 time the service of any person of color, who has been so
7 seized inveigled or kidnapped shall be punished by impris-
8 onment not more than five years or by fine not exceeding
9 one thousand dollars. These offenses may be indicted and
10 tried in the county where such person was carried or brought
11 or in the county where the offense was committed; and on
12 trial the consent of such person shall not be a defense, unless
13 it appears that it was not obtained by fraud threats or duress.

Idem, § 20, 21.

Abandonment of children.

SECT. 20. If a father or mother of a child under the age
2 of six years, or a person to whom such child is confided,
3 exposes it in any place with intent wholly to abandon it, he
4 shall be punished by imprisonment not more than five years
5 or by fine not exceeding five hundred dollars.

Idem, § 22.

Masters of vessels carrying apprentices and minors out of the state.

SECT. 21. If a master of a vessel carries out of the state
2 an apprentice or indented servant or person under twenty-
3 one years of age without the consent of his parent master
4 or guardian, he shall be punished as provided in the preced-
5 ing section.

Idem, § 23.

Enlistment of minors into the army of U. S.

SECT. 22. Whoever in this state enlists or causes to be
2 enlisted into the army of the United States a person knowing
3 him to be a minor without the written consent of his parent
4 master or guardian, and he is removed out of the state within
5 six months after his enlistment, or persuades him to leave
6 the state with intent thus to enlist him shall be punished by
7 imprisonment less than one year or by fine not exceeding five
8 hundred dollars.

Idem, § 24, 25.

Extortion or compulsion by threats.

SECT. 23. Whoever verbally or by written or printed com-
2 munication maliciously threatens to accuse another of a crime
3 or offense, or to do any injury to his person or property,
4 with intent thereby to extort money or procure any advan-
5 tage, or to compel him to do any act against his will, shall
6 be punished by imprisonment not exceeding two years or by
7 fine not exceeding five hundred dollars. (a)

Idem, § 26.

Assault, with intent to commit a rape

SECT. 24. Whoever assaults a female of more than ten
2 years of age with intent to commit a rape shall be punished

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3 by imprisonment not exceeding ten years or by fine not
 4 exceeding five hundred dollars. If such assault is made on
 5 a female under ten years such imprisonment shall not be less
 6 than one nor more than twenty years.

Idem, § 27, 28.

SECT. 25. Whoever assaults another with intent to mur-
 2 der, kill, maim, rob, steal, or to commit arson or burglary,
 3 if armed with a dangerous weapon shall be punished by im-
 4 prisonment not less than one nor more than twenty years;
 5 when not so armed by imprisonment not more than ten years
 6 or by fine not exceeding one thousand dollars. (a)

Assaults with
 intent to murder,
 &c.

Idem, § 29, 30.

SECT. 26. Whoever commits an assault not before men-
 2 tioned with intent to commit a felony shall be punished by
 3 imprisonment not more than five years nor by fine not exceed-
 4 ing five hundred dollars.

Assaults with
 intent to commit
 other felonies.
Idem, § 31.

SECT. 27. Whoever without an assault unlawfully attempts
 2 by any means or in any form to murder or kill a human being
 3 shall be punished by imprisonment not less than one nor
 4 more than twenty years.

Attempts to
 murder or kill
 without assault.
Idem, § 32.

SECT. 28. Whoever unlawfully attempts to strike, hit,
 2 touch, or do any violence to another however small in a wan-
 3 ton, willful, angry, or insulting, manner having an intention
 4 and exhibiting ability to do some violence to such person,
 5 shall be deemed guilty of an assault, and if such attempt is
 6 carried into effect he shall be deemed guilty of an assault and
 7 battery and for either shall be punished by imprisonment
 8 less than one year or by fine not exceeding two hundred dol-
 9 lars, when no other punishment is prescribed.

Assaults and
 assaults and
 batteries.

Idem, § 33, 34.

Chapter 119.

OFFENSES AGAINST HABITATIONS AND OTHER BUILDINGS.

- Sect.* 1. Arson of a dwelling house in the night and day time.
 2. Arson of a dwelling house owned in whole or in part by himself.
 3. Burning of public and private buildings in the night and day time.
 4. Burning of other buildings, vessels, locks, dams, and flumes.
 5. Burning of produce, trees, and other property.
 6. Wife liable though property burnt is her husband's.
 7. Burglary defined and punished.
 8. Breaking and entering a dwelling house in the day time, entering it in night
 time, breaking and entering other buildings and vessels.
 9. Dwelling house defined.

CHAP. 119.

Arson of a dwelling house in the night, and in the day time.

R. S., c. 155,
§ 1, 2.

Arson of a dwelling house owned in whole or in part by himself.

1854, c. 62.

Burning of public and private buildings in the night and in the day time.

R. S., c. 155,
§ 3, 4.
1849, c. 95.

Burning of other buildings, vessels, locks, dams, and flumes.

Idem, § 5.

Burning of produce, trees, and other property.

Idem, § 6.

Wife liable though property burnt is her husband's.

Idem, § 7.

Burglary defined and punished.

SECT. 1. Whoever willfully and maliciously sets fire to the dwelling house of another, or to any building adjoining thereto, or to any building owned by himself or another, with the intent to burn such dwelling house and it is thereby burnt in the night time, shall be punished with death. If he proves and the jury find, that there was no person lawfully in such dwelling house at the time, or if the offense was committed in the day time, he shall be punished by imprisonment for life.

SECT. 2. Whoever willfully and maliciously sets fire to a dwelling house owned wholly or partly by himself, or to any other building owned by himself or another, with intent to burn such dwelling house another person being lawfully therein, and it is thereby burnt, shall be punished by imprisonment for life.

SECT. 3. Whoever willfully and maliciously sets fire to any meeting house, court house, jail, town house, college, academy, or other buildings erected for public use, or to any store, shop, office, barn, or stable of another within the curtilage of a dwelling house, so that it is thereby endangered and such public or other building is thereby burnt in the night time, shall be punished by imprisonment for life; but if such offense was committed in the day time or without the curtilage of and without endangering a dwelling house by imprisonment not less than one nor more than ten years.

SECT. 4. Whoever willfully and maliciously burns any buildings of another not mentioned in the preceding section, or any vessel, bridge, lock, dam, or flume, of another shall be punished by imprisonment not less than one nor more than ten years.

SECT. 5. Whoever willfully and maliciously burns any corn, grain, hay, vegetables, or other produce, or any soil, trees, underwood, or other property of another, shall be punished by imprisonment not less than one nor more than three years.

SECT. 6. The preceding sections are applicable to a married woman committing either of such offenses without the consent of her husband, though the property set on fire and burnt belonged wholly or in part to him.

SECT. 7. Whoever breaks and enters in the night time with intent to commit a felony, or having entered with such intent breaks in the night time, a dwelling house any person being then lawfully therein, shall be deemed guilty of burglary; and if armed with a dangerous weapon before or after entering,

CHAP. 120.

6 or if he assaults any person lawfully therein, or has any con-
 7 federate present aiding or abetting, he shall be punished by
 8 imprisonment for life ; otherwise by imprisonment for life or
 9 any term of years.

Idem, § 8, 9, 10.

SECT. 8. Whoever with intent to commit a felony breaks
 2 and enters in the day time, or enters without breaking in the
 3 night time, any dwelling house ; or breaks and enters any
 4 office, bank, shop, store, warehouse, vessel, or building in which
 5 valuable things are kept, any person being lawfully therein
 6 and put in fear, shall be punished by imprisonment not more
 7 than five years or by fine not exceeding five hundred dollars.

Breaking and
 entering in the
 day time a
 dwelling house,
 or any building
 named, or
 vessel, at any
 time.

Idem, § 11.

SECT. 9. Any permanent building or edifice usually occupied
 2 by any person by lodging therein at night shall be deemed a
 3 dwelling house, though such occupant is absent for a time,
 4 leaving furniture or goods therein with an intention to re-
 5 turn ; but no building shall be deemed a dwelling house or
 6 part of it, unless connected with or occupied as part of the
 7 dwelling house.

Dwelling house
 defined.

Idem, § 12.

Chapter 120.

LARCENY AND RECEIVING STOLEN GOODS.

Sect. 1. Larceny defined and punished.

2. Larceny in a dwelling house and with breaking and entering in other buildings and vessels in the night or day time.
3. Larceny in a building on fire or of property removed at fires.
4. Larceny from the person of another.
5. Common thief described and punished.
6. Larceny by falsely personating another.
7. Larceny by embezzlement or fraudulent conversion.
8. Larceny in like manner of property entrusted to be carried.
9. Buying, receiving, or aiding to conceal stolen property knowingly.
10. Officers to secure stolen property, which is restored to owner on conviction of thief.
11. Court may make compensation to prosecutor and officer.
12. Action for stolen property without conviction of thief.

SECT. 1. Whoever steals takes and carries away of the
 2 property of another any money goods or chattels, or any writ,
 3 process, public record, bond, bank bill or note, promissory
 4 note, bill of exchange, order, certificate, book of accounts,
 5 conveyance of real estate, valuable contract, receipt, release,
 6 defeasance, or instrument in writing whereby any demand
 7 right or obligation is created increased diminished or extin-
 8 guished, shall be deemed guilty of larceny and be punished,
 9 when the value of the property exceeds one hundred dollars

Larceny defined
 and punished.

CHAP. 120.

R. S., c. 156, § 1.

Larceny in a dwelling house, and with breaking and entering, &c.

Idem, § 2, 3.

Larceny in a building on fire, &c.

Idem, § 4.

Larceny from the person of another.

Idem, § 5.

Common thief described and punished.

Idem, § 9.

Larceny by falsely personating another.

Idem, § 8.

Larceny by embezzlement or fraudulent conversion of property under his care.

Idem, § 6.

Larceny in like manner by one entrusted, &c.

10 by imprisonment not less than one nor more than five years,
 11 and when it does not exceed that sum by imprisonment not
 12 more than two years or by fine not exceeding one hundred
 13 dollars. (a)

SECT. 2. Whoever without breaking commits larceny in
 2 the night time in a dwelling house or building adjoining and
 3 occupied therewith, or breaks and enters any office, bank,
 4 shop, store, warehouse, barn, stable, vessel, court house, jail,
 5 meeting house, college, academy, or other building for public
 6 use or in which valuable things are kept, and commits lar-
 7 ceny therein, shall be punished by imprisonment not less
 8 than one nor more than fifteen years; and when the offense
 9 is committed in the day time by imprisonment not more
 10 than six years or by fine not exceeding one thousand dollars.

SECT. 3. Whoever commits larceny in a building on fire,
 2 or of property removed on account of an alarm of fire, shall
 3 be punished by imprisonment not more than five years or by
 4 fine not exceeding five hundred dollars.

SECT. 4. Whoever commits larceny from the person of
 2 another shall be punished by imprisonment not more than
 3 six years or by fine not exceeding five hundred dollars.

SECT. 5. If a person convicted of larceny as principal or
 2 as accessory before the fact is again convicted thereof, or is
 3 convicted of three distinct larcenies at the same term of the
 4 court, he shall be deemed a common thief and be punished
 5 by imprisonment not less than four nor more than fifteen
 6 years.

SECT. 6. Whoever falsely personates or represents another
 2 and thereby receives anything intended to be delivered to
 3 the party personated with intent to convert the same to his
 4 own use shall be deemed guilty of larceny and be punished
 5 accordingly.

SECT. 7. If an officer, agent, clerk, or servant, of a person
 2 copartnership or corporation, not an apprentice nor less than
 3 sixteen years of age, embezzles or fraudulently converts to
 4 his own use or takes and secretes with intent to do so with-
 5 out consent of his employer or master, any property of
 6 another in his possession or under his care by virtue of his
 7 employment, he shall be deemed guilty of larceny and be
 8 punished accordingly.

SECT. 8. If a person entrusted with any property the sub-
 2 ject of larceny to be carried embezzles or fraudulently con-

3 verts the same to his own use, he shall be deemed guilty of **CHAP. 121.**
 4 larceny and be punished accordingly. (a) Idem, § 7.

SECT. 9. Whoever buys, receives, or aids in concealing
 2 stolen property knowing it to be stolen shall be punished
 3 by imprisonment not more than five years or by fine not
 4 exceeding five hundred dollars. And the conviction of the
 5 person, who stole the property, need not be averred or
 6 proved. If the stealing was simple larceny, and the person
 7 restores or makes satisfaction to the party injured to the full
 8 value of such property, he shall not be sentenced to the state
 9 prison. If again convicted of a like offense or if convicted of
 10 three such distinct offences at the same term of the court,
 11 the imprisonment shall not be less than one nor more
 12 than ten years. (b) Buying, receiving, or aiding to conceal stolen property, knowing it to be stolen.
 Idem, § 10, 11, 12, 13.

SECT. 10. The officer, who arrests a person charged with
 2 an offense under this chapter, shall secure the property
 3 alleged to have been stolen, be answerable for it, and annex
 4 a schedule of it to his return; and upon conviction of the
 5 offense the property stolen shall be restored to the owner. Officers to secure stolen property, &c.
 Idem, § 14.

SECT. 11. The court, other than a municipal or police
 2 court or justice of the peace, upon conviction before it of
 3 burglary robbery or larceny, and when there is no conviction by reason of death of the offender or of his escape without their fault may allow to the prosecutor and to the officer,
 6 who has secured or kept the property, a fair compensation
 7 for their actual expenses time and trouble in arresting the
 8 offender and securing the property stolen. Court may make compensation to the prosecutor and officer.
 Idem, § 16, 1845, c. 142, § 1. 1846, c. 185.

SECT. 12. An action for the recovery of property stolen
 2 may be maintained by the owner against a person liable
 3 therefor, although the thief is not convicted. Action for stolen property without conviction of thief.
 1844, c. 102.

Chapter 121.

FORGERY AND COUNTERFEITING, AND FRAUDULENT STOCKS.

- Sect. 1.* Forgery of and publishing as true forged records and written instruments.
2. Forgery or counterfeiting of public securities, bank bills and coin, and having ten or more such in possession at one time with intent to pass them.
 3. Bringing into the state or having in possession any such coins or bank bills with intent to pass them.
 4. A person convicted being again convicted or convicted of three distinct offenses at the same term of the court.
 5. Counterfeiting coin of foreign countries for export.
 6. Manufacture or possession of implements for counterfeiting.

CHAP. 121. *Sect. 7. Total erasures and fraudulent connections.*

8. Testimony to prove public securities and bank bills to be counterfeits.
9. Forgery by false certificates and fictitious signatures.
10. Making or issuing false certificates of stock or pledging genuine without authority.
11. Rewards for conviction of forgers and counterfeiters.

Forgery of, and
publishing as
true forged
records and
written
instruments.

SECT. 1. Whoever with intent to defraud falsely makes,
2 alters, forges, or counterfeits any public record or proceed-
3 ing filed or entered in any court, or process issued or pur-
4 porting to be by a competent court magistrate or officer, or
5 attestation or certificate of any person required by law or
6 receivable as legal proof in relation to any matter, or any
7 charter, deed, will, testament, bond, writing obligatory, power
8 of attorney, letter of credit, policy of insurance, bill of lading,
9 bill of exchange, promissory note, order, or acceptance, en-
10 dorsement, or assignment thereof, or of any debt or contract,
11 or acquittance, discharge, or accountable receipt for any
12 thing of value, or any other written instrument of another or
13 purporting to be such by which any pecuniary demand or obli-
14 gation or any right in any property is or purports to be
15 created increased, conveyed, transferred, diminished, or dis-
16 charged; and whoever utters and publishes as true any instru-
17 ment before mentioned knowing it to be false forged or coun-
18 terfeit with like intent, shall be punished by imprisonment
19 not less than two nor more than ten years.

R. S., c. 157,
§ 1, 2.

Forgery or
counterfeiting of
public securities,
bank bills, or
coin, &c.

SECT. 2. Whoever with intent to defraud falsely makes,
2 alters, forges, or counterfeits, any public security issued in
3 any form or purporting to be by authority of the United
4 States or any state or territory thereof, or any indorsement
5 or writing purporting to be a transfer thereof, or any bank
6 bill or promissory note issued or purporting to be by any
7 bank or banking company in any of the United States, or any
8 gold or silver coin current in this state; and whoever has in
9 his possession at one time ten or more such forged or coun-
10 terfeit public securities notes or pieces of coin with intent to
11 pass the same knowing them to be forged or counterfeit,
12 shall be punished by imprisonment for life or any term of
13 years.

Idem,
§ 3, 4, 5, 16.

Bringing into
the state or
having in pos-
session any such
coins or bank
bills, with intent
to pass them.

SECT. 3. Whoever brings into this state or has in his
2 possession with intent to pass the same, or with intent to
3 defraud utters or tenders in payment any such coins bank
4 bills or notes as are described in the preceding section
5 knowing them to be forged or counterfeit, shall be punished
6 by imprisonment not more than three years or by fine not
7 exceeding one thousand dollars.

Idem, § 6, 7, 17.

CHAP. 121.

SECT. 4. If any person convicted of an offense described
2 in the preceding section is again convicted thereof, or is
3 convicted of three such distinct offenses at the same term
4 of the court, he shall be punished by imprisonment not less
5 than three nor more than ten years.

A person convicted being again convicted or convicted of three offenses at same term.
Idem, § 8, 18.

SECT. 5. Whoever forges or counterfeits any gold or silver
2 coin of a foreign government or country with intent to ex-
3 port it to defraud any foreign government or its subjects
4 shall be punished by imprisonment not less than one nor
5 more than ten years.

Counterfeiting coin of a foreign country for export.

Idem, § 20.

SECT. 6. Whoever makes or begins to make, mend, cast,
2 stamp, engrave, mould, or provide any plate, block, press,
3 tool, instrument, paper, or other material, designed and
4 adapted for making any false, forged or counterfeit, coin,
5 public securities, bank bills or notes, mentioned in this chap-
6 ter; or has the same in his possession partly or wholly made
7 with intent to use or permit them to be used for that pur-
8 pose, shall be punished by imprisonment not more than three
9 years or by fine not exceeding five hundred dollars.

Manufacture or possession of implements and materials for counterfeiting.

Idem, § 9, 19.

SECT. 7. Whoever with intent to defraud totally erases or
2 obliterates any record or other written instrument described
3 in this chapter, fraudulently connects together different parts
4 of several bank bills notes or other written instruments so
5 as to produce one, or alters the same in a material matter,
6 shall be deemed guilty of forgery and punished as if such
7 instrument had been forged and counterfeited.

Total erasures, and fraudulent connections.

Idem, § 13, 14.

SECT. 8. In prosecutions for any offense described in this
2 chapter relating to the bills or notes of any bank, if the pres-
3 ident or cashier thereof resides out of the state or more than
4 forty miles from the place of trial, any other witness
5 acquainted with their signatures and with the difference be-
6 tween the true and counterfeit bills of such bank may be
7 admitted to prove the same forged and counterfeit; and if
8 such prosecution relates to public securities, a certificate of
9 the tenor of the genuine public security alleged to be forged
10 or altered made under oath by the secretary of the treasury,
11 or treasurer of the United States, or by the secretary or
12 treasurer of any state or territory by which such security
13 purports to be issued, shall be evidence to prove the same
14 forged or altered.

Testimony to prove public securities and bank bills to be counterfeits.

Idem, § 10, 11.

SECT. 9. If any person legally authorized to take the proof
2 or acknowledgment of any other instrument, that by law may
3 be recorded, willfully and falsely certifies, that such proof or
4 acknowledgment was duly made, or if any person fraudu-

Forgery by false certificates, and fictitious signatures.

CHAP. 122.

5 lently affixes a fictitious or pretended signature purporting
 6 to be that of any officer or agent of a corporation to any
 7 written instrument purporting to be a draft note or other
 8 evidence of debt issued by such corporation with intent to
 9 pass the same as true, though such person never was an offi-
 10 cer or agent of such corporation or never existed, he shall
 11 be deemed guilty of forgery and punished as provided in
 12 section one.

Idem, 12, 15.

Making or
 issuing false
 certificates of
 stock, or
 pledging genuine
 without
 authority.

SECT. 10. If any officer or agent of any corporation will-
 2 fully signs with intent to issue, or issues any certificate pur-
 3 porting to be a certificate or other evidence of the ownership
 4 or of the transfer of any stock in such corporation not author-
 5 ized by its charter by-laws and votes, or without such author-
 6 ity issues, sells, or pledges any such certificate or other evi-
 7 dence of ownership or transfer of stock after it is lawfully
 8 signed, he shall be punished by imprisonment in the state
 9 prison not more than ten years, and by fine not exceeding
 10 one thousand dollars.

1855, c. 143.

Rewards for
 conviction of
 forgers and
 counterfeiters.

SECT. 11. The following rewards shall be paid to the per-
 2 son informing and prosecuting in the cases described below:
 3 Sixty dollars for each person convicted and sentenced for
 4 either of the aforesaid offenses of forging or counterfeiting
 5 any coin, public security, bank bill or note; and forty dollars
 6 for each person convicted and sentenced for either of the
 7 aforesaid offenses of possessing with intent to utter, or of
 8 knowingly uttering any such coin, public security, bank bill
 9 or note; and these rewards shall be paid out of the treas-
 10 ury of the state by warrant of the governor with advice of
 11 council granted on certificate of the judge who tried the
 12 case; and where there are two or more informers and pros-
 13 ecutors for the same offense, the reward shall be divided be-
 14 tween them equally, or in such proportions as said judge
 15 determines.

R. S., c. 157,
 § 21.

Chapter 122.

OFFENSES AGAINST PUBLIC JUSTICE.

PERJURY.

- Sect. 1.* Definition and punishment of perjury, and subornation of perjury.
 2. The like attempt when perjury is not committed.
 3. Proceedings by any court, on presumption of perjury before such court; wit-
 nesses recognized, and papers detained.

BRIBERY AND CORRUPTION IN OFFICERS OF THE LAW AND OTHERS.

- Sect.* 4. Bribery and acceptance of bribes by public officers.
 5. Corrupt solicitation of influence to procure places of trust, and acceptance of rewards for using the same.
 6. Bribery of jurors, referees, masters in chancery, appraisers, or auditors, and acceptance thereof by them.
 7. The party informing exempted from punishment.
 8. Attempts to corrupt jurors or referees, and misconduct of jurors.
 9. Sheriffs and other officers receiving bribes for neglect of official duty.
 10. Corrupt agreements by attorneys and others, in order to obtain demands for collection by suits at law.

ESCAPES BY THE MISCONDUCT OF OFFICERS.

11. Officers refusing or omitting to execute processes, whereby criminals escape.
 12. Voluntarily suffering criminals to escape in capital cases; also in other cases.
 13. Negligent escapes, and refusing to receive prisoners.
 14. Forcible rescuing, furnishing means or otherwise aiding an escape.

COMPOUNDING FELONIES.

15. Compounding felonies punishable with death or state prison for life; and also other felonies.

REFUSING TO AID OFFICERS AND OBEY MAGISTRATES.

16. Refusing to aid officers, when required.
 17. Refusing to obey justices of the peace, when required on view of a breach of the peace.

FALSELY ASSUMING TO BE A JUSTICE OR OFFICER.

18. Falsely assuming to be a justice of the peace or other officer.

DISGUIISING TO OBSTRUCT THE EXECUTION OF THE LAWS.

19. Punishment for disguising to obstruct the execution of the laws.

EXTORTING.

20. Penalty for officers extorting illegal fees, and for witnesses making false certificates of travel and attendance.

Perjury.

- SECT. 1. Whoever when required to tell the truth on oath
 2 or affirmation lawfully administered willfully and corruptly
 3 swears or affirms falsely to any material matter in a pro-
 4 ceeding before any court tribunal or officer created by law,
 5 or in relation to which an oath or affirmation is authorized
 6 by law shall be deemed guilty of perjury; and whoever pro-
 7 cures another to commit perjury shall be deemed guilty of
 8 subornation of perjury, and punished in either case, if the
 9 perjury was committed in a trial of a capital crime, by im-
 10 prisonment for life or any term of years not less than ten
 11 and if committed in any other case by imprisonment not less
 12 than two nor more than ten years.

Definition and
punishment of
perjury, and
subornation of
perjury.

R. S., c. 158,
§ 1, 2.

- SECT. 2. Whoever willfully and corruptly endeavors to
 2 incite or procure another to commit perjury, though it is not
 3 committed, shall be punished by imprisonment not less than
 4 one nor more than five years.

The like attempt
when perjury is
not committed.

R. S., c. 158, § 3.

- SECT. 3. When any witness or party legally sworn and
 2 examined or making affidavit in any proceeding in a court of

Proceedings by
any court, &c.

CHAP. 122.

R. S., c. 158,
§ 4, 5.

3 record testifies in such a manner as to raise a reasonable pre-
4 sumption, that he is guilty of perjury therein, the court may
5 immediately order him committed to prison, or take his
6 recognizance with sureties for his appearance to answer to
7 a charge of perjury; and bind over any witnesses present
8 to appear at the proper court to prove such charge, order
9 the detention as long as necessary of any papers or docu-
10 ments produced and deemed necessary in the prosecution
11 of such charge, and cause notice of these proceedings to be
12 given to the state's attorney for the same county.

Bribery and corruption in officers of the law and others.

Bribery and
acceptance of
bribes by public
officers.

SECT. 4. Whoever gives offers or promises to an executive
2 legislative or judicial officer, before or after he is qualified
3 or takes his seat, any valuable consideration or gratuity
4 whatever, *or to do any act beneficial to such officer*, with
5 intent to influence his action, vote, opinion, or judgment in
6 any matter whatever pending or that may come legally before
7 him in his official capacity, shall be punished by imprison-
8 ment not more than five years, or by fine not exceeding
9 three thousand dollars, and whoever accepts such a bribe or
10 beneficial thing in the manner and for the purpose aforesaid
11 shall forfeit his office, be forever disqualified to hold any
12 public office trust or appointment under this state and be
13 punished by imprisonment not more than ten years, or by
14 fine not exceeding five thousand dollars.

R. S., c. 158,
§ 6, 7.

Corrupt sollicita-
tion of influences
to procure places
of trust, &c.

SECT. 5. Whoever directly or indirectly gives offers or
2 promises any valuable consideration or gratuity to any per-
3 son not included in section four with intent to induce him
4 to procure for him by his interest influence or any other
5 means any place of trust in this state; and whoever not
6 included as aforesaid accepts the same in the manner and
7 for the purpose aforesaid shall be forever disqualified to hold
8 any place of trust in this state, and punished by fine not
9 exceeding three hundred dollars, and imprisonment less than
10 one year.

R. S., c. 158,
§ 8, 9.

Bribery of
jurors, referees,
masters in
chancery,
appraisers, or
auditors, and
acceptance
thereof by
them.

SECT. 6. Whoever corruptly gives offers or promises any
2 valuable consideration or gratuity to any person summoned,
3 appointed, chosen, or sworn, as a juror, arbitrator, umpire
4 or referee, auditor, master in chancery, or appraiser of real
5 or personal estate, with intent to influence his opinion or
6 decision in any matter pending or that may come legally
7 before him for decision or action; and whoever corruptly or
8 knowingly receives the same in the manner and for the pur-

R. S., c. 158,
§ 10, 11.

pose aforesaid, shall be punished by imprisonment not more than five years, or by fine not exceeding one thousand dollars.

SECT. 7. Whoever offending in the manner described in the three preceding sections gives information under oath against the other party so offending and duly prosecutes him, shall be exempt from the disqualifications and punishments therein provided.

The party informing exempted from punishment.

R. S., c. 158, § 12.

SECT. 8. Whoever attempts improperly to influence any juror, or one drawn appointed or sworn as such, arbitrator, or referee, in relation to any matter pending or that may come legally before him for action or decision; and whoever drawn, summoned or sworn as a juror promises or agrees to give a verdict for or against any person in any case, or receives any paper information or evidence relating to any matter, for the trial of which he is sworn, without the authority of the court or officer before whom such matter is pending and without immediately disclosing it to such court or officer, shall be punished by a fine not exceeding two hundred dollars and imprisonment not more than three months.

Attempts to corrupt jurors or referees, &c.

R. S., c. 158, § 13, 14.

SECT. 9. If any sheriff, deputy sheriff, coroner, or constable, receives from any person any money or other valuable thing as an inducement for omitting or delaying to sell any property on execution, to arrest any defendant and carry him before a magistrate or to prison, or to perform any other official duty, he shall be punished by a fine not exceeding three hundred dollars and imprisonment not more than three months.

Sheriffs and other officers receiving bribes for neglect of official duty.

R. S., c. 158, § 15.

SECT. 10. If any attorney, justice of the peace, sheriff, deputy sheriff, coroner, or constable, loans, advances, or promises to loan or advance, any money; gives or promises to give day of payment on any demand left with him for collection; gives or promises any valuable consideration; becomes liable in any manner for the payment of any thing; becomes surety for another for such payment, or requests advises or procures another person to become responsible or surety as aforesaid, with intent thereby to procure any account note or other demand for the profit arising from its collection by a suit at law, he shall be punished by a fine not exceeding five hundred nor less than twenty dollars; or such penalty may be recovered by an action of debt one-half to the use of the person suing therefor in his own name and the other to the state.

Corrupt agreements by attorneys and others, &c.

R. S., c. 158, § 16.

CHAP. 122.*Escapes by the misconduct of officers and others.*

Officers refusing
or omitting to
execute
processes, &c.

R. S., c. 158,
§ 20.

Voluntarily
suffering
criminals to
escape in
capital cases, &c.

R. S., c. 158,
§ 21, 22, 23.

Negligent
escapes, and
refusing to
receive
prisoners.

R. S., c. 158,
§ 24.

Forceful rescu-
ing, furnishing
means or other-
wise aiding an
escape.

R. S., c. 158,
§ 25.

Compounding
felonies
punishable with
death or state
prison for
life, &c.

SECT. 11. If any officer authorized to serve process will-
2 fully and corruptly refuses to execute any lawful process to
3 him directed requiring him to arrest or confine any person
4 charged with or convicted of any offense; or thus omits or
5 delays to execute the same, whereby the offender escapes,
6 he shall be punished by imprisonment less than one year and
7 by fine not exceeding five hundred dollars.

SECT. 12. If any jailer or other officer voluntarily suffers
2 any prisoner in his custody to escape, he shall be punished,
3 if such prisoner was convicted of a capital felony, by a fine
4 not exceeding one thousand dollars and by imprisonment for
5 life; if charged with such felony by imprisonment not less
6 than five nor more than fifteen years; if charged or convicted
7 of any other offense by the same penalties and punishments
8 that such prisoner would have suffered or been liable to suf-
9 fer if he had not escaped.

SECT. 13. If any jailer or other officer through negligence
2 suffers any prisoner in his custody for a criminal offense to
3 escape, or willfully refuses to receive into his custody any
4 prisoner committed to him on any lawful process, he shall be
5 punished by imprisonment in the county jail not more than
6 two years and by fine not exceeding five hundred dollars.

SECT. 14. Whoever forcibly rescues any prisoner lawfully
2 detained for any criminal offense conveys into any jail or
3 other place of confinement any disguise, arms, instruments,
4 or other things adapted and intended to aid, or in any way
5 aids him to escape, though such escape is not effected or
6 attempted, shall be punished, if such prisoner was in custody
7 for any felony, by imprisonment not less than one nor more
8 than seven years; and if for any other offense by imprison-
9 ment less than one year and by fine not exceeding five
10 hundred dollars.

Compounding felonies.

SECT. 15. Whoever, having knowledge of the commission
2 of any offense takes any valuable consideration, gratuity or
3 promise therefor, with an agreement or understanding ex-
4 press or implied to compound, conceal, not prosecute, or not
5 give evidence of, such offense, shall be punished, if such offense
6 is punishable with death or imprisonment for life or an unlin-
7 ited term of years, by imprisonment not more than five years,
8 or by fine not exceeding five hundred dollars; but if the

9 offense is punishable by imprisonment in the state prison for
10 a limited term of years, he shall be punished by imprisonment
11 less than one year and by fine not exceeding five hundred
12 dollars.

R. S., c. 158,
§ 18, 19.

Refusing to aid officers and obey magistrates.

SECT. 16. Whoever when required in the name of the state
2 by any sheriff, deputy sheriff, coroner, or constable, neglects
3 or refuses to aid him in the execution of his office in any crim-
4 inal case, in the preservation of the peace, in arresting and
5 securing any person for a breach of the peace or engaged in
6 the escape or rescue of persons arrested on civil process,
7 shall be punished by imprisonment not more than thirty days,
8 or by fine not exceeding fifty dollars.

Refusing to aid
officers, when
required.

R. S., c. 158,
§ 26.

SECT. 17. If any person neglects or refuses to obey any
2 justice of the peace, when in view of a breach of the peace
3 or other offense proper for his cognizance he requires such
4 person to arrest and bring the offender before him, he shall
5 be punished as in section sixteen; and if the justice made
6 known or declared his office to such person, he shall not
7 plead ignorance thereof.

Refusing to obey
justices of the
peace, &c.

R. S., c. 153,
§ 27.

Falsely assuming to be a justice or officer.

SECT. 18. Whoever falsely assumes to be a justice of the
2 peace, sheriff, deputy sheriff, coroner, or constable and to act
3 as such, or to require any one to aid him in any matter per-
4 taining to the duty of such office, shall be punished by im-
5 prisonment less than one year and by fine not exceeding
6 four hundred dollars.

Falsely assum-
ing to be a
justice of the
peace or other
officer.

R. S., c. 158,
§ 28.

Disguising to obstruct the execution of the laws.

SECT. 19. Whoever disguises himself in any manner with
2 intent to obstruct the due execution of the laws, or to in-
3 timidate any officer, surveyor, or other person in the legal
4 discharge of his duty though such intent is not effected, shall
5 be punished by imprisonment less than one year and by fine
6 not exceeding five hundred dollars.

Punishment for
disguising to
obstruct the
execution of the
laws.

R. S., c. 158,
§ 29.

Extortion.

SECT. 20. If any person for performing any service or
2 official duty, for which the pay is fixed by law, willfully and
3 corruptly demands and receives or takes security for any
4 greater sum than is legal; or if any witness falsely and cor-

Penalty for
officers extorting
illegal fees, &c.

CHAP. 123.R. S., c. 158,
§ 17.

5 ruptly certifies, that as such he traveled more miles or at-
 6 tended more days than he actually did, he shall be punished
 7 by a fine not exceeding thirty dollars for each offense to be
 8 recovered to the use of the state by indictment found within
 9 one year after the offense is committed, or by action of debt
 10 commenced within the same time to the use of the person
 11 first suing therefor in his own name.

Chapter 123.**OFFENSES AGAINST THE PUBLIC PEACE.****AFFRAYS AND RIOTS.**

- Sect.* 1. Affrays between two or more persons.
 2. Unlawful assembly and riot.
 3. One person may be convicted, without the others.

SUPPRESSION OF MOBS BY OFFICERS AND ARMED FORCE.

4. Duty of magistrates and officers to disperse unlawful assembly of twelve or more; refusal to assist them, or to disperse when ordered; neglect of duty by magistrates and officers.
 5. When rioters refuse to disperse, magistrates and officers to call out armed force.
 6. If any person is killed or wounded, magistrates and officers held guiltless; liability of the persons unlawfully assembled or refusing to assist in like case.

PUNISHMENT AND REMEDY FOR INJURIES BY MOBS.

7. Punishment and civil remedy for pulling down houses or premeditated personal injuries.
 8. Extent of liability of towns for injury to private property by mobs, and their remedy against the wrong-doers.

INSURRECTION.

9. Governor empowered to call out the militia to suppress insurrection.

*Affrays and riots.*Affrays between
two or more
persons.

R. S., c. 159, § 1.

Unlawful
assembly and
riot.

SECT. 1. If two persons voluntarily or by agreement fight
 2 or use any blows or force towards each other in an angry or
 3 quarrelsome manner in any public place to the terror or dis-
 4 turbance of others, they shall be deemed guilty of an affray,
 5 and punished as for an assault and battery.

SECT. 2. If three or more persons assemble in a violent or
 2 tumultuous manner to do an unlawful act, or being together,
 3 make any attempt or motion towards doing a lawful or un-
 4 lawful act in a violent unlawful or tumultuous manner, to the
 5 terror or disturbance of others, they shall be deemed guilty
 6 of an unlawful assembly; if they commit such acts in the
 7 manner and with the effect aforesaid, they shall be deemed
 8 guilty of a riot, and be punished in either case by imprison-

9 ment less than one year, and by fine not exceeding five
10 hundred dollars; and in case of a riot each offender shall
11 also suffer such punishment, as he would be liable to if he
12 had committed such act alone. (a)

R. S., c. 159,
§ 2, 3.

SECT. 3. Any person engaged in an unlawful assembly or
2 riot may be indicted and convicted thereof alone, if it is
3 alleged in the indictment and proved at the trial that three
4 or more were engaged therein, and if known they must be
5 named, but if unknown that fact must be alleged.

One person may
be convicted,
without the
others.

R. S., c. 159, § 4.

Suppression of mobs by officers and armed force.

SECT. 4. When twelve or more persons any of them armed
2 with clubs or dangerous weapons, or thirty or more armed or
3 unarmed are unlawfully riotously or tumultuously assembled
4 in any town, it shall be the duty of each of the municipal offi-
5 cers constables and justices of the peace of such town, and
6 of the sheriff of the county and his deputies, to go among the
7 persons so assembled, or as near to them as they can safely
8 go, and in the name of the state command them immediately
9 and peaceably to disperse, and if they do not obey such
10 magistrates and officers shall command the assistance of all
11 persons present in arresting and securing the persons so
12 unlawfully assembled, and every person refusing to disperse,
13 or to assist as aforesaid, shall be deemed one of such unlaw-
14 ful assembly, and punished by a fine not exceeding five hun-
15 dred dollars and imprisonment less than one year; and each
16 such magistrate or other officer having notice of such unlaw-
17 ful assembly in his town and refusing or neglecting to do his
18 duty in relation thereto as aforesaid shall be punished by a
19 fine not exceeding three hundred dollars.

Duty of magis-
trate and officers
to disperse
unlawful assem-
bly of twelve or
more, &c.

R. S., c. 159,
§ 5, 6, 7.

SECT. 5. When persons so riotously or unlawfully assem-
2 bled neglect or refuse on command as aforesaid, to disperse
3 without unnecessary delay, any two of the magistrates or
4 officers aforesaid may require the aid of a sufficient number
5 of persons in arms or otherwise, and proceed in such man-
6 ner as they judge expedient to suppress such riotous assem-
7 bly and arrest and secure the persons composing it, and when
8 an armed force is thus called out, they shall obey the orders
9 for suppressing such assembly and arresting and securing
10 the persons composing it, which they receive from the gov-
11 ernor, any judge of a court of record, the sheriff of the county,
12 or any two of the magistrates or officers mentioned in section
13 four.

When rioters
refuse to
disperse, &c.

R. S., c. 159,
§ 8, 9.

CHAP. 123.

If any person is killed or wounded, magistrates and officers held guiltless, &c.

R. S., c. 150,
§ 10.

SECT. 6. If in the efforts made as aforesaid to suppress
2 such assembly and to arrest and secure the persons compos-
3 ing it who refuse to disperse, though the number remaining
4 is less than twelve, any such persons or any persons present
5 as spectators or otherwise are killed or wounded, said mag-
6 istrates and officers and persons acting with them by order
7 aforesaid, shall be held guiltless and justified in law; if any
8 of said magistrates officers or persons thus acting with them
9 are killed or wounded, all persons so unlawfully or riotously
10 assembled, and all other persons who refused when required
11 to aid such magistrates and officers, shall be held answera-
12 ble therefor.

Punishment and remedy for injuries by mobs.

Punishment and civil remedy for pulling down houses or premeditated personal injuries.

R. S., c. 159,
§ 11.

Extent of liability of towns for injury to private property by mobs, &c.

R. S., c. 159,
§ 12, 13.

SECT. 7. If any persons thus unlawfully or riotously assem-
2 bled, pull down or begin to pull down or destroy any dwell-
3 ing-house, buildings, ship or vessel; or perpetrate any pre-
4 meditated injury, not a felony, on any person, each shall be
5 punished by imprisonment not more than five years or by fine
6 not exceeding five hundred dollars, and shall also be answer-
7 able to any person injured in an action of trespass to the full
8 amount of damages by him sustained.

SECT. 8. When the injury to any property as described
2 in section seven amounts to fifty dollars or more, the town
3 where such property is situated shall indemnify the owner
4 thereof for three-fourths of the value of such injury to be
5 recovered in an action on the case; *provided* such owner
6 uses all reasonable diligence to prevent such injuries, and
7 to procure the conviction of the offenders; and such town pay-
8 ing any sum as aforesaid may recover the same in an action
9 on the case against the persons doing the injury.

Insurrection.

Governor empowered to call out the militia to suppress insurrection. Amendments of 1841, c. 1, § 27.

SECT. 9. When an insurrection exists in this state to ob-
2 struct the course of justice, or the due execution of the laws,
3 the governor is empowered to detach and call into actual
4 service such part of the militia as in his opinion is adequate
5 to suppress the same.

Chapter 124.**CHAP. 124.****OFFENSES AGAINST CHASTITY, MORALITY AND DECENCY.****ADULTERY, INCEST, POLYGAMY, GROSS LEWDNESS AND FORNICATION.***Sect.* 1. Adultery.

2. Incest.

3. Crime against nature.

4. Polygamy, its punishment, and where tried.

5. Lascivious cohabitation and open and gross lewdness.

6. Fornication.

CONCEALMENT OF BIRTHS AND PROCURING ABORTIONS.

7. Concealment by the mother of the birth of illegitimate issue, and how indicted with charge of murder.

8. Punishment for procuring or attempting to procure abortion.

HOUSES OF ILL-FAME.

9. Keeping houses of ill-fame.

10. Enticing females to houses of ill-fame.

11. Warrants to search for females supposed to be so enticed.

12. Lease of tenant convicted of keeping house of ill-fame void at option of landlord.

OBSCENE BOOKS AND PICTURES.

13. Punishment for making or circulating obscene books and pictures.

14. Warrants to search for the same.

BLASPHEMY AND PROFANITY.

15. Blasphemy.

16. Profanity.

DISTURBANCE OF RELIGIOUS MEETINGS, AND OBSERVANCE OF THE SABBATH.

17. Rude behavior in house of worship, disturbance of religious meetings, selling articles within a mile thereof, and refusing to leave or conform to the established rules of such meetings.

18. Presiding officer or committee of arrangements may appoint a person to keep boarders and sell refreshments.

19. All such offenders shall be arrested and detained by magistrates and officers until a warrant can be procured, and all persons present shall assist in so doing.

20. Business, traveling and recreation prohibited on the Sabbath.

21. Innholders and victualers not to allow persons to abide or play any games and amusements about their premises on Sunday, or the evening preceding or following. Penalty for so doing.

22. All public amusements, except sacred concerts of music, on Saturday and Sunday evening prohibited.

23. Persons conscientiously observing the seventh day excepted.

24. Tythingmen to prosecute for these offenses.

PROTECTION OF DEAD BODIES AND GRAVES.

25. Punishment for an officer arresting the body of a deceased person.

26. Unauthorized disinterment or improper exposure or abandonment of dead bodies, not including bodies lawfully in the hands of surgeons and physicians.

27. Injury to monuments and places of burial.

CRUELTY TO ANIMALS.

28. Punishment for cruelty to animals.

DRUNKENNESS.

29. Punishment for first and second offense.

CHAP. 124.*Adultery, incest, polygamy, gross lewdness and fornication.*

Adultery.

R. S., c. 160,
§ 1, 2.

SECT. 1. Whoever commits adultery shall be punished by
2 imprisonment not less than one nor more than five years;
3 and when only one of the parties is married, and when they
4 have been legally divorced from the bonds of matrimony, and
5 afterwards cohabit, each shall be deemed guilty of adul-
6 tery. (a)

Incest.

R. S., c. 160, § 3.

SECT. 2. When persons within the degrees of consanguinity
2 or affinity, in which marriages are declared incestuous and
3 void, intermarry or commit fornication or adultery with each
4 other, they shall be punished by imprisonment not less than
5 one nor more than ten years.

Crime against
nature.

R. S., c. 160, § 4.

SECT. 3. Whoever commits the crime against nature with
2 mankind or with a beast, shall be punished by imprisonment
3 not less than one nor more than ten years.

Polygamy, its
punishment,
and where tried.R. S., c. 160,
§ 5, 6, 7, 8.

SECT. 4. If any person, except one legally divorced on his
2 or her own petition, or one whose husband or wife has been
3 continually absent for seven years and not known to him or
4 her to be living within that time, having a husband or wife
5 living marries another married or single person; or if any
6 unmarried person knowingly marries the husband or wife of
7 another, when such husband or wife is thereby guilty of
8 polygamy, he shall be deemed guilty of polygamy and pun-
9 ished by imprisonment not more than five years or by fine
10 not exceeding five hundred dollars and the indictment for
11 such offense may be found and tried in the county where the
12 offender resides or where he is apprehended.

Lascivious
cohabitation and
open and gross
lewdness.

R. S., c. 160, § 9.

SECT. 5. If any man and woman, one or both being at the
2 time married to another person, lewdly and lasciviously co-
3 habit; or, married or unmarried, are guilty of open gross
4 lewdness and lascivious behavior, they shall each be pun-
5 ished by imprisonment not more than five years, or by fine
6 not exceeding three hundred dollars.

Fornication.

R. S., c. 160,
§ 10.

SECT. 6. If an unmarried man commits fornication with an
2 unmarried woman, they shall each be punished by imprison-
3 ment not more than sixty days and by fine not exceeding
4 one hundred dollars.

Concealment by
the mother of
the birth of
illegitimate
issue, and how
indicted with
charge of
murder.*Concealment of births and procuring abortions.*

SECT. 7. If any woman is willingly delivered in secret of
2 the issue of her body, which would be a bastard if born
3 alive, and conceals the death thereof, so that it is not known

(a) 29, Me. 329. 37, Me. 261. 35, Me. 205.

4 whether it was born dead, or alive and was murdered, she
 5 shall be punished by imprisonment not more than three years
 6 or by fine not exceeding one hundred dollars, and she may
 7 be charged with such offense, and also with murder of such
 8 child in the same indictment, and convicted and punished
 9 for either according to the verdict of the jury.

R. S., c. 160,
 § 11, 12.

SECT. 8. Whoever administers to any woman pregnant
 2 with child, whether such child is quick or not, any medicine
 3 drug or other substance, or uses any instrument or other
 4 means, unless the same were done as necessary for the pres-
 5 ervation of the mother's life, shall be punished, if done with
 6 intent to destroy such child and thereby it was destroyed
 7 before birth, by imprisonment not more than five years or
 8 by fine not exceeding one thousand dollars; if done with
 9 intent to procure the miscarriage of such woman by impris-
 10 onment less than one year and by fine not exceeding one
 11 thousand dollars. (a)

Punishment for
 procuring or
 attempting to
 procure abortion.

R. S., c. 160,
 § 13, 14.

Houses of ill-fame.

SECT. 9. Whoever keeps a house of ill-fame resorted to
 2 for the purpose of prostitution or lewdness shall be punished
 3 by imprisonment less than one year and by fine not exceed-
 4 ing five hundred dollars, and if after conviction he is again
 5 guilty and convicted, he shall be punished by imprisonment
 6 not less than one nor more than three years. A person con-
 7 victed of keeping such a house before a municipal or
 8 police court or justice of the peace may be sentenced to the
 9 house of correction or county jail not exceeding one month.
 10 And such person shall not be allowed to keep boarders or
 11 lodgers without a license from the overseers of the poor of
 12 the town, whose duty it is to prosecute for the offense all,
 13 whom they have good reason to suspect to be guilty.

Keeping houses
 of ill-fame.

R. S., c. 160,
 § 15.
 R. S., c. 32, § 28.

SECT. 10. Whoever inveigles or entices any female before
 2 reputed virtuous to a house of ill-fame, or knowingly conceals
 3 or aids in concealing any such female so enticed, for the
 4 purpose of prostitution or lewdness shall be punished by
 5 imprisonment not less than one nor more than ten years.

Enticing females
 to houses of ill
 fame.

R. S., c. 160,
 § 17.

SECT. 11. When any overseer of the poor, police officer,
 2 constable, parent, master, or guardian, has reason to believe
 3 that any female has been inveigled or enticed to a house of
 4 ill-fame as aforesaid, he may complain on oath to a magistrate
 5 authorized to issue warrants, and he may issue his search

Warrants to
 search for
 females
 supposed to be
 so enticed.

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R. S., c. 160,
§ 18.

Lease of tenant
convicted of
keeping house
of ill fame void
at option of
landlord.

R. S., c. 160,
§ 16.

6 warrant as in other cases to enter such house day or night,
7 search for such female, and bring her and the person in whose
8 keeping she is found, before him, and he may order her to
9 be delivered to the complainant or discharged, as law and
10 justice require.

SECT. 12. When the tenant of a dwelling house is con-
2 victed of keeping it as a house of ill-fame, the lease or con-
3 tract by which he occupies it may at the option of the landlord
4 be deemed void, and he shall have the same remedy to recover
5 possession as against a tenant holding over after his term
6 expires.

Obscene books and pictures.

Punishment for
making or
circulating
obscene books
and pictures.

R. S., c. 160,
§ 19.

Warrants to
search for the
same.

R. S., c. 160,
§ 20.

SECT. 13. Whoever imports, prints, publishes, sells, exhibits,
2 or distributes any book, pamphlet, ballad or printed paper
3 containing obscene language, prints, pictures, or descriptions,
4 manifestly tending to corrupt the morals of youth, or pro-
5 cures receives or has any of them in his possession with intent
6 to sell exhibit or circulate them, shall be punished by im-
7 prisonment less than one year or by fine not exceeding five
8 hundred dollars.

SECT. 14. A warrant to search for such articles may be
2 issued by any justice of the peace like other search warrants,
3 and when any of them are found by the officer serving the
4 warrant, they shall be brought before the justice, and kept
5 by him or the officer to be used as evidence in any case that
6 may arise concerning the same or any person connected
7 therewith; and on conviction of any such offender said arti-
8 cles shall be destroyed by order of the court trying the
9 case.

Blasphemy and profanity.

Blasphemy.

R. S., c. 160,
§ 21.

Profanity.

R. S., c. 160,
§ 22.

SECT. 15. Whoever blasphemes the holy name of God by
2 denying, cursing, or contumeliously reproaching God, his
3 creation, government, final judgment of the world, Jesus
4 Christ, the Holy Ghost, or the Holy Scriptures as contained
5 in the canonical books of the Old or New Testament; or by
6 exposing them to contempt and ridicule, shall be punished
7 by imprisonment not more than two years or by fine not ex-
8 ceeding two hundred dollars.

SECT. 16. Whoever being of years of discretion profanely
2 curses or swears, on complaint made within twenty days
3 thereafter shall be punished by fine not exceeding two dol-

4 lars; and if after conviction he is again guilty by fine not CHAP. 124.
5 exceeding five dollars.

Disturbance of religious meetings and observance of the sabbath.

SECT. 17. Whoever on the Lord's day or any other time
2 behaves rudely or indecently in the walls of any house of
3 public worship; willfully interrupts or disturbs any assembly
4 of persons for religious worship within the place of such as-
5 sembly or out of it; sells or exposes to sale within one mile
6 thereof and during the time of their meeting, any intoxica-
7 ting liquors, refreshments or merchandise, except in his
8 usual course and place of business; exhibits any shows or
9 plays; engages or aids in any horse race, gaming, or other
10 sports to the disturbance of such assembly; or coming within
11 their neighborhood refuses on request either immediately and
12 peaceably to retire beyond their hearing or to conform to
13 the established regulations of the meeting, shall be punished
14 by imprisonment not more than thirty days and by fine not
15 exceeding ten dollars.

Rude behavior
in house of
worship, &c.

R. S., c. 160,
§ 23, 25.
1848, c. 53, § 1, 2.
1852, c. 271, § 1.

SECT. 18. The presiding officer or committee of arrange-
2 ments of any such religious assembly or meeting may appoint
3 some suitable person to keep boarders and sell refreshments
4 at such meetings, who shall conform therein to such regula-
5 tions as the officers appointing them prescribe.

Presiding officer
or committee of
arrangements
may appoint a
person to keep
boarders and sell
refreshments.
1852, c. 271, § 2.

SECT. 19. Every justice of the peace, sheriff, deputy sheriff,
2 constable, grand juror, and tythingman present at any such
3 religious assembly disturbed as aforesaid shall arrest or cause
4 to be arrested every such offender, and detain him until the
5 close of such assembly, or until he can be taken before a
6 magistrate, and all persons present at such assembly on
7 request shall assist said officers in the execution of their
8 duty under the same penalties for neglect or refusal, that are
9 provided for neglecting or refusing to aid officers in other
10 cases.

All such offend-
ers shall be
arrested and
detained by
magistrates and
officers, &c.

R. S., c. 160,
§ 24.

SECT. 20. Whoever, on the Lord's day, which is the time
2 between midnight preceding and sunset of the same day,
3 keeps open his shop, workhouse, or warehouse; travels or
4 does any work, labor, or business on that day, except works
5 of necessity or charity; uses any sport, game, or recreation,
6 or is present at any dancing, public diversion, show, or enter-
7 tainment encouraging the same, shall be punished by a fine
8 not exceeding ten dollars.

Business, trav-
eling and
recreation
prohibited on
the sabbath.

R. S., c. 160,
§ 26, 28.

SECT. 21. If any innholder or victualer on the Lord's day,
2 or on the evening preceding or following it suffers any

Innholders and
victualers not to
allow persons to

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abide or play
any games, &c.

R. S., c. 160,
§ 27, 29.

All public
amusements,
except sacred
concerts of
music, &c.

R. S., c. 160,
§ 29.

Persons consci-
entiously
observing the
seventh day
excepted.

R. S., c. 160,
§ 30.

Tythingmen to
prosecute for
these offenses.

R. S., c. 160,
§ 31.

Punishment for
an officer arrest-
ing the body of a
deceased person.

R. S., c. 160, § 33.

Unauthorized
disinterment or
improper expos-
ure or abandon-
ment of dead
bodies, &c.

R. S., c. 160,
§ 32,
1844, c. 120,
§ 1, 2,
1846, c. 204.

3 persons, except travelers strangers or lodgers, to abide
4 in his house, yard, or field, drinking or spending their time
5 idly, at play or doing any secular business, except works of
6 charity or necessity, shall be punished by fine not exceeding
7 four dollars for each person thus suffered to abide; and if
8 after conviction he is again guilty by fine not exceeding ten
9 dollars for each offense; and upon a third conviction he shall
10 also be incapable of holding any license: and every person
11 so abiding shall be punished by fine not exceeding four dol-
12 lars for each offense.

SECT. 22. Whoever on the evening preceding or following
2 Lord's day is present at any dancing or other public diver-
3 sion, except concerts of sacred music, or then uses any sport
4 game or recreation shall be punished by fine not exceeding
5 three dollars.

SECT. 23. No person conscientiously believing, that the
2 seventh day of the week ought to be observed as the sab-
3 bath and actually refraining from secular business and labor
4 on that day, shall be liable to said penalties for doing such
5 business or labor on the first day of the week, if he does not
6 disturb other persons.

SECT. 24. Tythingmen shall prosecute for all offenses de-
2 scribed in sections seventeen, twenty, twenty-one, and twenty-
3 two, at any time within six months after the commission
4 thereof in any competent court.

Protection of dead bodies and graves.

SECT. 25. If any officer takes the body of any deceased
2 person by writ or execution, he shall be punished by fine not
3 exceeding five hundred dollars and by imprisonment not
4 more than six months.

SECT. 26. Whoever without the permission of the board
2 of health, municipal officers, or overseers of the poor of any
3 town, therein willfully digs up or removes any human body
4 or its remains from its place of burial or aids in so doing;
5 knowingly receives conceals or disposes of the same, or un-
6 necessarily and indecently exposes throws away or abandons
7 any human body or its remains in any public place, river,
8 stream or elsewhere, shall be punished by imprisonment not
9 less than one nor more than five years or by fine not exceed-
10 ing three thousand dollars; but any physician surgeon or med-
11 ical student may have in his possession or use human bodies
12 or parts thereof lawfully obtained for anatomical or physio-
13 logical investigation and instruction.

SECT. 27. Whoever willfully destroys or injures any tomb,
 2 gravestone, monument, or other thing placed or designed as
 3 a memorial of the dead, or any fence, railing, or other thing
 4 placed about or inclosing the burial place of the dead, or
 5 willfully injures, removes, or destroys, any tree, shrub, or
 6 plant within such inclosure, shall be punished by imprison-
 7 ment less than one year or by fine not exceeding five hun-
 8 dred dollars.

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Injury to
monuments and
places of burial.R. S., c. 160,
§ 34.*Cruelty to animals.*

SECT. 28. Whoever cruelly beats or tortures any horse, ox,
 2 or other animal, belonging to himself or another shall be pun-
 3 ished by imprisonment less than one year or by fine not ex-
 4 ceeding two hundred dollars.

Punishment for
cruelty to
animals.R. S., c. 160,
§ 35.*Drunkenness.*

SECT. 29. Any intoxicated person *found in the streets, or*
 2 *found in any other place disturbing the peace of the public,*
 3 *or of his own or any other family,* shall be punished by a fine
 4 of five dollars; but if after conviction he is again guilty, he
 5 shall be punished by a fine of ten dollars, or by imprisonment
 6 not more than three months; and such offenses may be pros-
 7 ecuted before a justice of the peace at any time within three
 8 months after they are committed.

Punishment for
first and second
offense.R. S., c. 160,
§ 36.**Chapter 125.****GAMBLING.**

- Sect.* 1. Punishment for keeping a gambling house or suffering persons to gamble in the same.
 2. Penalty for gambling.
 3. Penalty for winning more than three dollars at one time.

RECOVERY OF MONEY LOST BY GAMBLING.

4. Loser may recover of the winner money lost by gambling within three months, or any other person may recover three times the amount so lost in an action on the case.
 5. Loser when plaintiff may be a witness, and the winner also.

SECURITIES GIVEN FOR GAMBLING DEBTS VOID.

6. All securities given for gambling debts void, except in the hands of bona fide purchasers or holders without notice.

SEARCH FOR IMPLEMENTS OF GAMBLING.

7. Justices of the peace may issue warrants to search for implements of gambling and to arrest the keeper of the place where they are found.

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Punishment for
keeping a
gambling house,
&c.

R. S., c. 35, § 7.
c. 160, § 37.

Penalty for
gambling.

R. S., c. 35,
§ 6, 8,
c. 160, § 38.

Penalty for
winning more
than three
dollars at one
time.

R. S., c. 35, § 4.

SECT. 1. If any person or corporation keeps a house shop
2 or other place resorted to for the purpose of gambling; or
3 permits any person to gamble in any way in any house shop
4 or place under his care and control, such offender shall be
5 punished by fine not less than twenty nor more than one
6 hundred dollars, to the use of the prosecutor.

SECT. 2. Whoever gambles or bets on any person gambling
2 shall be punished by fine not less than one nor more than
3 twenty dollars to be recovered by complaint or indictment
4 to the use of the prosecutor.

SECT. 3. Whoever is convicted by indictment found within
2 six months of winning at one time or sitting by gambling or
3 betting on persons gambling any money or goods of the value
4 of three dollars or more and of receiving or taking security
5 for the same shall forfeit to the use of the town, where the
6 offense is committed, double the value of the property so won
7 and received.

Recovery of money lost by gambling.

Loser may
recover of the
winner money
lost by
gambling, &c.

R. S., c. 35,
§ 1, 2.

Loser when
plaintiff may be
a witness, and
the winner also.

R. S., c. 35, § 3.

SECT. 4. Whoever by gambling or betting on persons gam-
2 bling loses to any person so gambling or betting any money
3 or goods and pays or delivers any part thereof, may sue for
4 and recover the same of the winner in an action on the case
5 brought within three months thereafter; and if the loser does
6 not without covin or collusion within said time prosecute
7 therefor with effect, any other person may sue for and recover
8 of the winner treble the value of the same in such action
9 half to his own use and half to the use of the town.

SECT. 5. In any such action brought by the loser against
2 the winner, the plaintiff may offer to make oath, that such
3 money or goods were lost by gambling with the defendant,
4 and the court shall thereupon render judgment for the plaintiff
5 for the amount thereof, unless the defendant will make
6 oath, that he did not obtain any part of the same by gam-
7 bling, and if he so discharges himself on oath, he shall recover
8 his costs; or the plaintiff may prove his case in any other
9 legal mode.

Securities given for gambling debts void.

All securities
given for
gambling debts
void, &c.

SECT. 6. All notes, bills, bonds, mortgages, securities, or
2 conveyances given in whole or in part for money or goods
3 won by gambling or betting on persons gambling, or to re-
4 pay any money lent or advanced for gambling or betting, or

5 at the time and place thereof, shall be utterly void against **CHAP. 126.**
 6 all persons, except bona fide subsequent purchasers of real
 7 estate and holders of negotiable paper for a valuable consid- **R. S., c. 35, § 5.**
 8 eration without notice.

Search for implements of gambling.

SECT. 7. When any person makes oath before a justice of
 2 the peace, that he has reason to suspect and does suspect,
 3 that any house or building, naming in the complaint the house
 4 or building and the occupant, is unlawfully used as a common
 5 gambling house, and that idle or dissolute persons resort
 6 there for that purpose, such justice shall issue his search
 7 warrant to search for all implements used for gambling; and
 8 if any such are found there for the arrest of the occupant or
 9 keeper of such house or other building, and said implements
 10 and keeper shall be carried before him to be dealt with ac- **Justices of the
peace may issue
warrants to
search for
implements of
gambling, &c.**
 11 cording to law. **R. S., c. 160,
§ 39.**

Chapter 126.

CHEATING BY FALSE PRETENSES, FRAUDS AND CONSPIRACIES.

FALSE PRETENSES AND FRAUDS.

- Sect. 1.* Cheating by false pretenses.
 2. Parties to fraudulent conveyances, or to the use thereof.
 3. Gross frauds at common law.
 4. Circulating advertisements and shop bills in the similitude of bank bills.

SUPPRESSION OF WILLS.

5. Suppression of last wills and testaments.

MARITIME FRAUDS.

6. Fraudulent destruction of vessels, and fitting them out for that purpose.
 7. Making false bills of lading and other exhibits of property, shipped.
 8. False affidavits and protests.

BURNING PROPERTY FOR THE INSURANCE.

9. Persons burning their own property to defraud insurers.

CONSPIRACIES.

10. Conspiracies to prosecute an innocent person.
 11. Conspiracies in other cases.

False pretenses and frauds.

SECT. 1. Whoever designedly and by any false pretense
 2 or privy or false token and with intent to defraud obtains
 3 from another any money goods or other property, or his sig- **Cheating by
false pretenses.**
 4 nature to any written instrument, the false making of which

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R. S., c. 161, § 1.

Parties to
fraudulent con-
veyances, or to
the use thereof.

5 is forgery, shall be punished by imprisonment not more than
6 seven years or by fine not exceeding five hundred dollars.

SECT. 2. Whoever is knowingly a party to any conveyance
2 or assignment of real estate or interest in lands goods or
3 things in action, or rents and profits arising therefrom, or
4 to any charge thereon made with intent to defraud prior or
5 subsequent purchasers, or to hinder delay or defraud cred-
6 itors or others; or knowingly puts such fraudulent convey-
7 ance assignment or charge into use as genuine and made in
8 good faith, shall be punished by fine not exceeding one
9 thousand dollars, and imprisonment less than one year.

R. S., c. 161, § 2.

Gross frauds at
common law.

SECT. 3. Whoever is guilty of a gross fraud or cheat at
2 common law shall be punished by imprisonment not more
3 than seven years or by fine not exceeding one thousand dol-
4 lars.

R. S., c. 161, § 4.

Circulating
advertisements
and shop bills in
the similitude of
bank bills.

SECT. 4. Whoever puts in circulation or distributes any
2 notice advertisement or shop bill in the form and similitude
3 of bank bills shall forfeit fifty dollars for each offense to be
4 recovered by action of debt in the name and to the use of
5 the person suing therefor.

1849, c. 144.

*Suppression of wills.*Suppression of
last wills and
testaments.

SECT. 5. Whoever willfully suppresses, secretes, defaces
2 or destroys any last will and testament of a deceased per-
3 son, in his possession or under his control, with intent to
4 injure or defraud any person interested therein, shall be
5 punished as in section three.

R. S., c. 161, § 3.

*Maritime frauds.*Fraudulent
destruction of
vessels, and
fitting them out
for that purpose.

SECT. 6. Whoever willfully casts away, burns, sinks, or
2 otherwise destroys any vessel in any county in this state
3 with intent to injure or defraud any owner thereof, the owner
4 of any property on board the same, or any insurer of either,
5 shall be punished by imprisonment for life, or any term of
6 years not less than five; and if he lades, equips, or fits out
7 any vessel, or aids in so doing, intending that the same shall
8 be destroyed in the manner and with the intent aforesaid,
9 he shall be punished by imprisonment not more than twenty
10 years, or by fine not exceeding five thousand dollars.

R. S., c. 161,
§ 5, 6.Making false
bills of lading
and other
exhibits, of
property,
shipped.

SECT. 7. If an owner of a vessel, or of any property laden
2 or pretended to be laden on board thereof, or other person
3 concerned in its lading or fitting out, makes out or exhibits,
4 or causes to be made out or exhibited, any false or fraud-

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5 ulent invoice, bill of lading, bill of parcels, or other false
 6 estimates of any such property with intent to injure or de-
 7 fraud any insurer of such vessel or property, he shall be
 8 punished by imprisonment not more than ten years or by
 9 fine not exceeding five thousand dollars. R. S., c. 161, § 7.

SECT. 8. If any master other officer or mariner of any ves-
 2 sel makes, causes to be made, or swears to any false affidavit
 3 or protest; or if any owner or other person concerned in
 4 such vessel, or in the property on board thereof, procures
 5 any such false affidavit or protest to be made, or exhibits
 6 the same with intent to injure deceive or defraud any insurer
 7 of such vessel or property, he shall be punished by impris-
 8 onment not more than ten years or by a fine not exceeding
 9 five thousand dollars. False affidavits and protests. R. S., c. 161, § 8.

Burning property for the insurance.

SECT. 9. If any owner or person in any way concerned
 2 interested or in possession of any building, goods, or other
 3 property, insured against loss or damage by fire willfully
 4 burns the same or causes it to be burnt with intent to de-
 5 fraud the insurer, he shall be punished by imprisonment not
 6 less than one nor more than twenty years. Persons burning their own property to defraud insurers. R. S., c. 161, § 9.

Conspiracies.

SECT. 10. If any two or more persons conspire and agree
 2 together with intent falsely fraudulently and maliciously to
 3 cause another person to be indicted or in any way prosecuted
 4 for an offense of which he is innocent, whether he is prose-
 5 cuted or not, they shall be deemed guilty of a conspiracy,
 6 and each punished by imprisonment not more than five years
 7 or by a fine not exceeding one thousand dollars. Conspiracies to prosecute an innocent person. R. S., c. 161, § 10.

SECT. 11. If any two or more persons conspire and agree
 2 together with the fraudulent or malicious intent wrongfully
 3 and wickedly to injure the person, character, business, or
 4 property of another; or to do any illegal act injurious to the
 5 public trade, health, morals, police, or administration of pub-
 6 lic justice; or to commit any crime punishable by imprison-
 7 ment in the state prison, they shall be deemed guilty of a
 8 conspiracy, and every such offender, and every person con-
 9 victed of conspiracy at common law, shall be punished by
 10 imprisonment not more than three years or by fine not ex-
 11 ceeding one thousand dollars. (a) Conspiracies in other cases. R. S., c. 161, § 11.

MALICIOUS MISCHIEFS, AND TRESPASS ON PROPERTY.

Sect. 1. Maliciously killing or injuring domestic animals.

2. Injuries to dams, canals, machinery, ponds, engines, telegraph fixtures, public bridges, and placing obstructions on bridges and roads.

3. Penalty for injuring or cutting loose booms, rafts, vessels, or boats, and civil action for double damages.

4. Penalty for throwing obstructions in navigable waters, and civil actions for damages.

5. Malicious injuries to trees, shrubs, fences, gates, bars, or produce, or things attached to land.

6. Trespasses on gardens, orchards, or improved lands, with intent to take, and carry away trees, vegetables or soil.

7. Passing through gardens or fields after prohibition.

8. Trespass on timber, or wood standing; earth or stone; produce on lands; goods on wharves or landing places.

9. Monuments, marked trees, mile stones, guide boards, sign boards, lamps and lamp posts.

10. Willful injuries to buildings, fixtures, goods or valuable papers of another.

11. Limitation of prosecutions, and jurisdiction of justices of the peace.

Maliciously
killing or
injuring
domestic
animals.

R. S., c. 162, § 1.

Injuries to dams,
canals, machinery,
ponds, engines, tele-
graph fixtures,
public bridges,
and placing
obstructions on
bridges and
roads.

R. S., c. 162,
§ 2, 3.
1846, c. 183.
c. 197, § 1.

Penalty for
injuring or
cutting loose
booms, rafts,
vessels, or boats,
and civil action
for double
damages.

R. S., c. 162, § 4.

SECT. 1. Whoever willfully or maliciously kills, wounds,
2 maims, disfigures, or poisons any domestic animal, or ex-
3 poses any poisonous substance with intent that the life of
4 any such animal should be destroyed thereby, shall be pun-
5 ished by imprisonment not more than four years, or by fine
6 not exceeding five hundred dollars.

SECT. 2. Whoever willfully or maliciously injures, removes
2 or destroys any dam, reservoir, canal, trench, or their ap-
3 purtenances, or the gear or machinery of any mill or manu-
4 factory; draws off the water from any mill pond, reservoir,
5 canal, or trench; destroys or injures any engine or its ap-
6 paratus for the extinguishment of fire, or any posts, glass
7 caps, wires, or other materials used in the construction and
8 operation of any telegraph; removes injures or destroys any
9 public or toll bridge, or places any obstruction on such bridge
10 or on any public road with intent to injure any persons or
11 property passing thereon, shall be punished by imprisonment
12 not more than three years or by fine not exceeding five hun-
13 dred dollars.

SECT. 3. Whoever willfully or maliciously without consent
2 of the owner cuts away, lets loose, injures, or destroys any
3 boom, raft of logs or other lumber, vessel, gondola, scow or
4 other boat, fastened to any place of which he is not the
5 owner or legal possessor, shall be punished by fine not ex-
6 ceeding five hundred dollars and imprisonment less than one
7 year; and shall also be liable to the person injured in an
8 action of trespass for double the damages by him sustained.

SECT. 4. Whoever throws any slabs, edgings, ballast, sand, gravel, lime core, or other refuse materials of any description, into *any navigable rivers, streams, bays, harbors, or other waters in the state or on its coasts*, or deposits the same where they are swept or fall into said waters, whereby the navigation or other lawful use thereof is impeded or injuriously affected, shall forfeit not less than five nor more than twenty dollars to the use of the person prosecuting therefor before a justice of the peace; and also be liable in an action on the case for all damages any person may suffer by such obstructions; and if such offense is committed by any person in the employ of any mill owners, they shall be liable to the same penalties. (a)

Penalty for throwing obstructions in navigable waters, &c.

1843, c. 10, § 1, 2.
c. 26, § 1.
1844, c. 80.

SECT. 5. Whoever willfully and maliciously cuts down, destroys, or otherwise injures any shrub or tree for ornament or use; breaks, injures or defaces any fences; throws down or opens any gates or bars; injures, destroys, or severs from the land of another, any produce thereof or thing attached thereto, such articles not being his own, shall be punished by imprisonment less than one year and by fine not exceeding one hundred dollars.

Malicious injuries to trees, shrubs, fences, gates, bars, or produce, or things attached to land.

R. S., c. 162, § 5, 6, 7.

SECT. 6. Whoever willfully commits any trespass, or knowingly authorizes or employs another to do so, by entering the garden, orchard, pasture, or improved land, of another with intent to take, carry away, destroy, or injure the trees, shrubs, grain, grass, hay, fruit, vegetables, turf or soil thereon, shall be punished by a fine not exceeding twenty dollars and imprisonment not more than thirty days.

Trespasses on gardens, orchards, or improved lands, &c.

R. S., c. 162, § 11.
1853, c. 5.

SECT. 7. Whoever willfully enters and passes over any garden, yard or other improved field, after being expressly forbidden so to do by the owner or occupant thereof, shall be punished by fine not exceeding five dollars, or imprisonment not more than ten days.

Passing through gardens or fields after prohibition.

R. S., c. 162, § 12.

SECT. 8. If any person, except a highway surveyor acting within the scope of his lawful authority, willfully commits any trespass by cutting, destroying, or carrying away any timber or wood, on the land of another; by digging up, taking, and carrying away therefrom any earth, stone, grass, hay, or other vegetables, or carrying away from any wharf or landing place any goods in which he has no interest, he shall be punished by imprisonment not more than two months and by fine not exceeding fifty dollars.

Trespass on timber, or wood standing, &c.

R. S., c. 162, § 9, 10.

(a) The acts referred to apply only to three rivers and harbors. Their provisions have been made general by R. 1.

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Monuments,
marked trees,
mile stones,
guide boards,
sign boards,
lamps and lamp
posts.

R. S., c. 162, § 8.

Willful injuries
to buildings,
fixtures, goods or
valuable papers
of another.

R. S., c. 162,
§ 13.

Limitation of
prosecutions,
and jurisdiction
of justices of the
peace.

R. S., c. 162,
§ 14, 15.

SECT. 9. Whoever willfully and maliciously injures or
2 removes any monument erected or tree marked as a bound-
3 ary of any land or town; destroys defaces or alters the marks
4 thereon made for the purpose of designating such boundary;
5 injures or defaces any mile stone or guide board erected on
6 any public way turnpike or railroad; removes defaces or in-
7 jures any sign board lamp or lamp post, or extinguishes any
8 lamp on any bridge street way or passage, shall be punished
9 by imprisonment less than one year and by fine not exceed-
10 ing one hundred dollars.

SECT. 10. Whoever willfully and maliciously destroys in-
2 jures or defaces any building or fixture attached thereto
3 without consent of the owner; or destroys injures or se-
4 cretes any goods chattels or valuable papers of another, shall
5 be punished by imprisonment less than one year or by fine
6 not exceeding five hundred dollars; and also be liable to the
7 party injured in an action of trespass for three times the
8 amount of injury so done. (a)

SECT. 11. All prosecutions for offenses herein described
2 after section four must be commenced within four years after
3 the commission thereof; and justices of the peace shall have
4 jurisdiction thereof, when the property destroyed or the in-
5 jury done is not alleged to exceed ten dollars, and in that
6 case the punishment shall be by fine not exceeding ten dol-
7 lars and imprisonment not more than thirty days.

Chapter 128.

OFFENSES AGAINST THE PUBLIC HEALTH, SAFETY AND POLICY.

UNWHOLESOME PROVISIONS AND DRINKS.

Sect. 1. Selling unwholesome provisions and drinks.

FIRE WORKS.

2. Penalty for selling, giving away or firing fire works without license.

LOTTERIES.

3. Lotteries prohibited, and penalty for being in any way concerned in them.

4. Attorney general may apply to court and have injunction to restrain any lot-
tery.

5. All payments and securities for lotteries void and may be recovered back.

*Unwholesome provisions and drinks.*CHAP. 128.

SECT. 1. Whoever sells any diseased corrupted or unwhole-
 2 some provision for food or drink knowing it to be such with-
 3 out informing the buyer; or fraudulently adulterates for the
 4 purpose of sale any substance intended for food, or any wine
 5 spirits or other liquors intended for drink, so as to render
 6 them injurious to health shall be punished by imprisonment
 7 not more than five years or by fine not exceeding one thous-
 8 and dollars.

Selling
unwholesome
provisions and
drinks.

R. S., c. 163,
§ 1, 2.

Fire works.

SECT. 2. Whoever sells offers for sale or gives away any
 2 crackers, squibs, rockets, or other fire works, or fires or
 3 throws the same in any town without the license of the mu-
 4 nicipal officers thereof, shall be punished by fine not ex-
 5 ceeding ten dollars to the use of such town.

Penalty for
selling, giving
away or firing
fire works
without license.

R. S., c. 163, § 3.

Lotteries.

SECT. 3. Every lottery, scheme, or device of chance, of
 2 whatever name or description, is prohibited and declared a
 3 nuisance; and whoever is concerned therein in any way
 4 directly or indirectly, by making, advertising, purchasing,
 5 receiving, selling, offering for sale, giving away, disposing of,
 6 or having in his possession with intent to sell or dispose of
 7 any ticket, certificate, share or interest therein; by printing,
 8 publishing or circulating the same or any hand bill, adver-
 9 tisement or notice thereof, or by knowingly suffering the
 10 same to be published in any newspaper or periodical under
 11 his charge, or on any cover or paper attached thereto; or in
 12 any manner aids therein or is connected therewith, shall be
 13 punished by fine not less than one hundred nor more than one
 14 thousand dollars to be recovered by indictment or action of
 15 debt, one-half to the use of the prosecutor and the other to
 16 the town where the offense is committed; and if by action
 17 of debt he shall not be entitled to the provisions of law for
 18 the relief of poor debtors, and if by indictment, he shall further
 19 be punished by imprisonment for thirty days on the first
 20 conviction; sixty on the second, and ninety, on the third.

Lotteries
prohibited, and
penalty for being
in any way
concerned in
them.

1855, c. 173,
§ 1, 2, 3, 5.
R. S., c. 163, § 4.

SECT. 4. When it appears to the attorney general, that any
 2 person has formed or published any such lottery; taken any
 3 measures for that purpose, or is engaged in selling or other-
 4 wise distributing any tickets, certificates, shares, or interests
 5 therein, whether the same originated in this state or not, he

Attorney general
may apply to
court and have
injunction to
restrain any
lottery.

CHAP. 129.

6 shall immediately make complaint in the name of the state
 7 to some justice of the supreme judicial court in or out of
 8 term time, for an injunction to restrain such person from
 9 any further proceedings therein; and on being satisfied that
 10 there is sufficient ground therefor such justice shall forth-
 11 with issue such injunction; and thereupon he shall order no-
 12 tice to be served like other summonses on the adverse party
 13 to appear and answer to said complaint. Such justice after
 14 a full hearing may dissolve modify or make perpetual such
 15 injunction; make all orders and decrees according to the
 16 course of chancery proceedings necessary to restrain and
 17 suppress all such unlawful proceedings, and if the adverse
 18 party neglects to appear, or the final decree of the court is
 19 against him, judgment shall be rendered against him for all
 20 costs fees and expenses incurred in the case, and for such
 21 compensation to the attorney general for his services and
 22 expenses, as the court deems reasonable.

1855, c. 173, § 6.

All payments
and securities
for lotteries void
and may be
recovered back.

SECT .5. All payments compensations and securities of
 2 every description made directly or indirectly, in whole or in
 3 part, for any such lottery or ticket, certificate, share or in-
 4 terest therein, shall be considered as received without con-
 5 sideration and against law and equity, and may be recovered
 6 back.

1855, c. 173, § 4.

Chapter 129.**LIBEL.**

- Sect.* 1. Definition of a libel and of a publication.
 2. Punishment for making or publishing a libel.
 3. What persons shall be responsible for libels printed or published in their offices,
 newspapers, &c., unless on negative proof.
 4. How far the truth of a publication is a justification.
 5. Jury judges of the law and the facts.

Definition of a
libel and of a
publication.

SECT. 1. A libel is the malicious defamation of a living
 2 person made public by any printing, writing, sign, picture,
 3 representation or effigy, tending to provoke him to wrath,
 4 expose him to public hatred contempt or ridicule, or to deprive
 5 him of the benefits of public confidence and social inter-
 6 course; or of a deceased person thus made public designed to
 7 blacken and vilify his memory, and tending to scandalize or
 8 provoke his relatives or friends; but nothing shall be deemed
 9 a libel unless there is a publication thereof, and the delivery,

10 selling, reading or otherwise communicating a libel directly CHAP. 130.
 11 or indirectly to any person or to the party libeled shall be R. S., c. 165,
 12 deemed a publication. § 1, 7.

SECT. 2. Whoever makes, composes, dictates, writes or Punishment for
 2 prints a libel; directs or procures it to be done; willfully making or
 3 publishes or circulates it, or in any way knowingly and will publishing a
 4 fully aids in doing either, shall be punished by impris- libel.
 5 onment less than one year and by fine not exceeding one R. S., c. 165, § 2.
 6 thousand dollars.

SECT. 3. Whoever manages or controls the business of a What persons
 2 printing office, bookstore, or shop, as principal or agent, or is shall be respon-
 3 in whole or in part, proprietor, editor, printer, or publisher sible for libels
 4 of a newspaper, pamphlet, book, or other publication, shall printed or
 5 be responsible for any libel printed or published therein, published in
 6 unless he can prove on trial that it was printed and published their offices,
 7 without his knowledge consent or suspicion, and that by newspapers, &c.
 8 reasonable care and diligence he could not have prevented it. R. S., c. 165, § 3.

SECT. 4. In prosecutions for any publication relative to the How far the
 2 official conduct of men in public capacities, or the qualifica- truth of a
 3 tions of candidates for popular suffrages; or where the mat- publication is a
 4 ter published is proper for public information, the truth justification.
 5 thereof may be given in evidence, and if proved shall be a
 6 complete justification; and in prosecutions for all other libels
 7 the truth thereof thus proved shall be a complete justifica-
 8 tion, unless it appears that such publication originated in cor-
 9 rupt and malicious motives; and if any alleged libel is not
 10 justified in either of said modes, it shall be deemed malicious, R. S., c. 165,
 11 unless the contrary is clearly proved. § 4, 5, 6.

SECT. 5. In all indictments for libel, the jury, after receiv- Jury judges of
 2 ing the direction of the court, may determine at their discre- the law and
 3 tion the law and the fact. the facts.
 R. S., c. 165, § 8.

Chapter 130.

PROCEEDINGS FOR THE PREVENTION OF CRIMES.

- Sect. 1. Justices of the supreme judicial court and magistrates may require sureties of the peace and good behavior.
2. On complaint that an offense is threatened, magistrates may issue warrants, if they think fit, to bring the accused before them.
3. He may then be ordered to find sureties to keep the peace for not more than one year, and pay the costs, but not be bound over to court, unless a specific offense is charged.
4. If he complies, to be discharged; if not, to be committed, and magistrates return papers to the next court.

- CHAP. 130.** *Sect. 5.* Proceedings, if the complaint is not sustained. Costs, if malicious or frivolous.
 6. Appeal to the next supreme judicial court and proceedings thereon.
 7. Consequences, if the appellant fails to prosecute.
 8. How recognizance may be taken after commitment.
 9. When magistrate may require sureties, without a formal complaint.
 10. Persons going armed, without reasonable cause.
 11. All recognizances to be returned to supreme judicial court, and the court may remit the penalty.
 12. Sureties on recognizances may surrender their principals, as in case of bail in civil actions.

Justices of the
S. J. Court and
magistrates may
require sureties
of the peace and
good behavior.

R. S., c. 169, § 2.

On complaint
that an offense
is threatened,
&c.

R. S., c. 169,
§ 3, 4.

He may then
be ordered to
find sureties to
keep the peace
for not more
than one year,
&c.

R. S., c. 169,
§ 5, 9.

If he complies,
to be discharged,
&c.

R. S., c. 169,
§ 6, 7.

Proceedings, if
complaint is not
sustained, &c.

SECT. 1. The judges of the supreme judicial court, and of
 2 municipal and police courts, in vacation or in court, and jus-
 3 tices of the peace in their counties, shall have power to cause
 4 all laws for the preservation of the public peace to be kept;
 5 and in the execution thereof may require persons to give
 6 security to keep the peace and be of good behavior as here-
 7 inafter provided.

SECT. 2. Any such magistrate, on complaint that any per-
 2 son threatens to commit an offense against the person or
 3 property of another, shall examine on oath the complainant
 4 and any other witnesses produced, reduce the complaint to
 5 writing, and cause the complainant to sign it; and if on ex-
 6 amination of the facts he thinks there is just cause to fear
 7 the commission of such offense, he shall issue a warrant
 8 reciting the substance of the complaint and commanding the
 9 officer, to whom it is directed, forthwith to arrest the ac-
 10 cused and bring him before such magistrate or court.

SECT. 3. When the accused is brought before the magis-
 2 trate and his defense is heard, he may be ordered to recog-
 3 nize with sufficient sureties in the sum required by the mag-
 4 istrate to keep the peace towards all persons, and especially
 5 towards the person requiring the security, for a term not
 6 exceeding one year and pay the costs of prosecution; but
 7 shall not be bound over to any court, unless he is also
 8 charged with some other specific offense requiring it.

SECT. 4. If the accused complies with such order, he shall
 2 be discharged; but if he does not, he shall be committed to
 3 the county jail for the time for which he was required to
 4 find sureties or till he complies with such order; and the
 5 magistrate shall state in the mittimus the cause of commit-
 6 ment and the time and sum for which security was required,
 7 and return a copy of the warrant to the next supreme judi-
 8 cial court in said county, and such court shall have cognizance
 9 of the case, as if the accused had appealed thereto.

SECT. 5. If the magistrate on examination of the facts is
 2 not satisfied that there is just cause to fear the commission

CHAP. 130.

3 of any offense, he shall immediately discharge the accused,
 4 and if he judges the complaint unfounded, frivolous, or mali-
 5 cious, he may order the complainant to pay the costs of pros-
 6 ecution, who shall thereupon be answerable to the magistrate
 7 officer and witnesses for their fees as for his own debt.

R. S., c. 169, § 8.

SECT. 6. Any person aggrieved by the order of such magis-
 2 trate requiring him thus to recognize, on giving the security
 3 required may appeal to the next supreme judicial court in
 4 the same county; and the magistrate shall thereupon require
 5 such witnesses, as he thinks proper, to recognize to appear
 6 at the appellate court; and such court may affirm or reverse
 7 the order of the magistrate, require the accused to recognize
 8 anew with sufficient sureties, and make such order as to costs
 9 as they deem reasonable.

Appeal to the
 next S. J. Court
 and proceedings
 thereon.

R. S., c. 169,
 § 10, 11.

SECT. 7. If the appellant fails to prosecute his appeal, his
 2 recognizance shall be in force for any breach of its condi-
 3 tions without an affirmation of said order, and stand as secu-
 4 rity for any costs, which he is ordered by the court to pay.

Consequences,
 if the appellant
 fails to prosecute.
 R. S., c. 169,
 § 12.

SECT. 8. Any person committed for not recognizing as
 2 aforesaid may be discharged by any judge or justice of the
 3 peace on giving the security required.

How recogni-
 zance may be
 taken after
 commitment,
 R. S., c. 169, § 13.

SECT. 9. Whoever in the presence of any of the magis-
 2 trates aforesaid or any court of record makes an affray;
 3 threatens to kill or beat another, commit any violence against
 4 his person or property, or contends with hot and angry
 5 words to the disturbance of the peace, may be ordered with-
 6 out process or other proof, to recognize to keep the peace,
 7 and be of good behavior for a term not exceeding three
 8 months, and otherwise dealt with as is provided in the pre-
 9 ceding sections.

When magis-
 trate may
 require sureties
 without a formal
 complaint.

R. S., c. 169,
 § 15.

SECT. 10. Whoever goes armed with any dirk, pistol, or
 2 other offensive and dangerous weapon, without just cause to
 3 fear an assault on himself, family, or property, on complaint
 4 of any person having cause to fear an injury or breach of the
 5 peace, may be required to find sureties to keep the peace for
 6 a term not exceeding one year, and in case of refusal may be
 7 committed, as provided in the preceding sections.

Persons going
 armed, without
 reasonable
 cause.

R. S., c. 169,
 § 16.

SECT. 11. All recognizances taken under this chapter shall
 2 be returned to the supreme judicial court on or before the
 3 first day of the next term and there filed by the clerk as of
 4 record; and in any suit thereon, if the forfeiture is found or
 5 confessed, the court may remit so much of the penalty and
 6 on such terms, as they think proper.

All recogni-
 zances to be
 returned to S. J.
 Court, and the
 court may remit
 the penalty.
 R. S., c. 169,
 § 14, 17.

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Sureties on
recognizances
may surrender
their principals,
&c.

R. S., c. 169,
§ 18.

SECT. 12. Any surety in such recognizance may surrender
2 the principal the same as bail in civil cases, and shall there-
3 upon be discharged from all liability for any subsequent
4 breach of the recognizance, and the principal may recognize
5 anew with sufficient sureties for the residue of the term
6 before a justice of the peace, and then be discharged.

Chapter 131.

JURISDICTION OF OFFENSES AND GENERAL PROVISIONS RELATING
THERE TO.

JURISDICTION OF CRIMES.

- Sect. 1.* Original and appellate jurisdiction of the supreme judicial court in criminal cases.
2. Offenses committed near the boundary of two counties, and death in one county from an injury in another.
 3. Death within the state from an injury inflicted on the high seas or without the state.
 4. Acquittal of part of an indictment and conviction of the residue.
 5. Where an accessory before or after the fact may be tried.

ACCESSORIES.

6. Accessory before the fact punished the same as principal, and convicted with or without him.
7. Who are accessories after the fact.

ATTEMPTS TO COMMIT OFFENSES.*

8. Attempt with an overt act to commit an offense, how punishable.

DEFINITIONS AND ALLEGATIONS.

9. Definition of "felony."
10. Of "owner" of property as used in indictments.
11. General allegation of intent to defraud sufficient.
12. Complaints and indictments not to be quashed for omission of the words "feloniously," "force and arms," "against the peace," and "contrary to the form of the statute."

RECOVERY AND APPROPRIATION OF FINES.

13. Fines and forfeitures to be recovered by indictment and accrue to the state unless otherwise provided.

LIMITATION OF PROSECUTIONS.

14. Prosecutions limited to six years, deducting absence from the state.

Jurisdiction of crimes.

Original and
appellate
jurisdiction of
the S. J. Court,
&c.

R. S., c. 166,
§ 1, 2.

Offenses com-
mitted near the
boundary of
two counties, &c.

SECT. 1. The supreme judicial court shall have original
2 jurisdiction exclusive or concurrent of all criminal offenses,
3 except those of which the jurisdiction is conferred by law on
4 municipal and police courts and justices of the peace, and
5 appellate jurisdiction of these.

SECT. 2. When an offense is committed on the boundary
2 between two counties or within one hundred rods thereof;

CHAP. 131.

3 or a mortal wound or other violence or injury is inflicted or
 4 poison administered in one county, whereby death ensues in
 5 another, the offense may be alleged in the complaint or in-
 6 dictment as committed and may be tried in either.

R. S., c. 166,
 § 4, 5.

SECT. 3. If a mortal wound or other violence or injury is
 2 inflicted or poison administered on the high seas or with-
 3 out this state, whereby death ensues within this state, such
 4 offense may be tried in the county where the death ensues;
 5 and if such acts are done within and death ensues without
 6 this state, such offense may be tried in the county where the
 7 acts were done, as if the death had there ensued.

Death within
 the state from an
 injury inflicted
 on the high seas
 or without the
 state.

R. S., c. 166, § 6.
 1854, c. 75.

SECT. 4. When a person indicted for any offense is ac-
 2 quitted of a part by the verdict of the jury and found guilty
 3 of the residue thereof, such verdict may be received and re-
 4 corded by the court, and he may be considered as convicted
 5 of the offense, if any, which is substantially charged by such
 6 residue and be punished accordingly, though such offense
 7 would not otherwise be within the jurisdiction of said court.

Acquittal of
 part of an
 indictment and
 conviction of the
 residue.

R. S., c. 166,
 § 7.

SECT. 5. Every accessory before or after the fact may be
 2 tried in the county having jurisdiction of the principal offense,
 3 though the accessory offense was committed on the high seas
 4 or without the state; and if the principal offense was com-
 5 mitted in one county and the accessory offense in another,
 6 the latter may be tried in either.

Where an
 accessory before
 or after the fact
 may be tried.

R. S., c. 167,
 § 5, 7.

Accessories.

SECT. 6. Whoever aids in the commission of any felony or
 2 is accessory thereto before the fact by counseling hiring or
 3 otherwise procuring the same shall be punished in the man-
 4 ner prescribed for the punishment of the principal felon; and
 5 such accessory, when a felony is committed within or without
 6 the state by his procurement in the state, may be indicted
 7 and convicted as an accessory with the principal or after his
 8 conviction, or of a substantive felony, (a) whether the prin-
 9 cipal is convicted or amenable to justice or not and punished
 10 as aforesaid. Whoever is accessory after the fact to a fel-
 11 ony may be indicted tried and sentenced, whether his prin-
 12 cipal has or has not been convicted.

Accessory
 before the fact
 punished the
 same as prin-
 cipal, and
 convicted with
 or without him.

R. S., c. 167,
 § 3, 4, 7.
 1854, c. 74.

SECT. 7. Every person not standing in the relation of hus-
 2 band or wife parent or child to the principal offender, who
 3 harbors, conceals, maintains, or assists any principal felon or
 4 accessory before the fact, knowing him to be such with intent

Who are
 accessories after
 the fact.

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5 that he may escape detection, arrest, trial, or punishment,
 6 shall be deemed an accessory after the fact, and shall be pun-
 7 ished by imprisonment not more than seven years and by fine
 8 not exceeding one thousand dollars; but in no case shall such
 9 punishment exceed the punishment, to which the principal
 10 felon on conviction would be liable.

R. S., c. 167, § 6.

Attempts to commit offenses.

Attempt with
 an overt act to
 commit an
 offense, how
 punishable.

SECT. 8. Whoever attempts to commit any criminal offense
 2 and does anything towards it, but fails is interrupted or pre-
 3 vented in its execution, where no punishment is expressly
 4 provided for such attempt, shall be punished, when the of-
 5 fense thus attempted is punishable with death or imprison-
 6 ment in the state prison for life, by imprisonment not less
 7 than one nor more than ten years; but in all other cases by
 8 the same kind but not exceeding one half of the punishment
 9 that might have been inflicted, if the offense attempted had
 10 been committed.

R. S., c. 167,
§ 10.*Definitions and allegations.*

Definition of
 "felony."

R. S., c. 167, § 2.

SECT. 9. The term "felony," when used in any chapter in
 2 this title shall be construed to include every offense punish-
 3 able with death or by imprisonment in the state prison.

Of "owner" of
 property as
 used in
 indictments.

SECT. 10. In an offense in any way relating to real or per-
 2 sonal estate it shall be deemed sufficient and not a variance
 3 if proved at the trial, that when the offense was committed,
 4 the actual or constructive possession or the general or
 5 special property in whole or in part of such estate was in
 6 the person or community alleged in the indictment to be the
 7 owner thereof.

R. S., c. 167, § 8.

General
 allegation of
 intent to defraud
 sufficient.

SECT. 11. When an intent to defraud is necessary to con-
 2 stitute any offense, it shall be sufficient to allege generally
 3 in the indictment an attempt to defraud; and if there ap-
 4 pears on trial an intent to defraud the United States, any
 5 state, county, town, person, or corporation, it shall be suffi-
 6 cient.

R. S., c. 167, § 9.

Complaints and
 indictments not
 to be quashed
 for omission, &c.

SECT. 12. No indictment or complaint shall be quashed,
 2 nor judgment thereon arrested or affected by reason of the
 3 omission or misstatement of the title, occupation, estate or
 4 degree of the accused; of the name of the city town or
 5 county of his residence, or of the words, "feloniously," "force
 6 and arms," "against the peace," or "contrary to the form of
 7 the statute;" if such omission or misstatement does not tend
 8 to his prejudice.

R. S., c. 172,
§ 38.

*Recovery and appropriations of fines.*CHAP. 132.

SECT. 13. All fines and forfeitures imposed as a punishment for any offense or for a violation or neglect of any statute duty, when no other mode is expressly provided, may be recovered by indictment; and when no other appropriation is expressly made by law shall enure to the state.

Fines and forfeitures to be recovered by indictment, &c.

R. S., c. 167, § 13, 14.

Limitation of prosecutions.

SECT. 14. When no other limitation is provided by law, no indictment for any offense, except treason, murder, arson, or manslaughter, shall be found after six years from the commission thereof; but any time during which the offender is not usually and publicly resident in this state shall not be a part of said six years.

Prosecution limited to six years, deducting absence from the state.

R. S., c. 167, § 15.

Chapter 132.**ELECTION OF MUNICIPAL AND POLICE JUDGES AND PROCEEDINGS OF MAGISTRATES IN CRIMINAL CASES.****ELECTION OF MUNICIPAL AND POLICE JUDGES.**

Sect. 1. Election of municipal and police judges.

CRIMINAL JURISDICTION OF MAGISTRATES.

2. Magistrates administer oaths and may require aid to repress breaches of the peace.
3. Magistrates have jurisdiction of larcenies, value not exceeding ten dollars.
4. Magistrates have jurisdiction of breaches of the peace and violations of law.
5. Magistrates may on complaint cause all offenders to be arrested, tried, or recognized to appear at supreme judicial court.
6. Magistrates must examine on oath into circumstances of alleged offense; may try though fine accrues to their town.
7. Jurisdiction of justices resident in towns where there is a municipal or police court. All warrants to be returnable before any justice of the peace.

MAY ISSUE SUMMONSES FOR WITNESSES AND ALLOW THEIR FEES.

8. When and how summonses may be issued for witnesses, and when they are obliged to attend.
9. No costs allowed to complainants; exceptions. No fees allowed to witnesses in more than one case at the same time.
10. Witnesses may be summoned to attend any court in New England.

WARRANTS FOR SEARCH.

11. Warrants for search, in what cases issued.
12. Contents of a complaint for such a warrant.
13. Warrant, its contents, how directed and served.
14. Search of a dwelling in the night, when authorized.

APPEALS FROM MAGISTRATES.

15. Appeals from magistrates provided for.
16. Appellant to produce copies and prosecute, consequences of neglect.

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PROVISIONS RELATING TO FEES OF MAGISTRATES.

- Sect. 17. Fees for one warrant only; no fees if no bill; not tax more than law allows.
 18. Costs paid to magistrates, disposition of them.
 19. Costs not paid may be allowed by county commissioners.
 20. Costs in cases carried to a higher court to be taxed.
 21. Warrants to be under seal and signed when issued.

Election of municipal and police judges.

Election of
municipal and
police judges.

- SECT. 1. The election of judges of municipal and police
 2 courts shall be effected and determined in cities as the elec-
 3 tion of mayor is; and in towns as the election of selectmen
 4 is. A plurality shall elect. The clerk shall notify the per-
 5 son elected, who shall be duly sworn and commence the dis-
 6 charge of his duties on the Monday following the day of his
 7 election. They hold their offices and vacancies are filled as
 8 provided in the constitution.

1856, c. 210,
§ 3, 4.

Criminal jurisdiction of magistrates.

Magistrates
may administer
oaths and
require aid to
repress breaches
of the peace.

- SECT. 2. Judges of municipal and police courts and justi-
 2 ces of the peace may administer all oaths required by law,
 3 unless another officer is specially required to do it. Upon
 4 view of an affray, riot, assault, or battery, within their county,
 5 they may without warrant command the assistance of a sher-
 6 iff, deputy sheriff, constable, or person present, to repress
 7 the same and to arrest all concerned therein.

R. S., c. 170,
§ 1, 12.

Jurisdiction of
larcenies when
value does not
exceed \$10.

- SECT. 3. They shall have jurisdiction of the offenses de-
 2 scribed in the first and ninth sections of chapter one hundred
 3 and twenty, when the value of the property is not alleged
 4 to exceed ten dollars; and may punish for the first offense
 5 by fine not exceeding ten dollars and by imprisonment not
 6 more than two months; and on a second conviction by fine
 7 not exceeding twenty dollars and by imprisonment not more
 8 than six months.

R. S., c. 156,
§ 15.

Jurisdiction of
breaches of the
peace and
violations of
law.

- SECT. 4. They shall have jurisdiction of assaults and bat-
 2 teries, breaches of the peace, and violations of any statute
 3 or by-law of a town, when the offense is not of a high and
 4 aggravated nature, and of offenses and misdemeanors juris-
 5 diction of which is conferred by law; and may cause affray-
 6 ers, rioters, breakers of the peace, and violators of law to be
 7 arrested; and may try and punish by fine not exceeding ten
 8 dollars, and may require them to find sureties for keeping
 9 the peace.

R. S., c. 166, § 3,
c. 170, § 2, 4.

May on com-
plaint, cause all
offenders to be
arrested, &c.

- SECT. 5. They shall on complaint cause to be arrested per-
 2 sons found within their county charged with offenses; and
 3 those having committed offenses therein who have escaped

4 therefrom; and all persons charged with felonies, offenses,
 5 and misdemeanors; and when the offense on examination is
 6 found to be one not within their jurisdiction for trial, they
 7 may cause them to recognize with sufficient sureties to appear
 8 before the supreme judicial court, and in default thereof com-
 9 mit them.

R. S., c. 170,
 § 5, 6.

SECT. 6. When complaint is made to them charging any
 2 person with the commission of an offense, they shall care-
 3 fully examine the complainant and witnesses by him produced
 4 on oath into the circumstances, and when satisfied that the
 5 person committed the offense issue a warrant stating the sub-
 6 stance of the charge for his arrest; and may try those brought
 7 before them for offenses within their jurisdiction, though the
 8 penalty or fine may accrue wholly or partly to their town.

Must examine
 on oath into
 circumstances of
 alleged offense,
 &c.

R. S., c. 171, § 2.

SECT. 7. A justice of the peace residing in a town, in
 2 which there is a municipal or police court, shall have the
 3 same jurisdiction as other justices of the peace in the county
 4 in all matters, the exclusive jurisdiction of which is not con-
 5 ferred on such court. Warrants issued by justices of the
 6 peace shall be made returnable before any justice of the
 7 peace in the county; and any justice for issuing one not so
 8 returnable shall on indictment and conviction be imprisoned
 9 six months and pay the costs of prosecution.

Jurisdiction of
 justices resident
 in towns where
 there is a
 municipal or
 police court, &c.

R. S., c. 171, § 2,
 1845, c. 139,
 § 1, 2,
 1856, c. 261.

May issue summonses for witnesses and allow their fees.

SECT. 8. A magistrate named in the second section,
 2 when a warrant is issued by him, may cause such witnesses
 3 only, as he is satisfied can testify to material facts, to be
 4 summoned by inserting their names in the warrant or other-
 5 wise to attend the trial; and when the case is appealed or
 6 the person is required to appear before a higher tribunal,
 7 may order such witnesses only to recognize for their appear-
 8 ance, where the case is to be tried or examined. May issue
 9 summonses for witnesses in criminal cases to appear before
 10 any judicial tribunal at the request of the attorney general,
 11 a county attorney, or party accused, and he shall express in
 12 the summons at whose request they are summoned; and
 13 when summoned for the accused the witnesses shall not be
 14 required to attend without payment or tender of their legal
 15 fees.

When and how
 summonses may
 be issued, &c.

R. S., c. 152,
 § 4, 5, 6,
 c. 170, § 11,
 c. 171, § 2.

SECT. 9. No costs shall be allowed by such magistrate to
 2 complainants in any capacity; but this shall not prevent
 3 the allowance of their fees as officers to police officers and

No costs allowed
 to complainants,
 exceptions, &c.

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R. S., c. 152,
§ 7, 8.

Witnesses may
be required to
attend any court
in New England,
in a criminal
case pending.

Idem, c. 133, § 4.
1855, c. 184,
§ 1, 2.

4 constables complaining under authority of their town or
5 when it is made their duty to do so. No witness shall be
6 allowed in a criminal case for more than one travel, or for
7 travel and attendance in more than one case at the same
8 time before any judicial tribunal.

SECT. 10. When on affidavit filed the clerk of any court in
2 a state in New England certifies, that there is a criminal case
3 pending in such court, and that a person named is declared
4 to be a material witness therein, a justice of the peace on
5 such certificate or on a paper annexed thereto shall issue a
6 summons requiring such person to appear and testify at
7 such court; and if upon payment or tender to him of twelve
8 cents a mile to and from such court and two dollars for each
9 day's attendance required he unreasonably neglects to at-
10 tend and testify, he shall forfeit two hundred dollars to any
11 person suing therefor.

Warrants for search.

Warrants for
search, in what
cases issued.

R. S., c. 170,
§ 13.

Contents of a
complaint for
such a warrant.

Idem, § 14.

Warrant, its
contents, how
directed and
served.

Idem, § 15.

SECT. 11. A magistrate may issue warrants to search within
2 the limits of his jurisdiction any house or place for property
3 stolen, embezzled, or obtained by false tokens or pretenses,
4 or for forged or counterfeit coins, bank bills, or other writ-
5 ings; or for tools, machines, or materials, used or designed
6 for making the same; or for a dead body unlawfully disin-
7 terred carried away and concealed; and in other cases when
8 such a warrant is authorized by law. Such warrants can be
9 issued only according to the following provisions.

SECT. 12. The complaint for a warrant to search must be
2 made in writing, sworn to and signed by the complainant,
3 specially designate the place to be searched, the owner or
4 occupant thereof, and the person or thing to be searched for
5 and allege substantially the offense in relation thereto; and
6 that the complainant has probable cause to suspect and does
7 suspect, that the same is there concealed. (a)

SECT. 13. Such warrant shall recite *by reference to the*
2 *complaint annexed (b) or otherwise* all the essential facts
3 alleged in the complaint, be directed to a proper officer or to
4 a person therein named, be made returnable like other war-
5 rants; and the person or thing searched for, if found, and the
6 person in whose possession or custody the same was found,
7 shall be returned with the warrant before a proper magis-
8 trate.

SECT. 14. To authorize a dwelling house to be searched
 2 in the night time, the magistrate must be satisfied, that it is
 3 necessary to prevent the escape or removal of such person
 4 or property, and must in his warrant expressly require it.

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Search of a
 dwelling house,
 &c.
 Idem, § 16.

Appeals from magistrates.

SECT. 15. Any person aggrieved at any sentence of such
 2 magistrate may appeal therefrom to the next supreme judi-
 3 cial court in the same county, and the magistrate shall there-
 4 upon order him to recognize in a reasonable sum not less
 5 than twenty dollars with sufficient sureties to appear and
 6 prosecute his appeal and to be committed till the order is
 7 complied with.

Appeals
 provided for.

Idem, § 8.

SECT. 16. He shall produce at the appellate court a copy
 2 of the whole process and of all writings filed before the mag-
 3 istrate; and if he does not produce them and prosecute his
 4 appeal, his default shall be noted on the record; and the
 5 court may order the case laid before the grand jury, or issue
 6 a capias against the body of the appellant bring him into
 7 court and then affirm the sentence of the magistrate with
 8 additional costs.

Appellant to
 produce copies
 and prosecute;
 consequences of
 neglect.

Idem, § 9, 10.

Provisions relating to the fees of magistrates.

SECT. 17. When several warrants are issued by any magis-
 2 trate, where only one is necessary, he shall be allowed only
 3 the costs for one complaint and warrant; and when he binds
 4 over a party, and the grand jury do not find an indictment
 5 against such party, he shall not have any fees in the case,
 6 and in no case shall he tax other or greater fees than are ex-
 7 pressly allowed by law.

Fees for one
 warrant only;
 no fees if no
 bill; not taxed
 more than law
 allows.

R. S., c. 152,
 § 1, 2.

SECT. 18. When the costs in any criminal case are paid to
 2 the magistrate as a part of the sentence, he may retain his
 3 fees, and pay over the other fees to the persons entitled to
 4 them; but if such other fees are not called for in one year,
 5 they shall be forfeited to the state, and paid over to the
 6 county treasurer within the time and under the penalty pro-
 7 vided in chapter one hundred thirty-six section seven.

Costs paid;
 disposition of
 them.

Idem, § 10, 11.

SECT. 19. When a party accused is acquitted by the mag-
 2 istrate, not sentenced to pay costs, or does not pay them to
 3 him when so sentenced, and on all legal search warrants, the
 4 commissioners of the same county shall examine and correct
 5 the bills of cost including the fees of officers witnesses and
 6 other persons entitled thereto, and order the same paid out
 7 of the county treasury; but when such magistrate or other

Costs not paid
 may be allowed
 by county
 commissioners.

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Idem, § 12, 13.
1854, c. 82.

Costs in cases
carried to a
higher court to
be taxed.
Idem, § 14.

Warrants to be
under seal, &c.

R. 1, in part first.

- 8 person interested in such bill of costs is one of the commis-
- 9 sioners for the same county, the supreme judicial court shall
- 10 have the same powers as the commissioners in other cases.

SECT. 20. In cases carried to a higher court by appeal,
2 recognizance, or commitment of a party the costs shall be
3 taxed by the magistrate and certified with the papers.

SECT. 21. *Warrants issued by a magistrate in criminal*
2 *cases shall be under seal and signed by him at the time when*
3 *they are issued.*

Chapter 133.

COMMENCEMENT OF PROCEEDINGS IN CRIMINAL CASES.

WHEN PERSONS MAY BE PROSECUTED WITHOUT INDICTMENT.

Sect. 1. No person bound to answer for an offense without indictment, except for
contempt, by information, and before magistrates and courts martial.

WHO MAY ISSUE CRIMINAL PROCESSES.

2. Justices of the supreme judicial court and magistrates may issue processes
in criminal cases.
3. Officer making complaint officially, may swear to it according to his knowledge
and belief, and witnesses may be summoned in a warrant or by subpoena.

ARRESTS WITHOUT WARRANTS.

4. Officers may arrest without warrant persons violating law until warrant can
be obtained, and have their fees, if they act in good faith.

ARRESTS IN OTHER COUNTIES.

5. The accused may be pursued into other counties, arrested and brought back.
6. How he may be discharged in the county where he is arrested, if for a baila-
ble offense.

EXAMINATION OF OFFENDERS.

7. Examinations of persons arrested, magistrate may associate another magis-
trate with him without fees.
8. Adjournment of examination on recognizance or commitment. How offender
may be brought before the magistrate at the adjournment.
9. Proceedings if party fails to appear.
10. Mode of examination; witnesses may be examined separately, and testimony
taken in writing.
11. When the accused shall be discharged, when sentenced, and when bound
over or committed.

PROCEEDINGS ON COMMITMENT OR BINDING OVER.

12. Magistrate to recognize material witnesses or commit them.
13. How married women and minors may recognize.
14. Who may bail the accused after commitment.
15. Examinations and recognizances to be returned to the county attorney or
clerk, and magistrate compelled to do so by rule or capias of the court.

WHEN PROSECUTIONS MAY BE DISMISSED.

16. What prosecutions may be dismissed on satisfaction for private injury.
17. Such discharges to be filed with the clerk or jailer.

REMEDIES ON RECOGNIZANCES.

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- Sect.* 18. Forfeited recognizances to be defaulted and process issued thereon. Sureties may pay the amount to county treasurer or clerk and be discharged.
19. Court may remit the penalty; and the sureties may surrender the principal, but only twice in the same case.
20. Certain forms in proceedings on recognizances unessential.

When persons may be prosecuted without indictment.

SECT. 1. No person shall be held to answer in any court
2 for an alleged offense, unless on an indictment found by a
3 grand jury, except for contempt of court and in the following
4 cases:

No person bound
to answer for an
offense without
indictment, &c.

5 *First*—When prosecutions by information are expressly
6 authorized by statute.

7 *Second*—In proceedings before municipal and police courts, R. S., c. 169, § 1.
8 justices of the peace, and courts martial.

Who may issue criminal processes.

SECT. 2. The justices of the supreme judicial court, judges
2 of municipal and police courts and justices of the peace in
3 their counties in the manner provided in chapter one hundred
4 and thirty-two, in vacation or term time may issue processes
5 for the arrest of persons charged with offenses.

Justices of the
S. J. Court and
magistrates may
issue processes
in criminal
cases.
R. S., c. 171,
§ 1, 2.

SECT. 3. When it is the duty of an officer to make com-
2 plaint before any magistrate, he may make oath to it accord-
3 ing to his knowledge and belief.

Officer making
complaint
officially, &c.
1848, c. 71, § 3.

Arrests without warrants.

SECT. 4. Every sheriff, deputy sheriff, constable, city or
2 deputy marshal, watchman, or police officer, shall arrest and
3 detain persons found violating any law of the state, or any
4 legal ordinance or by-law of a town, until a legal warrant
5 can be obtained, and shall be entitled to legal fees for such
6 service; but if in so doing he acts wantonly or oppressively,
7 or detains a person without a warrant longer than is neces-
8 sary to procure it, he shall be liable to such person for the
9 damages suffered thereby.

Officers may
arrest without
warrant persons
violating law,
&c.

1848, c. 71, § 1, 2.

Arrests in other counties.

SECT. 5. When a person charged with an offense in any
2 county before or after the issue of the warrant removes,
3 escapes, or is found out of it, the officer having the warrant
4 may pursue and arrest him in any other county, command aid
5 as in his own county, and convey him to the county where
6 the offense was committed.

The accused
may be pursued
into other
counties, &c.

R. S., c. 171,
§ 3, 6, 7.

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How he may be
discharged in
the county
where he is
arrested, &c.

R. S., c. 171,
§ 4, 5.

SECT. 6. If the offense charged is not punishable with death or imprisonment in the state prison, the officer shall on request of the accused take him before a magistrate of the county where he is arrested; and such magistrate, without any examination, may take his recognizance with sufficient sureties for his appearance at the next court, or before any magistrate having cognizance of the offense in the county where it was committed, and thereupon the accused shall be discharged; and the magistrate shall certify that fact on the warrant, and deliver the same with the recognizance to the officer, and he shall immediately deliver them to the clerk of the court or magistrate before whom the accused recognized to appear.

Examinations of offenders.

Examinations
of persons
arrested, &c.

R. S., c. 171,
§ 8, 23.

SECT. 7. Every person arrested for any offense shall be brought before the magistrate issuing the warrant or some other in the same county for examination, and the warrant with a proper return thereon signed by the officer serving it shall be delivered to the magistrate, who may associate another magistrate with him in such examination, but no fees shall be taxed for him.

Adjournment of
examination on
recognizance or
commitment, &c.

R. S., c. 171,
§ 9, 11.

SECT. 8. Any magistrate may adjourn an examination before him from time to time not more than ten days at a time and may recognize the accused with sufficient sureties for his appearance before him at the time of adjournment; but if no sufficient sureties are offered, or the offense is not bailable, the accused shall be committed to jail by an order of the magistrate stating briefly the offense with which he is charged, and that he is committed for examination at a future day therein named, and on the day appointed he may be brought before such magistrate by his verbal order to the officer committing him, or by a written order to any other person.

Proceedings, if
party fails to
appear.

R. S., c. 171,
§ 10.

SECT. 9. If the party so recognized does not appear at the time of such adjournment, the magistrate shall record his default, and certify the recognizance and such record to the supreme judicial court there to be proceeded with as any other forfeited recognizance in a criminal case.

Mode of
examination,
&c.

SECT. 10. When the accused is brought before a magistrate, he shall first examine in the presence of the accused on oath the complainant and witnesses to support the prosecution as to all pertinent facts, and then the witnesses in defense; the witnesses on both sides may be examined, each one separately from all the others; and the witnesses for

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7 may be kept separate from those against the accused during
8 the examination according to the directions of the magis-
9 trate, who may reduce the testimony of any witness to writ-
10 ing when he thinks it necessary and require him to sign it.

R. S., c. 171,
§ 12, 13, 14, 15.

SECT. 11. If it appears on the whole examination that no
2 offense is committed, or that there is not probable cause to
3 charge the accused, he shall be discharged; but if it appears
4 that an offense is committed, that there is probable cause to
5 charge the accused and the offense is bailable, and sufficient
6 bail is offered, it shall be taken, and the accused discharged;
7 but if it is not bailable, or no sufficient bail is offered, the
8 accused shall be committed to prison to await a trial. If the
9 offense is within the jurisdiction of the magistrate, he shall
10 try it and award sentence thereon.

When the
accused shall be
discharged, &c.

R. S., c. 171,
§ 16, 17.

Proceedings on commitment or binding over.

SECT. 12. When the accused is committed, or bound over
2 for trial to a higher court, the magistrate shall order the
3 material witnesses against him to recognize to appear and
4 testify at said court; and when he is satisfied there is rea-
5 son to believe that any of them will not perform the condi-
6 tions of his own recognizance, he may order him to recog-
7 nize with sufficient sureties; and if he refuses to recognize
8 as required in either case, he may be committed to prison
9 to remain till discharged by law.

Magistrate to
recognize
material
witnesses or
commit them.

R. S., c. 171,
§ 18, 19, 20.

SECT. 13. Any person may so recognize for a married
2 woman or minor to appear as a witness, or the magistrate
3 may take the recognizance of either in a sum not exceeding
4 twenty dollars, which shall be valid notwithstanding such
5 disability.

How married
women and
minors may
recognize.
R. S., c. 171,
§ 21.

SECT. 14. Any justice of the supreme judicial court, or any
2 two justices of the peace and quorum for the county, on appli-
3 cation of a prisoner before verdict of guilty committed for a
4 bailable offense or for not finding sureties to recognize for
5 him, may inquire into the case and admit him to bail.

Who may bail
the accused after
commitment.

R. S., c. 171,
§ 22.

SECT. 15. All the examinations and recognizances taken
2 by a magistrate under this chapter shall be certified and
3 returned to the county attorney or clerk of the court, at
4 which the accused is to appear, on or before the first day of
5 its session; and if the magistrate neglects so to do, he may
6 be compelled by rule of court, or if that is disobeyed by
7 attachment for contempt.

Examinations
and recogni-
zances to be
returned, &c.

R. S., c. 171,
§ 24.

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When prosecutions may be discontinued.

What prosecutions may be dismissed on satisfaction for private injury.

R. S., c. 171, § 25.
c. 172, § 25.

Such discharges to be filed with clerk or jailer.

R. S., c. 171, § 26.

SECT. 16. When a person is recognized or committed by a
2 magistrate or is indicted for an assault and battery or other
3 misdemeanor, for which the party injured has a remedy by a
4 civil action, except felonious assaults, assaults upon or resist-
5 ance of an officer of justice in the execution of his duty, and
6 assaults and batteries of such officers, if the injured party
7 before the magistrate or court and in writing acknowledges
8 satisfaction for the injury, on payment of all costs the court
9 may stay all further proceedings and discharge the defend-
10 ant; the magistrate may discharge the recognizance, super-
11 sede the commitment by his written order, and discharge
12 the recognizance of the witnesses.

SECT. 17. Any order discharging recognizances shall be
2 filed in the office of the clerk of the court, at which the party
3 and witnesses are to appear, and an order superseding a
4 commitment shall be delivered to the jailer, and if so filed
5 or delivered and not otherwise shall bar all remedy by civil
6 action for such injury.

Remedies on recognizances.

Forfeited recognizances to be defaulted and process issued thereon, &c.

R. S., c. 171, § 27, 28.

Court may remit the penalty, &c.

R. S., c. 171, § 29.
1845, c. 161.
1846, c. 212.

Certain forms in proceedings on recognizances unessential.

SECT. 18. When any person under recognizance in a crim-
2 inal case fails to perform its condition, his default shall be
3 recorded, and process shall be issued against such of the
4 consors as the prosecuting officer directs, but no costs shall
5 be taxed for travel in the suit; but any surety may be dis-
6 charged by paying to the county treasurer, before or after
7 process, the amount for which he is bound as surety with
8 costs if any, or depositing it with the clerk of the court
9 where the recognizance is filed.

SECT. 19. When the penalty of any recognizance in a crim-
2 inal case is forfeited, on scire facias against principal sure-
3 ties or witnesses the court, on application of any defendant,
4 may remit all or any part of the penalty, or the sureties may
5 surrender the principal in court at any time before final
6 judgment on scire facias and be discharged by paying the
7 costs of suit; but if a principal has been thus surrendered
8 twice, and is again released on bail in the same case, the
9 sureties in such third or any subsequent recognizance shall
10 not be so discharged.

SECT. 20. No action on such recognizances shall be de-
2 feated, nor judgment thereon arrested, for any omission to
3 record a default of the principal or surety at the proper term,

4 nor for any defect in the form of the recognizance, if it can
 5 be sufficiently understood from its tenor at what court the
 6 party or witness was to appear, and from the description of
 7 the offense charged, that the magistrate was authorized to
 8 require and take the same.

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R. S., c. 171,
§ 39.

Chapter 134.

PROCEEDINGS IN COURT IN CRIMINAL CASES.

OATH AND DUTY OF GRAND JURY.

- Sect.* 1. Clerks of courts to prepare alphabetical lists of grand jurors.
 2. Grand jurors' oath.
 3. Form of affirmation.
 4. Election of foreman.
 5. Term of his office.
 6. Oath of witnesses before the grand jury. List to be returned to the court.
 7. Grand jury to present all offenses, appoint one to take minutes and when dismissed, may be recalled.
 8. Disclosures improper to be made by grand jurors.

BAIL, ARRAIGNMENT AND TRIAL OF CRIMINALS.

9. In what cases persons in prison, on charges of capital offenses, may be bailed or discharged, if not indicted.
 10. If indicted, when they may claim a trial.
 11. Standing mute equivalent to not guilty.
 12. In capital cases only ten jurors to be peremptorily challenged. Accused arraigned before one justice, and if he pleads guilty, sentenced; if not guilty, preparations made and time appointed for trial and chief justice notified.
 13. If stated term not held in six months, chief justice to order special term. What notice shall be given thereof. No civil action disposed of without consent.
 14. Rights of persons indicted for felony to a copy of indictment, if indicted for capital offense or one punishable with state prison for life, a copy of indictment, list of jurors and witnesses at expense of the state.
 15. Prosecuting officer may summon witnesses; no fees need be tendered them; no cost for witnesses where no bill found, or for defect of roads.
 16. Punishment for not attending, when summoned as a witness.
 17. Witnesses not to be paid till second or third day in continued cases; costs allowed before arrest or trial, in certain cases; but no extra charges for aid or otherwise, unless on examination of officer on oath or other proof.
 18. Person arraigned, need not be asked how he will be tried; and dilatory pleas may be rejected unless verified by oath.
 19. Depositions may be taken out of the state, on request of defendant.
 20. Facts to be tried and challenges allowed as in civil cases, but no grand juror or person with conscientious scruples about the penalty of death, shall sit in a capital case.
 21. Jurors' oaths and affirmations.
 22. When a person indicted shall, or may not, be present at his trial.
 23. View.
 24. When the court may postpone criminal trials, or discharge the jury.

PAYMENT OF PRIVATE CLAIMS FROM FORFEITED RECOGNIZANCES.

25. Payment of private claims out of forfeited recognizances.

EXCEPTIONS, AND BAIL AFTER VERDICT.

26. Questions of law may be received on report. Accused to give recognizance, or be committed; and after verdict of guilty against him only a justice of the supreme judicial court, or a person appointed by the justice who tried the case, can admit him to bail.

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Oath and duties of grand jurors.

Clerks of courts
to prepare
alphabetical
lists of grand
jurors.

R. S., c. 172, § 1.

Grand jurors'
oath.

R. S., c. 172, § 2.

Form of
affirmation.

R. S., c. 172, § 3.

Election of
foreman.

R. S., c. 172, § 4.

Term of his
office.

R. S., c. 172, § 5.

Oath of wit-
nesses before
the grand jury,
&c.

R. S., c. 172, § 6.

SECT. 1. Prior to the commencement of each term of the
2 supreme judicial court in any county, to which grand jurors
3 are returned, the clerk of the court shall make out from the
4 returns on the venires an alphabetical list of such jurors.

SECT. 2. When the grand jury is to be empaneled, the
2 clerk shall call the first two persons named on the list, and
3 administer the following oath to them: "You, as grand
4 jurors of this county of ———, do solemnly swear, that you
5 will diligently inquire and true presentment make of all
6 matters and things given you in charge. The state's coun-
7 sel, your fellows', and your own, you shall keep secret. You
8 shall present no man for envy, hatred, or malice; nor leave
9 any man unrepresented for love, fear, favor, affection, or hope
10 of reward; but you shall present things truly as they come
11 to your knowledge according to the best of your understand-
12 ing. So help you God." The other jurors shall then be
13 called, in such divisions as the court orders, and the follow-
14 ing oath shall be administered to them: "The same oath
15 which your fellows have taken on their part, you and each
16 of you on your part shall well and truly observe and keep.
17 So help you God."

SECT. 3. When any person returned as grand juror is con-
2 scientiously scrupulous of taking an oath, he shall be allowed
3 to make affirmation substituting the word "affirm" instead
4 of "swear;" and also the words "This you do under the pains
5 and penalties of perjury" instead of "So help you God."

SECT. 4. The grand jury having been empaneled and in-
2 structed by the court shall retire in company with an officer
3 to their room, and there elect by ballot one of their number
4 for foreman, and give notice thereof to the court, and the
5 clerk shall record it.

SECT. 5. Such foreman shall continue in office during the
2 time for which he was returned; but in case of his sickness
3 or absence the jury may in like manner elect and announce
4 to the court another foreman.

SECT. 6. The attorney general, county attorney, or fore-
2 man of the grand jury, shall swear or affirm in the presence
3 of the jury all witnesses, who are to testify before them, and
4 a list thereof shall be returned into court by the foreman
5 before the jury is discharged and filed and entered on record
6 by the clerk.

SECT. 7. Grand juries shall present all offenses cognizable
2 by the court at which they attend; and may appoint one of
3 their number to take minutes of their proceedings to be
4 delivered to the attorney, if the jury so directs; and when
5 they are dismissed before the court adjourns, they may be
6 summoned again on any special occasion, at such time as the
7 court directs.

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Grand jury to
present all
offenses, &c.R. S., c. 172,
§ 7, 8, 9.

SECT. 8. No grand juror or officer of the court shall dis-
2 close that an indictment for felony is found against any per-
3 son not in custody or under recognizance, except by issuing
4 process for his arrest, until he is arrested; nor shall any grand
5 juror state how any member of the jury voted, or what opin-
6 ion he expressed, on any question before them; and the
7 court in charging such jury shall impress on their minds the
8 provisions of this section.

Disclosures
improper to be
made by grand
jurors.R. S., c. 172,
§ 10, 11.

Bail arraignment and trial of prisoners.

SECT. 9. Any person in prison charged with a crime pun-
2 ishable with death may be bailed or discharged, if he is not
3 indicted at the second term of the court in the county where
4 the crime is alleged to have been committed, when there are
5 two terms there in each year; but when there is only one
6 term a year therein and the accused has been in prison six
7 months before the first term and is not then indicted, he
8 shall be bailed or discharged.

In what cases
persons in
prison, on
charges of
capital offenses,
may be bailed or
discharged, if
not indicted.R. S., c. 172,
§ 12, 13.

SECT. 10. Any person in prison under indictment shall be
2 tried or bailed at the first term next after the finding thereof
3 if he demands it, unless the court is satisfied that some of
4 the witnesses on the part of the state have been enticed
5 away, or detained from court by some cause beyond their
6 control; and all persons under indictment for felony, if they
7 have been arrested thereon, shall be tried or bailed at the
8 second term after the finding thereof.

If indicted,
when they may
claim a trial.R. S., c. 172,
§ 14, 15.

SECT. 11. When any person indicted stands mute, the
2 court shall order the plea of not guilty to be entered, and it
3 shall have the same effect as if he had pleaded not guilty.

Standing mute
equivalent to
not guilty.
R. S., c. 172,
§ 16.

SECT. 12. Any person indicted for an offense punishable
2 with death shall challenge peremptorily no more than ten of
3 the jurors; and he may be arraigned before the court held
4 by one justice, and if he pleads guilty, the court may proceed
5 to pass sentence according to law; but if he pleads not guilty
6 the court after appointing counsel for him and making all
7 preparations for trial shall try him.

In capital cases
only ten jurors
to be peremp-
torily chal-
lenged, &c.
R. S., c. 172,
§ 17, 18, 19.
1849, c. 100.
1855, c. 174, § 1.
1854, c. 56.
1856, c. 272.

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If stated term
not held in six
months, &c.

R. S., c. 172,
§ 20, 21.
1852, c. 247, § 25.

Rights of
persons indicted
for felony to a
copy of
indictment, &c.

R. S., c. 172,
§ 22, 23.

Prosecuting
officer may
summon
witnesses, &c.

R. S., c. 172,
§ 24.
1844, c. 95, § 2.

Punishment for
not attending,
&c.

1845, c. 153.

Witnesses not
to be paid till
second or third
day in continued
cases, &c.

R. S., c. 152,
§ 3, 9, 15.

SECT. 13. When a stated term of the court is not held
2 within six months after an indictment for a capital offense is
3 found in any county, a special term may be held to try the
4 same; and the chief justice by his order in writing to the
5 sheriff shall appoint the time and direct what notice shall be
6 given; and the sheriff shall give it accordingly, and the clerk
7 shall issue venires for jurors, and all preparations shall be
8 made by the sheriff as for a stated term; but the court at
9 such term shall dispose of no civil actions without consent
10 of parties.

SECT. 14. The clerk shall without charge furnish to any
2 person indicted for a crime punishable by imprisonment in
3 the state prison a copy of the indictment; if he is indicted
4 for a crime punishable by death or imprisonment in the
5 state prison for life, he shall furnish a copy of the indict-
6 ment; a list of the jurors returned, and process to obtain
7 witnesses to be summoned and paid at the expense of the
8 state.

SECT. 15. The prosecuting officer shall have the same
2 power to issue a summons for witnesses in criminal cases as
3 the clerk of the court; and no costs shall be taxed for wit-
4 nesses before the grand jury in a case where no bill is found,
5 nor in complaints against towns for defect of road, unless
6 they are recognized so to attend or summoned by order of
7 the grand jury or prosecuting officer; nor shall it be neces-
8 sary to tender any fees to witnesses summoned in behalf of
9 the state.

SECT. 16. If any person duly summoned as a witness in
2 behalf of the state before any court or grand jury without
3 reasonable cause fails to appear at the time and place desig-
4 nated in the summons, if he is not punished therefor as for
5 contempt, he shall be punished on indictment by imprison-
6 ment less than one year or by fine not exceeding one hun-
7 dred dollars.

SECT. 17. No fees in criminal cases continued after the
2 first term shall be allowed to witnesses on the part of the
3 state, until the second day of the term in Hancock, Oxford,
4 Franklin, Piscataquis and Aroostook, nor until the third day
5 in any other county, unless legally summoned at an earlier
6 day; and the court in all such cases previous to the deter-
7 mination thereof may allow such costs for justices, officers,
8 aids, jurors and witnesses, as are provided by law, to be paid
9 from the county treasury; but no court or magistrate shall
10 allow any charge for aid or other expenses of the officer in

11 serving a warrant, except his stated fees for service and
 12 travel, unless on his examination on oath or on other evi-
 13 dence, they find such additional charges reasonable.

SECT. 18. When a person is arraigned on any indictment
 2 he need not be asked how he will be tried; and when a plea
 3 in abatement, or other dilatory plea to an indictment is
 4 offered, the court may refuse to receive it, until it is verified
 5 by affidavit or other evidence.

Person arraigned
 need not be
 asked how he
 will be tried,
 &c.
 R. S., c. 172,
 § 26, 27.

SECT. 19. On application of the defendant in a criminal
 2 case, the court may grant a commission to take the deposi-
 3 tions of material witnesses living out of the state to be
 4 taken on interrogatories in the manner, have the effect, and
 5 be subject to the exceptions as in civil causes; the prose-
 6 cuting officer may join in such commission, and name therein
 7 any material witness to be examined on the part of the state;
 8 but if the defendant does not use at the trial the depositions
 9 so taken for him, those taken for the state shall not be used.

Depositions may
 be taken out of
 state, &c.

SECT. 20. Issues of fact joined on indictments shall be
 2 tried by a jury drawn and returned in the manner, and chal-
 3 lenges shall be allowed to the prosecuting officer and the
 4 accused as in civil cases; but no member of a grand jury
 5 finding an indictment shall sit on the trial thereof, if chal-
 6 lenged therefor by the accused; nor shall any person be a
 7 juror in a capital case, who cannot conscientiously find a
 8 man guilty of an offense punishable with death.

R. S., c. 172,
 § 28, 29.

Facts to be
 tried and chal-
 lenges allowed
 as in civil cases,
 &c.

R. S., c. 172,
 § 30, 31, 32.

SECT. 21. The following oath shall be administered to
 2 jurors in capital cases: "You swear, that you will well and
 3 truly try, and true deliverance make, between the state and
 4 the prisoner at the bar, whom you shall have in charge, ac-
 5 cording to your evidence. So help you God." In all other
 6 criminal cases the following: "You swear, that you will well
 7 and truly try the issue between the state and the defendant
 8 according to your evidence. So help you God." Any juror
 9 conscientiously scrupulous of taking an oath may affirm in
 10 the mode described in section three.

Jurors' oaths
 affirmations.

R. S., c. 172,
 § 33, 34.

SECT. 22. No person indicted for felony shall be tried,
 2 unless present during the trial; but persons indicted for less
 3 offenses, at their own request and by leave of court, may be
 4 tried in their absence by their attorney.

When a person
 indicted shall, or
 may not, be
 present at his
 trial.
 R. S., c. 172, § 35.

SECT. 23. The court may order a view by any jury in a
 2 criminal case.

View.
 R. S., c. 172, § 36.

SECT. 24. The trial of any criminal case, except a capital
 2 one, may be postponed by the court to a future day of the

When the court
 may postpone
 criminal cases,
 &c.

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R. S., c. 172,
§ 37.

3 same term, or the jury discharged therefrom, and the case
4 continued if justice will thereby be promoted.

Payment of private claims from forfeited recognizances.

Payment of
private claims
out of forfeited
recognizances.

R. S., c. 172,
§ 39.

SECT. 25. When the penalty of a recognizance to prose-
2 cute an appeal is paid to the clerk of the court or county
3 treasurer, the court may award to any person therefrom the
4 same sum he would have been entitled to receive from the
5 penalty affixed to the offense, if paid on conviction and not
6 on recognizance.

Exceptions, and bail after verdict.

Questions of
law may be
reserved on
report, &c.

R. S., c. 172,
§ 41.
1850, c. 152.

SECT. 26. A question of law allowable by exceptions may
2 be reserved on a report signed by such justice; and in such
3 case and when exceptions are allowed he shall require the
4 defendant to recognize with sufficient sureties to appear at
5 the next term of said court, and abide the final judgment in
6 the case, and commit him if he does not so recognize; when a
7 verdict of guilty is rendered against any person for an offense
8 punishable by imprisonment in the state prison, he shall be
9 admitted to bail only by the justice trying him, by some
10 person by him appointed therefor, or by some other justice
11 of the court.

Chapter 135.

SENTENCE AND ITS EXECUTION IN CRIMINAL CASES, AND THE LIB- ERATION OF POOR CONVICTS.

WHAT SENTENCE MAY BE AWARDED.

- Sect. 1.* No person punished till convicted; and what sentence may be passed, when none is provided by law.
2. No convict sent to state prison less than a year, and when he is to be punished by imprisonment and a fine, he may be sentenced to either or both.
 3. Punishment, when convict has before been sentenced to state prison.
 4. In what cases, sureties to keep the peace may be required in addition to the other punishment.

EXECUTION OF SENTENCE.

5. Minutes made by the clerk, when sufficient authority for the officer.
6. Removal of convicts to the state prison, upon sentence.

IN CAPITAL CASES.

7. Convicts under sentence of death, to be also sentenced to solitary confinement and labor in the state prison, in the meantime; and execution not to take place within one year nor until a warrant of the executive therefor.
8. How and where sentence of death shall be executed, and who may be present.
9. Sheriff's return to be made and filed in the office of secretary of state.

LIBERATION OF POOR CONVICTS.

Sect. 10. Persons imprisoned for non-payment of fines or costs, may be liberated by the sheriff, after thirty days, on giving their notes, and a sworn schedule of their property.

11. Such notes a lien on their real estate, and execution thereon may be proceeded with as in other cases.

12. Penalty for willfully making a false schedule of property.

SECT. 1. No person can be punished for an offense till convicted thereof in a court having jurisdiction of the person and case. When no punishment is provided by the statute for an offense, a person convicted thereof *shall be imprisoned less than one year or fined not exceeding five hundred dollars.* (a) When it is provided that he shall be punished by imprisonment and fine, he may be sentenced to either or both.

No person can be punished till convicted, &c.

R. S., c. 167, § 1.
c. 168, § 1, 4.

SECT. 2. Unless otherwise specially provided all imprisonments mentioned in this title for the term of one year or more shall be in the state prison; and all for a less term in the county jail or house of correction. When it is provided that imprisonment shall be in the county jail, the sentence may be for imprisonment there or in a house of correction; and the sentence may be conditional to pay a fine and costs, and if not paid in ten days, then to be imprisoned not more than six months.

No convict sent to state prison less than a year, &c.

Idem, c. 167,
§ 16.
c. 168, § 2, 3.

SECT. 3. When a person is convicted of a crime punishable by imprisonment in the state prison, and it is alleged in the indictment therefor and proved or admitted on trial, that he had been before convicted and sentenced to a state prison by any court of this state or of any other state or of the United States, whether pardoned therefor or not, he may be punished by imprisonment in the state prison for life or any term of years.

Punishment, when convict has before been sentenced to state prison.

R. S., c. 167,
§ 12.

SECT. 4. In addition to the punishment prescribed by law the court may require any person convicted of an offense not punishable by death or imprisonment in the state prison to recognize to the state with sufficient sureties in a reasonable sum to keep the peace and be of good behavior for a term not exceeding two years, and stand committed till he so recognizes.

In what cases, sureties to keep the peace may be required, &c.

R. S., c. 168, § 5.

Execution of sentences.

SECT. 5. When a convict is sentenced to pay a fine or costs, or be imprisoned in the county jail or house of correction,

Minutes made by the clerk, when sufficient authority for the officer.

(a) The clause in italics is substituted for a provision in these words, "the court shall pass sentence according to the nature of the offense, the common practice in the state, and not repugnant to the constitution," c. 168, § 1, R. 1, which afford no safe or satisfactory rule.

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R. S., c. 168, § 6.

Removal of
convicts to the
state prison,
upon sentence.

R. S., c. 168, § 7.

3 the clerk of the courts, as soon as may be, shall make out
4 and deliver to the sheriff or some officer in court a transcript
5 of the minutes of the conviction and sentence duly certified
6 by him; and this shall be a sufficient authority for the officer
7 to execute such sentence.

SECT. 6. When any convict is sentenced to confinement in
2 the state prison, such clerk shall make out a warrant under
3 seal of the court directed to the warden of the prison
4 requiring him to cause such convict, without needless delay,
5 to be removed from the county jail to the state prison; and
6 the warden and all sheriffs and jail keepers are required
7 strictly to obey its directions; and the clerk, as soon as may
8 be, shall deliver such warrant to the sheriff of the county, and
9 he shall forthwith deliver it to said warden.

*In capital cases.*Convicts under
sentence of
death, &c.R. S., c. 168,
§ 8, 9.
1844, c. 101.How and where
sentence of
death shall be
executed, &c.

SECT. 7. When any person is convicted of a crime punish-
2 able with death and sentenced therefor, he shall at the same
3 time be sentenced to solitary confinement and hard labor in
4 the state prison, till such punishment is inflicted; but he shall
5 not be executed within one year from the day the sentence
6 of death was passed, nor until the whole record of such pro-
7 ceedings or case is certified by the clerk of said court under
8 the seal thereof to the supreme executive authority of the
9 state, and a warrant is issued by said executive authority
10 under the great seal of this state, directed to the sheriff of
11 the county, wherein the state prison is situated, commanding
12 him to carry said sentence of death into execution.

SECT. 8. The sentence of death shall in all cases be in-
2 flicted by hanging the convict by the neck till he is dead, and
3 be executed, at the time directed in the warrant, within the
4 walls or inclosed yard of the state prison; and the sheriff of
5 the county, unless prevented by sickness or other casualty,
6 and two deputies designated by him shall be present at the
7 place of execution; he shall request the county attorney and
8 twelve citizens including a surgeon or physician, and permit
9 the convict's counsel relatives and such minister of the gos-
10 pel, as he may desire such officers of the prison, deputies,
11 constables, and military guard as the sheriff sees fit, but no
12 others, to be present.

R. S., c. 168,
§ 10, 11.Sheriff's return
to be made and
filed in the
office of the
secretary of
state.

SECT. 9. When a sheriff inflicts the sentence of death as
2 aforesaid, he shall immediately make return of the warrant
3 therefor under his hand with his doings thereon to the office
4 of the secretary of state; and file an attested copy of the

5 warrant and return in the office of the clerk of the court, CHAP. 136.
 6 where the conviction was had; and the clerk shall file the
 7 same with the indictment and subjoin to the record a brief
 8 abstract of such return.

R. S., c. 168,
 § 12.

Liberation of poor convicts.

SECT. 10. Any convict sentenced to pay a fine or costs
 2 and committed for default thereof and for no other cause,
 3 who is unable to pay the same, may be liberated by the sheriff
 4 after thirty days from his commitment, by giving his note for
 5 the amount due to the treasurer of the same county accompan-
 6 ied by a written schedule of all his property of every kind
 7 signed and sworn to, and the sheriff shall deliver the same to
 8 said treasurer for the use of the county within thirty days.

Persons
 imprisoned for
 non-payment of
 fines or costs,
 &c.

R. S., c. 175, § 1.

SECT. 11. Such note shall be and continue a lien on all the
 2 maker's real estate till the same is fully paid; and if judg-
 3 ment is rendered on it in favor of the treasurer, the same
 4 proceedings may be had on the execution as in other cases
 5 of contract.

Such notes a
 lien on their
 real estate, &c.

R. S., c. 175,
 § 2, 3.

SECT. 12. If such convict is convicted of knowingly and
 2 willfully making a false schedule on oath as to the nature or
 3 amount of his property, he shall receive no benefit from his
 4 liberation, but may be imprisoned again till the performance
 5 of the original sentence.

Penalty for
 willfully
 making a false
 schedule of
 property.

R. S., c. 175, § 4.

Chapter 136.

COLLECTION AND DISPOSAL OF FINES AND COSTS IN CRIMINAL CASES.

DUTY OF THE CLERK IN RELATION THERETO.

- Sect. 1. Certificates of fines and costs, required from the clerk of the judicial courts.
 2. Duty of clerks to collect fines and costs, or issue process.

DUTY OF SHERIFFS AND OTHER OFFICERS.

3. Officers to pay over to county treasurer fines and costs collected.
 4. Penalty for their neglect. Treasurer's duty.
 5. Officers receiving warrants, &c., for collection, to produce receipts to the
 court, or give a good excuse.
 6. Sheriff to deliver over certain securities to the county treasurer.

DUTY OF JUSTICES OF THE PEACE.

7. Justices of the peace to account for, and pay over fines to treasurer of county
 or town, and penalty for neglect.

DUTY OF COUNTY TREASURER.

8. County treasurers to account with state treasurer.
 9. Fees allowed to individuals must be claimed within three years.
 10. County treasurer to account to the state for unclaimed moneys, and for fees
 allowed the attorneys for the state.

- CHAP. 136. *Sect. 11.* County treasurer to account to the county for jury fees, and for jailer's charges.
- Sect. 12.* Fines and costs in justices' prosecutions, how appropriated.
- Sect. 13.* Treasurer to exhibit a schedule of the same to the commissioners.

DUTY OF COUNTY COMMISSIONERS.

14. Proceedings of commissioners thereon.

DUTY OF THE SECRETARY OF STATE.

15. Secretary of state to compare the treasurer's books with returns of the clerks, &c.
16. Secretary's duty, as to unpaid fines.

DUTY OF COUNTY ATTORNEYS.

17. The county attorneys shall examine the records of courts, and accounts of treasurers, and move for process to enforce collection.
18. He shall summon any delinquent officer before the court to show cause why fines are not collected, and use all other means to enforce collections.
19. When required by the executive, shall report result of his examinations.

Duty of the clerk in relation thereto.

Certificates of
fines and costs,
&c.

- SECT. 1. The clerk of the courts shall attest and deliver
- 2 to the county treasurers duplicate copies of all bills of costs
- 3 allowed by said courts, and certificates of all fines and for-
- 4 feitures imposed and accruing to the state or to the county
- 5 before the rising thereof, or as soon after as may be, and
- 6 return to the treasurer of state a certificate of all the fines
- 7 and forfeitures imposed to the use of the state in said courts.

R. S., c. 152,
§ 17.
1843, c. 29,

Duty of clerks
to collect fines
and costs, or
issue process.

- SECT. 2. He shall in default of payment to him of fines
- 2 forfeitures and bills of costs issue warrants of distress or
- 3 such other process therefor, as the court finds necessary to
- 4 enforce the execution of any order sentence or judgment in
- 5 behalf of the state, and deliver the same to the sheriff, or to
- 6 such coroner or constable as the attorney general or county
- 7 attorney directs, and shall enter of record the name of the
- 8 officer and the time when it is delivered to him.

R. S., c. 152,
§ 18.

Duty of sheriffs and other officers.

Officers to pay
over to county
treasurer fines
and costs
collected.

- SECT. 3. All sheriffs, jailers, constables, and coroners, who
- 2 may by virtue of their office receive any fines forfeitures or
- 3 bills of costs, whether they accrue to the state or to the
- 4 county, except debts and costs received upon executions in
- 5 favor of the state, shall forthwith pay the same to the treas-
- 6 urer of the county in which the same accrued.

R. S., c. 152,
§ 19.

Penalty for their
neglect.
Treasurer's
duty.

- SECT. 4. If any such officer receiving such fine forfeiture
- 2 or costs neglects to pay over the same for the space of thirty
- 3 days after the receipt thereof; or if he permits any person
- 4 sentenced to pay such fine forfeiture or bill of costs and
- 5 committed to his custody to go at large without payment
- 6 unless by order of law, and does not within thirty days after
- 7 such escape pay the amount thereof to the county treasurer,

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8 he shall forfeit and pay double the amount; and the county
 9 treasurer shall give notice of such delinquency to the county
 10 attorney, who shall sue for the same in action of debt in the
 11 name of such treasurer to the use of the state or county.

R. S., c. 152,
 § 20.

SECT. 5. Every sheriff or other officer, to whom any pro-
 2 cess is committed for the recovery of any such fine forfeiture
 3 or costs by the clerk of the courts, shall at the next session
 4 of the court in the same county produce thereto a receipt in
 5 full for the same or assign a satisfactory excuse for not doing
 6 so; and in case of delinquency the court shall order a pros-
 7 ecution to be commenced for the same by the county attor-
 8 ney.

Officers
 receiving
 warrants, &c.

R. S., c. 152,
 § 21.

SECT. 6. The sheriff in each county, as often at least as
 2 every three months shall deliver over to the treasurer of his
 3 county all notes or other securities by him taken for fines
 4 and costs on the liberation of poor convicts from prison pur-
 5 suant to law.

Sheriff to
 deliver over
 certain securities
 to the county
 treasurer.
 R. S., c. 152,
 § 23.

Duty of justices of the peace.

SECT. 7. Every justice of the peace or judge of a municipi-
 2 pal or police court shall render an account of and pay over
 3 all fines and forfeitures by him received upon convictions and
 4 sentences before him accruing to the state or the county to
 5 the treasurer of the county, and when they accrue to the
 6 town to the treasurer of the town, within six months after
 7 he receives the same; and for any neglect he shall forfeit
 8 and pay in each instance double the amount to be recovered
 9 in an action of debt in the name of the county treasurer when
 10 they accrue to the state or county, and in the name of the
 11 town treasurer when they accrue to the town.

Justices of the
 peace to account
 for, and pay
 over fines to
 treasurer of
 county or
 town, &c.

R. S., c. 152,
 § 22, 37.

Duty of county treasurers.

SECT. 8. The county treasurer shall make out his account
 2 of all bills of costs allowed and taxed against the state by
 3 the judicial courts in his county, and give credit for all fines
 4 forfeitures and costs accruing to the state by him received,
 5 and pay over the net balance thereof to the state treasurer,
 6 if any is due to the state; or if otherwise receive such bal-
 7 ance from the state treasurer in the manner and under the
 8 penalties provided by law.

County treas-
 urers to account
 with state
 treasurer.

R. S., c. 152,
 § 23.

SECT. 9. All sums allowed to any person as fees or for
 2 expenses in any criminal prosecution, which are chargeable
 3 to the state and payable from the county treasury, may be

Fees allowed to
 individuals
 must be
 claimed within
 three years.

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R. S., c. 152,
§ 24.

County treasurers to account to the state for unclaimed moneys, &c.

R. S., c. 152,
§ 25.

County treasurer to account to the county for jury fees, &c.

R. S., c. 152,
§ 26.

Fines and costs in justices' prosecutions, how appropriated.

R. S., c. 152,
§ 27.

Treasurer to exhibit a schedule of the same to the commissioners.

R. S., c. 152,
§ 29.

Proceedings of commissioners thereon.

R. S., c. 152,
§ 30.

Secretary of state to compare the treasurer's books, &c.

R. S., c. 152,
§ 21.

4 claimed by such person of the county treasurer at any time
5 within three years after the allowance and not afterwards.

SECT. 10. Every county treasurer in his general account
2 shall credit the state with all sums of money remaining un-
3 claimed as mentioned in the preceding section; and with all
4 sums taxed in any bill of costs in a criminal prosecution for
5 the fees of the attorney general or county attorney, when no
6 other person is entitled thereto; and the amount shall be
7 deducted from the county treasurer's account against the
8 state.

SECT. 11. Every county treasurer shall account with the
2 county for all sums allowed to or received by him out of the
3 treasury of the state for jury fees and for jailer's charges for
4 the support of prisoners.

SECT. 12. All fines imposed by justices of the peace to the
2 use of the state and all costs accruing to the state in such
3 prosecutions shall be paid into the county treasury to be
4 appropriated to the payment of criminal costs allowed by the
5 supreme judicial court; and the county treasurer shall credit
6 his county with the same instead of the state.

SECT. 13. A schedule of all notes and securities with the
2 amount due on each received by the county treasurer from
3 the sheriff pursuant to section six shall be by him laid before
4 the county commissioners at their next session to be filed
5 with the clerk.

Duty of county commissioners.

SECT. 14. The county commissioners from time to time
2 shall examine such note and securities; order the county
3 attorney to take such measures for their collection as they
4 judge expedient, or authorize the treasurer to compound and
5 cancel the same on such terms as they direct.

Duty of the secretary of state.

SECT. 15. The secretary of state from time to time, as the
2 governor and council directs, shall cause the books of the
3 treasurer of state, and the accounts of the several county
4 treasurers deposited in the office of the treasurer of state,
5 to be compared with the returns made to him from the clerks
6 of the judicial courts, and shall ascertain what fines forfeit-
7 ures and bills of costs have not been paid over to the use of
8 the state.

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SECT. 16. He shall make out separate schedules for each
 2 county of unpaid fines forfeitures and bills of costs and make
 3 appropriate entries and records thereof to be kept in his
 4 office; and transmit such schedules to the attorneys of the
 5 respective counties certifying thereon that the same appear
 6 to be due and unpaid.

Secretary's
 duty, as to
 unpaid fines.

R. S., c. 152,
 § 32.

Duty of county attorneys.

SECT. 17. The county attorneys shall examine the records
 2 and files in the offices of clerks in their counties, and the cer-
 3 tificates and accounts in the offices of the county treasurers,
 4 relating to fines forfeitures and bills of costs accruing to the
 5 use of the state, and ascertain, as far as practicable the causes
 6 of any delinquencies in paying over the same; and move the
 7 court for all necessary orders and processes to enforce the
 8 collection thereof.

The county
 attorneys shall
 examine the
 records of courts,
 &c.

R. S., c. 152,
 § 33.

SECT. 18. When it appears that any sheriff or other officer
 2 is not discharged of any fine forfeiture or bill of costs com-
 3 mitted to him to collect, the county attorney shall cause him
 4 to be summoned and brought before the court, that imposed
 5 the same, to show a proper discharge or the cause for not
 6 collecting and paying over the same; and he shall carry into
 7 execution all lawful orders of the court relating to the col-
 8 lection and payment thereof, and by all other means pertain-
 9 ing to his office promote and enforce the same.

He shall
 summon any
 delinquent
 officer before the
 court, &c.

R. S., c. 152,
 § 34, 35.

SECT. 19. The county attorneys, when required by the
 2 governor and council, shall make out and transmit to the
 3 secretary of state a report of the result of the investigation
 4 made by them under section seventeen of this chapter.

When required
 by the executive,
 shall report
 result of his
 examinations.
 R. S., c. 152,
 § 36.

Chapter 137.

DISPOSAL OF INSANE CRIMINALS.

- Sect. 1. When a person is committed to jail by a magistrate on a criminal charge, any
 justice of the court may order him to the insane hospital to be observed.
 2. When a grand or trial jury omits to find against any accused by reason of
 insanity, court shall commit him to the hospital.
 3. How he shall be supported at the hospital.
 4. How and by whom he may be discharged therefrom.
 5. When an inmate of the state prison becomes insane, how and by whom he
 may be sent to the hospital.

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When a person is committed to jail by a magistrate on a criminal charge, &c.

1847, c. 33, § 15.
1848, c. 79, § 3.

When a grand or trial jury omits to find against any accused by reason of insanity, &c.

R. S., c. 173, § 1.
1844, c. 108.
1847, c. 33, § 14.

How he shall be supported at the hospital.
R. S., c. 173, § 2.
1844, c. 108.
1856, c. 268, § 4.

How and by whom he may be discharged therefrom.

1855, c. 124,
§ 1, 2, 3.

When an inmate of the state prison becomes insane, &c.

SECT. 1. When any person is indicted for a criminal offense,
2 or is committed to jail on a charge thereof by a justice of
3 the peace or judge of a police or municipal court, any judge
4 of the court before which he is to be tried, when a plea of
5 insanity is made in court, or he is notified that it will be
6 made, may in vacation or term time order such person into
7 the care of the superintendent of the insane hospital to be
8 detained and observed by him till the further order of the
9 court, that the truth or falsity of the plea may be ascer-
10 tained.

SECT. 2. When the grand jury omits to find an indictment
2 against any person arrested by legal process to answer for
3 any offense by reason of his insanity, they shall certify that
4 fact to the court; and when a traverse jury for the same
5 reason acquits any person indicted, they shall state that fact
6 to the court when they return their verdict; and the court
7 by a precept stating the fact of insanity may commit him to
8 prison or to the insane hospital till restored to his right
9 mind or delivered according to law; but he shall only remain
10 in prison till provision can be made for him at the hospital,
11 and then removed thereto.

SECT. 3. The person so committed shall be there sup-
2 ported at his own expense, if he has sufficient means; oth-
3 erwise at the expense of the state.

SECT. 4. Any person committed under section two may be
2 discharged by any judge of the supreme judicial court, or by
3 two justices of the peace and quorum of the county where
4 he is placed one chosen by his friends and the other by the
5 trustees of the hospital on satisfactory proof, that if enlarged
6 he would not be dangerous to the peace and safety of the
7 community; or on application of any friend of the insane he
8 may be committed to the custody of such friend by his giv-
9 ing bond to the judge of probate for the same county with
10 sufficient sureties approved by said magistrates conditioned
11 for his safe keeping, and the payment of all damages which
12 any person sustains by the acts of the insane.

SECT. 5. When an inmate of the state prison becomes in-
2 sane, the warden shall notify the governor of the fact, and
3 he with advice of council shall appoint a commission of two
4 or more skillful physicians to investigate the case, and if
5 such inmate is found insane by their examination, he shall
6 be sent to the insane hospital until he becomes of sound
7 mind; and if this takes place before the expiration of his

8 sentence, he shall be returned to prison; but if after he
9 shall be discharged free. The expenses of the commission
10 removal and support shall be paid by the state.

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1847, c. 33, § 16.

Chapter 138.

PARDONS AND FUGITIVES FROM JUSTICE.

PARDONS.

- Sect. 1.* Conditional pardons may be granted to persons under sentence of death.
2. Written notice shall be given to county attorney on all petitions for pardon, and any other notice ordered by executive, and they may require the minutes of the trial.

FUGITIVES FROM JUSTICE IN THIS STATE.

3. Governor to appoint an agent to demand and receive fugitives in other states.
4. May offer rewards for apprehending persons convicted, or charged with crimes.

FUGITIVES FROM JUSTICE IN OTHER STATES.

5. May issue his warrant to surrender fugitives found in this state.
6. When the court or magistrates may issue warrants for the arrest of fugitives from justice found in this state.
7. The case to be examined, and if made out, may be continued to obtain executive warrant, and accused bailed or committed. Results of forfeiture of such bail.
8. He shall be discharged at the adjourned day unless executive warrant is obtained, or for cause case further continued, but these proceedings not to prevent arrests in the ordinary mode.
9. The complainant shall be answerable for costs of such proceedings.

Pardons.

SECT. 1. When any person sentenced to suffer the punishment of death applies to the governor for a pardon, he may by the advice and consent of the council grant a pardon on condition, that the convict shall be imprisoned or confined to hard labor for life or any term of years expressed in the pardon; and to carry the same into effect may issue his warrant directed to all proper officers, who shall serve and obey it, as if such had been the original sentence.

Conditional pardons may be granted to persons under sentence of death.

R. S., c. 174, § 4.

SECT. 2. On all petitions to the governor for pardons or commutation of sentence, written notice thereof shall be given to the county attorney for the county where the case was tried, and such other notice in any newspapers as the governor orders; and the governor and council may require the judge and prosecuting officer who tried the case to furnish them a concise statement of it as proved at the trial, and any other facts bearing on the propriety of granting the pardon.

Written notice shall be given to county attorney on all petitions for pardon, &c.

1849, c. 99,
§ 1, 2, 3.

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Fugitives from justice in this state.

Governor to
appoint an agent
to demand and
receive fugitives
in other states.

R. S., c. 174, § 1.

May offer
rewards for
apprehending
persons
convicted, &c.

R. S., c. 174, § 3.

SECT. 3. In any case authorized by the constitution and laws of the United States the governor may appoint an agent to demand and receive of the executive authority of any other state any fugitive from justice charged with any crime in this state; and the accounts of such agent shall be audited and paid by order of the governor and council from the treasury.

SECT. 4. He may offer and pay a suitable reward, not exceeding one thousand dollars to any person, who by reason of such offer arrests brings back and secures any prisoner escaping from prison in this state convicted or charged with any capital crime or other high offense, or any person who has committed such offense and is not arrested therefor, when he cannot be arrested and secured in the ordinary course of proceedings, and with the advice of council may draw his warrant on the treasurer for the payment thereof.

Fugitives from justice in other states.

May issue his
warrant to
surrender
fugitives found
in this state.

R. S., c. 174, § 2.

When the court
or magistrates
may issue
warrants for
the arrest of
fugitives, &c.

1846, c. 193, § 1.

The case to be
examined, &c.

When the court
or magistrates
may issue
warrants for
the arrest of
fugitives, &c.

1846, c. 193, § 2.

SECT. 5. When such demand as is mentioned in section three is made on the governor of this state, and he is satisfied on examination of the grounds thereof, that it is according to law and ought to be granted, he shall issue his warrant under the seal of the state authorizing the agent making the demand at his own expense to take and transport such fugitive to the line of the state at the time designated in the warrant, and shall therein require the civil officers of the state to afford all needful aid in its execution.

SECT. 6. When any such fugitive from justice in another state is found in this state, any court or magistrate authorized to issue warrants in criminal cases on complaint under oath setting forth the offense and other facts necessary to bring the case within the provisions of law may grant a warrant and have the accused arrested for examination, as in other cases.

SECT. 7. On such examination, if the court or magistrate believes that the complaint is true, and that the accused can lawfully be demanded of the governor, the case shall be adjourned long enough to obtain an executive warrant, and if the offense is bailable, the accused may recognize with sufficient sureties to appear at the adjournment; and if he does not so recognize or the offense is not bailable he shall be committed; and if any such recognizance is forfeited, the same proceedings shall be had as in case of other recognizances.

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SECT. 8. If the accused appears at the adjournment, he shall be discharged, unless some person is authorized to receive him by an executive warrant, or another adjournment is ordered for sufficient cause, and in that case the same proceedings shall be had as at the first adjournment; but nothing in this and the two preceding sections shall prevent the arrest of any accused by an executive warrant, and such arrest shall discharge any such existing recognizance.

He shall be discharged at the adjourned day, &c.

1846, c. 193, § 3.

SECT. 9. The complainant shall be answerable in all such cases for the actual costs and charges, and the support in prison of the accused when committed to be paid as a creditor pays for his debtor committed on execution; and if his support in prison is not so paid, the jailer may discharge the accused as if he were committed on execution for debt.

The complainant shall be answerable for costs of such proceedings.

1846, c. 193, § 4.

Chapter 139.

CORONERS' INQUESTS.

- Sect. 1.* When inquests shall be taken, the coroner's warrant to the constable to summon a jury.
2. Duties of constable and jurors, and penalties for neglect.
 3. Juror's oath.
 4. Talesmen.
 5. Subpœnas for witnesses, and their oath.
 6. Testimony to be in writing and signed. Power of coroner to recognize the witnesses.
 7. Coroner's charge to the jury, and proclamation for persons to give evidence.
 8. Form of verdict.
 9. Coroner may issue a warrant for the arrest of the person charged by the inquest.
 10. Coroner to bury the body. Expenses of inquest and burial how paid.
 11. Reasonable compensation to coroner and all others concerned for their services and expenses, and person may be employed to watch the dead body.

SECT. 1. Any coroner shall hold inquests on dead bodies of such persons only as appear or are supposed to come to their death by violence, and not when it is believed their death was caused by casualty; and as soon as he is notified of any such dead body in his county, he shall make out his warrant in the following form directed to any of the constables of the same town or an adjoining town in his county requiring him forthwith to summon a jury of six good and lawful men of their towns to appear before him at the time and place fixed in the warrant:

When an inquest shall be taken, &c.

[L. s.] To either of the constables in the town of _____,
in the county of _____;

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13 In the name of the State of Maine you are hereby required
 14 immediately to summon six good and lawful men of said town
 15 of —, to appear before me one of the coroners of the
 16 county of —, at the dwelling house of — —, (or at
 17 the place called —,) within said town of —, at the
 18 hour of —, then and there to inquire upon and view the
 19 body of — —, there lying dead, how and in what man-
 20 ner he came to his death. Fail not herein at your peril.

R. S., c. 176,
 § 1, 2.

Duties of
 constable and
 jurors, and
 penalties for
 neglect.

21 Given under my hand and seal, at —, the — day
 22 of — in the year eighteen hundred and — S. F.

SECT. 2. The constable to whom such warrant is directed
 2 and delivered shall forthwith execute it, and repair to the
 3 place where the dead body is at the time appointed, and
 4 make return of the warrant with his doings to said coroner,
 5 or he shall forfeit the sum of ten dollars; and every person
 6 summoned as a juror neglecting to attend at the time and
 7 place appointed without reasonable excuse shall forfeit and
 8 pay the sum of seven dollars; to be recovered in an action
 9 of debt in the name of the coroner or the county and for
 10 the use of the county.

R. S., c. 176, § 3.

Juror's oath.

SECT. 3. The coroner shall administer to the jurors who
 2 appear in view of the body the following oath: You sol-
 3 emnly swear that you will diligently inquire and true pre-
 4 sentment make on behalf of this state, how, when, and in
 5 what manner, the person whose body here lies dead came
 6 to his death, and you shall return to me a true inquest
 7 thereof according to your knowledge and such evidence as
 8 shall be laid before you. So help you God.

R. S., c. 176, § 4.

Talesmen.

SECT. 4. If the six jurors summoned do not appear as
 2 commanded, the coroner may require the constable or any
 3 other person he may appoint to return jurors from the by-
 4 standers to complete the number.

R. S., c. 176, § 5.

Subpœnas for
 witnesses, and
 their oath.

SECT. 5. The coroners may issue subpœnas for witnesses
 2 to be served as in other cases, and shall administer to them
 3 an oath as follows:

4 You solemnly swear, that the evidence which you shall give
 5 to this inquest concerning the death of the person here lying
 6 dead shall be the truth, the whole truth, and nothing but
 7 the truth. So help you God.

R. S., c. 176,
 § 6, 7.

Testimony to be
 in writing and
 signed, &c.

SECT. 6. The evidence of all the witnesses shall be in
 2 writing and signed by them; and if it relates to the trial of
 3 any person concerned in the death, the coroner shall bind
 4 such witnesses by recognizance in a reasonable sum for their
 5 personal appearance at the next supreme judicial court to

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6 be held in the same county to give their testimony accord-
 7 ingly; and if they do not so recognize, he shall commit them
 8 to prison, and return to the same court the inquisition, writ-
 9 ten evidence, and recognizance by him taken.

R. S., c. 176, § 8.

SECT. 7. After the coroner has sworn the jurors, he shall
 2 charge them to declare whether the person died by felony
 3 mischance or accident; if by felony, who were principals and
 4 accessories; the instrument employed and all important cir-
 5 cumstances; if by mischance or by his own hand, in what
 6 manner, and all attending circumstances, and make procla-
 7 mation for all persons who can give any evidence to draw
 8 near and be sworn.

Coroner's charge to the jury, &c.

R. S., c. 176, § 9.

SECT. 8. The jury after examining the body, hearing the
 2 evidence and making all useful inquiries, shall draw up and
 3 deliver to the coroner their verdict in writing under their
 4 hand and seals in substance as follows:

Form of verdict.

5 An inquisition held at ———, within the county of ———,
 6 the ——— day of ———, in the year ———, before S. F.,
 7 one of the coroners of said county upon view of the body of
 8 ——— ———, there lying dead by the oaths of ———
 9 ——— ——— ———, good and lawful men, who being
 10 charged and sworn to inquire for the state, when, how, and
 11 by what means the said ——— ——— came to his death,
 12 upon their oaths say: (then insert, how, when and by what
 13 means, and with what instrument he was killed.) In testi-
 14 mony whereof the said coroner and the jurors of this inquest
 15 have hereunto set their hands and seals the day and year
 16 above said.

R. S., c. 176,
§ 10.

SECT. 9. If any person charged by the inquest with caus-
 2 ing the death of such person is not then in custody, the cor-
 3 oner shall have the same power as a justice of the peace to
 4 issue a warrant for the apprehension of such accused to be
 5 returned before any judge or justice of the peace, who shall
 6 proceed therein according to law.

Coroner may
issue a warrant,
&c.R. S., c. 176,
§ 11.

SECT. 10. Every coroner within his county, after the return
 2 of an inquisition of the jury upon view of the dead body of a
 3 stranger, shall bury the body in a decent manner, and all the
 4 expenses attending the burial and the expenses of the inqui-
 5 sition, shall be paid to the coroner out of the state treasury,
 6 if the coroner certifies under oath, that the deceased was a
 7 stranger not belonging to the state according to his best
 8 knowledge and belief; otherwise the expenses of burial shall
 9 be paid to the coroner by the town where the body was found,

Coroner to bury
the body, &c.R. S., c. 176,
§ 12.

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Reasonable
compensation to
coroner, &c.

R. S., c. 176, § 7.
1846, c. 187.
1855, c. 179.

10 and repaid to such town by the town to which he belonged in
11 the state; and the expense of the inquisition by the county.

12 SECT. 11. The coroner, jurors, witnesses, and any other
13 person required to summon jurors or witnesses, shall be
14 allowed in addition to the regular fees a sum sufficient to
15 make a reasonable compensation for all their services and
16 expenses; and any coroner if necessary may employ some
17 person to watch the dead body till an inquest is held, for
18 which a suitable compensation shall be allowed.