

MAINE STATE LEGISLATURE

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REPORT
OF
THE COMMISSIONER
ON THE
REVISION AND CONSOLIDATION
OF THE
PUBLIC LAWS
OF THE
STATE OF MAINE,
UNDER
Resolve of March 21, 1901.

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TITLE ELEVEN.

Crimes and Offenses, Proceedings in Criminal Cases, Punishments and Incidental Provisions.

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- 117. Offenses against the lives and persons of individuals.
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CHAPTER 116.

OFFENSES AGAINST THE SOVEREIGNTY OF THE STATE.

Treason,
defined; how
to be proved.
R. S., c. 117, § 1.

SEC. 1. Treason consists in levying war against the State, adhering to its enemies, and giving them aid and comfort. No person can be convicted of it without the testimony of two witnesses to the same overt act, or confession in open court. Its punishment is imprisonment for life.

[The difference in phraseology between section twelve of the Declaration of Rights and section one of this chapter should be noted. The variation first appears in the revision of 1857. The commissioner recommends the adoption of the following:

Sec. 1. Whoever is guilty of treason against the State, shall be punished by imprisonment for life.]

Misprision of
treason, its
definition,
and punish-
ment.
R. S., c. 117, § 2.

SEC. 2. Misprision of treason consists in a knowledge that treason has been, or is to be committed, and in the concealment of it, or in omission to give information thereof to the governor, a judge of a court of record, or a justice of the peace. No person can be convicted of it without the testimony of two witnesses, but one of them may testify to one, and another to a different overt act of the same species of treason; or by confession in open court. Its punishment is imprisonment not exceeding five years, or fine not exceeding one thousand dollars.

SEC. 3. No person can be convicted of treason or misprision of treason, unless the indictment therefor is found within three years after the commission thereof.

Prosecution to be within three years.
R. S., c. 117, § 3.

SEC. 4. If a person, claiming authority from any foreign government or magistrate, enters upon any lands, cuts any timber, serves any process, exercises any jurisdiction, authority, or ownership, claims any right, or threatens to do any of said acts within the limits of this state, as described by the treaties of seventeen hundred and eighty-three and eighteen hundred and forty-two, between the United States and Great Britain, he and every person aiding and encouraging the same shall be punished by imprisonment and fine, at the discretion of the court.

Usurpation of jurisdiction by a foreign power.
R. S., c. 117, § 4.

—overt acts within the state, how to be punished.

SEC. 5. Whoever in any manner, for exhibition or display, places or causes to be placed any inscription, device, advertisement or notice whatever upon any flag, standard, color or ensign of the United States or state flag of this state, or displays or exhibits or causes to be displayed or exhibited any flag, standard, color or ensign of the United States or flag of this state upon which shall in any manner be placed or affixed any inscription, device, advertisement or notice whatever, or attaches to or represents upon any goods, wares or merchandise, any imitation or representation of the national flag of the United States, or uses any imitation or representation of the national flag of the United States for advertising purposes or in any manner mutilates, tramples upon or otherwise defaces or defiles any of said flags, standards, colors or ensigns, whether they are public or private property, shall be punished by a fine of not less than five, nor more than fifty dollars. *Provided, however,* that flags, standards, colors or ensigns, the property of or used in the service of the United States, or of this state, may have inscriptions, names of actions, words, marks or symbols, placed thereon pursuant to law or authorized regulations, and that associations organized by men who have served in the army or navy of the United States may place appropriate inscriptions upon flags borne by them or used for memorial purposes, and duly appointed and accredited committees of political parties, may during the campaign preceding any election for president and vice-president of the United States, attach the names of their respective candidates to the flag.

Desecration of flag of U. S. or of this state.
1899, c. 132.

—how punished.

—inscriptions, symbols, etc., may be placed on flag pursuant to law, etc.

SEC. 6. Whoever knowingly and wilfully removes the seal of the State of Maine from the office or custody of the secretary of state at Augusta, or knowingly and wilfully secretes, defaces, injures, or destroys it, or wilfully aids or assists in so doing, or, having the same in his possession, or under his control, wilfully neglects or refuses to deliver it to the secretary of state upon demand therefor, shall be punished by imprisonment for not less than one, nor more than five years, and by fine not exceeding five thousand dollars.

State seal, removal of, injury to, and neglect or refusal to deliver up, prohibited.
R. S., c. 117, § 5.

—punishment.

SEC. 7. Whoever knowingly and wilfully uses the seal of the State of Maine, or takes any impression therefrom, for any purpose, in any other place than the office of the secretary of state at Augusta, or knowingly and wilfully issues, or receives and acts under any commission, record, document, parchment, instrument or paper, bearing the impression of said seal, unless the same has been sealed in said office of said secretary of state at Augusta, shall be punished by imprisonment for not more than three years and by fine not exceeding three thousand dollars.

Use of great seal in any place but the office of secretary of state, prohibited.
R. S., c. 117, § 6.

—punishment.

SEC. 8. Whoever knowingly and wilfully removes from the state house at Augusta, or from the custody of the secretary of state, or of the governor and council, or other officer or person in whose lawful custody the same are deposited and kept in said state house, any book of accounts, voucher, record, return, returned copies of lists of votes given for any public officer, certified copy of any record, or other document or instrument, belonging to, or kept in any of the offices in said state house, except the books and documents kept and deposited in the state library, or knowingly and wilfully secretes, alters, mutilates, defaces, or destroys any such

Books and papers, removal of from state offices, secretion, mutilation, or refusal to return, prohibited.
R. S., c. 117, § 7.

book of accounts, voucher, record, return, returned copies of lists of votes given for any public officer, certified copy of any record, or other document or instrument, or knowingly and wilfully aids or assists in so doing, or having any such book of accounts, voucher, record, return, returned copies of lists of votes given for any public officer, certified copy of any record, or other such document or instrument in his possession, or under his control, wilfully neglects or refuses to return the same to said state house, or to deliver the same to the person in lawful charge of the office or room in said state house, where the same were kept or deposited, shall be punished by imprisonment, for not less than one, nor more than three years and by fine not exceeding five thousand dollars.

—punishment.

Persons who have held public office, shall on written demand, deliver moneys and other public property to their successors.
R. S., c. 117, §8.

—punishment for refusal.

Person, falsely assuming to act as a state officer, how to be punished.
R. S., c. 117, §9.

—punishment.

SEC. 9. When any person, having held any public office in this state, and having in his possession or under his control, any moneys, books of account, records, accounts, vouchers, documents or other property, or effects pertaining or belonging to said office, or to the State, or to any county or municipality in the state, and whose term of office has expired, and whose successor in said office has been elected or appointed and qualified, after a written demand for the same, wilfully refuses to deliver such moneys, books of account, records, accounts, vouchers, documents or other property or effects aforesaid to such successor in said office, he shall be punished by imprisonment not exceeding five years, and by fine not exceeding five thousand dollars.

SEC. 10. Whoever knowingly and falsely assumes to be a state officer of the State of Maine, and to act as such, or knowingly and falsely assumes to discharge any of the duties of such officer, or knowingly and wilfully invites or receives any communication, document, record or letter properly belonging to such state officer, or relating to the office or official business of said officer, or, in any way, knowingly and wilfully obstructs or delays such officer in the discharge of any of his official duties, shall be punished by imprisonment for not less than one, nor more than five years, and by fine not exceeding five thousand dollars.

CHAPTER 117.

OFFENSES AGAINST THE LIVES AND PERSONS OF INDIVIDUALS.

SEC. 1. Whoever unlawfully kills a human being with malice aforethought, either express or implied, is guilty of murder, and shall be punished by imprisonment for life. (a)

SEC. 2. Whoever unlawfully kills a human being in the heat of passion, on sudden provocation, without express or implied malice aforethought, or commits manslaughter as defined by the common law, shall be punished by imprisonment for not more than ten years, or by fine not exceeding one thousand dollars. (b)

[Robert T. Whitehouse, Esq., county attorney for Cumberland county, suggests to the commissioner that the maximum penalty for manslaughter should be twenty years, and the commissioner concurs in this suggestion. Mr. Justice Rice in delivering the opinion in *State v. Waters*, 39 Me., 54, at page 67, called the attention of the profession to the fact that "while the maximum punishment for manslaughter is imprisonment for a term of ten years in the state prison, the punishment for an assault, with a dangerous weapon, with intent to kill, may be imprisonment twenty years in the same prison, thereby making the attempt to commit a crime much more highly penal than the commission of the substantive crime." This inconsistency still exists in the statutes of this state. See section twenty-five.]

The commissioner also suggests that c. 263 of the Public Laws of 1901, may be considered to have failed in the object which the legislature undoubtedly had in view when that law was enacted, and that sections three and four of this chapter may well be repealed.]

SEC. 3. Whoever while on a hunting trip, or in the pursuit of wild game or game birds, negligently or carelessly shoots and wounds, or kills any human being, shall be punished by imprisonment for not more than ten years, or by fine not exceeding one thousand dollars.

SEC. 4. County attorneys and sheriffs, in their respective counties, shall promptly investigate any alleged violations of the preceding section and prosecute every person accused thereof; for failure so to investigate and prosecute, each of said officers shall be punished by fine not exceeding one thousand dollars, and shall be removed from office.

SEC. 5. Whoever wilfully and maliciously displaces a switch or rail, disturbs, injures or destroys any part of an engine, car, signal, track or bridge of any railroad, or places an obstruction thereon with intent that any person or property passing on the same should be thereby injured, and human life is thereby destroyed, is guilty of murder of the first degree and shall be punished accordingly. If human life is thereby endangered and not destroyed, or if property is injured, he shall be punished by imprisonment and hard labor during life or for not less than ten years.

SEC. 6. Whoever, having charge of a steamboat used for conveyance of passengers, or of the boiler or other apparatus for generating steam therein, through ignorance, gross neglect, or for the purpose of racing, creates or allows to be generated such a quantity of steam as to break such boiler, apparatus, or machinery connected therewith, (or whoever intentionally loads or obstructs or causes to be loaded or obstructed in any way the safety valve of the boiler, or employs any other means or device whereby the boiler may be subjected to a greater pressure than the amount allowed by the inspectors' certificate, or intentionally deranges or hinders the operation of any machinery or device employed to denote the stage of the water or steam in any boiler or to give warning of approaching danger, or intentionally permits the water to fall below the prescribed low water line of the boiler, or is directly or indirectly concerned therein, and

Murder defined and punished.
R. S., c. 118, §§ 1-4.
1887, c. 133, § 1.

Manslaughter, defined and punished.
R. S., c. 118, § 5.

Penalty for carelessly shooting a human being while engaged in hunting.
1901, c. 263, § 1.

County attorney and sheriff shall investigate violations of § 3.
1901, c. 263, § 2.
—penalty.

Penalty for destroying human life by obstructing railroads.
R. S., c. 118, § 6.
See § 1.

—endangering life, or injuring property.

Misconduct or gross neglect, respecting steam in steamboats, and boilers.
R. S., c. 118, § 7.

—interference with safety valve, etc.
R. S., c. 52, § 19.

(a) 37 Me., 469; 39 Me., 66, 87; 51 Me., 222; 54 Me., 415; 57 Me., 582; 58 Me., 567-589; 95 Me., 372.

(b) 32 Me., 374; 33 Me., 55; 39 Me., 67.

—penalty.

Murder by duelling, defined and punished.
R. S., c. 118, § 8.
See § 1.

Murder, by a second to such duel.
R. S., c. 118, § 9.
See §§ 1, 7.

Trial in another state, bars indictment here.
R. S., c. 118, § 10.

Duelling, how punished.
R. S., c. 118, § 11.

Accepting a challenge, or aiding a duel, how punished.
R. S., c. 118, § 12.

Leaving state to elude two preceding sections, and then doing such acts, punished.
R. S., c. 118, § 13.

Posting for not fighting a duel, etc.
R. S., c. 118, § 14.

Mayhem, defined and punished.
R. S., c. 118, § 15.

Robbery, defined and punished.
R. S., c. 118, § 16.
1889, c. 250.
86 Me., 430.

Rape, defined and punished.
R. S., c. 118, § 17.
1889, c. 180, § 1.

thereby human life is destroyed, is guilty of manslaughter and shall be punished accordingly. And if human life is thereby endangered and not destroyed he shall be punished by fine not exceeding five hundred dollars, or by imprisonment for not more than five years,) *and thereby human life is destroyed, shall be punished by imprisonment for not more than four, nor less than two years; and if human life is endangered and not destroyed, by imprisonment for less than one year, and by fine not exceeding two hundred and fifty dollars.*

SEC. 7. Any person residing in the 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 the state, is guilty of murder *of the first degree*, and shall be punished accordingly; and he may be indicted and tried in the county where the death happened.

SEC. 8. A person who, by an engagement made in the state, is second to either party in such duel and is present when a mortal wound is inflicted, of which the person dies within the state, is an accessory before the fact, to murder *of the first degree*, and may be indicted, tried, and punished, the same as the principal may be.

SEC. 9. A person indicted under sections seven, eight or twelve, may plead a former conviction or acquittal of the same offense, in another state, which, being admitted or established, entitles him to an acquittal in this state.

SEC. 10. Whoever fights a duel with deadly weapons, or is present thereat as aid, second, surgeon, or as advising, encouraging, or promoting it, although no homicide ensues; or sends, or delivers a verbal or written message intended to be a challenge, although no duel ensues, shall be punished by imprisonment for 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.

SEC. 11. 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, although no duel ensues, shall be punished by imprisonment for less than one year, and by fine not exceeding one thousand dollars; and be incapable, as in the preceding section, for five years after conviction.

SEC. 12. If a resident of the state leaves it to elude either of the two preceding sections, with intent to do acts out of the state which would be a violation of either of their provisions if done within the state, and does such acts, he shall be subject to the same punishment as if the offense had been committed in the state; and he may be indicted and tried in the county where he resides.

SEC. 13. Whoever posts another, or uses, in writing or in print, reproachful or contemptuous language concerning him for not fighting a duel, or for not sending or accepting a challenge, shall be punished by imprisonment for less than one year, and by fine not exceeding one hundred dollars.

SEC. 14. Whoever, with malicious intent to maim or disfigure, cuts or maims the tongue, puts out or destroys an eye, cuts or tears off an ear, cuts, slits, or mutilates the nose or lip, or cuts off or disables a limb or other member of another person, shall be punished by imprisonment for not less than one, nor more than twenty years.

SEC. 15. Whoever, by force and violence, or by putting in fear, feloniously steals and takes from the person of another, property that is the subject of larceny, is guilty of robbery and shall be punished by imprisonment *for life, or for any term of years.*

SEC. 16. Whoever ravishes, and carnally knows, any female of fourteen or more years of age, by force and against her will, or unlawfully and carnally knows and abuses a female child under fourteen years of age, shall be punished by imprisonment *for life, or for any term of years.* (a)

SEC. 17. Whoever, being more than twenty-one years of age, has carnal knowledge of the body of any unmarried female child, between the ages of fourteen and sixteen years, shall be punished by fine not exceeding five hundred dollars or by imprisonment for not more than two years. The provisions of this section shall not apply to cases of rape as defined in the preceding section.

Protection of girls between the ages of fourteen and sixteen.
1897, c. 213.

SEC. 18. Whoever takes a woman unlawfully and against her will, and by force, menace, or duress, compels her to marry him, or any other person, or to be defiled, shall be punished by imprisonment for *life or for* any term of years. And whoever so takes a woman, with intent by such means to compel her to do so, shall be punished by imprisonment for not less than one, nor more than ten years.

Abduction, defined and punished.
R. S., c. 118, § 18.

SEC. 19. Whoever unlawfully confines or imprisons another, or forcibly transports or carries him out of the state, or from place to place within it, or so seizes, conveys, inveigles, or kidnaps any person, with intent to cause him to be so dealt with; or sells as a slave, or transfers, for any term of time, the service of any person of color, who has been so seized, inveigled, or kidnapped, shall be punished by imprisonment for not more than twenty years, or by a fine not exceeding one thousand dollars. Indictments for these offenses may be found and tried in the county where such person was carried or brought, or in the county where the offense was committed; and on trial the consent of such person shall not be a defense, unless it appears that it was not obtained by fraud, threats, or duress.

Kidnapping, how punished.
R. S., c. 118, § 19.
1901, c. 139.

—jurisdiction.

—consent.

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

Abandonment of children.
R. S., c. 118, § 20.

SEC. 21. If the master of a vessel carries out of the state an apprentice, indented servant, or person under twenty-one years of age, without the consent of his parent, master, or guardian, he shall be punished by fine not exceeding two hundred dollars; and be liable in an action on the case, to such parent, master, or guardian, for all damages thereby sustained.

Shipmasters, carrying apprentices and minors out of state.
R. S., c. 118, § 21.
11 Me., 106.

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

Enlistment of minors into the army of U. S.
R. S., c. 118, § 22.

SEC. 23. Whoever, verbally, or by written or printed communication maliciously threatens to accuse another of a crime or offense, or to injure his person or property, with intent thereby to extort money or procure any advantage from him, or to compel him to do any act against his will, and whoever being more than sixteen years of age shall wilfully and wantonly or maliciously vex, irritate, harass or torment any person, in any way, after having been forbidden so to do, by any sheriff, deputy sheriff, constable, police officer or justice of the peace, shall be punished by imprisonment not exceeding two years, or by fine not exceeding five hundred dollars.

Extortion or compulsion, by threats, or mischievously vexing or tormenting another.
R. S., c. 118, § 23.
1893, c. 302.
24 Me., 72.
68 Me., 474.
85 Me., 195.

SEC. 24. Whoever assaults a female of fourteen years of age or more, with intent to commit a rape, shall be punished by imprisonment not exceeding ten years, or by fine not exceeding five hundred dollars. If such assault is made on a female under fourteen years, such imprisonment shall not be for less than one year, nor more than twenty years.

Assault on a female with intent to commit a rape.
R. S., c. 118, § 24.
1889, c. 180, § 2.
Assault with intent to murder, maim, rob, etc.
R. S., c. 118, § 25.

SEC. 25. Whoever assaults another with intent to murder, kill, maim, rob, steal, or to commit arson or burglary, if armed with a dangerous weapon, shall be punished by imprisonment for not less than one, nor more than twenty years; when not so armed, by imprisonment for not more than ten years, or by fine not exceeding one thousand dollars. (a)

(a) 37 Me., 469; 39 Me., 66; 42 Me., 385; 84 Me., 250; 87 Me., 76; 88 Me., 197; 90 Me., 273.

To commit
other felony.
R. S., c. 118,
§ 26.

69 Me., 182.
Attempt to
murder, with-
out assault.
R. S., c. 118,
§ 27.

Assault, and
assault and
battery.
R. S., c. 118,
§ 28.

59 Me., 575.
69 Me., 182.
73 Me., 281.

SEC. 26. Whoever commits an assault not before described, with intent to commit a felony, shall be punished by imprisonment for not more than five years, or by fine not exceeding one thousand dollars.

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

SEC. 28. Whoever unlawfully attempts to strike, hit, touch, or do any violence to another however small, in a wanton, wilful, angry, or insulting manner, having an intention and existing ability to do some violence to such person, is guilty of an assault; and if such attempt is carried into effect, he is guilty of an assault and battery, and for either offense, he shall be punished by imprisonment not exceeding five years, or by fine not exceeding one thousand dollars, when no other punishment is prescribed.

CHAPTER 118.

OFFENSES AGAINST HABITATIONS AND OTHER BUILDINGS.

Arson of a
dwelling-
house.
R. S., c. 119, § 1.
55 Me., 367.
63 Me., 135.
66 Me., 307.
71 Me., 355.

SEC. 1. Whoever wilfully 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 intent to burn such dwelling-house, and it is thereby burned, in the night time, shall be punished by imprisonment *at hard labor* for life. 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*, or for any term of years.

Arson of a
dwelling-
house, owned
by himself.
R. S., c. 119, § 2.
Sec. 125, § 18.

SEC. 2. Whoever wilfully 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 burned, shall be punished by imprisonment for life.

Burning of
public and
private
buildings.
R. S., c. 119, § 3.
12 Me., 215.
45 Me., 329.
58 Me., 243.

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

Burning of
other build-
ings, vessels,
bridges, etc.
R. S., c. 119, § 4.
45 Me., 329.

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

Burning of
produce,
trees, etc.
R. S., c. 119, § 5.

SEC. 5. Whoever wilfully 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 for not less than one, nor more than three years.

Wife is hable,
although
property
burned is her
husband's.
R. S., c. 119, § 6.

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

Burglary,
defined and
punished.
R. S., c. 119, § 7.

SEC. 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, is guilty

of burglary; and whether he is, before or after entering, armed with a dangerous weapon, or whether he assaults any person lawfully therein, or has any confederate present aiding or abetting, or not, in either case, he shall be punished by imprisonment *for life, or* for any term of years; and all burglars' tools or implements prepared or designed for committing burglary, shall be dealt with as provided in section twelve of chapter one hundred and twenty-four.

—burglars' tools, how dealt with.

SEC. 8. Whoever, with intent to commit a felony, breaks and enters in the day time, or enters without breaking in the night time, any dwelling-house, or breaks and enters any office, bank, shop, store, warehouse, vessel, railroad car of any kind, or building in which valuable things are kept, any person being lawfully therein and put in fear, shall be punished by imprisonment for not less than one, nor more than ten years, but if no person was lawfully therein and put in fear, by imprisonment for not more than five years, or by fine not exceeding five hundred dollars.

Breaking and entering with intent to commit a felony.
R. S., c. 119, § 8.
25 Me., 502.
32 Me., 584.
36 Me., 227.
92 Me., 72.

SEC. 9. Any permanent building or edifice, usually occupied by any person by lodging therein at night, is a dwelling-house, although such occupant is absent for a time, leaving furniture or goods therein, with an intention to return; but no building shall be deemed a dwelling-house or part of it, unless connected with, or occupied as part of the dwelling-house.

Dwelling-house, defined.
R. S., c. 119, § 9.

CHAPTER 119.

LARCENY, AND RECEIVING STOLEN GOODS.

SEC. 1. Whoever steals, takes, and carries away, of the property of another, money, goods, or chattels, or any writ, process, public record, bond, bank bill or note, promissory note, bill of exchange, order, certificate, book of accounts, conveyance of real estate, valuable contract, receipt, release, defeasance, or instrument in writing whereby any demand, right, or obligation, is created, increased, diminished, or extinguished, is guilty of larceny; and shall be punished, when the value of the property exceeds one hundred dollars, by imprisonment for not less than one, nor more than five years; otherwise, by imprisonment for not more than two years or by fine not exceeding one hundred dollars.

Larceny, defined and punished.
R. S., c. 120, § 1.
17 Me., 195.
19 Me., 228, 400.
21 Me., 18.
62 Me., 285.
66 Me., 441.
72 Me., 463.
86 Me., 432.

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

Larceny by night in a dwelling-house, or at any time breaking and entering certain other buildings, vessel, or railroad car.
R. S., c. 120, § 2.
—punishment.

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

Larceny at a fire.
R. S., c. 120, § 3.
See c. 26, § 11.

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

Larceny from the person.
R. S., c. 120, § 4.
86 Me., 432.

SEC. 5. Whoever, after being convicted of larceny as principal or as accessory before the fact, is again convicted thereof, or is convicted of three distinct larcenies at the same term of court, shall be deemed a common thief, and be punished by imprisonment for not less than four, nor more than fifteen years.

Common thief, described and punished.
R. S., c. 120, § 5.
91 Me., 80, 85.

Larceny, by falsely personating another.
R. S., c. 120, § 6.

Taking of any beasts or birds kept in confinement, larceny.
1895, c. 54.

Larceny, by embezzlement or fraudulent conversion of property.
R. S., c. 120, § 7.
See c. 42, § 2.
62 Me., 108.
69 Me., 28, 364.
70 Me., 265.
90 Me., 144.
95 Me., 183.

—the receiver liable.

—proviso.

Prosecutions for embezzling, or fraudulently converting money, etc., by cashier or other officer.
R. S., c. 120, § 8.

—allegations in the indictment.

—evidence at the trial.

—what evidence is sufficient to maintain the charge in the indictment.

Larceny, by one entrusted with property.
1893, c. 241.
R. S., c. 120, § 9.
See § 1.
33 Me., 131.
91 Me., 111.
95 Me., 182.

—insurance, or other agent, appropriating money to his own use, is guilty of larceny.

SEC. 6. Whoever falsely personates or represents another, and thereby receives anything intended to be delivered to the party personated, with intent to convert the same to his own use, is guilty of larceny and shall be punished accordingly.

SEC. 7. Whoever without the consent of the owner and with a felonious intent, takes any beast or bird ordinarily kept in a state of confinement, and not the subject of larceny at common law, shall be deemed guilty of larceny.

SEC. 8. If an officer, agent, clerk, or servant of a person, co-partnership or corporation, not an apprentice nor less than sixteen years of age, embezzles or fraudulently converts to his own use, or takes and secretes with intent to do so, without the consent of his employer or master, any property of another in his possession or under his care, by virtue of his employment; or, if a public officer, collector of taxes, or an agent, clerk or servant of a public officer or tax collector, embezzles or fraudulently converts to his own use, or loans or permits any person to have or use for his own benefit without authority of law, any money in his possession or under his control by virtue of his office or employment by such officer, he is guilty of larceny and shall be punished accordingly; and whoever knowingly receives from a public officer, collector of taxes, or his clerk, servant or agent, with intent to convert the same to his own use without authority of law, any money in the possession or under the control of such officer by virtue of his office, is guilty of larceny and shall be punished accordingly. But the foregoing provisions in relation to public officers, collector of taxes, their clerks, servants or agents, shall not apply to deposits by such officer in any bank, nor to any advances made towards the salary of such officer, nor to any person in the employment of the State or to whom the State is indebted, if the sums advanced do not exceed the sum due him.

SEC. 9. In prosecutions for embezzling, fraudulently converting to one's own use, or taking and secreting with intent so to embezzle or fraudulently convert, the bullion, money, notes, bank notes, checks, drafts, bills of exchange, obligations or other securities for money, of any person, bank, incorporated company, or co-partnership, by a cashier or other officer, clerk, agent or servant of such person, bank, incorporated company or co-partnership, it is sufficient to allege generally in the indictment an embezzlement, fraudulent conversion, or taking with such intent, of money to a certain amount, without specifying any particulars of such embezzlement; and at the trial, evidence may be given of such embezzlement, fraudulent conversion, or taking with such intent, committed within six months before the time stated in the indictment; and it is sufficient to maintain the charge in the indictment, and is not a variance, if it is proved that any bullion, money, note, bank note, check, draft, bill of exchange or other security for money, of such person, bank, incorporated company or co-partnership, of whatever amount, was fraudulently embezzled, converted or taken with such intent, by such cashier or other officer, clerk, servant, agent, within such period of six months.

SEC. 10. Whoever embezzles, or fraudulently converts to his own use, or secretes with intent to embezzle or fraudulently convert to his own use, money, goods, or property delivered to him, or any part thereof, which may be the subject of larceny, shall be deemed guilty of larceny. *If a person entrusted with any property, the subject of larceny, to be carried, embezzles or fraudulently converts the same to his own use, he is guilty of larceny* and shall be punished accordingly. And any insurance agent, or agent of any corporation doing business in the state, who appropriates to his own use any money, or substitutes for money, received by him as such agent, or refuses or neglects to pay over and deliver the same to the party entitled to receive it, for thirty days after written demand upon him therefor, is guilty of larceny, and shall be punished accordingly.

[P. L. 1893, c. 241 seems to cover all cases where property the subject of larceny has been delivered to a person as a bailee, and therefore includes the case mentioned in the first sentence of R. S., c. 120, § 9. See 95 Me., 179, 184.]

SEC. 11. No trustee, superintendent, treasurer, or other person holding a place of trust in any state office or public institution of the State, shall be pecuniarily interested directly or indirectly in any contracts made in behalf of the State or of the institution in which he holds such place of trust, and any contract made in violation hereof is void; and if such officer or person receives any drawbacks, presents, gratuities or secret discounts to his own use on account of such contracts, or from the profits in any materials, supplies, or labor, furnished or done for the State or such institution, he shall be punished by imprisonment for not more than a year, or by fine not exceeding five hundred dollars.

SEC. 12. Whoever buys, receives, or aids in concealing stolen property, knowing it to be stolen, shall be punished by imprisonment for not more than five years, or by fine not exceeding five hundred dollars. And the conviction of the person, who stole the property, need not be averred or proved. If the stealing was simple larceny, and the person restores or makes satisfaction to the party injured for the full value of such property, he shall not be sentenced to the state prison. If after conviction, he is again convicted of a like offense, or if he is convicted of three such distinct offenses at the same term of court, the imprisonment shall not be for less than one, nor more than ten years.

SEC. 13. The officer, who arrests a person charged with an offense under this chapter, shall secure the property alleged to have been stolen, be answerable for it, and annex a schedule of it to his return; and, upon conviction of the offender, the property stolen shall be restored to the owner.

SEC. 14. The court, other than a municipal or police court or trial justice, upon conviction before it of burglary, robbery, or larceny, and when there is no conviction by reason of the death of the offender, or of his escape without their fault, may allow to the prosecutor, and to the officer who has secured or kept the property, a fair compensation for their actual expenses, time, and trouble in arresting the offender, and securing the property stolen.

SEC. 15. An action, for the recovery of property stolen, may be maintained by the owner against the person liable therefor, although the thief is not convicted.

Public officers are forbidden to have pecuniary interest in public contracts, etc. R. S., c. 120, § 10.
—such contracts are void.
—penalty.

Buying, receiving, or aiding to conceal stolen property. R. S., c. 120, § 11.
29 Me., 334.
—restoration of the stolen property.
—subsequent conviction.

Officer to secure and keep stolen property for the owner. R. S., c. 120, § 12.

Court may make compensation to the prosecutor and officer. R. S., c. 120, § 13.

Action for stolen property. R. S., c. 120, § 14.
53 Me., 132.
67 Me., 77.
68 Me., 236.

CHAPTER 120.

FORGERY AND COUNTERFEITING, AND FRAUDULENT STOCKS.

FORGERY AND COUNTERFEITING.

Forgery of
and publish-
ing as true,
forged
records and
written
instruments.
R. S., c. 121, §1.
1897, c. 176.
2 Me., 366.
20 Me., 82.
22 Me., 281.
47 Me., 167.
50 Me., 419.

SEC. 1. Whoever, with intent to defraud, falsely makes, alters, forges, or counterfeits, any public record or proceeding filed or entered in any court; or process issued, or purporting to be issued, by a competent court, magistrate, or officer; or attestation or certificate of any person required by law, or receivable as legal proof in relation to any matter; or any charter, deed, will, testament, bond, writing obligatory, power of attorney, letter of credit, policy of insurance, bill of lading, bill of exchange, promissory note, order or acceptance, or indorsement or assignment thereof, or of any debt or contract; or acquittance, discharge, or accountable receipt for anything of value; or any other written instrument of another or purporting to be such, by which any pecuniary demand or obligation or any right in any property is or purports to be created, increased, conveyed, transferred, diminished, or discharged; and whoever utters and publishes as true any instrument before mentioned, knowing it to be false, forged, or counterfeit, with like intent, shall be punished by imprisonment for not more than ten years.

Forgery or
counterfeiting
of public
securities,
bank bills, or
coin, etc.
R. S., c. 121, §2.

SEC. 2. Whoever with intent to defraud, falsely makes, alters, forges, or counterfeits, any public security issued in any form or purporting to be by authority of the United States, or any state or territory thereof; or any indorsement or writing purporting to be a transfer thereof; or any bank bill or promissory note issued or purporting to be issued by any bank or banking company in any of the United States, or in any foreign state, province, or government; or any gold or silver coin current in this state; and whoever has in his possession, at one time, ten or more such forged or counterfeit public securities, notes, or pieces of coin with intent to pass them, knowing them to be forged or counterfeit, shall be punished by imprisonment for life, or for any term of years.

Bringing into
the state, or
having in
possession
counterfeits,
with intent to
pass them.
R. S., c. 121, §3.

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

Second and
third con-
victions.
R. S., c. 121, §4.

SEC. 4. Whoever, after being convicted of an offense described in the preceding section, is again convicted thereof, or is convicted of three such distinct offenses at the same term of the court, shall be punished by imprisonment for not less than three, nor more than ten years.

Counterfeit-
ing foreign
coin for
exportation.
R. S., c. 121, §5.

SEC. 5. Whoever forges or counterfeits gold or silver coin of a foreign government or country, with intent to export the same for the purpose of defrauding any foreign government or its subjects, shall be punished by imprisonment for not less than one, nor more than ten years.

Manufacture
or possession
of implements
and materials
for counter-
feiting.
R. S., c. 121, §6.

SEC. 6. Whoever makes or begins to make, mend, cast, stamp, engrave, mould, or provide any plate, block, press, tool, instrument, paper or other material, designed and adapted for making any false, forged, or counterfeit coin, public securities, bank bills or notes, mentioned in this chapter; or has the same in his possession partly or wholly made, with intent to use or permit them to be used for that purpose, shall be punished by imprisonment for not more than three years or by fine not exceeding five hundred dollars; and all such tools, implements, and materials shall be disposed of as provided in section twelve of chapter one hundred and twenty-four.

—disposal
of them.

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

Total erasures, and fraudulent connections of instruments.
R. S., c. 121, § 7.

SEC. 8. In prosecutions for any offense described in this chapter relating to the bills or notes of any bank, if the president or cashier thereof resides out of the state, or more than forty miles from the place of trial, any other witness, acquainted with their signatures and with the difference between the true and counterfeit bills of such bank, may be admitted to prove them forged and counterfeit; and if such prosecution relates to public securities, a certificate of the tenor of the genuine public security, alleged to be forged or altered, made under oath by the secretary of the treasury, or treasurer of the United States, or by the secretary or treasurer of any state by which such security purports to be issued, is evidence to prove them forged or altered.

Testimony, sufficient to prove public securities and bank bills to be counterfeits in certain cases.
R. S., c. 121, § 8.

FALSE CERTIFICATES, AND FALSE ISSUES AND TRANSFERS OF STOCKS.

SEC. 9. If any person, legally authorized to take the proof or acknowledgement of any instrument that by law may be recorded, wilfully and falsely certifies that such proof or acknowledgement was duly made; or if any person fraudulently affixes a fictitious or pretended signature, purporting to be that of an officer or agent of a corporation, to any written instrument purporting to be a draft, note, or other evidence of debt issued by such corporation, with intent to pass the same as true, although such person never was an officer or agent of such corporation, or never existed, he is guilty of forgery and shall be punished as provided in section one.

Forgery by false certificates, and fictitious signatures.
R. S., c. 121, § 9.

SEC. 10. If an officer or agent of a corporation wilfully signs with intent to issue, or issues any certificate purporting to be a certificate or other evidence of the ownership or of the transfer of any stock in such corporation, not authorized by its charter, by-laws, or votes, or without such authority issues, sells, or pledges such certificate or other evidence of ownership or transfer of stock after it is lawfully signed, he shall be punished by imprisonment in the state prison for not more than ten years, and by fine not exceeding one thousand dollars.

Making or issuing false certificates of stock, or pledging genuine, without authority.
R. S., c. 121, § 10.

REWARDS TO INFORMERS AND PROSECUTORS.

SEC. 11. The following rewards shall be paid to the person informing and prosecuting in the cases described below: Sixty dollars for each person convicted and sentenced for either of the aforesaid offenses of forging and counterfeiting any coin, public security, bank bill, or note; and forty dollars for each person convicted and sentenced for either of the aforesaid offenses of possessing with intent to utter, or of knowingly uttering such coin, public security, bank bill, or note; these rewards shall be paid out of the treasury of the State by warrant of the governor and council, granted on certificate of the judge who tried the case; and where there are two or more informers and prosecutors for the same offense, the reward shall be divided between them equally, or in such proportions as said judge determines.

Rewards for conviction of forgers and counterfeiters.
R. S., c. 121, § 11.

CHAPTER 121.

OFFENSES AGAINST PUBLIC JUSTICE.

Definition and punishment of perjury and subornation of perjury.
R. S., c. 122, § 1.
1885, c. 256, § 1.
See c. 4, § 139;
c. 26, § 49;
c. 28, § 5;
c. 39, § 42, 50;
c. 49, § 157;
c. 60, § 5;
c. 66, § 6;
c. 86, § 77.

Attempted subornation of perjury.
R. S., c. 122, § 2.
1885, c. 256, § 2.

Proceedings, by any court, on presumption of perjury committed before such court.
R. S., c. 122, § 3.

Form of indictment for perjury in court.
R. S., c. 122, § 4.

59 Me., 139.
79 Me., 120.
91 Me., 313.

Bribery and acceptance of bribes by public officers.
R. S., c. 122, § 6.

SEC. 1. Whoever, when required to tell the truth on oath or affirmation lawfully administered, wilfully and corruptly swears or affirms falsely to a material matter, in a proceeding before any court, tribunal, or officer created by law, or in relation to which an oath or affirmation is authorized by law, is guilty of perjury; and whoever procures another to commit perjury is guilty of subornation of perjury; and shall be punished in either case, if the perjury was committed in a trial of a *capital* crime, (punishable) by imprisonment for life, or (by imprisonment) for any term of years not less than ten, and if committed in any other case, by imprisonment for not more than ten years. (a)

SEC. 2. Whoever wilfully and corruptly endeavors to incite or procure another to commit perjury, although it is not committed, shall be punished by imprisonment for not more than five years.

SEC. 3. When a witness or party, legally sworn and examined, or making affidavit in any proceeding in a court of record, testifies in such a manner as to raise a reasonable presumption that he is guilty of perjury therein, the court may immediately order him committed to prison, or take his recognizance with sureties for his appearance to answer to a charge of perjury; and may bind over any witnesses present to appear at the proper court to prove such charge, order the detention so long as necessary of any papers or documents produced and deemed necessary in the prosecution of such charge, and cause notice of such proceedings to be given to the State's attorney for the same county.

SEC. 4. Indictments against persons for committing perjury before any court or tribunal drawn substantially as hereinafter provided, are sufficient in law, viz.:

"STATE OF MAINE.

—, ss. At the — court begun and held at —, within and for said county of —, on the — Tuesday of —, in the year of our Lord nineteen hundred and —.

The jurors for said State, upon their oath present, that A. B., of —, in the county of —, (addition,) "at —, in the said county of —, on the — day of —, in the year of our Lord nineteen hundred and —, appeared as a witness in a proceeding in which C. D. and E. F. were parties, then and there being heard before a tribunal of competent jurisdiction, and committed the crime of perjury, by testifying as follows:" (here set out the matter sworn to and alleged to be false,) "which said testimony was material to the issue then and there pending in said proceeding, against the peace of said State and contrary to the form of the statute in such case made and provided.

—, Foreman.

—, County Attorney."

[The form of indictment given in R. S., c. 122, § 5, has been held insufficient to meet the requirements of the constitution. 76 Me., 64; 91 Me., 314. That section has accordingly been omitted from this report.]

SEC. 5. Whoever gives, offers, or promises, to an executive, legislative or judicial officer, before or after he is qualified or takes his seat, any valuable consideration or gratuity whatever, or does, offers, or promises to do, any act beneficial to such officer, with intent to influence his action, vote, opinion, or judgment, in any matter pending, or that may come

(a) 26 Me., 36, 71; 39 Me., 339; 49 Me., 413; 50 Me., 217; 59 Me., 141; 69 Me., 219; 76 Me., 66.

legally before him in his official capacity, shall be punished by imprisonment for not more than five years, or by fine not exceeding three thousand dollars; and whoever accepts such bribe or beneficial thing, in the manner and for the purpose aforesaid, shall forfeit his office, be forever disqualified to hold any public office, trust or appointment under the state, and be punished by imprisonment for not more than ten years, or by fine not exceeding five thousand dollars. Sheriffs, deputy sheriffs, coroners or their deputies, within the several counties, and constables, marshals, deputy marshals and other officers of police of the several cities and towns, are declared to be executive officers within the meaning of this section. But the enumeration of such officers shall not be held to exclude any other executive officer not specially mentioned herein.

—penalty.

—sheriffs, etc., declared to be executive officers within meaning of this section. 1895, c. 78.

SEC. 6. Whoever directly or indirectly gives, offers, or promises a valuable consideration or gratuity to any person not included in the preceding section, with intent to induce such person to procure for him by his interest, influence, or any other means, any place of trust in the state; and whoever, not included as aforesaid, accepts the same in the manner and for the purpose aforesaid, shall be forever disqualified to hold any place of trust in the state, and be punished by fine not exceeding three hundred dollars, and imprisonment for less than one year.

Corrupt solicitation of influence to procure places of trust. R. S., c. 122, § 7.

—acceptance thereof.

SEC. 7. Whoever corruptly gives, offers, or promises, a valuable consideration or gratuity to any person summoned, appointed, chosen, or sworn, as a juror, arbitrator, umpire, or referee, auditor, master in chancery, or appraiser of real or personal estate, with intent to influence his opinion or decision in any matter pending, or that may come legally before him for decision or action; and whoever corruptly or knowingly receives the same, in the manner and for the purpose aforesaid, shall be punished by imprisonment for not more than five years, or by fine not exceeding one thousand dollars.

Bribery of jurors, referees, masters in chancery, appraisers or auditors, and acceptance thereof by them. R. S., c. 122, § 8.

SEC. 8. 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.

Informers is exempted from punishment. R. S., c. 122, § 9.

SEC. 9. Any officer authorized and empowered to serve criminal processes, who shall hire, attempt to hire or give money or other valuable thing by way of inducement to any person to consent or suffer himself to be arrested for, prosecuted for or convicted of any criminal offense, or who shall cause the same to be done, or who shall enter into any pecuniary agreement with any person whereby he is to suffer himself to be so arrested, prosecuted or convicted, whether such person be guilty of such offense or not, shall be deemed guilty of malfeasance in office, and shall be punished by fine not exceeding one thousand dollars or by imprisonment not exceeding two years.

Malfeasance in office, penalty. 1895, c. 171.

SEC. 10. Whoever attempts improperly to influence a juror, or any one drawn, appointed, or sworn as such, or an arbitrator, or referee, (or commissioner appointed by a court of probate) 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 a 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 fine not exceeding two hundred dollars, and imprisonment for not more than three months.

Attempts to corrupt jurors or referees, etc. R. S., c. 122, § 10.

SEC. 11. If any sheriff, deputy sheriff, coroner, or constable, receives from any person money, or other valuable thing, as an inducement for omitting or delaying to sell 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 for not more than three months.

Sheriffs and other officers, receiving bribes, for neglect of official duty. R. S., c. 122, § 11.

Corrupt agreement by attorneys and others.
R. S., c. 122, § 12.
See c. 79, § 30.
70 Me., 272.
79 Me., 42.
81 Me., 33.
82 Me., 495.
84 Me., 587.
85 Me., 172.

—penalty.

SEC. 12. Whoever 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 anything, 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 or in equity, or brings, prosecutes or defends, or agrees to bring, prosecute or defend, any suit at law or in equity upon shares, shall be punished by fine not exceeding one thousand dollars nor less than twenty dollars, or by imprisonment for not more than one year.

ESCAPES BY THE MISCONDUCT OF OFFICERS AND OTHERS.

Officers, refusing or omitting to execute processes, and thereby promoting escapes.
R. S., c. 122, § 13.

Voluntarily suffering criminals to escape.
R. S., c. 122, § 14.

—escape of other criminals.

Negligent escapes, and refusal to receive prisoners.
R. S., c. 122, § 15.

Forcibly rescuing, furnishing means, or otherwise aiding an escape.
R. S., c. 122, § 16.

SEC. 13. If an officer, authorized to serve process, wilfully and corruptly refuses to execute any lawful process to him directed, requiring him to arrest or confine any person charged with or convicted of any offense; or thus omits or delays to execute it, whereby the offender escapes, he shall be punished by imprisonment for less than one year, and by fine not exceeding five hundred dollars.

SEC. 14. If a jailer or other officer voluntarily suffers any prisoner in his custody to escape, he shall be punished, if such prisoner was convicted of a *capital* felony (punishable by imprisonment for life), by a fine not exceeding one thousand dollars, and by imprisonment for life; if charged with such felony, by imprisonment for not less than five, nor more than fifteen years; if charged or convicted of any other offense, by the same penalties and punishments that such prisoner would have suffered or been liable to suffer, if he had not escaped.

SEC. 15. If a jailer or other officer, through negligence, suffers any prisoner in his custody for a criminal offense to escape, or wilfully refuses to receive into his custody any prisoner committed to him on a lawful process, he shall be punished by imprisonment in jail for not more than two years, and by fine not exceeding five hundred dollars.

SEC. 16. Whoever forcibly rescues a prisoner lawfully detained for any criminal offense; conveys into a jail or other place of confinement any disguise, arms, instruments, or other things adapted and intended to aid, or in any way aids him to escape, although such escape is not effected or attempted; or whoever secretes, or with a design to aid the prisoner in his escape, harbors; or with such design, in any way assists such prisoner who has escaped, or is at large, shall be punished, if such prisoner was in custody for a felony, by imprisonment for not less than one, nor more than seven years; and if for any other offense, by imprisonment for less than one year, and by fine not exceeding five hundred dollars.

COMPOUNDING FELONIES.

Compounding felonies, how punishable.
R. S., c. 122, § 17.

SEC. 17. Whoever, having knowledge of the commission of an offense, takes any valuable consideration, gratuity, or promise thereof, with an agreement or understanding, express or implied, to compound, conceal, not to prosecute, or not to give evidence of such offense, shall be punished, if such offense is punishable with *death*, or imprisonment for life, or an unlimited term of years, by imprisonment for not more than five years, or by fine not exceeding five hundred dollars; but if the offense is punishable by imprisonment in the state prison for a limited term of years, he shall be punished by imprisonment for less than one year, and by fine not exceeding five hundred dollars.

REFUSING TO AID OFFICERS AND OBEY MAGISTRATES.

SEC. 18. Whoever, when required in the name of the State, by any sheriff, deputy sheriff, coroner, or constable, neglects or refuses to aid him in the execution of his office in any criminal case, or in the preservation of the peace, or in arresting and securing any person for a breach of the peace, or in preventing the escape or rescue of persons arrested on civil process, shall be punished by imprisonment for not more than thirty days, or by fine not exceeding fifty dollars.

Refusing to aid officers.
R. S., c. 122, § 18.

SEC. 19. Whoever neglects or refuses to obey any justice of the peace, when, in view of a breach of the peace, or other offense proper for his cognizance, he requires such person to arrest and bring the offender before him, shall be punished as in section seventeen; and if the justice made known or declared his office to such person, he shall not plead ignorance thereof.

Refusing to obey justices of the peace, when required to aid.
R. S., c. 122, § 19.

SEC. 20. Whoever wilfully obstructs an officer, or other person authorized, in the service of any process for an offense punishable by *death* or imprisonment for more than one year, shall be punished by imprisonment not exceeding two years, or by fine not exceeding five hundred dollars, or both.

Obstructing officer serving criminal process, penalty for.
R. S., c. 122, § 20.

SEC. 21. Whoever wilfully obstructs such officer or person in the service of any civil process or order, or of any process for an offense punishable by jail imprisonment and fine, or either, shall be imprisoned not exceeding one year and fined not exceeding three hundred dollars.

Obstructing officer in service of civil process, penalty for.
R. S., c. 122, § 21.

FALSELY ASSUMING TO BE A JUSTICE OR OFFICER.

SEC. 22. Whoever falsely assumes to be a justice of the peace, sheriff, deputy sheriff, coroner, or constable, or inland fish and game warden, or a commissioner of inland fisheries and game, and to act as such, or to require any one to aid him in a matter pertaining to the duty of such office, shall be punished by imprisonment for not less than one year, or by fine not exceeding four hundred dollars.

Penalty for falsely assuming to be an officer.
R. S., c. 122, § 22.
1901, c. 144.

DISGUIISING, TO OBSTRUCT THE EXECUTION OF THE LAWS.

SEC. 23. Whoever disguises himself in any manner with intent to obstruct the due execution of the laws, or to intimidate any officer, surveyor, or other person, in the discharge of his duty, although such intent is not effected, shall be punished by imprisonment for less than one year, and by fine not exceeding five hundred dollars.

Punishment for disguising, to obstruct the execution of the laws.
R. S., c. 122, § 23.

EXTORTION.

SEC. 24. If any person, for performing any service or official duty for which the pay is fixed by law, wilfully and corruptly demands and receives, or takes security for any greater sum, or if any witness falsely and corruptly certifies that as such he traveled more miles or attended more days than he actually did, or certifies that he attended as such for more than one party in the same case, he shall be fined not less than thirty dollars for each offense, to be recovered for the State, by indictment found within one year after the offense is committed, or by action of debt commenced within the same time, to the use of the person first suing therefor in his own name.

Penalty for extorting illegal fees, etc.
R. S., c. 122, § 24.
11 Me., 145.

CHAPTER 122.

OFFENSES AGAINST THE PUBLIC PEACE.

AFFRAYS AND RIOTS.

Affrays
between two
or more
persons.
R. S., c. 123, § 1.

SEC. 1. If two persons voluntarily or by agreement, fight or use blows or force towards each other, in an angry or quarrelsome manner, in a public place to the terror or disturbance of others, they are guilty of an affray, and shall be punished as for an assault and battery.

Unlawful
assembly
and riot.
R. S., c. 123, § 2.
18 Me., 347.
33 Me., 556.
34 Me., 236.

SEC. 2. If three or more persons assemble in a violent or tumultuous manner to do an unlawful act, or, being together, make any attempt or motion towards doing a lawful or unlawful act in a violent, unlawful, or tumultuous manner, to the terror or disturbance of others, they are guilty of an unlawful assembly; if they commit such acts in the manner and with the effect aforesaid, they are guilty of a riot, and shall, in either case, be punished, by imprisonment for less than one year, and by fine not exceeding five hundred dollars; and in case of a riot, each offender shall also suffer such punishment as he would be liable to if he had committed such act alone.

One person
may be
convicted,
without the
others.
R. S., c. 123, § 3.

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

PRIZE FIGHTS.

Participation
in prize
fights, or
premeditated
fights.
R. S., c. 123, § 4.
See c. 123, § 17.

SEC. 4. Whoever instigates, or aids in getting up, or acts as umpire or judge, or is in any way connected with or participates in any prize fight or premeditated fight between two persons, shall be punished by imprisonment in jail for not less than ten days nor more than six months, or by fine not exceeding two hundred dollars.

Complaint,
warrant and
proceedings
to prevent,
as well as to
punish such
offense.
R. S., c. 123, § 5.
See c. 123, § 36.

SEC. 5. If any person competent to testify in civil suits makes complaint on oath before any judge of a municipal or police court or trial justice, that an offense specified in the preceding section or in section thirty-six of chapter one hundred and twenty-three, is about to be committed, setting forth in such complaint the grounds of his belief, such magistrate may issue his warrant directed to any competent officer, therein reciting the name and residence of the complainant and the substance of his complaint, and directing such officer to prevent the violation of said sections, by arresting any persons whom he finds wilfully violating the same, and by bringing the respondents before such magistrate for trial.

STRIKES AND UNLAWFUL COMBINATIONS AGAINST PUBLIC SERVICE CORPORATIONS.

Combinations
of employes to
stop or delay
trains, or
injure prop-
erty of rail-
roads, how
punished.
R. S., c. 123, § 6.

SEC. 6. Any employe of a railroad corporation who, in pursuance of an agreement or combination by two or more persons to do, or procure to be done, any act in contemplation or furtherance of a dispute between such corporation and its employes, unlawfully or in violation of his duty or contract, stops or unnecessarily delays or abandons, or in any way injures a locomotive or any car or train of cars on the railway track of such corporation, or in any way hinders or obstructs the use of any locomotive, car or train of cars on the railroad of such corporation, shall be punished by fine not exceeding five hundred dollars, or imprisonment in the state prison or in jail not exceeding one year.

SEC. 7. Whoever, by any unlawful act, or by any wilful omission or neglect, obstructs or causes to be obstructed an engine or carriage on any railroad *or railway*, or aids or assists therein; or whoever, having charge of any locomotive or carriage while upon or in use on any *railway of any railroad corporation*, wilfully stops, leaves or abandons the same, or renders, or aids or assists in rendering the same unfit for or incapable of immediate use, with intent thereby to hinder, delay, or in any manner to obstruct or injure the management and operation of any railroad *or railway*, or the business of any corporation operating or owning the same, or of any other corporation or person, and whoever aids or assists therein, shall be punished by fine not exceeding one thousand dollars, or imprisonment in the state prison or in jail not exceeding two years.

Malicious obstruction of any engine or car, or abandonment of the same on a railway, how punished. R. S., c. 123, § 7.

SEC. 8. Whoever, having any management of, or control, either alone or with others, over any railroad locomotive, car or train, while it is used for the carriage of persons or property, or is at any time guilty of gross carelessness or neglect on, or in relation to, the management or control thereof; or maliciously stops or delays the same, in violation of the rules and regulations then in force for the operation thereof; or abstracts therefrom the tools or appliances pertaining thereto, with intent thereby maliciously to delay the same, shall be punished by a fine not exceeding one thousand dollars, or imprisonment in the state prison or in jail not exceeding three years.

Gross carelessness and neglect, or malicious delay, in the management or control of railroads, how punished. R. S., c. 123, § 8.

SEC. 9. Whoever, alone, or in pursuance or furtherance of any agreement or combination with others, to do, or procure to be done, any act in contemplation or furtherance of a dispute or controversy between a gas, telegraph, (telephone, electric light, electric power,) or railroad corporation and its employes or workmen, wrongfully and without legal authority, uses violence towards, or intimidates any person, in any way or by any means, with intent thereby to compel such person against his will to do, or abstain from doing, any act which he has a legal right to do or abstain from doing; or, on the premises of such corporation, by bribery, or in any manner or by any means, induces, or endeavors or attempts to induce, such person to leave the employment and service of such corporation with intent thereby to further the objects of such combination or agreement; or in any way interferes with such person while in the performance of his duty; or threatens or persistently follows such person in a disorderly manner, or injures or threatens to injure his property with either of said intents, shall be punished by fine not exceeding three hundred dollars, or imprisonment not exceeding three months.

Violence or intimidation in furtherance of a combination to promote a controversy between a public service company and its workmen, how punished. R. S., c. 123, § 9.

SEC. 10. Any person in the employment of a railroad corporation, who, in furtherance of the interests of either party to a dispute between another railroad corporation and its employes, refuses to aid in moving the cars of such other corporation, or trains in whole or in part made up of the cars of such other corporation, over the tracks of the corporation employing him; or refuses to aid in loading or discharging such cars, in violation of his duty as such employe, shall be punished by fine not exceeding five hundred dollars, or imprisonment in the state prison or in jail not exceeding one year.

Unlawful refusal of railroad employes to perform duty, how punished. R. S., c. 123, § 10.

SUPPRESSION OF MOBS BY OFFICERS AND ARMED FORCE.

SEC. 11. When twelve or more persons, any of them armed with clubs or dangerous weapons, or thirty or more, armed or unarmed, are unlawfully, riotously, or tumultuously assembled in any town (or city,) it shall be the duty of each of the municipal officers, (police officers and) constables (of such town), and *justices of the peace thereof*, (and of the marshal, deputy marshal, police officers and constables of such city,) and of the sheriff of the county and his deputies, to go among the persons so assembled, or as near to them as they can safely go, and in the name of the State, command them immediately and peaceably to disperse; and if they do not obey, such *magistrates and officers* shall command the assis-

Duty of magistrates and officers to disperse unlawful assembly. R. S., c. 123, § 11.

—disobedience, how punished.

—penalty for neglect of magistrate or officer.

When rioters refuse to disperse, magistrates or municipal officers may order out an armed force. R. S., c. 123, § 12.

—how to be commanded.

If any person is killed or wounded, the officers shall be held guiltless. R. S., c. 123, § 13.

—liability of rioters.

tance of all persons present, in arresting and securing the persons so unlawfully assembled; and every person refusing to disperse, or to assist as aforesaid, shall be deemed one of such unlawful assembly, and be punished by fine not exceeding five hundred dollars, and imprisonment for less than one year; and each such *magistrate or other officer*, having notice of such unlawful assembly in his town, and refusing or neglecting to do his duty in relation thereto as aforesaid, shall be punished by fine not exceeding three hundred dollars.

SEC. 12. When persons, so riotously or unlawfully assembled, neglect or refuse, on command as aforesaid, to disperse without unnecessary delay, any two of the *magistrates, or officers* aforesaid, may require the aid of a sufficient number of persons in arms or otherwise, and may proceed in such manner as they judge expedient, to suppress such riotous assembly, and to arrest and secure the persons composing it; and when an armed force is thus called out, they shall obey the orders for suppressing such assembly and arresting and securing the persons composing it, which they receive from the governor, any justice or judge of a court of record, the sheriff of the county, or any two of the *magistrates or officers* mentioned in the preceding section.

SEC. 13. If, in the efforts made as aforesaid to suppress such assembly, and to arrest and secure the persons composing it who refuse to disperse, although the number remaining is less than twelve, any such persons, or any persons present as spectators or otherwise, are killed or wounded, said *magistrates, officers, and persons* acting with them by their order, shall be held guiltless and justified in law; but if any of said *magistrates, officers, or persons* thus acting with them, are killed or wounded, all persons so unlawfully or riotously assembled, and all other persons who refused, when required, to aid such *magistrates and officers*, shall be answerable therefor.

PUNISHMENT AND REMEDY FOR INJURIES BY MOBS.

SEC. 14. If any persons, thus unlawfully and riotously assembled, pull down, or begin to pull down, or destroy any dwelling-house, building, ship or vessel; or perpetrate any premeditated injury, not a felony, on any person, each shall be punished by imprisonment for not more than five years, or by fine not exceeding five hundred dollars; and shall also be answerable to any person injured, in an action of trespass, to the full amount of damages by him sustained.

SEC. 15. When the injury to any property described in the preceding section amounts to fifty dollars or more, the town where such property is situated shall indemnify the owner thereof for three-fourths of the value of such injury, to be recovered in an action on the case, if he uses all reasonable diligence to prevent such injuries, and to procure the conviction of the offenders; and the town paying such sum may recover it in an action on the case against the persons doing the injury.

INSURRECTION AND INVASION.

SEC. 16. When an insurrection exists to obstruct the course of justice, or the due execution of the laws, the governor is empowered to detach and call into actual service such part of the militia, as in his opinion is adequate to suppress the same.

SEC. 17. When the governor and council deem it necessary to protect the coast of the state from invasion, they may procure, equip, officer and man, such armed vessels as they think expedient, to cruise along the coast of the state, for the purpose of protecting the inhabitants thereof; and fix the relative rank and compensation of the officers, and the number and compensation of seamen employed.

Punishment, for pulling down houses, or premeditated personal injuries. R. S., c. 123, § 14. 63 Me., 48. 65 Me., 429.

Liability of towns for injury by mobs. R. S., c. 123, § 15. 63 Me., 48. 65 Me., 429, 438. —town's remedy against rioters.

Governor may call out the militia to suppress insurrection. R. S., c. 123, § 16. Governor and council may employ armed vessels to protect the coast of the state. R. S., c. 123, § 17.

CHAPTER 123.

OFFENSES AGAINST CHASTITY, MORALITY AND DECENCY.

ADULTERY, INCEST, POLYGAMY, GROSS LEWDNESS, AND FORNICATION.

SEC. 1. Whoever commits adultery shall be punished by imprisonment for not more than five years, or by fine not exceeding one thousand dollars; and when only one of the parties is married, or when they have been legally divorced from the bonds of matrimony, and afterwards co-habit, each shall be deemed guilty of adultery. (a)

Adultery.
R. S., c.124, §1.
—cohabitation after a divorce is adultery.

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

Incest.
R. S., c.124, §2.

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

Crime against nature.
R. S., c.124, §3.

SEC. 4. If any person, except one legally divorced, or one whose husband or wife has been continually absent for seven years and not known to him or her to be living within that time, having a husband or wife living, marries another married or single person; or if any unmarried person knowingly marries the husband or wife of another, when such husband or wife is thereby guilty of polygamy, he or she shall be deemed guilty of polygamy and punished by imprisonment for not more than five years, or by fine not exceeding five hundred dollars; and the indictment for such offense may be found and tried in the county where the offender resides, or where he or she is apprehended.

Polygamy, its punishment and where tried.
R. S., c.124, §4.
1897, c. 184.
6 Me., 149.
53 Me., 440.
91 Me., 207.

SEC. 5. If any man and woman, one or both being at the time married to another person, lewdly and lasciviously cohabit; or, married or unmarried, are guilty of open, gross lewdness and lascivious behavior, they shall each be punished by imprisonment for not more than five years, or by fine not exceeding three hundred dollars; and whoever wantonly and indecently exposes his person shall be punished by imprisonment for not more than thirty days, and by fine not exceeding ten dollars.

Lascivious cohabitation and lewdness.
R. S., c.124, §5.
7 Me., 68.

—indecent exposure, penalty for.

SEC. 6. If an unmarried man commits fornication with an unmarried woman, they shall be punished by imprisonment for not more than sixty days, and by fine not exceeding one hundred dollars.

Fornication.
R. S., c.124, §6.

CONCEALMENT OF BIRTHS AND PROCURING ABORTIONS.

SEC. 7. If a woman is willingly delivered in secret of the issue of her body, which would be a bastard if born alive, and conceals the death thereof, so that it is not known whether it was born dead, or alive and was murdered, she shall be punished by imprisonment for not more than three years, or by fine not exceeding one hundred dollars; and she may be charged with such offense, and also with the murder of such child, in the same indictment, and convicted and punished for either, according to the verdict.

Concealment by the mother of the death of illegitimate issue, how indicted, etc.
R. S., c.124, §7.
57 Me., 31.

SEC. 8. Whoever administers to any woman pregnant with child, whether such child is quick or not, any medicine, drug, or other substance, or uses any instrument or other means, unless the same was done as necessary for the preservation of the mother's life, shall be punished, if done with intent to destroy such child and thereby it was destroyed

Punishment for procuring or attempting to procure abortion.
R. S., c.124, §8.
32 Me., 374.
33 Me., 54.

(a) 8 Me., 76; 11 Me., 394; 19 Me., 156; 35 Me., 206; 36 Me., 263; 43 Me., 261; 44 Me., 478; 65 Me., 30.

before birth, by imprisonment for not more than five years, or by fine not exceeding one thousand dollars; but if done with intent to procure the miscarriage of such woman, by imprisonment for less than one year, and by fine not exceeding one thousand dollars.

HOUSES OF ILL-FAME.

Keeping
houses of
ill-fame.
R. S., c. 124, § 9.
40 Me., 561.
75 Me., 582.

SEC. 9. Whoever keeps a house of ill-fame, resorted to for prostitution or lewdness, shall be punished by imprisonment for less than one year, and by fine not exceeding five hundred dollars; and if after conviction he is again convicted, he shall be punished by imprisonment for not less than one, nor more than three years. The municipal officers and constables of towns and cities, and assessors of plantations, are required promptly to enforce the laws against such houses, and to make complaint against any person within their respective municipalities, where there is probable cause to believe such person guilty of a violation of this section. A person, convicted of keeping such a house, before a municipal or police court or trial justice, may be sentenced to the house of correction or jail not exceeding one month. And such person shall not be allowed to keep boarders or lodgers without a license from the overseers of the poor of the town, who shall prosecute for such offense, all whom they have good reason to suspect to be guilty.

Enticing
unmarried
females for
purposes of
prostitution.
R. S., c. 124,
§ 10.
54 Me., 26.

SEC. 10. Whoever fraudulently and deceitfully entices or takes away an unmarried female from her father's house, or wherever else she may be found, for the purpose of prostitution at a house of ill-fame, assignation or elsewhere, and whoever aids therein, or secretes such female for such purposes; or whoever inveigles or entices any female, before reputed virtuous, to a house of ill-fame, or knowingly conceals or aids in concealing any such female, so enticed, for the purpose of prostitution or lewdness, shall be punished by imprisonment for not less than one, nor more than ten years.

Warrants to
search for
females
supposed to
be so enticed.
R. S., c. 124,
§ 11.

SEC. 11. When an overseer of the poor, police officer, constable, parent, master, or guardian, has reason to believe that a female has been inveigled or enticed to a house of ill-fame as aforesaid, he may complain on oath to a competent magistrate who may issue his search warrant as in other cases, to enter such house by day or night, search for such female, and bring her and the person in whose keeping she is found, before him, and may order her to be delivered to the complainant or to be discharged, as law and justice require.

Lease of ten-
ant of house
of ill-fame is
void, at the
option of the
landlord.
R. S., c. 124,
§ 12.

SEC. 12. When the tenant of a dwelling-house is convicted of keeping it as a house of ill-fame, the lease or contract by which he occupies it may, at the option of the landlord, be deemed void, and the landlord shall have the same remedy to recover possession as against a tenant holding over after his term expires.

IMMORAL LITERATURE, PICTURES, AND EXHIBITIONS.

Punishment
for making or
circulating
obscene books
and pictures.
R. S., c. 124,
§ 13.
1893, c. 191.
See c. 11, § 118.

SEC. 13. Whoever imports, prints, publishes, sells or distributes any book, pamphlet, ballad, printed paper, or other thing containing obscene, indecent, or impure language, or manifestly tending to the corruption of the morals of youth, or an obscene, indecent, or impure print, picture, figure, or description, manifestly tending to the corruption of the morals of youth, or introduces into a family, school, or place of education, or buys, procures, receives, or has in his possession any such book, pamphlet, ballad, printed paper or other thing, either for the purpose of sale, exhibition, loan or circulation, or with intent to introduce the same into a family, school or place of education, shall be punished by imprisonment in the state prison not exceeding five years, or by imprisonment in the jail not exceeding two years, and by fine not exceeding one thousand dollars nor less than one hundred dollars.

SEC. 14. A warrant to search for such articles may be issued by any trial justice like other search warrants, and when any of them are found by the officer serving it, they shall be brought before the justice, and kept by him or the officer, to be used as evidence in any case that may arise concerning them or any person connected therewith; and on conviction of such offender, said articles shall be destroyed by order of the court trying the case.

Warrants to search for the same.
R. S., c. 124, § 14.

SEC. 15. Whoever knowingly sells, lends, gives away, or shows to any minor *child*, any book, pamphlet, magazine, newspaper, or other printed paper devoted to the publication, or principally made up of criminal news, police reports, or accounts of criminal deeds, or pictures and stories of lust or crime; or circulates, posts, or causes to be circulated or posted in any conspicuous or public place, any picture, hand bill or poster containing obscene, indecent, or immoral representations; or in any manner hires, uses, or employs any minor *child* to sell or give away, or in any manner to distribute, or who, having the care, custody or control of any minor *child*, permits such *child* (minor) to sell or give away, or in any manner to distribute any book, magazine, pamphlet or newspaper coming within the first paragraph of this section, shall be punished by imprisonment in the county jail not more than six months, or by fine not less than twenty-five dollars nor more than one hundred dollars, or by both imprisonment and fine.

Circulation among children, of criminal news and obscene pictures, punished.
1885, c. 348, § 1.

—penalty.

SEC. 16. Judges of municipal and police courts and trial justices shall have by complaint, jurisdiction of the offenses mentioned in the preceding section, original and concurrent with the supreme judicial and superior courts.

Jurisdiction of offenses.
1885, c. 348, § 2.

SEC. 17. Whoever publicly exhibits any photographic or other reproduction of a prize fight shall be punished by a fine not exceeding five hundred dollars.

Reproduction of prize fights prohibited.
1897, c. 309.

SEC. 18. Whoever in connection with any show or entertainment, whether public or private, either as owner, manager or director, or in any other capacity, uses or causes or permits to be used, a phonograph or other contrivance, instrument or device, which utters or gives forth any profane, obscene or impure language, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding one year, or by both such fine and imprisonment.

Penalty for using a phonograph which utters profane or obscene language.
1899, c. 105, § 1.

SEC. 19. Whoever as owner, manager, agent or in any other capacity, prepares, advertises, gives, presents or participates in any obscene, indecent, immoral or impure show or entertainment, or in any show or entertainment manifestly tending to corrupt the morals of youth, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding one year, or by both such fine and imprisonment.

Punishment for giving any obscene or impure show.
1899, c. 105, § 2.

BLASPHEMY AND PROFANITY.

SEC. 20. Whoever blasphemes the holy name of God by denying, cursing, or contumeliously reproaching God, His creation, government, final judgment of the world, Jesus Christ, the Holy Ghost, or the Holy Scriptures as contained in the canonical books of the Old or New Testament, or by exposing them to contempt and ridicule, shall be punished by imprisonment for not more than two years, or by fine not exceeding two hundred dollars.

Blasphemy.
R. S., c. 124, § 15.

SEC. 21. Whoever, being of years of discretion, profanely curses or swears, shall, on complaint made within twenty days thereafter, be punished by fine not exceeding two dollars; and if, after conviction, he is again guilty, by fine not exceeding five dollars.

Profanity.
R. S., c. 124, § 16.

DISTURBANCE OF RELIGIOUS MEETINGS AND OBSERVANCE OF THE LORD'S DAY.

Rude behavior in a house of worship or religious assembly.
R. S., c. 124, § 17.

Special police in charge at camp-meetings, how to be appointed.
R. S., c. 124, § 18.

—presiding officer, or committee, may appoint persons to keep boarders and sell refreshments.

Offenders are liable to be arrested and detained by divers officers.
R. S., c. 124, § 19.

—penalty, for refusing to aid officers.

Business, traveling and recreation, prohibited on the Lord's Day.
R. S., c. 124, § 20.
See c. 82, § 120.

Innholders and victualers shall not allow gambling, diversion, or business, on the Lord's Day.
R. S., c. 124, § 21.
65 Me., 38.

Duration of.
R. S., c. 124, § 22.

Persons conscientiously observing the seventh day,

SEC. 22. Whoever, on the Lord's Day or at any other time, behaves rudely or indecently within the walls of any house of public worship; wilfully interrupts or disturbs any assembly for religious worship within the place of such assembly or out of it; sells or exposes for sale within one mile thereof and during the time of their meeting, *intoxicating liquors*, refreshments, or merchandise, except in his usual course and place of business; exhibits any show or play; engages or aids in any horse race, gambling, or other sport, to the disturbance of such assembly; or, coming within their neighborhood, refuses, on request, either immediately and peaceably to retire beyond their hearing, or to conform to their established regulations, shall be punished by imprisonment for not more than thirty days, and by fine not exceeding ten dollars.

SEC. 23. On application of the presiding elder, officers or preachers in charge, or tent masters, of a religious or temperance camp-meeting in any town, the municipal officers thereof or a majority of them, shall in writing, appoint one or more police officers to preserve the peace during such meeting, who may arrest any violator of the preceding section, detain him until a warrant can be issued, and execute such warrant when directed to them; and the presiding officer or committee of arrangements of such religious assembly or meeting may appoint some suitable persons to keep boarders and sell refreshments at such meetings, who shall conform therein to such regulations as the officers appointing them prescribe.

SEC. 24. Every justice of the peace, sheriff, deputy sheriff, constable, (and) grand juror, *and tythingman*, present at any such religious assembly disturbed as aforesaid, shall arrest or cause to be arrested every such offender, and detain him until the close of such assembly, or until he can be taken before a magistrate; and all persons present at such assembly, shall, on request, assist said officers in the execution of their duty, under the same penalties for neglect or refusal that are provided for neglecting or refusing to aid officers in other cases.

SEC. 25. Whoever, on the Lord's Day, keeps open his shop, work-house, warehouse, or place of business, travels, or does any work, labor, or business on that day, except works of necessity or charity; uses any sport, game or recreation; or is present at any dancing, public diversion, show, or entertainment, encouraging the same, shall be punished by fine not exceeding ten dollars. (a)

SEC. 26. If an innholder or victualer, on the Lord's Day, suffers any persons, except travelers, strangers, or lodgers, to abide in his house, yard, or field, drinking or spending their time idly, at play or doing any secular business, except works of charity or necessity, he shall be punished by fine not exceeding four dollars for each person thus suffered to abide; and if after conviction he is again guilty, by fine not exceeding ten dollars for each offense; and upon a third conviction, he shall also be incapable of holding any license; and every person so abiding shall be fined not exceeding four dollars for each offense.

SEC. 27. The Lord's Day includes the time between twelve o'clock on Saturday night and twelve o'clock on Sunday night.

SEC. 28. No person conscientiously believing that the seventh day of the week ought to be observed as the Sabbath, and actually refraining from secular business and labor on that day, is liable to said penalties

(a) 26 Me., 466; 28 Me., 334; 33 Me., 540; 34 Me., 392; 35 Me., 144; 36 Me., 475; 39 Me., 197; 42 Me., 92; 44 Me., 26; 46 Me., 521; 48 Me., 202; 49 Me., 432; 50 Me., 84; 55 Me., 557; 56 Me., 101; 57 Me., 424; 63 Me., 576; 65 Me., 37; 66 Me., 92; 69 Me., 117; 71 Me., 239; 82 Me., 198, 433; 84 Me., 115; 87 Me., 266; 89 Me., 573; 93 Me., 562.

for doing such business or labor on the first day of the week, if he does not disturb other persons.

SEC. 29. *Tythingmen*, or any other persons may prosecute for all offenses described in sections twenty-two, twenty-five and twenty-six, at any time within six months after the commission thereof.

excepted.
R. S., c. 124,
§ 23.

Prosecutions
under §§ 22, 25
and 26.
R. S., c. 124,
§ 24.

DISTURBANCE OF PUBLIC MEETINGS AND LAWFUL ASSEMBLIES.

SEC. 30. Whoever by rude and indecent behavior, or in any way fully and unlawfully, disturbs or interrupts any public meeting, or any assembly lawfully gathered in a hall or other place of meeting, or creates a disturbance in any hall, walk or corridor adjacent or leading to the room where such meeting or assembly is held, shall be punished by imprisonment for not more than thirty days, or by fine of not less than five, nor more than ten dollars.

Disturbance
of public
meetings
and lawful
assemblies,
how to be
punished.
R. S., c. 124,
§ 25.

PROTECTION OF DEAD BODIES AND GRAVES.

SEC. 31. If an officer takes the body of a deceased person by writ or execution, he shall be punished by fine not exceeding five hundred dollars, and by imprisonment for not more than six months.

Arrest of
dead body
forbidden.
R. S., c. 124,
§ 26.

SEC. 32. Whoever, without permission of the *board of health, municipal officers, or overseers of the poor* (clerk) of a town, therein wilfully digs up or removes any human body or its remains from its place of burial, or aids in so doing; knowingly receives, conceals, or disposes of the same, or unnecessarily and indecently exposes, throws away, or abandons a human body or its remains in any public place, river, stream, or elsewhere, shall be punished by imprisonment for not less than one, nor more than five years, or by fine not exceeding three thousand dollars; but any physician, surgeon, or medical student, may have in his possession or use human bodies or parts thereof lawfully obtained, for anatomical or physiological investigation and instruction.

Disinterment,
concealment,
exposure, or
abandonment
of dead
bodies, etc.
R. S., c. 124,
§ 27.
See c. 59, § 28.
1 Me., 205.

—physicians,
surgeons and
students of
anatomy.
See c. 13,
§§ 1-6.

SEC. 33. Whoever wilfully destroys or injures any tomb, gravestone, monument, or other object placed or designed as a memorial of the dead, or any fence, railing, or other thing placed about or enclosing a burial place; or wilfully injures, removes, or destroys, any tree, shrub, or plant, within such enclosure, shall be punished by imprisonment for less than one year, or by fine not exceeding five hundred dollars.

Injury to
monuments
and places
of burial.
R. S., c. 124,
§ 28.

CRUELTY TO ANIMALS.

SEC. 34. Every person who cruelly over-drives, over-loads, or over-works, who torments, tortures, maims, wounds, or deprives of necessary sustenance, or who cruelly beats, mutilates or kills any horse or other animal, or causes the same to be done, or having the charge or custody thereof, as owner or otherwise, unnecessarily fails to provide such animal with proper food, drink, shelter and protection from the weather; every person, owning or having the charge or custody of any animal, who knowingly and wilfully authorizes or permits the same to suffer tortures or cruelty; and every owner, driver, possessor or person having the custody of an old, maimed, disabled or diseased animal, who cruelly works the same when unfit for labor, or who cruelly abandons such animal; and every person who carries or causes to be carried, or has the care of, in or upon a car or other vehicle or otherwise, any animal in a cruel or inhuman manner, shall for every such offense be punished by imprisonment in jail not exceeding one year, or by fine not less than five dollars and not exceeding two hundred dollars, or both.

Cruelty to
animals, how
punished.
R. S., c. 124,
§ 29.
1893, c. 165, § 1.
76 Me., 400.
86 Me., 195.

SEC. 35. Whoever keeps or uses any live pigeon, fowl or other bird for a target, or to be shot at either for amusement or as a test of skill in marksmanship, and whoever shoots at any bird as aforesaid, or is present

Shooting of
pigeons and
other birds
for amuse-

ment.
R. S., c. 124,
§ 30.

—section is
not applicable
to wild game.

Premeditated
fights between
animals,
penalty for
instigation of.
R. S., c. 124,
§ 31.
See c. 122, § 5.

Places for
fighting or
baiting dogs,
cocks or other
creatures.
R. S., c. 124,
§ 32.

Owning, or
training, any
bird or ani-
mal, to fight.
R. S., c. 124,
§ 33.
Officers may
enter build-
ings where
birds or ani-
mals are kept
for unlawful
training.
R. S., c. 124,
§ 34.

—dwelling
cannot be en-
tered without
a warrant.

Exhibition
of bears,
prohibited.
1893, c. 279.

—penalty.

—menageries
excepted.

Railroads
shall give cars
containing
animals
continuous
passage and
preference to
other freight.
R. S., c. 124,
§ 35.
1891, c. 25.

Animals
brought into
the state,
shall be
allowed rest,
shelter, food
and water.
R. S., c. 124,
§ 36.
1895, c. 359, § 15.

as a party, umpire or judge at such shooting, and whoever rents any building, shed, room, yard, field or premises, or knowingly suffers the use of the same for such purpose, shall be punished by imprisonment in jail not exceeding thirty days, or by fine not exceeding fifty dollars, or both. Nothing in this section prohibits the shooting of wild game in its wild state.

SEC. 36. Whoever instigates, or aids in getting up or acts as umpire or judge, or is connected with or participates in, any fight between game birds or game cocks, dogs or bulls, or between dogs and rats or other animals, premeditated by any person having custody thereof, shall be imprisoned for not less than ten days nor more than six months, or be fined not more than two hundred dollars. Section five of chapter one hundred and twenty-two applies to this section.

SEC. 37. Whoever keeps, or uses, or is in any way connected with, or interested in the management of, or receives money for the admission of any person to any place kept or used for the purpose of fighting or baiting any dog, cock or other creature, and whoever aids or assists therein, or suffers any place to be so kept or used, shall be punished by imprisonment not exceeding two months, or by fine not exceeding fifty dollars, or both.

SEC. 38. Whoever owns, possesses, keeps, or trains any bird or animal with intent that the same shall be engaged in an exhibition of fighting, shall be punished by imprisonment not exceeding thirty days, or by fine not exceeding fifty dollars, or both.

SEC. 39. Any sheriff, deputy sheriff, constable, police officer, officer of any society for the prevention of cruelty to animals, or any other person authorized to make arrests, may enter any building or enclosure where he has reason to believe that any bird or creature is kept for any unlawful purpose hereinbefore named; and whoever resists or interferes with such officer shall be punished by imprisonment in jail not exceeding one year, or by fine not exceeding one hundred dollars, or both. But nothing in this section allows any officer to enter a dwelling-house without a warrant.

SEC. 40. Whoever shall go about from town to town, or from place to place in any town, exhibiting any bear, shall be punished by fine not exceeding twenty dollars, or by imprisonment not exceeding thirty days, and such bear, after such notice to the owner thereof as the court may order, and a hearing thereon, may be declared forfeited, and ordered to be killed; but this section shall not be construed to prohibit the transportation or exhibition of bears in any authorized menagerie.

SEC. 41. Railroad companies within the state shall give cars containing cattle, sheep, swine or other animals a continuous passage in preference to other freight; and cars loaded with such animals at any station shall have precedence over all other freight. A greater number of animals shall not be loaded into any car than can stand comfortably therein. Animals of one kind only shall be loaded in the same apartment. Young animals shall not be loaded in the same apartment with those larger and mature, except in case of dams with their own and other sucklings, which shall in all cases be transported in the same apartment and separate from other animals. Calves shall have free access to their dams, and shall not be muzzled. During December, January, February and March, cars used for the transportation of animals shall be sufficiently boarded on the sides and ends to afford proper protection to such animals in case of storms or severely cold weather.

SEC. 42. Animals coming into the state on the same or connecting roads or other transportation lines, shall, within twenty hours after they were loaded, be unloaded, comfortably yarded, and in cold or inclement weather, comfortably sheltered, and shall be furnished with a sufficient quantity of proper food and good water; and they shall continue so yarded or sheltered, fed and watered for a reasonable time. And all animals in transit within the state shall be so unloaded, yarded, or sheltered, fed and

watered every twenty hours, unless delayed by accident or other unavoidable circumstances. Animals arriving at their destination within the state, or for embarkation on steamers between the hours of three in the forenoon and six in the afternoon, shall be so unloaded, yarded or sheltered, fed and watered within six hours thereafter and before embarkation. And animals arriving between the hours of six in the afternoon and three in the forenoon, shall be so unloaded, yarded or sheltered, fed and watered before nine o'clock in the forenoon following, and before embarkation, if remaining in the state. The railroad company or transportation line having animals in charge within the state at the expiration of the limit of time herein specified for unloading, feeding and watering, is liable to the penalties herein specified, for such neglect.

—animals
in transit.

—liability of
company for
neglect.

SEC. 43. A railroad company or other transportation line violating any provision of the two preceding sections, forfeits not less than fifty nor more than five hundred dollars for every such offense.

Penalty for
violation of
§§ 41, 42.
R. S., c. 124,
§ 37.
1893, c. 165, § 3.

SEC. 44. Sections forty-one and forty-two shall apply to the owners, shippers, charterer of cars, or other person having the care, custody or charge of animals loaded into any car, or transported upon any railroad; and such owner, shipper, charterer of cars, or other person having the care, custody or charge of animals, loaded into cars, or transported over any railroad, for a violation of any of the provisions of said sections forty-one and forty-two, shall be subject to the same penalties as are imposed upon railroad companies for a like violation, by section forty-three.

Sections 41, 42
shall apply
to owners,
shippers, etc.
1893, c. 165, § 2.

SEC. 45. Any railroad company or other transportation line shall have a lien on all animals in transit for re-imbursement of penalties paid in consequence of the direction or orders of the owner or other person having such animals in charge, and for all extra expenses or damages incurred in the care and protection of animals according to this chapter, and is not liable for any detention of such animals for the purposes herein named.

Railroad
companies
have a lien on
such animals
for penalties,
and for
care and
protection.
R. S., c. 124,
§ 38.

SEC. 46. Any sheriff, deputy sheriff, police officer, constable, officer of any society for the prevention of cruelty to animals, or other person authorized to make arrests, may take possession of any animals detained in violation of this chapter, and may unload the same, comfortably yard or shelter, feed, water and care for them, and have a lien thereon for a reasonable sum for such care, and is not liable for any damages for detention of the same.

Officers
may take
possession of
animals
detained in
violation of
law.
R. S., c. 124,
§ 39.
—lien.

SEC. 47. Persons or corporations having such lien, may sell such animals at public auction, in the town or city where they were found or are detained, after three days' written notice to the party claiming or owning the same; or if such party cannot be found, by publishing notice of the time and place of sale for three successive days in any daily, or once in any weekly newspaper printed in the county where such animals were found or are detained, and from the proceeds of such sale, may deduct all costs, charges and expenses, and a reasonable compensation for trouble, and shall hold the balance, if any, for, and pay over the same, on demand, to the parties owning said animals, or to the legal representatives of such parties.

Lien, how to
be enforced.
R. S., c. 124,
§ 40.

SEC. 48. Any officer or agent of any society for the prevention of cruelty to animals may lawfully cause to be destroyed forthwith, any animal found abandoned and not properly cared for, appearing in the judgment of two reputable persons called by him to view the same in his presence, to be diseased or injured past recovery for any useful purpose.

By whom,
abandoned
and neglected
animals may
be destroyed.
R. S., c. 124,
§ 41.
—proceedings.

SEC. 49. Such officer or agent may take possession of any old, maimed, disabled, diseased or injured animal, and apply to any municipal or police, court or trial justice for process to cause the same to be destroyed. If the owner is known, a copy of such application shall be served upon him in hand with an order of court to appear at a time and place named, to show cause why such animal should not be destroyed, and its value fixed. If the owner is not known, then the court shall order notices to be posted in two public and conspicuous places in the town, stating the case in sub-

Any old,
diseased or
disabled
animal may
be destroyed.
R. S., c. 124,
§ 42.
1893, c. 165, § 4.

—proceedings.
80 Me., 206.

stance, and giving forty-eight hours' notice of a hearing thereon. At such hearing if it appears that such animal is old, maimed, disabled, diseased or injured, and is unfit for use, the court shall determine the value of such animal, and shall issue process directing the officer to destroy the same. The defendant may appeal as in a civil action, but before such appeal shall be allowed, the defendant shall give sufficient security to said officer, to be approved by the court, to pay all the expenses for the care and support of such animal pending such appeal.

SEC. 50. Such officer or agent may lawfully interfere to prevent the perpetration of any act of cruelty upon an animal in his presence, and whoever interferes with or obstructs such officer or agent in the discharge of his duty is guilty of a misdemeanor.

SEC. 51. Any person may take charge of an animal whose owner has cruelly abandoned it, or cruelly fails properly to take care of and provide for it, and may furnish the same with proper shelter, nourishment and care at the owner's expense, and have a lien thereon for the same.

SEC. 52. Whoever cuts the solid part of the tail of any horse in the operation known as docking, or by any other operation performed for the purpose of shortening the tail, and whoever shall cause the same to be done, or assist in doing such cutting, unless the same is proved to be a benefit to the horse, shall be punished by fine not exceeding one hundred dollars. All fines collected under this section upon, or resulting from, the complaint or information of an officer or agent of the Maine State Society for the Protection of Animals, shall be paid over to said society in aid of the benevolent objects for which it was incorporated.

SEC. 53. Sheriffs, deputy sheriffs, police officers, constables and agents appointed under the provisions of the following section, shall investigate all cases of cruelty to animals coming to their knowledge, and shall cause offenders to be prosecuted in all cases in which the offense may appear to be of a sufficiently aggravated nature to require prosecution; all fines imposed for the punishment of such offenses, shall be paid over to the county treasurer of the county in which the offense may have been committed. For their travel and services, in conducting such investigations, such agents shall be paid by the county in which such services are rendered, the same fees as are now allowed officers by law for the service of a warrant for arrest; *provided, however,* that all claims of such agents for such travel and services shall first be audited and approved by the county commissioners of the county liable to pay the same.

SEC. 54. Upon application by the mayor and aldermen of any city, the selectmen of any town, or the president and three directors of any society for the prevention of cruelty to animals, the governor and council shall issue a badge and commission to any person designated, to arrest any person charged with violating any of the preceding twenty sections, the same as any sheriff, deputy sheriff or constable can do, and whose jurisdiction shall extend throughout the state.

SEC. 55. Municipal and police courts and trial justices shall on complaint cause to be arrested any person charged with the commission in their counties of any of the offenses described in the twenty-one preceding sections; the offense may be deemed to have been committed in any county where such animal may be found; and when such offenses are not of a high and aggravated nature, they may try and punish by fine of not less than five dollars nor more than twenty dollars, and by imprisonment not exceeding thirty days; but when on examination the offense appears to be one not within their jurisdiction for trial, they may cause the person or persons charged with the commission of the same to recognize with sureties to appear before the supreme judicial or superior courts, and in default thereof to be committed to jail.

SEC. 56. In this chapter, and in every law relating to or affecting animals, the masculine includes the feminine, the singular includes the plural, the word "animal" includes every living brute creature, the words

Officers may interfere to prevent cruelty.
R. S., c. 124, § 43.

Care of abandoned or neglected animals at the owner's expense.
R. S., c. 124, § 44.
Penalty for docking horses' tails.
1893, c. 175.

—how fines shall be disposed of.

Duty of officers to prosecute for violations.
R. S., c. 124, § 45.
1895, c. 11.

—fines, how disposed of.

—services, how paid.

Governor and council may appoint officers to enforce twenty preceding sections.
R. S., c. 124, § 46.
1891, c. 93.

Magistrate's jurisdiction.
R. S., c. 124, § 47.
1893, c. 165, 5.
1893, c. 175, 2.
1893, c. 279, 3.

Rules of construction of the twenty-two preced-

"torment," "torture" and "cruelty" include every act, omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted, and the words "owner" or "person" include corporations as well as individuals.

ing sections.
R. S., c. 124,
§ 48.

CHAPTER 124.

GAMBLING.

SEC. 1. If any person or corporation keeps a house, shop, or other place resorted to for the purpose of gambling; or permits any person to gamble in any way in any house, shop, or place under his care and control, such offender shall be fined not less than twenty, nor more than one hundred dollars, to the use of the prosecutor; and the municipal officers and constables of towns and cities, and the assessors of plantations, are required promptly to enforce the laws against gambling rooms, and to make complaint against any person or corporation in their respective municipalities, when there is probable cause to believe such person or corporation to be guilty of a violation of this section.

Punishment
for keeping
a gambling
house, or
permitting
gambling in
house or shop.
R. S., c. 125, § 1.
15 Me., 237.
23 Me., 44.
85 Me., 237.

SEC. 2. Whoever gambles, or bets on any person gambling, shall be fined not less than one, nor more than twenty dollars, to be recovered by complaint or indictment to the use of the prosecutor.

Penalty for
gambling.
R. S., c. 125, § 2.

SEC. 3. Whoever is convicted, by indictment found within six months, of winning, at one time or sitting, by gambling, or by betting on persons gambling, money or goods of the value of three dollars or more, and of receiving or taking security therefor, forfeits to the town where the offense is committed, double the value of the property so won and received.

Penalty for
winning more
than three
dollars at
one time.
R. S., c. 125, § 3.
63 Me., 11.

POOL SELLING.

SEC. 4. Whoever engages in or has anything to do with pool selling shall be punished by imprisonment in the state prison for not more than two years, and by fine of not more than two thousand dollars, or both.

Pool selling,
punishment
for engaging
in.
R. S., c. 125, § 4.

GAMBLING IN RAILROAD CARS, OR ON STEAMBOATS.

SEC. 5. Whoever, upon any railroad train or in any railroad car, or upon any steamboat, gambles, or bets upon any person gambling, shall be punished by fine of not less than one hundred dollars, or by imprisonment for not less than three months, or both.

Gambling on
railroads or
steamboats,
how to be
punished.
R. S., c. 125, § 5.

SEC. 6. Every conductor or other person having charge of a railroad train, is required to arrest or cause to be arrested all persons gambling on his train, and to detain them in his custody until a warrant can be procured from the proper authorities, and he may employ all necessary aids for such purpose.

Gamblers on
railroads shall
be arrested
by the
conductor.
R. S., c. 125, § 6.

SEC. 7. A copy of the two preceding sections shall be conspicuously posted in every car in which passengers are usually carried on any steam railroad, and in every steamboat. Any railroad or steamboat company, or the proprietors of any steamboat, refusing or neglecting to comply with this requirement, forfeit for each offense one hundred dollars, to be recovered by indictment in any county in which said railroad company runs trains or the steamboat company does business.

Copy of
sections five
and six shall
be posted in
cars and on
steamboats.
R. S., c. 125, § 7.
—penalty for
neglect.

RECOVERY OF MONEY LOST BY GAMBLING.

SEC. 8. Whoever, by gambling, or betting on persons gambling, loses to any person so gambling or betting, any money or goods, and pays or delivers any part thereof, may sue for and recover the same of the winner,

Loser by
gambling or
betting, may
recover back
his loss.

R. S., c. 125, § 8.
18 Me., 339.
19 Me., 336.
21 Me., 28.
48 Me., 319.
63 Me., 11.
91 Me., 45.

—form of execution.

—debtor to be committed for three months, if execution and jail board are not paid.

Special rule of evidence, when the loser is plaintiff.
R. S., c. 125, § 9.

in an action on the case, brought within three months thereafter; and if the loser does not, without covin or collusion, within said time prosecute therefor with effect, any other person may sue for and recover of the winner treble the value of the same in such action, half to his own use, and half to the town; and all executions issued on judgments, in favor of the loser, or in favor of a third person, as above mentioned, shall show that the judgment was rendered against the defendant for or on account of money won at gambling, and shall order the defendant to be committed to jail for three months from the date of arrest, at the county's expense, unless the judgment, costs, and board while in jail, are sooner paid; after which time, he may be released, on giving bond or disclosing, as in case of poor debtors.

SEC. 9. In any such action brought by the loser against the winner, the plaintiff may offer to make oath, that such money or goods were lost by gambling with the defendant, and the court shall thereupon render judgment for the plaintiff for the amount thereof, unless the defendant will make oath, that he did not obtain any part thereof, by gambling, and if he so discharges himself, he shall recover costs; or the plaintiff may prove his case in any other legal mode.

SECURITIES, GIVEN FOR GAMBLING DEBTS, ARE VOID.

Securities given for gambling debts are void.
R. S., c. 125, § 10.

—exceptions.

SEC. 10. All notes, bills, bonds, mortgages, securities, or conveyances, given in whole or in part for money or goods won by gambling or betting on persons gambling, or given to repay money lent or advanced for gambling or betting, or lent or advanced at the time and place thereof, are utterly void against all persons, except bona fide subsequent purchasers of real estate, and holders of negotiable paper for a valuable consideration without notice.

SEARCH FOR IMPLEMENTS OF GAMBLING.

Magistrates shall issue warrants to search for implements of gambling, etc.
R. S., c. 125, § 11.

—proceedings.

SEC. 11. When a person makes oath before a trial justice or judge of a municipal or police court that he has reason to suspect and does suspect, that any house or building, naming in the complaint the house or building and its occupant, is unlawfully used as a common gambling house, and that idle or dissolute persons resort thither for that purpose, such magistrate shall issue his warrant to search for all implements used for gambling; and if any such are found there, to arrest the occupant or keeper of such house or other building, and said implements and occupant or keeper shall be carried before him to be dealt with according to law.

Tools and implements for gambling, counterfeiting and lotteries, how to be disposed of.
R. S., c. 125, § 12.
See c. 118, § 7;
c. 120, § 6;
c. 127, § 20.
79 Me., 549.
95 Me., 518.

SEC. 12. All tools, machines, dies, plates or materials provided for making counterfeit or spurious coin, or for forging bank notes or other instruments; all burglars' tools, or implements prepared or designed for burglary; all lottery tickets or materials for a lottery or procured for the purpose of a lottery; all gambling apparatus or implements used, procured, or kept to be used in gambling, shall, when the same are found and taken by virtue of a search warrant, or are found in the possession or under the control of any person arrested for forgery, counterfeiting, burglary, selling lottery tickets, or gambling, be safely kept by the direction of the court or magistrate having cognizance of the case, so long as may be necessary for their being used as evidence on any trial, and as soon as may be afterward, they shall be burned or otherwise destroyed by order of such court or magistrate, or of a justice of the supreme judicial or superior court.

CHAPTER 125.

CHEATING BY FALSE PRETENSES; FRAUDS AND CONSPIRACIES.

FALSE PRETENSES AND FRAUDS.

SEC. 1. Whoever, designedly and by any false pretense or privy or false token, and with intent to defraud, obtains from another any money, goods, or other property, or his signature to any written instrument, the false making of which is forgery, or whoever knowingly, and with intent to defraud, sells, conveys, mortgages or pledges to another, personal property on which there is an existing mortgage, or to which he has no title, without notice to the purchaser, of such mortgage, or of such want of title, is guilty of cheating by false pretenses and shall be punished by imprisonment for not more than seven years, or by fine not exceeding five hundred dollars.

Cheating
by false
pretenses.
R. S., c. 126, § 1.
17 Me., 216.
24 Me., 77.
33 Me., 499.
64 Me., 157.
87 Me., 465.

SEC. 2. Whoever fraudulently makes or utters a receipt or other written evidence of the delivery or deposit of any grain, flour, pork, wool, or other goods, wares or merchandise in any warehouse, mill, store, or other building, when the quantity specified therein had not, in fact, been delivered or deposited in such building; or so makes or utters any receipt or other written evidence of the delivery or deposit with him of any bonds or other securities or evidences of debt, when the same have not, in fact, been so delivered and deposited, shall be punished by imprisonment for not less than one, nor more than ten years.

Penalty for
uttering
forged
receipts of
delivery or
deposit of
goods, bonds,
or securities.
R. S., c. 126, § 2.
73 Me., 156.

SEC. 3. Whoever is knowingly a party to any conveyance or assignment of real estate or interest in lands, goods, or things in action, or rents and profits arising therefrom, or to any charge thereon, made with intent to defraud prior or subsequent purchasers, or to hinder, delay, or defraud creditors or others; or knowingly puts such fraudulent conveyance, assignment, or charge into use, as genuine and made in good faith, shall be punished by fine not exceeding one thousand dollars, and imprisonment for less than one year.

Parties to
fraudulent
conveyances,
or assign-
ments.
R. S., c. 126, § 3.
61 Me., 365.
68 Me., 477.
75 Me., 474.

SEC. 4. Whoever with fraudulent intent to place mortgaged personal property beyond the control of the mortgagee, removes or conceals, or aids or abets in removing, or concealing the same, and any mortgagor of such property who assents to such removal or concealment, shall be punished by fine not exceeding one thousand dollars, or by imprisonment not exceeding one year.

Removal or
concealment
of mortgaged
personal prop-
erty, how
punished.
R. S., c. 126, § 4.

SEC. 5. Whoever puts up at an inn, hotel or boarding house, and without having an express agreement for credit, procures food, entertainment or accommodation without paying therefor, and with intent to defraud the owner or keeper of the inn, hotel or boarding house out of the pay for the same; or, with intent to cheat or defraud such owner or keeper out of the pay therefor, obtains credit at an inn, hotel or boarding house for such food, entertainment or accommodation by means of any false show of baggage or effects brought thereto; or with such intent, removes or causes to be removed any baggage or effects from an inn, hotel or boarding house, while there is a lien existing thereon for the proper charges due from him for fare and board furnished therein, shall be punished by imprisonment not exceeding six months, or by fine not exceeding one hundred dollars.

Penalty for
defrauding
inn keepers
and boarding
house keepers.
1895, c. 119, § 1.

SEC. 6. Innholders and keepers of hotels and boarding houses shall post up a printed copy of sections five and six, in a conspicuous place in each room in their inns, hotels and boarding-houses. Judges of municipal and police courts and trial justices shall have jurisdiction of all offenses arising under section five, where the amount of which any such innkeeper or boarding house keeper or the owners thereof have been thus defrauded, does not exceed the sum of twenty dollars.

Copies of law
to be posted.
1895, c. 119, § 2.
1899, c. 88.

—jurisdiction.

Gross fraud
at common
law.
R. S., c. 126, § 5.

Circulating
advertis-
ements in the
similitude of
bank bills.
R. S., c. 126, § 6.

Unauthorized
use of badge
of G. A. R. or
Sons of Vet-
erans, pun-
ished.
1893, c. 294.

Penalty for
securing false
registration,
etc., of domes-
tic animals.
1887, c. 83.
See c. 38, § 75.

Penalty for
entering for
premiums any
horse that
has been dis-
guised, etc.
1891, c. 70, § 2.

—how en-
forced.

Standard for
sale of
sterling and
coin silver.
1895, c. 6.

—penalty for
violation.

SEC. 7. Whoever is guilty of a gross fraud or cheat at common law shall be punished by imprisonment for not more than seven years, or by fine not exceeding one thousand dollars.

SEC. 8. Whoever puts in circulation or distributes any notice, advertisement, or shop bill, in the form and similitude of a bank bill, forfeits fifty dollars for each offense, to be recovered by action of debt in the name and to the use of the prosecutor.

[The commissioner suggests that this section will be in better form if the words "shall be punished by a fine of fifty dollars for each offense" are substituted for the last part of the section beginning with the word "forfeits."]

SEC. 9. Whoever wilfully wears the badge of the Grand Army of the Republic, or of the Sons of Veterans, or uses or wears the same to obtain aid or assistance thereby within this state, shall, unless he shall be entitled to use or wear the same under the rules and regulations of the Department of Maine, Grand Army of the Republic, or of the Sons of Veterans, be guilty of a misdemeanor, and shall be punished by imprisonment for not more than thirty days, or by fine not exceeding twenty dollars, or by both such fine and imprisonment.

SEC. 10. Whoever by any false pretense, obtains from any club, association, society or company for improving the breed of cattle, horses, sheep, swine or other domestic animals, the registration of any animal in the herd register or other register of any such club, association, society or company, or a transfer of any such registration, and every person who shall knowingly exhibit, make or give a false pedigree of any animal, shall be punished by imprisonment for not more than ninety days, or by fine not exceeding three hundred dollars, or by both such fine and imprisonment.

SEC. 11. Whoever, for the purpose of competing for purses or premiums, knowingly and designedly enters or drives any horse that shall have been painted or disguised, or that represents any other or different horse from the one which is purported to be entered, or shall knowingly and designedly, for the purpose of competing for premiums or purses, enter or drive a horse in a class to which it does not properly belong, *shall be deemed guilty of cheating by false pretenses*, and shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding six months, and such horse, after such notice to the owner as the court may order, and a hearing thereon, may be forfeited in the discretion of the court and sold, one-half of the net proceeds of such sale shall go to the informant, and the other half to the county in which the offense is committed. The pecuniary penalty shall be enforced by indictment and the forfeiture by a libel filed by the informant and proceedings in the manner provided in chapter ninety-eight.

SEC. 12. Whoever makes or sells, or offers to sell or dispose of, or has in his possession with intent to sell or dispose of, any article of merchandise marked, stamped or branded with the words "sterling," "sterling silver," "coin" or "coin silver," or encased or enclosed in any box, package, cover or wrapper or other thing in or by which the said article is packed, enclosed or otherwise prepared for sale or disposition, having thereon any engraving or printed label, stamp, imprint, mark or trade mark, indicating or denoting by such marking, stamping, branding, engraving or printing that such article is silver, sterling silver, solid silver, coin or coin silver, shall, unless nine hundred and twenty-five one thousandths of the component parts of the metal of which the said article so enclosed or so marked, stamped or branded with the words "silver," "sterling silver," or "solid silver," is manufactured are pure silver, or unless nine hundred one thousandths of the component parts of the metal of which the article so enclosed or so marked, stamped or branded with the words "coin" or "coin silver" is manufactured are pure silver, be punished by fine not exceeding one hundred dollars for each offense. Municipal and police courts and trial justices shall have original jurisdiction in all cases arising under this section.

[R. S., c. 126, §§ 7-11 relating to trade marks have been transferred to c. 39, §§ 37-40 and § 45.]

SUPPRESSION OF WILLS.

SEC. 13. Whoever wilfully suppresses, secretes, defaces or destroys any last will and testament of a deceased person, in his possession or under his control, with intent to injure or defraud any person interested therein, shall be punished as provided in section three.

Suppression of last wills and testaments.
R. S., c. 126, § 12.

MARITIME FRAUDS.

SEC. 14. Whoever, in any county, wilfully casts away, burns, sinks, or otherwise destroys a vessel, with intent to injure or defraud any owner thereof, the owner of any property on board, or any insurer of either, shall be punished by imprisonment *for life, or* for any term of years not less than five; and if he lades, equips, or fits out any vessel, or aids in so doing, intending that the same shall be destroyed in the manner and with the intent aforesaid, he shall be punished by imprisonment for not more than twenty years, or by fine not exceeding five thousand dollars.

Fraudulent destruction of vessels, and fitting them out for that purpose.
R. S., c. 126, § 13.

SEC. 15. If an owner of a vessel, or of property laden or pretended to be laden on board thereof, or other person concerned in its lading or fitting out, makes out or exhibits, or causes to be made out or exhibited, any false or fraudulent invoice, bill of lading, bill of parcels, or other false estimates of such property, with intent to injure or defraud any insurer of such vessel or property, he shall be punished by imprisonment for not more than ten years, or by fine not exceeding five thousand dollars.

Making false invoices, bills of lading, or false estimates of property shipped.
R. S., c. 126, § 14.

SEC. 16. If any master, other officer, or mariner of any vessel makes, causes to be made, or swears to any false affidavit or protest; or if any owner or other person concerned in such vessel, or in the property on board thereof, procures such false affidavit or protest to be made, or exhibits the same with intent to injure, deceive, or defraud any insurer of such vessel or property, he shall be punished by imprisonment for not more than ten years, or by fine not exceeding five thousand dollars.

False affidavits and protests by master, officer, mariner or owner of vessel or cargo.
R. S., c. 126, § 15.

SEC. 17. Whoever entices or persuades or attempts to entice or persuade, or aids, assists or attempts to aid or assist a member of the crew of any vessel arriving in or about to sail from a port in this state to leave or desert such vessel before the expiration of his term of service therein, shall forfeit a sum not exceeding one hundred dollars for each offense and be punished by imprisonment for not more than six months nor less than thirty days, at the discretion of the court. Municipal (and police) courts and trial justices shall have original jurisdiction in all cases arising under this section.

Penalty for aiding sailors to desert.
1899, c. 53.

—jurisdiction of offenses.

BURNING PROPERTY FOR THE INSURANCE.

SEC. 18. If an owner or person in any way concerned, interested, or in possession of any building, goods, or other property, insured against loss or damage by fire, wilfully burns the same or causes it to be burned, with intent to defraud the insurer, he shall be punished by imprisonment for not less than one, nor more than twenty years.

Persons, burning their own property to defraud insurers.
R. S., c. 126, § 16.

CONSPIRACIES.

SEC. 19. If two or more persons conspire and agree together, with intent falsely, fraudulently, and maliciously to cause another person to be indicted or in any way prosecuted for an offense of which he is innocent, whether he is prosecuted or not, they are guilty of a conspiracy, and each shall be punished by imprisonment for not more than five years, or by fine not exceeding one thousand dollars.

Conspiracies, to prosecute an innocent person.
R. S., c. 126, § 17.
81 Me., 256.

SEC. 20. If two or more persons conspire and agree together, with the fraudulent or malicious intent wrongfully and wickedly to injure the person, character, business, or property of another; or to do any illegal

Conspiracies in other cases.
R. S., c. 126, § 18.

15 Me., 102.
30 Me., 134.
31 Me., 388, 400.
34 Me., 321.
48 Me., 235.
64 Me., 370.

Penalty for preventing, by threats, any person from entering or leaving employment of any person or corporation.
1891, c. 127.

act injurious to the public trade, health, morals, police, or administration of public justice; or to commit a crime punishable by imprisonment in the state prison, they are guilty of a conspiracy, and every such offender, and every person convicted of conspiracy at common law, shall be punished by imprisonment for not more than three years, or by fine not exceeding one thousand dollars.

SEC. 21. Any employer, employe, or other person, who by threats of injury, intimidation or force, alone or in combination with others, prevents any person from entering into, continuing in or leaving the employment of any person, firm or corporation, shall be punished by imprisonment for not more than two years, or by fine not exceeding five hundred dollars.

CHAPTER 126.

MALICIOUS MISCHIEFS, AND TRESPASSES ON PROPERTY.

MALICIOUS MISCHIEFS, AND TRESPASSES.

Maliciously killing or injuring domestic animals.
R. S., c. 127, § 1.
See c. 28, § 20.
75 Me., 563.

Unlawful taking of a saddled or harnessed horse.
R. S., c. 127, § 2.

Penalty for the unlawful taking of boats, vehicles or draft animals, in other situations.
R. S., c. 127, § 3.
1887, c. 148.

Penalty for injuring property of any water company.
1891, c. 82, § 2.
See c. 64, § 7.

Penalty for wilful, wanton or malicious injuries to ice.
R. S., c. 127, § 5.
1901, c. 242, § 1.

SEC. 1. Whoever wilfully or maliciously kills, wounds, maims, disfigures, or poisons any domestic animal, or exposes any poisonous substance with intent that the life of such animal should be destroyed thereby, shall be punished by imprisonment for not more than four years, or by fine not exceeding five hundred dollars.

SEC. 2. Whoever unlawfully, wilfully, and with intent to injure the owner, takes away any horse, saddled, or harnessed, or attached to a vehicle, and standing in any highway or other place, shall be punished by fine not exceeding one hundred dollars, or imprisonment in jail for not more than three months.

SEC. 3. Whoever in any other case, wilfully and mischievously takes or uses any boat or vehicle, or takes, drives, rides, or uses any horse, ox, or other draft animal, the property of another, without the consent of the owner, or person having the legal custody, care and control thereof; or whoever hires with intent to and does so use or drive any horse, ox or other draft animal in excess of any contract made with the owner or keeper thereof, shall be punished by fine not exceeding three hundred dollars, or by imprisonment not exceeding one year; but this and the preceding section do not apply to any case of taking the property of another with intent to steal the same, or when such property is taken under a claim of right, or with the presumed consent of the owner or person having the legal control thereof.

SEC. 4. Whoever shall wilfully injure any property of any water company or of any city or town, used by it in supplying water to its inhabitants, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment not exceeding one year; and such person shall also forfeit and pay to such water company, city or town three times the amount of actual damages sustained, to be recovered in an action on the case.

[R. S., c. 127, § 4, was apparently repealed by P. L. 1891, c. 82 (see c. 127, § 1) and is accordingly omitted from this report.]

SEC. 5. Whoever wilfully and wantonly or maliciously cuts, injures, mars or otherwise destroys or damages ice upon any waters from which ice is or may be taken as an article of merchandise, whereby the taking thereof is hindered or the value of the same is diminished for that purpose; or whoever wilfully and wantonly or maliciously incites or procures another to do so, shall be punished by fine not exceeding five hundred dollars, or by imprisonment not exceeding one year, or both; and it is not necessary to allege or prove the title or ownership of the ice so cut, injured, marred, damaged or destroyed.

SEC. 6. Whoever wilfully, mischievously or maliciously breaks and enters any railroad car on any railroad in this state, or destroys, injures, defiles or defaces any railroad car on any railroad in this state, or mischievously or maliciously releases the brakes upon, moves or sets in motion any railroad car on the track or side track of any railroad in this state, shall be punished by imprisonment not exceeding two years, or by fine not exceeding five hundred dollars, and shall also be liable to the corporation injured in an action of trespass for the amount of injury so done, and for a further sum not exceeding in all three times such amount, as the jury deems reasonable.

Penalty for wilful or malicious injury to property of any railroad. 1895, c. 5.

SEC. 7. Whoever wilfully or maliciously injures, removes or destroys any dam, reservoir, canal, trench, or their appurtenances, or the gear or machinery of a mill or manufactory; draws off the water from a mill pond, canal or trench; destroys or injures any engine or its apparatus for the extinguishment of fire, or any posts, glass caps, wires, or other material used in the construction and operation of a telegraph, telephone, or electric light (or electric power) line; removes, injures, or destroys any public or toll bridge, or places any obstruction on such bridge or on any public road, with intent to injure persons or property passing thereon, shall be punished by imprisonment for not more than three years or by fine not exceeding five hundred dollars.

Penalty for injuries to dams, canals, mill machinery, ponds, engines, and electrical fixtures. R. S., c. 127, § 6. 1885, c. 378, § 10. See c. 16, § 34. —obstruction of bridges and ways. 30 Me., 183. 40 Me., 594.

SEC. 8. Whoever wilfully or maliciously drives or causes to be driven into any log or logs intended to be saved or manufactured, any nail, spike, bolt, or other article such as is likely to cause injury to or destruction of any saw or instrument used in the manufacture of such logs, or endanger the life or person of any one engaged in such manufacture, shall be punished by fine of not less than one hundred dollars nor more than five hundred dollars, and imprisonment for not less than one year nor more than five years; and shall also be liable to any person injured in an action on the case for double the damages sustained by such person.

Penalty for injuries to logs intended for manufacture. 1891, c. 69.

SEC. 9. Whoever wilfully or maliciously, without consent of the owner, cuts away, lets loose, injures, or destroys any boom, raft of logs, or other lumber, or any vessel, gondola, scow or other boat, fastened to any place of which he is not the owner or legal possessor, shall be punished by fine not exceeding five hundred dollars, and imprisonment for less than one year; and shall also be liable to the person injured in an action of trespass for double the damages by him sustained.

Penalty for injuring or cutting loose booms, rafts, vessels, or boats; civil action for double damages. R. S., c. 127, § 7.

SEC. 10. Whoever moors a vessel, boat, scow, or raft, to any buoy or beacon, placed by the United States in any of the navigable waters of the state, or in any manner makes the same fast thereto, forfeits fifty dollars; and whoever wilfully destroys any such buoy or beacon, shall forfeit one hundred dollars and be imprisoned for three months. Said forfeitures may be recovered by complaint or action of debt; half to the plaintiff or informer, and half to the county in which the trial is had.

Penalty for mooring vessels or rafts to buoys or beacons, and for destroying them; how recoverable. R. S., c. 127, § 8.

SEC. 11. Whoever wilfully and wantonly or maliciously cuts down, destroys, or otherwise injures any shrub or tree for ornament or use; breaks, injures or defaces any fence; 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 for less than one year, and by fine not exceeding one hundred dollars.

Malicious injuries to trees, fences, gates, or produce. R. S., c. 127, § 9. 1901, c. 242, § 2. See c. 95, § 3. 3 Me., 178. 5 Me., 409. 37 Me., 331. 60 Me., 410. 78 Me., 31.

SEC. 12. Whoever advertises his wares or occupation by painting notices of the same on, or affixing them to fences or other private property, or to rocks or other natural objects, without consent of the owner, or if in the highway or any other public place, without permission of the mayors of cities, selectmen of towns, or assessors of plantations, forfeits ten dollars for each offense, to be recovered on complaint, half to the prosecutor, and half to the town in which the offense is committed.

Advertising on fences, rocks, etc., without permission. R. S., c. 127, § 10. —penalty.

Trespasses on improved lands, how to be punished.
R. S., c. 127, § 11.
See c. 95, § 11.

Wilfully entering or passing over the land of another after being forbidden, is trespass.
R. S., c. 127, § 12.
§ 16 applies.

Injuries to fruit gardens, how to be punished.
R. S., c. 127, § 13.
See c. 95, § 11.

—fines shall be given to the poor.

The owner or occupant may arrest offenders.
R. S., c. 127, § 14.

Trespass on timber, or wood standing, etc.
R. S., c. 127, § 15.
5 Me., 409.

Malicious injuries to monuments, landmarks, guide boards, lamps.
R. S., c. 127, § 16.
1901, c. 242, § 3.

Malicious injury to buildings, fixtures, goods or valuable papers.
R. S., c. 127, § 17.
1901, c. 242, § 4.

Wanton injury to books, pictures, etc., in public libraries.
R. S., c. 127, § 18.

SEC. 13. Whoever wilfully commits any trespass, or knowingly authorizes or employs another to do so, by entering the garden, orchard, pasture, cranberry ground, or improved land, of another, with intent to take, carry away, destroy, or injure trees, shrubs, grain, grass, hay, fruit, vegetables, turf or soil thereon, shall be punished by fine not exceeding twenty dollars, and imprisonment for not more than thirty days.

SEC. 14. Whoever wilfully enters on or passes over the garden, orchard, mowing land or other enclosed or cultivated land of another, between the first days of April and December, after being forbidden so to do by the owner or occupant of said land, or his agent, either personally or by notice posted conspicuously on the premises, is guilty of trespass, and shall be punished by fine not exceeding twenty dollars, and section sixteen applies to violations of this section.

SEC. 15. Whoever enters an orchard, fruit garden, vineyard, or any field or enclosure, kept for the purpose of cultivating any domestic fruit therein, without consent of the owner or occupant, and with intent to take, injure, or destroy anything there growing; and whoever wilfully cuts down, injures or destroys any tree, shrub, or vine, within any of the places before named, or injures any building, trellis, framework, or appurtenance belonging to or upon any of said places, shall be punished by a fine of twenty dollars and costs, and imprisonment for not less than thirty days, and in default of payment of said fine and costs, shall be further imprisoned at the rate of two days for each dollar of said fine and costs. Fines imposed by this section, shall be paid over to the overseers of the poor, for the poor of the town where such conviction is had.

SEC. 16. The owner of such place, or any person employed in its cultivation, or rightfully in the possession thereof, may arrest any person found violating the preceding section, and carry him before any magistrate within the county where the arrest is made.

SEC. 17. Whoever, except a *highway surveyor* (road commissioner) acting within the scope of his lawful authority, wilfully commits any trespass by cutting, destroying, or carrying away timber or wood, on the land of another: by digging up, taking, and carrying away therefrom earth, stone, grass, corn, grain, fruit, hay, or other vegetables, or by carrying away from any wharf or landing place goods in which he has no interest, shall be punished by imprisonment for not more than two months, and by fine not exceeding fifty dollars.

SEC. 18. Whoever wilfully and wantonly or maliciously injures or removes any monument erected, or tree marked as a boundary of any land or town; destroys, defaces or alters the marks thereon, made for the purpose of designating such boundary; injures or defaces any mile stone or guide board erected on a public way or railroad; removes, defaces or injures any sign board, lamp or lamp post; or extinguishes any lamp on any bridge, street, way, or passage, shall be punished by imprisonment for less than one year and by fine not exceeding one hundred dollars.

SEC. 19. Whoever wilfully and wantonly or maliciously destroys, injures, or defaces any building or fixture attached thereto, without consent of the owner; or destroys, injures, or secretes, any goods, chattels, or valuable papers of another, shall be punished by imprisonment for less than one year or by fine not exceeding five hundred dollars; and shall also be liable to the party injured, in an action of trespass, for the amount of injury so done, and for a further sum, not exceeding, in all, three times such amount, as the jury deems reasonable. (a)

SEC. 20. Whoever wantonly mars, defaces or injures a book, picture, statue or painting, belonging to any public library, or library of any association open to the public, shall be fined not exceeding ten dollars.

(a) 12 Me., 215; 21 Me., 345; 30 Me., 477, 485; 33 Me., 147, 362; 66 Me., 64.

SEC. 21. Whoever places rocks, stones, or other obstructions, in a traveled road, and leaves them there, shall be fined one dollar for each offense, to be recovered on complaint, to the use of the town where the offense is committed.

Placing obstructions on any traveled road.
R. S., c. 127, § 19.

SEC. 22. Prosecutions for offenses hereinbefore described, except those set forth in sections one, seven, and nine, must be commenced within four years after the commission thereof; and trial justices, and municipal and police courts, shall have jurisdiction when the property destroyed, or injury done, is not alleged to exceed ten dollars in value, in which case the punishment shall be by fine not exceeding ten dollars and imprisonment for not more than thirty days unless otherwise specially provided.

Limitations of prosecutions, and jurisdiction of trial justices.
R. S., c. 127, § 20.

TRANSPORTATION OF BAGGAGE AND WILFUL INJURY THEREOF.

SEC. 23. Any baggage master, express agent, stage driver, hackman or other person whose duty it is to handle, remove, or take care of trunks, valises, boxes, packages or parcels, whether in the employment of a railroad, steamboat or stage company or not, who, while loading, transporting, unloading, delivering, or storing such property wantonly or recklessly injures or destroys the same, shall be punished by imprisonment for less than one year or by fine not exceeding one hundred dollars; and such offenders may be prosecuted by the owner of property so destroyed or injured, or by his authorized agent, within one year from the day of the offense, half of the fine to be paid to such owner, and half to the county in which the offense was committed.

Wilful destruction of, or injury to baggage, punishment for.
R. S., c. 127, § 21.

SEC. 24. Trial justices, and municipal and police courts, have jurisdiction of offenses described in the preceding section, when the property destroyed or injury done is not alleged to exceed twenty dollars.

Jurisdiction of trial justices.
R. S., c. 127, § 22.

WEARING OF SPIKED BOOTS.

SEC. 25. No person wearing boots or shoes with spikes or calks in the sole or heel thereof shall enter any public building, hotel, railroad station, railroad car or steamboat, without special permission from the owner, lessee, person in charge thereof, or some officer, agent or servant of either of them, or having entered, shall remain therein after having been requested to leave such public building, hotel, railroad station, railroad car or steamboat, by the owner, lessee, person in charge thereof or some officer, agent or servant of either of them.

Wearing of spiked boots and shoes in public places, forbidden.
1899, c. 5, § 1.

SEC. 26. Whoever violates either of the provisions of section twenty-five shall, on complaint and conviction be fined not less than one dollar nor more than ten dollars, but a person having entered as aforesaid without permission and remaining after having been requested to leave as above provided, shall only be convicted of violating one of the provisions of section twenty-five.

Penalty for violation.
1899, c. 5, § 2.

SEC. 27. No person shall be convicted of any offense under section twenty-five unless a printed copy of sections twenty-five to twenty-eight inclusive shall have been posted in a conspicuous place in the public building, hotel, railroad station, railroad car or steamboat where said offense is committed, for at least thirty days prior to the commission of said offense, and is also posted at the time of said offense.

Printed copies of §§ 25 to 28 must be posted in public places.
1899, c. 5, § 3.

SEC. 28. Whoever wilfully destroys, defaces or tears down any such printed copy posted under the preceding section, shall forfeit not less than one, nor more than ten dollars to be recovered on complaint.

Penalty for destroying notices.
1899, c. 5, § 4.

CHAPTER 127.

OFFENSES AGAINST THE PUBLIC HEALTH, SAFETY AND POLICY.

UNWHOLESOME PROVISIONS AND DRINKS.

Penalty for corrupting water used for domestic and other purposes. 1891, c. 82, § 1.

See 1891, c. 82 § 3.

Penalty for holding any diseased meat, or milk, for human food. 1895, c. 144, § 1.

Penalty for selling or offering for sale, impure or diluted milk. R. S., c. 38, § 47. 1893, c. 255, § 2.

—when milk shall be deemed to have been diluted.

Penalty for selling unwholesome provisions or drinks. R. S., c. 128, § 1.

—killing for sale, or selling meat of calves killed when less than four weeks old.

Warrants may be issued to search for such veal. R. S., c. 128, § 2.

SEC. 1. Whoever knowingly and wilfully poisons, defiles or in any way corrupts the waters of any well, spring, brook, lake, pond, river or reservoir, used for domestic purposes for man or beast, or knowingly corrupts the sources of the water supply of any water company, or of any city or town, supplying its inhabitants with water, or the tributaries of said sources of supply in such manner as to affect the purity of the water so supplied, or knowingly defiles such water in any manner, whether the same be frozen or not, or puts the carcass of any dead animal or other offensive material into said waters, or upon the ice thereof, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment not exceeding one year.

SEC. 2. The owner or other person having charge of any animal, or meat or milk of any animal affected with tuberculosis or other contagious or infectious disease, who, knowing that the animal is thus affected, shall hold the animal, or its meat or milk, for human food, shall be punished by a fine of not less than five dollars nor more than fifty dollars.

[The commissioner recommends that the penalties for violations of sections one and two be made alike. Compare the following section.]

SEC. 3. Whoever acting for himself, or as the employe of another, knowingly or wilfully sells or offers for sale, milk from cows diseased, sick, or fed upon the refuse of breweries or distilleries, or upon any substance deleterious to its quality, or milk to which water or any foreign substance has been added, or sells or offers for sale as pure milk, any milk from which cream has been taken, *forfeits* (shall be punished by a fine of) twenty dollars for the first, and fifty dollars for every subsequent offense, *to be recovered for the town where the offense is committed by complaint and indictment.* When milk shall, by the gravimetric analysis be found to contain over eighty-eight per cent of water, it shall be deemed *prima facie* evidence that said milk has been watered, and when milk by the analysis aforesaid, shall be found to contain less than twelve per cent of solids, and less than three per cent of fat, it shall be deemed, *prima facie*, milk from which cream has been taken, and any milk which, by the analysis aforesaid, shall be found to contain any foreign substance, shall be deemed milk to which a foreign substance has been added.

SEC. 4. Whoever sells diseased, corrupted or unwholesome provision for food or drink, knowing it to be such, *without informing the buyer*, or fraudulently adulterates for the purpose of sale, any substance intended for food, or any wine, spirits or other liquors intended for drink, so as to render them injurious to health, shall be punished by imprisonment for not more than five years, or by fine not exceeding one thousand dollars; and whoever kills or causes to be killed for the purpose of sale, any calf less than four weeks old, or knowingly sells, or has in possession with intent to sell for food, the meat of any calf killed when less than four weeks old, shall be punished by imprisonment in the jail or house of correction, not exceeding thirty days, or by fine not exceeding fifty dollars, or both; and all such meat exposed for sale, or kept with intent to sell, may be seized and destroyed by any board of health, or health officer, or any sheriff, deputy sheriff, constable, or police officer.

SEC. 5. When complaint is made on oath to any court or justice authorized to issue warrant in criminal cases, that meat of calves killed when less than four weeks old, is kept or concealed with intent to sell the same for purposes of food, such magistrate, when satisfied that there is reasonable cause for such belief, may issue a warrant to search therefor.

SEC. 6. Whoever by himself or his agent manufactures, sells, exposes for sale or has in his possession with intent to sell, or takes orders for the future delivery of any article, substance or compound made in imitation of yellow butter or cheese, and not made exclusively and wholly of cream or milk, or containing any fats, oil or grease not produced from milk or cream, whether said article, substance or compound be named oleomargarine, butterine or otherwise named, forfeits for the first offense one hundred dollars and for the second and each subsequent offense, two hundred dollars, to be recovered by indictment with costs, one-third part to go to the complainant and the balance to the state.

Penalty for manufacturing, selling, etc., imitation of yellow butter or cheese.
R. S., c. 128, § 3.
1895, c. 143.
95 Me., 97.

SEC. 7. Every inspector of milk, sheriff, deputy sheriff or constable shall institute complaint for violations of the preceding section whenever he has reasonable cause for suspicion, and on the information of any person who shall lay before him satisfactory evidence of the same. Said inspector or officer shall take specimens of suspected butter or cheese and cause the same to be analyzed or otherwise satisfactorily tested. The expense of such analysis or test, not exceeding twenty dollars in any one case, may be included in the costs of prosecution, and taxed and allowed to the officer paying the same.

Duty of officers to make complaints.
R. S., c. 128, § 5.

—suspected articles to be analyzed.

—costs, how to be taxed.

SEC. 8. For the purposes of the two preceding sections, the terms "butter," and "cheese," mean the products usually known by those names, and which are manufactured exclusively from milk or cream, or both, with salt and rennet, and with or without coloring matter.

Butter and cheese, defined.
R. S., c. 128, § 6.

SEC. 9. Whoever, by himself or his agent, sells or offers for sale eggs that have been in cold storage or limered, or that have been preserved in any manner and are not what are usually denominated fresh eggs, without notice to the purchaser or purchasers, knowingly and with intent to deceive, shall be punished by imprisonment not exceeding thirty days or by fine not exceeding one hundred dollars.

Selling preserved eggs, without notice to purchaser, prohibited.
1895, c. 99.
—penalty.

SEC. 10. No manufacturer or other person shall sell, deliver, prepare, put up, expose or offer for sale any lard, or any article intended for use as lard, which contains any ingredient but the pure fat of swine, in any tierce, bucket, pail, or other vessel or wrapper, or under any label bearing the words "pure," "refined," "family," or either of them, alone or in combination with other words, unless every vessel, wrapper or label, in or under which such article is sold or delivered or prepared, put up or exposed for sale, bears on the top or outer side thereof, in letters not less than one-half inch in length and plainly exposed to view, the words "compound lard."

Sale of lard, regulated.
1889, c. 244.

SEC. 11. No manufacturer or other person shall sell, prepare, deliver, put up, expose or offer for sale, any article, substance or compound, under or by the name of wheat meal, graham meal or graham flour, made in imitation of pure wheat meal, and not consisting exclusively and wholly of pure wheat meal unless every box, bucket, barrel or wrapper in or under which such article is sold, delivered, or exposed for sale, bears on the top or outer side thereof, in letters not less than one-half inch in length, and plainly exposed to view the words, "compound wheat meal."

Sale of wheat meal, regulated.
1889, c. 257.

SEC. 12. Any person who violates any provision of the two preceding sections forfeits for each offense the sum of fifty dollars to the use of any person suing therefor in an action of debt.

Penalty for violation of §§ 9, 10.
1839, c. 244, § 2.
1889, c. 257, § 2.

SEC. 13. Whoever adulterates sugar or molasses; or knowingly, wilfully or maliciously sells, or offers or exposes for sale, sugar, or molasses, adulterated with salts of tin, terra alba, glucose, dextrine, starch sugar, corn syrup, or other preparation from starch, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment for not more than one year.

Sale of adulterated sugar or molasses prohibited.
R. S., c. 128, § 7.
—penalty.

SEC. 14. Whoever sells or offers for sale, as maple sugar or syrup, any article made in adulteration or imitation of maple sugar or syrup, shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail for thirty days.

Sale of adulterated maple sugar, or syrup, prohibited.
1895, c. 118.

Half the fine shall be paid to the complainant and the balance to the county in which the offense is prosecuted.

Adulteration
of vinegar
prohibited.
R. S., c. 128, § 8.

—penalty.

Manufacture
or sale of
adulterated
vinegar, how
punished.
R. S., c. 128, § 9.

Municipal
officers to
appoint
inspectors
of vinegar.
R. S., c. 128, § 10.

SEC. 15. Whoever manufactures for sale, or knowingly offers or exposes for sale, or knowingly causes to be branded or marked as cider vinegar, any vinegar not the legitimate product of pure apple juice, known as apple cider, and not made exclusively therefrom, but into which any foreign substance, ingredient, drug, or acid has been introduced, as appears by proper tests, shall, for each offense, be fined not less than fifty, nor more than one hundred dollars.

SEC. 16. Whoever manufactures for sale, or knowingly offers or exposes for sale, vinegar found, upon proper tests, to contain any preparation of lead, copper, or sulphuric acid, or other ingredient injurious to health, shall, for each offense, be fined not less than one hundred dollars.

SEC. 17. The mayor and aldermen of cities shall, and the selectmen of towns may, annually appoint one or more persons to be inspectors of vinegar, for their respective municipalities, *who shall be sworn before entering upon their duties* (and may fix their compensation).

FIRE-WORKS.

Penalty for
selling fire-
works with-
out license.
R. S., c. 128, § 11.

Toy pistols,
sale of,
prohibited.
R. S., c. 128, § 12.

—penalty
and liability.

SEC. 18. Whoever sells, (or) offers for sale, *or gives away* crackers, squibs, rockets, or other fire-works, *or fires or throws the same* in any town, without the license of the municipal officers thereof, shall be fined not exceeding ten dollars, to the use of such town.

SEC. 19. Whoever has in his possession a toy pistol for the explosion of percussion caps, or blank cartridges, with intent to sell it, or sells or offers to sell or give it away, shall be fined not less than five, nor more than one hundred dollars, and shall be liable for all damages resulting from such selling, or giving away, to be recovered in an action on the case.

LOTTERIES.

Lotteries, of
all kinds,
schemes of
chance, at
church fairs
and gather-
ings, or
otherwise
prohibited.
R. S., c. 128, § 13.
1835, c. 65.
7 Me., 502.
15 Me., 123.
73 Me., 73.
82 Me., 319.
85 Me., 233.

—penalty.

—printing,
etc., of
tickets, shall
be prima
facie evidence
of existence
of lottery.

SEC. 20. Every lottery, policy, policy lottery, policy shop, scheme or device of chance, of whatever name or description, whether at fairs or public gatherings, or elsewhere, and whether in the interests of churches, benevolent objects, or otherwise, is prohibited; and whoever is concerned therein, directly or indirectly, by making, writing, printing, advertising, purchasing, receiving, selling, offering for sale, giving away, disposing of, or having in possession with intent to sell or dispose of, any ticket, certificate, share or interest therein, slip, bill, token, or other device purporting or designed to guarantee or assure to any person or to entitle any person to a chance of drawing or obtaining any prize or thing of value to be drawn in any lottery, policy, policy lottery, policy shop, scheme or device of chance of whatever name or description; by printing, publishing or circulating the same, or any hand bill, advertisement or notice thereof, or by knowingly suffering the same to be published in any newspaper or periodical under his charge, or on any cover or paper attached thereto; or who in any manner aids therein, or is connected therewith, shall be punished by fine of not less than ten dollars, nor more than one thousand dollars, to be recovered by complaint, indictment or action of debt, half to the prosecutor and half to the town where the offense is committed; and if by action of debt, he shall not be entitled to the benefit of chapter one hundred and twelve, and if by indictment, he shall further be punished by imprisonment for thirty days on the first conviction; sixty, on the second; and ninety on the third. And all lottery tickets, or materials for a lottery, procured for that purpose, shall be disposed of as provided in section twelve of chapter one hundred and twenty-four. The printing, advertising, issuing or delivery of any ticket, paper, document or material representing or purporting to represent the existence of, or an interest in

a lottery, policy lottery, game or hazard, shall be prima facie evidence of the existence, location and drawing of such lottery, policy lottery, game or hazard, and the issuing or delivery of any such paper, ticket, document or material shall be prima facie evidence of value received therefor by the person or persons, company or corporation who issues or delivers or knowingly aids or abets in the issuing or delivering of such paper, ticket, document or material.

SEC. 21. When it appears to the attorney general that any person has formed or published such a lottery, or taken any measures for that purpose; or is engaged in selling or otherwise distributing tickets, certificates, shares, or interests therein, whether such lottery originated in this state or not, he shall immediately make complaint in the name of the State to some justice of the supreme judicial court, in or out of term time, for an injunction to restrain such person from further proceedings therein; and if satisfied that there is sufficient ground therefor, such justice shall forthwith issue such injunction; and thereupon he shall order notice, to be served like other summonses, on the adverse party to appear and answer to said complaint. Such justice, after a full hearing, may dissolve, modify, or make perpetual such injunction; make all orders and decrees, according to the course of chancery, necessary to restrain and suppress such unlawful proceedings, and if the adverse party neglects to appear, or the final decree of the court is against him, judgment shall be rendered against him for all costs, fees, and expenses incurred in the case, and for such compensation to the attorney general, for his services and expenses, as the court deems reasonable.

SEC. 22. Payments, compensations, and securities of every description, made directly or indirectly, in whole or in part, for any such lottery or ticket, certificate, share or interest therein, are received without consideration and against law and equity, and may be recovered back.

Attorney general may have injunction to restrain any lottery. R. S., c. 128, § 14.

—proceedings.

Payments and securities for lotteries are void, and may be recovered back. R. S., c. 128, § 15. 82 Me., 319.

CANDY AND CIGARETTES.

SEC. 23. Whoever by himself, his servant, or (as) agent of any other person or corporation, manufactures for sale, or knowingly sells or offers for sale any candy adulterated by the admixture of terra alba, barytes, talc, or any other mineral or metallic substance, or by poisonous colors or flavors, or containing brandy, whiskey, rum, wine or any alcoholic liquor in liquid form or other ingredients deleterious or detrimental to health, or offers for sale any candy under the name of brandy, whiskey, rum or wine drops, shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars. The candy so adulterated shall be forfeited and destroyed under the direction of the court. County attorneys shall prosecute all complaints under this section, in all the courts in their respective counties.

Sale of adulterated candy and brandy drops forbidden. 1895, c. 71.

—penalty.

—county attorney to prosecute.

SEC. 24. Whoever sells or offers for sale, prize candy in packages containing or purporting to contain a prize or gift, shall, for each offense be punished by imprisonment in any jail or house of correction not exceeding thirty days, or by fine not exceeding twenty dollars, and if discovered in the commission of such offense in any railroad car, steamboat, public conveyance, or other place, by any officer qualified to serve criminal process, he may be arrested by such officer and detained by imprisonment or otherwise not exceeding twenty-four hours, until a complaint has been made and a warrant issued against him.

Penalty for offering prize candy for sale. R. S., c. 128, § 16.

—liability to summary arrest.

SEC. 25. Whoever, by himself, his clerk, servant or agent, *directly or indirectly, manufactures for sale, or* directly or indirectly sells, offers for sale, has in his possession with intent to sell, or gives away, to any person under the age of twenty-one years, any cigarette, shall be punished by fine not exceeding fifty dollars, or by imprisonment not exceeding sixty days. Trial justices and municipal and police courts shall have jurisdiction of offenses arising under this section.

Manufacture and sale of cigarettes to minors, prohibited. 1897, c. 333.

—penalty. —jurisdiction of offenses.

TRAMPS.

Begging, etc.,
evidence of
being a tramp.
R. S., c. 128, § 17.
1901, c. 150.

—penalty.

—refusing to
labor, how
punished.

Penalty for
entering
dwelling,
kindling fire
in highway,
etc., without
leave.
R. S., c. 128, § 18.

Malicious
injury to
person or
property.
R. S., c. 128, § 19.
State prison
sentences
for less
than a year.
R. S., c. 128, § 20.
Arrest by
any citizen.
R. S., c. 128, § 21.

—exceptions.

Non-resident
tramps
forbidden to
sleep or lodge
in barns, etc.,
without
permission.
R. S., c. 128, § 22.

—evidence.

—arrest and
detention.

Fees of
officers.
R. S., c. 128, § 23.

—when costs
shall be paid
by the state.
See c. 24, § 30.

Special
constables
shall be
appointed to
arrest tramps.
R. S., c. 128, § 24.
1889, c. 288, § 3.

SEC. 26. Whoever goes about from town to town, or from place to place in any town, asking for food or shelter or begging or subsisting upon charity shall be deemed a tramp and be imprisoned in the county jail for not less than thirty days nor more than ten months, at hard labor for ten hours each day, Sundays excepted. And should any person so sentenced refuse to labor in accordance with the provisions of this section, he shall be provided with no food, except bread and water, until he shall consent to labor in conformity with the requirements of this section. Trial justices and judges of municipal and police courts, shall have jurisdiction of all offenses arising under this section.

SEC. 27. If a tramp enters a dwelling-house, or kindles a fire in the highway, or on the land of another without the consent of the owner or occupant, or is found carrying any fire-arm or other dangerous weapon, or threatens to do injury to any person, or to the real or personal estate of another, he shall be punished by imprisonment at hard labor in the state prison for not more than two years.

SEC. 28. If a tramp wilfully and maliciously does injury to any person, or to the real or personal estate of another, he shall be punished by imprisonment at hard labor in the state prison for not more than five years.

SEC. 29. Any court imposing any punishment provided by either of the three preceding sections may, at its discretion, sentence to the state prison for a term less than one year.

SEC. 30. Any person, upon view of an offense described in the last eight sections of this chapter, may apprehend the offender and take him before any competent magistrate, for examination, but said sections shall not apply to any blind person, or female, or minor under the age of fourteen years.

SEC. 31. If any tramp, not resident in the state, sleeps or lodges in any barn or other outbuilding without consent of the owner or occupant, he shall be fined twenty dollars, and in default of payment, shall be imprisoned at hard labor in the nearest work-jail, not less than four months for the first offense, and not less than six months for every subsequent offense. A non-resident committing any act of beggary or vagrancy shall be deemed a tramp, and may be arrested by any officer and detained not exceeding twenty-four hours until a warrant, issued on complaint of some resident of the state, can be obtained.

SEC. 32. The fees of officers and magistrates under the preceding section shall be the same as in case of common vagrants, except that the fees for commitment shall be one dollar and a half for each day necessarily employed, and actual expenses of transportation; all costs incurred under said section shall be paid by the State, upon the order of the county commissioners, out of the state pauper fund; *provided*, that the governor and council are satisfied that the person confined is a tramp, having no pauper settlement in the state.

SEC. 33. Mayors and selectmen shall appoint special constables *in each school district in their respective towns*, to arrest and prosecute all tramps in their respective municipalities.

CHAPTER 128.

LIBELS.

SEC. 1. A libel is the malicious defamation of a living person, made public by any printing, writing, sign, picture, representation or effigy, tending to provoke him to wrath, expose him to public hatred, contempt or ridicule, or to deprive him of the benefits of public confidence and social intercourse; or of a deceased person, thus made public, designed to blacken and vilify his memory, and tending to scandalize or provoke his relatives or friends; but nothing shall be deemed a libel unless there is a publication thereof; and the delivery, selling, reading or otherwise communicating a libel directly or indirectly to any person, or to the party libeled, is a publication.

Definition of a libel and of a publication.
R. S., c. 129, § 1.
32 Me., 533.
72 Me., 21.
89 Me., 293.

SEC. 2. Whoever makes, composes, dictates, writes, or prints a libel; directs or procures it to be done; wilfully publishes or circulates it, or knowingly and wilfully aids in doing either, shall be punished by imprisonment for less than one year, and by fine not exceeding one thousand dollars.

Punishment for libel.
R. S., c. 129, § 2.
66 Me., 327.

SEC. 3. Whoever manages or controls the business of a printing office, bookstore, or shop, as principal or agent, or is, in whole or in part, proprietor, editor, printer, or publisher of a newspaper, pamphlet, book, or other publication, is responsible for any libel printed or published therein, unless he proves on trial that it was printed and published without his knowledge, consent, or suspicion, and that by reasonable care and diligence, he could not have prevented it.

Who are responsible for libels printed or published.
R. S., c. 129, § 3.

SEC. 4. Whoever wilfully and maliciously states, delivers or transmits by any means whatever to the manager, editor, publisher or reporter of any newspaper, magazine, publication, periodical or serial, for publication therein, any false or libelous statement concerning any person or corporation, and thereby secures the actual publication of the same, shall, upon conviction thereof, be punished by fine not exceeding five hundred dollars, or by imprisonment not exceeding one year, or by both fine and imprisonment.

Punishment for securing the publication of any false or libelous statement.
1901, c. 257.

SEC. 5. In prosecutions for any publication relative to the official conduct of men in public capacities, or the qualifications of candidates for popular suffrages; or where the matter published is proper for public information, the truth thereof may be given in evidence, and if proved, shall be a complete justification; and in prosecutions for all other libels, the truth thereof, thus proved, shall be a complete justification, unless it appears that such publication originated in corrupt and malicious motives; and if any alleged libel is not justified in either of said modes, it shall be deemed malicious, unless the contrary is clearly proved.

How far the truth of a publication is a justification.
R. S., c. 129, § 4.

SEC. 6. In all indictments for libel, the jury after receiving the direction of the court, may determine at their discretion, the law and the fact. (a)

Jury to judge law and fact.
R. S., c. 129, § 5.

SEC. 7. No person, firm or corporation, shall publicly advertise for sale in any manner whatever, or for any other purpose whatever, any list or lists of debts, dues, accounts, demands, notes or judgments, containing the names of any or all of the persons who owe the same. Any such public advertisement containing the name of but one person who owes as aforesaid, shall be construed as a list within the meaning of this section. Any person, firm or corporation, violating the provisions of this section shall be liable in an action of debt to a penalty not exceeding one hundred dollars, and not less than twenty-five dollars, to each and every person, severally and not jointly, whose name appears in any such list.

Publishing lists of debtors prohibited.
1899, c. 112, § 1.

—penalty for violation.

SEC. 8. The provisions of the preceding section shall not apply to executors, administrators, guardians, trustees, trustees in bankruptcy,

Sec. 7 does not apply to executors,

(a) See Const., Art. I, § 4; 18 Me., 348; 89 Me., 293.

etc., or
officials.
1899, c. 112, § 2.
R. S., c. 130, § 1.

assignees in insolvency, sheriffs, deputy sheriffs, constables, collectors of taxes, town treasurers, or any other officials whose official duties require them to publish any such list or lists.

CHAPTER 129.

PROCEEDINGS FOR THE PREVENTION OF CRIMES.

Security
to keep the
peace may
be required.
R. S., c. 130, § 1.

SEC. 1. The justices of the supreme judicial and superior courts, and judges of municipal and police courts, in vacation or in court, and trial justices in their counties, have power to cause all laws for the preservation of the public peace to be kept; and in the execution thereof may require persons to give security to keep the peace and be of good behavior, as hereinafter provided.

On complaint
that an
offense is
threatened,
proceedings.
R. S., c. 130, § 2.

SEC. 2. Any such magistrate, on complaint that any person threatens to commit an offense against the person or property of another, shall examine, on oath, the complainant and any other witnesses produced, reduce the complaint to writing, and cause the complainant to sign it; and, if on examination of the facts he thinks that there is just cause to fear the commission of such offense, he shall issue a warrant reciting the substance of the complaint, and commanding the officer, to whom it is directed, forthwith to arrest the accused and bring him before such magistrate or court, subject to section eight of chapter one hundred and thirty-one.

Accused may
be ordered to
find sureties
to keep the
peace, and to
pay costs.
R. S., c. 130, § 3.
10 Me., 332.

SEC. 3. When the accused is brought before the magistrate and his defense is heard, he may be ordered to recognize, with sufficient sureties, in the sum required by the magistrate, to keep the peace toward all persons, and especially toward the person requiring the security, for a term not exceeding one year, and to pay the costs of prosecution; but he shall not be bound over to any court, unless he is also charged with some other specific offense requiring it.

If he com-
plies, he shall
be discharged;
otherwise,
he shall be
committed.
R. S., c. 130, § 4.

SEC. 4. If the accused complies with such order, he shall be discharged; if he does not, he shall be committed to jail for the time for which he was required to find sureties, or until he complies with such order; and the magistrate shall state in the mittimus the cause of commitment, and the time and sum for which security was required, and return a copy of the warrant to the next supreme judicial or superior court in said county, and such court shall have cognizance of the case, as if the accused had appealed thereto.

Proceedings,
if complaint
is not
sustained.
R. S., c. 130, § 5.

SEC. 5. If the magistrate, on examination of the facts, is not satisfied that there is just cause to fear the commission of any offense, he shall immediately discharge the accused; and if he judges the complaint to be unfounded, frivolous, or malicious, he may order the complainant to pay the costs of prosecution, who shall thereupon be answerable to the magistrate, officer, and witnesses for their fees as for his own debt.

—if frivolous,
or malicious,
proceedings.

Appeal to the
next supreme
or superior
court, and
proceedings
thereon.
R. S., c. 130, § 6.

SEC. 6. Any person aggrieved by the order of such magistrate requiring him thus to recognize, may on giving the security required, appeal to the next supreme judicial or superior court in the county; and the magistrate shall thereupon require such witnesses as he thinks proper, to recognize to appear at the appellate court; and such court may affirm or reverse the order of the magistrate, require the accused to recognize anew with sufficient sureties, and make such order as to costs as it deems reasonable.

Consequences,
if appellant
fails to
prosecute.
R. S., c. 130, § 7.

SEC. 7. If the appellant fails to prosecute his appeal, his recognizance shall be in force for any breach of its conditions without an affirmation of said order, and shall stand as security for any costs which he is ordered by the court to pay.

SEC. 8. A person committed for not recognizing as aforesaid may be discharged by a justice of the supreme judicial court or a bail commissioner, on giving the security required.

Recognizance after commitment.
R. S., c. 130, § 8.

SEC. 9. Whoever in the presence of any of the magistrates aforesaid, or of any court of record, makes an affray; threatens to kill or beat another, or to commit any violence against his person or property; or contends with hot and angry words to the disturbance of the peace, may be ordered, without process or other proof, to recognize to keep the peace and be of good behavior for a term not exceeding three months, and may be otherwise dealt with as is provided in the preceding sections.

When magistrate on view, may require sureties without a formal complaint.
R. S., c. 130, § 9.

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

Persons going armed, without reasonable cause.
R. S., c. 130, § 10.

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

Recognizances shall be returned to court, which may remit penalty.
R. S., c. 130, § 11.

SEC. 12. Any surety in such recognizance may surrender the principal the same as bail in civil cases, and he shall thereupon be discharged from liability for any subsequent breach of the recognizance; and the principal may recognize anew with sufficient sureties for the residue of the term before a trial justice, and then be discharged.

Sureties on recognizances may surrender their principals, etc.
R. S., c. 130, § 12.

PRIVATE DETECTIVES.

SEC. 13. The governor, with the advice of the council, may license not exceeding twenty private detectives, for the detection, prevention and punishment of crime, to serve for the term of four years, unless such license is sooner revoked for cause. Each person so licensed shall give bond with two sureties, approved by the governor and council, conditioned for the proper discharge of the services which he may perform by virtue of such license; but nothing herein contained shall be construed to confer on any person so licensed, any of the power and authority of sheriffs or police officers, except in cases of felonies and offenses under chapters one hundred and nineteen (and one hundred and twenty-four.)

Private detectives, appointment.
1885, c. 357, § 1.

—bond.

—powers.

SEC. 14. Private detectives, licensed as aforesaid, shall have the same authority to arrest in cases of offenses under chapters one hundred and nineteen and one hundred and twenty-four, and of felonies in any part of the state, and shall receive the same fees, as sheriffs within their respective counties in similar cases. No extra compensation shall be paid to them in any case, from the state or county treasury.

Authority of, to arrest for offenses.
1885, c. 357, § 2.

—fees.

CHAPTER 130.

JURISDICTION OF OFFENSES, AND GENERAL PROVISIONS RELATING THERETO.

JURISDICTION OF CRIMES.

Jurisdiction
of the su-
preme and su-
perior courts.
R. S., c. 131, § 1.
72 Me., 468.
73 Me., 281.

Proceedings
on indictment
for murder
found in su-
perior court,
Kennebec
county.
1899, c. 45.

Offenses com-
mitted near
the boundary
of two
counties.
R. S., c. 131, § 2.
84 Me., 461.
85 Me., 193.

Death within
the state,
from an in-
jury inflicted
without
the state.
R. S., c. 131, § 3.
76 Me., 334.

Acquittal of
part of an
indictment,
and convic-
tion of the
residue.
R. S., c. 131, § 4.
39 Me., 63, 70.
87 Me., 78.

Where an
accessory,
before or
after the fact,
may be tried.
R. S., c. 131, § 5.

Accessory
before the
fact, punished
same as the
principal,
and may be
convicted,
with or
without him.
R. S., c. 131, § 6.
29 Me., 86.
39 Me., 63.
68 Me., 546.

Who are
accessories,
after the fact.
R. S., c. 131, § 7.
92 Me., 73.

SEC. 1. In the counties of Cumberland and Kennebec, the superior court, and in other counties the supreme judicial court has original jurisdiction, exclusive or concurrent, of all offenses except those of which the original exclusive jurisdiction is conferred by law on municipal and police courts and trial justices, and appellate jurisdiction of these.

SEC. 2. Whenever an indictment for murder is found by the grand jury in the superior court for the county of Kennebec, the clerk of said court shall certify and transmit the indictment to the supreme judicial court for said county at the next term thereof, when and where it shall be entered; and said supreme judicial court shall have cognizance and jurisdiction thereof, and proceedings shall be had thereon in the same manner as if the indictment had been found in that court.

SEC. 3. When an offense is committed on the boundary between two counties or within one hundred rods thereof; or a mortal wound or other violence or injury is inflicted, or poison is administered, in one county, whereby death ensues in another, the offense may be alleged in the complaint or indictment as committed, and may be tried, in either.

SEC. 4. If a mortal wound or other violence or injury is inflicted, or poison administered, on the high seas or without the state, whereby death ensues within the state, such offense may be tried in the county where the death ensues; and if such act is done within and death ensues without the state, the offense may be tried in the county where the act was done, as if death had there ensued.

SEC. 5. When a person, indicted for an offense, is acquitted of a part by verdict of the jury, and found guilty of the residue thereof, such verdict may be received and recorded by the court; and he may be considered as convicted of the offense, if any, which is substantially charged by such residue, and be punished accordingly, although such offense would not otherwise be within the jurisdiction of said court.

SEC. 6. Every accessory, before or after the fact, may be tried in the county having jurisdiction of the principal offense, although the accessory offense was committed on the high seas or without the state; and if the principal offense was committed in one county and the accessory offense in another, the latter may be tried in either.

ACCESSORIES.

SEC. 7. Whoever aids in the commission of a felony, or is accessory thereto before the fact, by counseling, hiring, or otherwise procuring the same, shall be punished in the manner prescribed for the punishment of the principal felon; and such accessory, when a felony is committed within or without the state by his procurement in the state, may be indicted and convicted as an accessory with the principal, or after his conviction; or he may be indicted for and convicted of a substantive felony, whether the principal is convicted or is amenable to justice or not, and shall be punished as aforesaid. Whoever is accessory after the fact to a felony, may be indicted, tried, and sentenced, whether his principal has or has not been convicted.

SEC. 8. Every person, not standing in the relation of husband or wife, parent or child, to the principal offender, who harbors, conceals, maintains, or assists any principal felon or accessory before the fact, knowing

him to be such, with intent that he may escape detection, arrest, trial, or punishment, is an accessory after the fact, and shall be punished by imprisonment for not more than seven years, and by fine not exceeding one thousand dollars; but in no case shall such punishment exceed the punishment to which the principal felon on conviction would be liable.

ATTEMPTS TO COMMIT OFFENSES.

SEC. 9. Whoever attempts to commit an offense, and does anything towards it, but fails, or is interrupted, or is prevented in its execution, where no punishment is expressly provided for such attempt, shall, if the offense thus attempted is punishable with imprisonment *in the state prison* for life, be imprisoned for not less than one, nor more than ten years; and in all other cases, he shall receive the same kind of punishment that might have been inflicted, if the offense attempted had been committed, but not exceeding one-half thereof.

Attempt with an overt act to commit an offense, how punishable.
R. S., c. 131, § 8.
32 Me., 599,
70 Me., 198.

GENERAL PROVISIONS.

SEC. 10. The term "felony," includes every offense punishable by imprisonment in the state prison. (a)

Definition of "felony."
R. S., c. 131, § 9.

SEC. 11. In an offense in any way relating to real or personal estate, it is sufficient and not a variance, if it is proved at the trial that, when the offense was committed, the actual or constructive possession of, or the general or special property in the whole of such estate or in any part thereof, was in the person or community alleged in the indictment to be the owner thereof. No variance between any matter in writing or in print, produced in evidence on the trial of a criminal cause, and the recital or setting forth thereof in the complaint, indictment or other criminal process whereon trial is had, is material, *provided*, that the identity of the instrument is evident, and the purport thereof is sufficiently described to prevent prejudice to the defendant; and any criminal process may be amended, in matters of form, at any time before final judgment.

Of "owner" of property, as used in an indictment.
R. S., c. 131, § 10.

—unimportant variance between written or printed matter in evidence, is not material.

—proviso, —process may be amended in form.

SEC. 12. When an intent to defraud is necessary to constitute an offense, it is sufficient to allege generally in the indictment an intent to defraud; and if there appears on trial an intent to defraud the United States, any state, county, town, person, or corporation, it is sufficient.

General allegation of intent to defraud, is sufficient.
R. S., c. 131, § 11.

SEC. 13. No indictment or complaint shall be quashed, or adjudged bad, nor shall the proceedings or judgment thereon be arrested, reversed, or affected by reason of the omission or misstatement of the title, occupation, estate, or degree of the accused; of the name of the city, town, plantation, or county, of his residence, or of the words "feloniously," "force and arms," "against the peace," or "contrary to the form of the statute;" if such omission or misstatement does not tend to his prejudice; nor by reason of any defect, want of form, or irregularity in the venire for grand or traverse jurors, or in the issuing or return of the same, or in the drawing or summoning of grand or traverse jurors, unless it appears to the court that the respondent has been or may be injured thereby.

Complaints and indictments shall not be quashed for technicalities.
R. S., c. 131, § 12.
15 Me., 124, 477.
69 Me., 182.
82 Me., 342.
87 Me., 81.
—nor for unimportant defect in venires.
67 Me., 336.

SEC. 14. All fines and forfeitures, imposed as punishment for offenses or for violations or neglects of statute duties, may, when no other mode is expressly provided, be recovered by indictment; and when no other appropriation is expressly made, they inure to the State.

Fines and forfeitures may be recovered by indictment.
R. S., c. 131, § 13.
59 Me., 191.

SEC. 15. When no other limitation is provided, 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 the state, shall not be a part of said six years.

Limitation of prosecutions.
R. S., c. 131, § 14.
See c. 116, § 3;
c. 27, § 69.

(a) 29 Me., 86; 32 Me., 373; 33 Me., 57; 48 Me., 236; 69 Me., 182.

CHAPTER 131.

APPOINTMENT OF MUNICIPAL AND POLICE JUDGES, AND PROCEEDINGS OF
MAGISTRATES IN CRIMINAL CASES.

APPOINTMENT OF MUNICIPAL AND POLICE JUDGES.

Appointment
of municipal
and police
judges.
R. S., c. 132, § 1.
1885, c. 313.
See Constitu-
tion, Art. VI,
§ 8.

—salaries.

—all fees to
be paid over.

SEC. 1. Judges of municipal and police courts shall be appointed and shall hold their offices as provided in the constitution. Their salaries, unless established by law, shall be fixed by the municipal officers of their towns, and paid quarterly from the treasuries thereof, and shall not be diminished during their continuance in office; and all fees received by them shall be paid quarterly into said treasuries, except when their compensation is fixed by law, by the allowance to them in whole or in part, of the fees accruing in their courts. All fees of such courts paid to the jailer after commitment, shall be paid over by him, quarterly, into said treasuries.

CRIMINAL JURISDICTION OF MAGISTRATES.

Magistrates
and women
may adminis-
ter oaths.
R. S., c. 132, § 2.

—magis-
trates may
require aid.

Jurisdiction
of larcenies,
when the
value does
not exceed
ten dollars.
R. S., c. 132, § 3.
27 Me., 282.
37 Me., 133.
72 Me., 468.

Jurisdiction
of breaches of
the peace and
violations
of law.
R. S., c. 132, § 4.
1901, c. 255.
See § 7.
26 Me., 73.
39 Me., 478.
47 Me., 465.
73 Me., 281.
84 Me., 272.

SEC. 2. Judges of municipal and police courts, trial justices, and justices of the peace; also women, otherwise eligible under the constitution, appointed by the governor with the advice and consent of council; may administer all oaths required by law, unless another officer is specially required to do it. Upon view of an affray, riot, assault, or battery, within their county, such judges and justices may, without warrant, command the assistance of any sheriff, deputy sheriff, constable, or person present, to repress the same, and to arrest all concerned therein.

SEC. 3. Such judges and trial justices have jurisdiction of the offenses described in sections one, six, (seven), eight, ten and twelve of chapter one hundred and nineteen, when the value of the property is not alleged to exceed ten dollars; they may punish for the first offense by fine not exceeding ten dollars, and by imprisonment for not more than two months; and on a second conviction, by fine not exceeding twenty dollars, and by imprisonment for not more than six months.

SEC. 4. They have jurisdiction of assaults and batteries, breaches of the peace, and violations of any statute or by-law of a town, (village corporation or local board of health,) when the offense is not of a high and aggravated nature, and of offenses and misdemeanors, jurisdiction of which is conferred by law, and of all attempts to commit offenses of which they now have jurisdiction by law; and may cause affrayers, rioters, breakers of the peace, and violators of the law, to be arrested; and they may try and punish by fine not exceeding ten dollars, or by imprisonment not exceeding thirty days, and may require such offenders to find sureties for keeping the peace.

Note. Jurisdiction is conferred upon judges of municipal and police courts and trial justices in the following cases:

For violation of truancy laws, c. 11, § 53; laws relating to public health, c. 14, § 37; law relating to use of wide rimmed wheels, c. 19, § 10; building laws, c. 26, § 35; law relating to intoxicating liquors, c. 27, § 61; requiring licensees for public exhibitions, c. 29, § 13.

For violation of law relating to inland fisheries and game, c. 30, §§ 48, 49; sea and shore fisheries, c. 40, § 59; hawkers and pedlers, and itinerant vendors, c. 44, § 29.

For violation of insurance laws, c. 49, § 79; fraternal beneficiary laws, c. 49, § 164.

For violation of law prohibiting prize fights, c. 122, § 5; keeping houses of ill-fame, c. 123, § 9; circulation of criminal news among children, c. 123, § 16; fights between animals, c. 123, § 36; cruelty to animals, c. 123, §§ 49, 55; fraud on inn-keepers, c. 125, § 6; relating to sterling and coin silver, c. 125, § 12; desertion of vessel by seamen, c. 125, § 17; malicious mischiefs, c. 126, § 22; wanton injury to baggage, c. 126, § 24; sale of cigarettes, c. 127, § 25; relating to tramps, c. 127, § 26.

To order removal of paupers, c. 24, §§ 42, 44; to commit to house of correction, c. 24, § 46, c. 140, §§ 4, 15; to reform school, c. 141, §§ 2, 10; to industrial school for girls, c. 141, § 21.

Judges of municipal and police courts and trial justices required to make returns of prosecutions under law relating to inland fisheries and game, c. 30, § 53.

SEC. 5. They shall, on complaint, cause to be arrested persons found within their county charged with offenses; and those having committed offenses therein who have escaped therefrom; and all persons charged with felonies, offenses, and misdemeanors; and when the offense on examination is found to be one not within their jurisdiction for trial, they may cause them to recognize with sufficient sureties to appear before the supreme judicial or superior court, and, in default thereof, shall commit them.

They may, on complaint, cause all offenders to be arrested.
R. S., c. 132, § 5.
23 Me., 532.
95 Me., 452.
—proceedings.

SEC. 6. When complaint is made to any such magistrate, charging the person with the commission of an offense, he shall carefully examine, on oath, the complainant, the witnesses by him produced, and the circumstances, and, when satisfied that the accused committed the offense, shall, on any day, Sundays and holidays not excepted, issue a warrant for his arrest, stating therein the substance of the charge; and he may try those brought before him for offenses within his jurisdiction, although the penalty or fine accrues wholly or partly to his town. (a)

Must examine on oath into the circumstances of the alleged offenses.
R. S., c. 132, § 6.
1901, c. 239.
—shall issue warrant on any day.

SEC. 7. In any prosecution before a municipal or police court (or trial justice) for a violation of an ordinance or by-law of a city or town, or of any by-law of a village corporation or local board of health, it shall not be necessary to recite such ordinance or by-law in the complaint, or to allege the offense more particularly than in prosecutions under a general statute.

Rule for prosecutions of violation of ordinance of municipal ordinance.
1891, c. 28.

SEC. 8. A trial justice, residing in a town in which there is a municipal or police court, has the same jurisdiction as other trial justices in the county in all matters, the exclusive jurisdiction of which is not conferred on such court. Warrants issued by trial justices shall be made returnable before any trial justice in the county; and a justice, for issuing one not so returnable, shall be imprisoned for six months and pay the costs of prosecution.

Jurisdiction of trial justices, in towns where there is a municipal or police court.
R. S., c. 132, § 7.
53 Me., 548.
80 Me., 94.

SEC. 9. Warrants, issued by a magistrate in criminal cases, shall be under seal, and be signed by him at the time when they are issued.

Warrants must be sealed and signed.
R. S., c. 132, § 21.
34 Me., 222.
36 Me., 363.

MAY ISSUE SUMMONSES FOR WITNESSES, AND ALLOW THEIR FEES.

SEC. 10. Any judge or justice named in section two, when a warrant is issued by him, may cause such witnesses only as he is satisfied can testify to material facts, to be summoned to attend the trial, by inserting their names in the warrant or otherwise; and when the case is appealed or the person is required to appear before a higher tribunal, he may order such witnesses only to recognize for their appearance where the case is to be tried or examined. He may issue summonses for witnesses in criminal cases to appear before any judicial tribunal, at the request of the attorney general, a county attorney, or the party accused, and he shall express in the summons at whose request they are summoned; and when summoned for the accused, the witnesses are not required to attend without payment or tender of their legal fees.

When and how, summonses may be issued.
R. S., c. 132, § 8.
39 Me., 61.

—when witnesses shall recognize.

SEC. 11. No costs shall be allowed by such magistrate to complainants in any capacity; but this shall not prevent the allowance of their fees as officers, to police officers and constables complaining under authority of their town, or when it is made their duty to do so. No witness shall be allowed in a criminal case for more than one travel, or for travel and attendance in more than one case at the same time before any judicial tribunal.

No costs are allowed to complainants; except to police officers and constables.
R. S., c. 132, § 9.

SEC. 12. When, on affidavit filed, the clerk of any court in any other New England state certifies that a criminal case is pending in such court, and that a person named is declared to be a material witness therein, a justice of the peace, on such certificate, or on a paper annexed thereto, shall issue a summons requiring such person to appear and testify at such

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

(a) 3 Me., 51; 10 Me., 476; 25 Me., 491; 39 Me., 214; 86 Me., 529.

R. S., c. 132, § 10. court; and if, upon payment or tender to him of twelve cents a mile to and from such court, and two dollars for each day's attendance required, he unreasonably neglects to attend and testify, he forfeits two hundred dollars to any prosecutor.

SEARCH WARRANTS.

Warrants for search, in what cases may be issued.
R. S., c. 132, § 11.
79 Me., 104.
95 Me., 199.

SEC. 13. A magistrate may issue warrants to search, within the limits of his jurisdiction, any house or place for property stolen, embezzled, or obtained by false tokens or pretenses; for forged or counterfeit coins, bank bills, or other writings; for tools, machines, or materials, used or designed for making the same; or for a dead body unlawfully disinterred, carried away, and concealed; and in other cases when such a warrant is authorized by law. Such warrants can be issued only according to the following provisions. (a)

Complaint for such a warrant.
R. S., c. 132, § 12.
See Constitution, art. i, § 5.
33 Me., 570.
79 Me., 104.

SEC. 14. The complaint for a warrant to search must be made in writing, sworn to and signed by the complainant, must specially designate the place to be searched, the owner or occupant thereof, and the person or thing to be searched for, and allege substantially the offense in relation thereto; and that the complainant has probable cause to suspect and does suspect, that the same is there concealed.

Warrant, its contents, and how directed and served.
R. S., c. 132, § 13.
See Constitution, art. i, § 5.
25 Me., 491.

SEC. 15. Such warrant shall recite, by reference to the complaint annexed or otherwise, all the essential facts alleged in the complaint, be directed to a proper officer or to a person therein named, and be made returnable like other warrants; and the person or thing searched for, if found, and the person in whose possession or custody the same was found, shall be returned with the warrant before a proper magistrate.

Search of a dwelling-house.
R. S., c. 132, § 14.
95 Me., 199.

SEC. 16. To authorize the search of a dwelling-house in the night time, the magistrate must be satisfied that it is necessary to prevent the escape or removal of such person or property, and must in his warrant expressly require it.

APPEALS FROM MAGISTRATES.

Appeals.
R. S., c. 132, § 15.
1 Me., 230.

SEC. 17. Any person aggrieved at the sentence of such magistrate, may appeal therefrom to the next supreme judicial or superior court in the same county, and the magistrate shall thereupon order such appellant to pay him one dollar and fifty cents for copies of papers for the appellate court and the entry fee in such court of sixty-five cents, and to recognize in a reasonable sum, not less than twenty dollars, with sufficient sureties to appear and prosecute his appeal; and to be committed until the order is complied with.

—fee for copies and entry.

[Sec. 17 is apparently inconsistent with § 29 of c. 115. The provisions authorizing the magistrate to order the appellant to pay for copies and an entry fee, and to be committed until the order is complied with, are of doubtful validity. *State v. Gurney*, 37 Me., 156.

The commissioner is inclined to believe that the provisions of R. S., 1871, c. 132, §§ 15, 16, more closely accord with the constitutional rights of the accused. If the present law is to be retained, § 29 of c. 115 should be amended by inserting at end of first sentence "other than for copies and the entry fee in the appellate court."

A question may arise under § 17, as to the right of the accused to claim an appeal within twenty-four hours after sentence, notwithstanding the court may have adjourned. If such right exists, no provision is found for the recall of the mittimus, if issued, or for the disposal of the prisoner, if not committed. The commissioner understands that a bill to make clear this important matter was prepared by Robert T. Whitehouse, Esq., county attorney of Cumberland County, and submitted to the judiciary committee of the last legislature. The importance of the subject seems to justify the commissioner in again calling the attention of the legislature to it.]

Appellant must produce copies, and prosecute; consequences of neglect.
R. S., c. 132, § 16.

SEC. 18. The magistrate shall send to the appellate court a copy of the whole process, and of all writings before the magistrate, and shall account to the clerk of such court for the entry fee. If the appellant does not appear and prosecute his appeal, his default shall be noted on the record; and the court may order the case to be laid before the grand jury, or may

(a) See c. 26, § 22; c. 27, § 50; c. 30, § 46; c. 39, § 58; c. 40, § 3; c. 123, §§ 11, 14; c. 124, §§ 11, 12; c. 127, § 5.

issue a *capias* against the body of the appellant, bring him into court, and then affirm the sentence of the magistrate with additional costs.

SEC. 19. The appellant may, at any time before such copy has been sent to the appellate court, come personally before such magistrate, who may permit him, on motion to withdraw his appeal and abide by the sentence appealed from; whereupon, he shall be ordered to comply with said sentence and the sureties taken upon the recognizance upon such appeal shall be discharged. If the appellant is detained in jail for want of sureties to prosecute his appeal, he may give notice, in writing, to the jailer, of his desire to withdraw his appeal and abide by the sentence appealed from; whereupon, such jailer shall cause him to be taken before such magistrate, who shall order him to comply with the sentence appealed from, as hereinbefore provided; and in such case the jailer, or officer taking the appellant before the magistrate by his direction, shall be entitled to the same fees, to be taxed and paid as a part of the costs of prosecution, as are allowed to an officer for serving a mittimus.

Appellant may withdraw appeal and abide by sentence.
1885, c. 279.

—fees of officer.

SEC. 20. In all *hearings* (prosecutions) before municipal or police courts or trial justices, the respondent may plead not guilty and waive a hearing, whereupon the same proceeding shall be had as to sentence and appeal as if there had been a full hearing.

Respondent may appeal without trial.
1885, c. 255.

PROVISIONS RELATING TO THE FEES OF MAGISTRATES.

SEC. 21. When several warrants are issued by a magistrate where only one is necessary, he shall be allowed only the costs for one complaint and warrant; and when he binds over a party, and the grand jury do not find an indictment against him, or convicts a party and he appeals and is finally acquitted, the magistrate shall have no fees in the case unless the same are certified and approved by the county attorney, and in no case shall he tax other or greater fees than are expressly allowed by law.

Fees for one warrant only.
R.S., c. 132, § 17.

—if no bill is found, or in case of acquittal, no fees for magistrate.
—exception.

SEC. 22. When the costs in a criminal case are paid to the magistrate as a part of the sentence, he may retain his fees, and pay over the other fees to the persons entitled thereto; but if such other fees are not called for in one year, they shall be forfeited to the State, and paid over to the county treasurer within the time, and under the penalty, provided in section seven of chapter one hundred and thirty-five.

Costs paid; how to be disposed of.
R.S., c. 132, § 18.

SEC. 23. When a party accused is acquitted by the magistrate, is not sentenced to pay costs, or does not pay them when so sentenced, and on all legal search warrants, the commissioners of the same county shall examine and correct the bills of cost, including the fees of officers, witnesses, and others, and order the same to be paid out of the county treasury to the persons entitled thereto; but when such magistrate, or other person interested in such bill of costs, is one of the commissioners for such county, the supreme judicial or superior court shall have the same powers as the commissioners in other cases.

Costs, not paid, may be allowed by the county commissioners.
R.S., c. 132, § 19.
87 Me., 297.

SEC. 24. In cases carried to a higher court by appeal, recognizance, or commitment, costs shall be taxed by the magistrate and certified with the papers.

Costs in appealed cases.
R.S., c. 132, § 20.
87 Me., 297.

CHAPTER 132.

COMMENCEMENT OF PROCEEDINGS IN CRIMINAL CASES.

WHEN PERSONS MAY BE PROSECUTED WITHOUT INDICTMENT.

Criminal prosecutions must be by indictment. R. S., c. 133, § 1. —excepted cases.

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

I. When prosecutions by information are expressly authorized by statute.

II. In proceedings before municipal and police courts, trial justices, and courts martial.

WHO MAY ISSUE CRIMINAL PROCESSES.

Justices of courts, and magistrates, may issue processes. R. S., c. 133, § 2. 39 Me., 213, 482.

SEC. 2. The justices of the supreme judicial and superior courts, judges of municipal and police courts, and trial justices in their counties, in the manner provided in chapter one hundred and thirty-one, in vacation or term time, may issue processes for the arrest of persons charged with offenses.

How officer may make oath. R. S., c. 133, § 3.

SEC. 3. When it is the duty of an officer to make complaint before any magistrate, he may make oath to it according to his knowledge and belief.

ARRESTS WITHOUT WARRANTS.

Officer may arrest, without warrant. R. S., c. 133, § 4. 10 Me., 476. 36 Me., 320. 42 Me., 388. 63 Me., 149. 79 Me., 648. 92 Me., 410. —liability.

SEC. 4. Every sheriff, deputy sheriff, constable, city or deputy marshal, *watchman*, or police officer, shall arrest and detain persons found violating any law of the State, or any legal ordinance or by-law of a town, until a legal warrant can be obtained, and they shall be entitled to legal fees for such service; but if, in so doing, he acts wantonly or oppressively, or detains a person without a warrant longer than is necessary to procure it, he shall be liable to such person for the damages suffered thereby.

ARRESTS IN OTHER COUNTIES.

Accused, escaping, may be pursued into other counties. R. S., c. 133, § 5. 17 Me., 195.

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

How he may be discharged, upon recognizance, in the county where he was arrested. R. S., c. 133, § 6.

SEC. 6. If the offense charged is not punishable with 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 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, who shall immediately deliver them to the clerk of the court or magistrate before whom the accused recognized to appear.

TRANSFER OF PERSONS, CHARGED WITH CRIME IN TWO COUNTIES.

Of the transfer of persons, when charged with crimes in two counties. R. S., c. 133, § 7.

SEC. 7. When a person is imprisoned or held under arrest in one county, any justice of the supreme judicial court, in term time or vacation, may order his removal into another county, when complaint has been made and warrant issued, or an indictment has been found, charging the person

so arrested or imprisoned, with the commission of a crime in such other county, for examination or trial under said complaint or indictment; but, before issuing such order, he shall be satisfied that the administration of speedy and impartial justice requires it.

SEC. 8. The officer holding the person described in such order, shall deliver him to the officer presenting it, *and give to him* (upon receiving) an attested copy of the same, and of the complaint and warrant, or indictment on which such order is founded. The officer receiving the accused person, shall bring him before the proper court or magistrate, in the county to which he is removed, for examination and trial, and make due return of his proceedings.

Duties of officer holding prisoner, and of officer holding court's order of removal. R. S., c. 133, § 8. See 1868, c. 134, § 3.

EXAMINATION OF OFFENDERS.

SEC. 9. Every person arrested for an 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.

Examination of persons arrested. R. S., c. 133, § 9.

SEC. 10. A magistrate may adjourn an examination before him, from time to time, for not more than ten days at a time, and the accused may recognize 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.

Adjournment of an examination, on recognizance or commitment. R. S., c. 133, § 10. 48 Me., 532.

SEC. 11. If the party so recognizing does not appear at the time of such adjournment, the magistrate shall record his default, and certify the recognizance and such record to the appellate court, there to be proceeded with as forfeited recognizances in criminal cases.

Proceedings, if party fails to appear. R. S., c. 133, § 11.

SEC. 12. When the accused is brought before a magistrate, he shall first examine on oath, in the presence of the accused, the complainant and witnesses for 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 the accused may be kept separate from those against him during the examination, according to the directions of the magistrate, who may reduce the testimony of any witness to writing, when he thinks it necessary, and require him to sign it.

Examination. R. S., c. 133, § 12. 71 Me., 204.

SEC. 13. If on the whole examination it appears that no offense has been committed or that there is not probable cause to charge the accused, he shall be discharged, and on motion of the respondent the magistrate shall render judgment whether or not the complaint is frivolous or malicious, and if the magistrate judges the complaint to be frivolous or malicious, he shall order the complainant to pay the costs of prosecution and shall issue execution in favor of the county and against the complainant for such sum, and may receive and pay over said costs to the county treasurer for the use of the county, and if the same are not paid, the magistrate shall return said execution to the county commissioners, for the use of the county. The complainant has the same right of appeal as in civil cases. But if it appears that an offense has been committed and that there is probable cause to charge the accused, and the offense is bailable and sufficient bail is offered, it shall be taken and the accused discharged; but if it is not bailable, or no sufficient bail is offered, the accused shall be committed to await trial. If the offense is within the jurisdiction of the magistrate, he shall try it, and award sentence thereon. (a)

When accused shall be discharged. R. S., c. 133, § 13.

—complaint may be adjudged frivolous or malicious; if so, complainant shall pay costs.

—complainant may appeal.

—proceedings, if there is probable cause to charge the accused.

(a) 35 Me., 131; 37 Me., 136; 41 Me., 431; 47 Me., 464; 50 Me., 51; 71 Me., 204; 75 Me., 111; 89 Me., 43.

PROCEEDINGS ON COMMITMENT OR BINDING OVER.

Magistrate shall recognize material witnesses, or commit them.
R.S., c. 133, § 14.

SEC. 14. When the accused is committed, or is bound over to a higher court for trial, the magistrate shall order the material witnesses against him to recognize to appear and testify at said court; and when he is satisfied that there is reason to believe that any of them will not perform the condition of his own recognizance, he may order him to recognize with sufficient sureties; and if, in either case, he refuses to recognize as required, he may be committed to prison and remain until discharged by law.

How married women and minors may recognize.
R.S., c. 133, § 15.

SEC. 15. Any person may so recognize for a *married woman or minor* to appear as a witness, or the magistrate may take the recognizance of *either* (such minor) in a sum not exceeding twenty dollars, which shall be valid notwithstanding such disability.

Who may bail accused, after commitment.
R.S., c. 133, § 16.
85 Me., 544.
95 Me., 453.

SEC. 16. Any justice of the supreme judicial or superior court, or bail commissioner within his county, on application of a prisoner committed before verdict of guilty, for a bailable offense, or for not finding sureties to recognize for him, may inquire into the case and admit him to bail.

Examinations and recognizances to be returned, etc.
R.S., c. 133, § 17.
61 Me., 175.
75 Me., 111.

SEC. 17. All examinations and recognizances, taken by a magistrate under this chapter, shall be certified and returned to the county attorney or clerk of the court at which the accused is to appear, on or before the first day of its session; and if the magistrate neglects so to do, he may be compelled by rule of court, or if that is disobeyed, by attachment for contempt.

WHEN PROSECUTIONS MAY BE DISMISSED.

What prosecutions may be dismissed, on satisfaction for private injury.
R.S., c. 133, § 18.
1899, c. 9.
92 Me., 411.

SEC. 18. When a person has recognized or is committed by a magistrate, or is indicted, or held upon a complaint and warrant for an assault and battery, or other misdemeanor, for which the party injured has a remedy by a civil action, except felonious assaults, assaults upon or resistance of an officer of justice in the execution of his duty, and assaults and batteries of such officers, if the injured party appears before the magistrate or court, and in writing acknowledges satisfaction for the injury, the court, on payment of all costs, may stay further proceedings and discharge the defendant; the magistrate may discharge the recognizance, supersede the commitment by his written order, and discharge the recognizance of the witnesses.

Such discharges shall be filed with clerk or jailer.
R.S., c. 133, § 19.
92 Me., 411.

SEC. 19. Any order discharging recognizances shall be filed in the office of the clerk of the court at which the party and witnesses are to appear; and an order superseding a commitment shall be delivered to the jailer; and if so filed or delivered, and not otherwise, shall bar all remedy by civil action for such injury.

REMEDIES ON RECOGNIZANCES. BAIL, HOW TO BE DISCHARGED.

Forfeited recognizances shall be defaulted.
R.S., c. 133, § 20.
33 Me., 200, 539.
41 Me., 345.
79 Me., 176.

SEC. 20. When a person, under recognizance in a criminal case, fails to perform its condition, his default shall be recorded, and process shall be issued against such of the cosurers as the prosecuting officer directs, but no costs shall be taxed for travel in the suit; and any surety may be discharged by paying to the county treasurer, before or after process, the amount for which he is bound as surety, with costs, if any, or depositing it with the clerk of the court where the recognizance is filed.

Bail, how exonerated by surrender before default upon their recognizance.
R.S., c. 133, § 21.

SEC. 21. Bail in criminal cases, at any time before default upon their recognizance, may exonerate themselves by surrendering their principal into court, or to the jailer in the county where the principal is held to appear, and delivering to the jailer a certified copy of the recognizance; and the jailer shall receive and detain such principal; and any person, so surrendered, may be afterwards bailed in the same manner as if he had been committed without recognizance.

SEC. 22. When the penalty of a recognizance in a criminal case is forfeited, on scire facias against principal, sureties, or witnesses, the court, on application of any defendant, if satisfied that the default of the principal was without the consent or connivance of the bail, may remit all or any part of the penalty; or the sureties may surrender the principal in court at any time before final judgment on scire facias, and may, on application therefor, be discharged by paying the costs of suit, *provided*, that the court is satisfied as aforesaid.

SEC. 23. The preceding section is not applicable to recognizances taken under any of the last sixty sections of chapter twenty-seven.

SEC. 24. Whenever, in any suit of scire facias on a recognizance taken in any criminal case, it appears that the surety has surrendered the principal into court for sentence, and that the principal has actually been sentenced upon the indictment or complaint on which the recognizance was taken, such suit shall be dismissed upon payment of costs.

SEC. 25. No action on any recognizance shall be defeated, nor judgment thereon arrested, for an omission to record a default of the principal or surety at the proper term, nor for any defect in the form of the recognizance, if it can be sufficiently understood, from its tenor, at what court the party or witness was to appear, and from the description of the offense charged, that the magistrate was authorized to require and take the same.

When court may remit penalty, etc.
R. S., c. 133, § 22.
41 Me., 536.
60 Me., 66.

—or sureties may surrender principal in court.

Liquor cases excepted.
R. S., c. 133, § 23.
See c. 27, § 64, 70.
Suit on any recognizance may be dismissed.
R. S., c. 133, § 24.
See c. 27, § 64.

Unessential forms in recognizances, etc.
R. S., c. 133, § 25.
59 Me., 413.
60 Me., 107.
71 Me., 204.
73 Me., 555.
81 Me., 410.

CHAPTER 133.

PROCEEDINGS IN COURT IN CRIMINAL CASES.

OATH AND DUTIES OF GRAND JURORS.

SEC. 1. Prior to the commencement of each term of the court to which grand jurors are returned, in any county, the clerk of the court shall make out, from the returns on the venires, an alphabetical list of such jurors. (a)

SEC. 2. When the grand jury is to be impaneled, the clerk shall call the first two persons named on the list, and administer the following oath to them: "You, as grand jurors of this county of —, solemnly swear, that you will diligently inquire and true presentment make of all matters and things given you in charge. The State's counsel, your fellows', and your own, you shall keep secret. You shall present no man for envy, hatred, or malice; nor leave any man unrepresented for love, fear, favor, affection, or hope of reward; but you shall present things truly as they come to your knowledge, according to the best of your understanding. So help you God." The other jurors shall then be called, in such divisions as the court orders, and the following oath shall be administered to them: "The same oath which your fellows have taken on their part, you and each of you on your part shall well and truly observe and keep. So help you God."

SEC. 3. When any person returned as grand juror is conscientiously scrupulous of taking an oath, he may make affirmation, substituting the word "affirm" instead of "swear;" and also the words "This you do under the pains and penalties of perjury," instead of "So help you God."

SEC. 4. The grand jury, having been impaneled and instructed by the court, shall retire in company with an officer to their room, and there elect, by ballot, one of their number for foreman, and give notice thereof to the court, and the clerk shall record it.

Clerk shall prepare list of grand jurors.
R. S., c. 134, § 1.
See c. 106.

Grand jurors' oath.
R. S., c. 134, § 2.
64 Me., 284.

Form of affirmation for grand juror.
R. S., c. 134, § 3.

Election of foreman.
R. S., c. 134, § 4.

(a) 36 Me., 130; 38 Me., 201, 300; 49 Me., 576, 594; 51 Me., 397.

Term of fore-
man's office.
R. S., c. 134, § 5.

Oaths of wit-
nesses before
grand jury.
R. S., c. 134, § 6.
1887, c. 98.
67 Me., 129.
76 Me., 317.

Grand jury
shall present
all offenses.
R. S., c. 134, § 7.
4 Me., 444.

—what is a
sufficient
indictment
for murder
or man-
slaughter.
32 Me., 373.
64 Me., 413.
65 Me., 266.

Disclosures
improper to
be made by
grand jurors.
R. S., c. 134, § 8.

In certain
cases persons
in prison, may
be bailed or
discharged, if
if not indicted.
R. S., c. 134, § 9.
1887, c. 133, § 2.

When person
indicted may
claim trial.
R. S., c. 134, § 10.

Standing
mute.
R. S., c. 134, § 11.

Jury for trials
of offenses
punishable by
imprisonment
for life,
how to be
impaneled.
R. S., c. 134, § 12.
1887, c. 133, § 3.
67 Me., 337.
74 Me., 507.

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

SEC. 6. The attorney general, county attorney, or foreman of the grand jury, shall swear or affirm, in presence of the jury, all witnesses who are to testify before them, and a list thereof, stating the cases in which they testify, shall be returned into court by the foreman before the jury is discharged, and filed and entered on record by the clerk. The clerk shall not make such list public, until the criminal cases at such term have been tried or otherwise disposed of.

SEC. 7. Grand juries shall present all offenses cognizable by the court at which they attend; and may appoint one of their number to take minutes of their proceedings to be delivered to the attorney, if the jury so directs; and when they are dismissed before the court adjourns, they may be summoned again, on any special occasion, at such time as the court directs. It is sufficient in every indictment for murder, to charge that the defendant did feloniously, wilfully and of his malice aforethought, kill and murder the deceased; and for manslaughter, to charge that the defendant did feloniously kill and slay the deceased, without, in either case, setting forth the manner or means of death.

SEC. 8. No grand juror or officer of the court shall disclose that an indictment for felony has been found against any person not in custody or under recognizance, until he is arrested, except by issuing process for his arrest; nor shall any grand juror state how any member of the jury voted, or what opinion he expressed, on any question before them; and the court, in charging such jury, shall impress on their minds this section.

BAIL, ARRAIGNMENT AND TRIAL OF PRISONERS.

SEC. 9. Any person in prison charged with a crime *formerly capital and now* punishable by imprisonment *at hard labor* for life, may be bailed or discharged if he is not indicted at the second term of the court in the county where the crime is alleged to have been committed, *when there are two terms there in each year, but when there is only one term a year therein, and the accused has been in prison six months before the first term, and is not then indicted, he shall be bailed or discharged.*

[The commissioner is inclined to think that the following draft of § 9 is to be preferred: "Sec. 9. Any person in prison charged with a crime which has been denominated capital since the adoption of the constitution, may be bailed or discharged, if he is not indicted at the second term of the court in the county where the crime is alleged to have been committed." See Const. Maine, Art. I, § 10; Laws 1821, c. 59, § 44.]

SEC. 10. Any person in prison under indictment shall be tried or bailed at the next term after the finding thereof, if he demands it, unless the court is satisfied that some of the witnesses on the part of the State have been enticed away, or detained from court by some cause beyond their control; and all persons under indictment for felony, if they have been arrested thereon, shall be tried or bailed at the second term after the finding thereof. Any person indicted, although he has not been arrested, is entitled to a speedy trial, if he demands it in person in open court.

SEC. 11. When a person indicted stands mute, the court shall order the plea of not guilty to be entered, with the same effect as if he had pleaded not guilty.

SEC. 12. When a person indicted for an offense *formerly capital and now* punishable by imprisonment *at hard labor* for life, is put upon his trial, the clerk, under the direction of the court, shall place the names of all the traverse jurors summoned and in attendance, in a box, upon separate tickets, and the names, after being mixed, shall be drawn from the box by the clerk, one at a time, for the purpose of constituting a jury of trial. All peremptory challenges, except as herein provided, and all other challenges and objections to the juror drawn, shall be made and deter-

mined, and the juror sworn or set aside, before another name is drawn, and so on until the panel is completed. The state shall not challenge more than five of the jurors peremptorily, and the person indicted shall not challenge peremptorily more than twenty of the jurors while the panel is being formed; but he may, before the trial commences, challenge peremptorily, two of the jurors from the panel. The supreme judicial court may, by general rules, prescribe the mode of exercising the right of challenge from the panel in all criminal cases.

—challenges.

—rules by the S. J. court.

SEC. 13. One justice of the supreme judicial court may hold a term thereof in any county, except in the *counties* (county) of Cumberland and *Kennebec*, for the trial of *capital cases* (persons indicted for treason or murder,) and exceptions may be taken as in other cases, to their rulings and decisions.

Trial of cases of murder and treason.
R.S., c. 134, § 13.

SEC. 14. The clerk shall, without charge, furnish to any person indicted for a crime punishable by imprisonment in the state prison, a copy of the indictment; if he is indicted for a crime punishable by imprisonment in the *state prison* for life, the clerk shall furnish a copy of the indictment, a list of the jurors returned, and process to obtain witnesses, to be summoned and paid at the expense of the state; if for a crime punishable by imprisonment for a term of years, witnesses shall be summoned and paid at the expense of the state only at the discretion of the court. Competent counsel shall be assigned by the court in cases *formerly capital, and now* punishable by imprisonment *at hard labor* for life, when it appears that the accused has not sufficient means to employ counsel; and reasonable compensation for the services of counsel shall be allowed by the court, to be paid out of the county treasury.

Persons indicted for felony shall be furnished with copy of indictment.
R.S., c. 134, § 14.
1887, c. 133, § 4.

—witnesses summoned at state's expense.
—counsel to be assigned in certain cases.
—reasonable compensation to be allowed.
1901, c. 252.
76 Me., 207.

SEC. 15. The prosecuting officer has the same power as the clerk of the court to issue a summons for witnesses in criminal cases; and no costs shall be taxed for witnesses before the grand jury in a case where no bill is found, nor in complaints against towns for defect of road, unless they recognized so to attend, or were summoned by order of the grand jury or prosecuting officer; nor is it necessary to tender fees to witnesses summoned in behalf of the State.

Prosecuting officer may summon witnesses, etc.
R.S., c. 134, § 15.

—no tender of fees to state witnesses.

SEC. 16. Whoever, having been summoned as a witness in behalf of the State before any court or grand jury, without reasonable cause fails to appear at the time and place designated in the summons, if he is not punished therefor as for contempt, shall be punished, on indictment, by imprisonment for less than one year, or by fine not exceeding one hundred dollars.

Punishment of state witness for not attending.
R.S., c. 134, § 16.
See c. 82, § 114.

SEC. 17. No fees in criminal cases continued after the first term shall be allowed to witnesses on the part of the State, until the second day of the term in Hancock, Oxford, Franklin, Piscataquis, and Aroostook; nor until the third day in any other county, unless they were summoned at an earlier day; and in all criminal cases, previous to the determination thereof, the court may allow such costs for justices, officers, aids, jurors, and witnesses, as are provided by law, to be paid from the county treasury; but no court or magistrate shall allow any charge for aid or other expenses of the officer in serving a warrant, except his stated fees for service and travel, unless, on his examination upon oath, or on other evidence, they find such additional charges reasonable.

Witnesses are not entitled to fees until the second or third day in continued cases, etc.
R.S., c. 134, § 17.

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

Prisoner need not be asked how he will be tried.
R.S., c. 134, § 18.
See c. 77, § 4.

SEC. 19. On application of the defendant in a criminal case, the court may grant a commission to take the depositions of material witnesses living out of the state, upon interrogatories in the same manner, with the

Depositions may be taken out of the state.

(a) 15 Me., 107; 23 Me., 114; 36 Me., 132; 37 Me., 333; 38 Me., 300; 39 Me., 361.

R.S., c. 134, § 19.

—depositions may be taken in the state. 1885, c. 307.

—respondent may testify.

—not compelled to convict himself of other crime.

—failure to testify.
—husband or wife may testify.

Facts tried, challenges allowed, as in civil cases. R.S., c. 134, § 20.

Juror's oath; affirmations. R.S., c. 134, § 21. 1887, c. 133, § 5.

—juror may affirm.

Respondent must be present at trial for felony. R.S., c. 134, § 22. 67 Me., 424. View. R.S., c. 134, § 23.

When court may postpone or continue. R.S., c. 134, § 24. 1887, c. 133, § 6. 85 Me., 171.

Private claims may be paid out of forfeited recognizances. R.S., c. 134, § 25.

same effect, and subject to exceptions, as in civil causes; the prosecuting officer may join in such commission, and name therein any material witness to be examined on the part of the State; but if at the trial, the defendant does not use the depositions so taken for him, those taken for the State shall not be used. And upon like application by the defendant in a criminal case, a like commission may issue to take the deposition of a material witness living in the state; but the prosecuting officer shall not name therein any material witness to be examined on the part of the state. In all criminal trials, the accused shall, at his own request, but not otherwise, be a competent witness. He shall not be compelled to testify on cross examination to facts that would convict, or furnish evidence to convict him of any other crime than that for which he is on trial; and the fact that he does not testify in his own behalf, shall not be taken as evidence of his guilt. The husband or wife of the accused is a competent witness. (a)

SEC. 20. Issues of fact joined on indictments, shall be tried by a jury drawn and returned in the same manner, and challenges shall be allowed to the prosecuting officer and the accused, as in civil cases; but no member of a grand jury finding an indictment, shall sit on the trial thereof, if challenged therefor by the accused; *nor shall any person be a juror in a capital case, who cannot conscientiously find a man guilty of an offense punishable with death.* (b)

SEC. 21. The following oath shall be administered to jurors in cases *formerly capital, and now punished by imprisonment at hard labor for life*: "You swear, that you will well and truly try, and true deliverance make, between the state and the prisoner at the bar, whom you shall have in charge, according to your evidence. So help you God." In all other criminal cases, the following: "You swear, that you will well and truly try the issue between the state and the defendant, according to your evidence. So help you God." Any juror conscientiously scrupulous of taking an oath, may affirm in the mode described in section three.

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

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

SEC. 24. The trial of any criminal case, except *one formerly capital and now punished* (for a crime punishable) by imprisonment for life, may be postponed by the court to a future day of the same term, or the jury may be discharged therefrom, and the case continued, if justice will thereby be promoted.

PAYMENT OF PRIVATE CLAIMS FROM FORFEITED RECOGNIZANCES.

SEC. 25. When the penalty of a recognizance to prosecute an appeal is paid to the clerk of the court or county treasurer, the court may award to any person therefrom the same sum that he would have been entitled to receive from the penalty affixed to the offense, if paid on conviction, and not on recognizance.

(a) 59 Me., 300; 63 Me., 211; 65 Me., 240; 72 Me., 534; 74 Me., 508; 76 Me., 410; 78 Me., 492; 85 Me., 96.

(b) Practice and evidence in criminal cases. 19 Me., 227, 401; 21 Me., 18; 26 Me., 317; 29 Me., 336, 563; 30 Me., 30, 183, 344; 31 Me., 63; 32 Me., 372, 585; 34 Me., 40; 37 Me., 331, 363; 38 Me., 575; 39 Me., 65, 69, 92, 296, 361; 40 Me., 560; 43 Me., 108; 45 Me., 329; 46 Me., 531; 47 Me., 450; 48 Me., 238, 366; 51 Me., 364, 396; 53 Me., 127, 331, 549; 54 Me., 28, 579; 55 Me., 213; 65 Me., 469; 67 Me., 337; 74 Me., 507, 511; 80 Me., 416; 81 Me., 256.

PROCEEDINGS AFTER VERDICT.

SEC. 26. Questions of law may be reserved on a report signed by the presiding justice, and in such case, and where exceptions are allowed, the defendant may, when the offense charged is bailable, recognize with sureties, in such sum as the court orders, with conditions substantially as follows: "The condition of this recognizance is such that, whereas there is now pending in the ——— court, within and for the county of ———, an indictment against the said ——— for the offense of ———, in the course of the proceedings upon which, questions of law requiring the decision of the justices of the supreme judicial court have arisen; now if said ——— shall personally appear before said ——— court, to be held in and for said county, from term to term, until and including the term of said court next after the certificate of decision shall be received from said justices, and shall abide the decision and order of said court, and not depart without license, then this recognizance shall be void." If he does not so recognize he shall be committed. When a verdict of guilty is rendered against any person for an offense punishable by imprisonment in the state prison, he shall be admitted to bail only by the justice trying him, by some person by him appointed therefor, or by some justice of the supreme judicial court.

SEC. 27. If a motion for new trial in any case in which a person has been convicted of *murder* or of any offense for which the punishment *may be* (is) imprisonment for life, is denied by the justice before whom the same is heard, the respondent may appeal from said decision to the next law term of *said district*; and the concurrence of but three justices shall be necessary to grant such motion.

SEC. 28. Whenever any person is convicted of murder, a copy of the indictment, plea, evidence and charge of the presiding justice, certified by the official stenographer, shall be filed with the clerk of the court where such trial is held. If such stenographer is paid an annual salary, the making and filing of said copy shall be without extra compensation, otherwise the expense thereof shall be paid by the county; but this section shall not apply to cases where motion for new trial is filed.

SEC. 29. When a final judgment in any criminal case is reversed by the supreme judicial court, upon a writ of error, on account of error in the sentence, the court may render such judgment therein as should have been rendered, or may remand the case for that purpose to the court before whom the conviction was had.

Respondent may give bail in bailable case, pending a question of law.
R. S., c. 134, § 26.
See c. 99, § 35.

—form of recognizance.
41 Me., 167.
42 Me., 385.
59 Me., 305.
70 Me., 334.
81 Me., 256.
80 Me., 82.
89 Me., 209.

—bail after conviction of felony.

Three justices may grant new trial in case where punishment is imprisonment for life.
R. S., c. 134, § 27.
1889, c. 152.
76 Me., 321.
82 Me., 285.
Copy of proceedings in murder cases shall be filed with clerk.
1887, c. 133, § 7.
1901, c. 266.

—how paid for.

In case of error in the sentence, proceedings.
R. S., c. 134, § 28.

CHAPTER 134.

SENTENCE, AND ITS EXECUTION IN CRIMINAL CASES, AND THE
LIBERATION OF POOR CONVICTS.

WHAT SENTENCE MAY BE AWARDED.

No person shall be punished until convicted.
R. S., c. 135, § 1.
1893, c. 248.

—sentence to imprisonment and fine, or to both.

See c. 27, § 70.

—costs.

Punishment for life, when convict has before been sentenced to any state prison.
R. S., c. 135, § 2.

State prison sentence, term of.
R. S., c. 135, § 3.
69 Me., 182.
84 Me., 23.

—Imprisonment for misdemeanor.

Work-jail sentences.
R. S., c. 135, § 4.
See c. 78, § 12.

Alternative sentences to work-jails, how to be inflicted.
R. S., c. 135, § 5.
See c. 78, § 13.

—powers of inspector, in case of incorrigible or dangerous convicts.

Courts may sentence to any work-jail, nearest to the county where offense was committed.
R. S., c. 135, § 6.

—prison sentences include labor.

—service of precepts.

SEC. 1. No person shall be punished for an offense until convicted thereof in a court having jurisdiction of the person and case. When no punishment is provided by statute, a person convicted of an offense shall be imprisoned for less than one year or fined not exceeding five hundred dollars. When it is provided that he shall be punished by imprisonment and fine, or by imprisonment or fine, or by fine and in addition thereto imprisonment, he may be sentenced to either or both. In all cases where a fine is imposed he may be sentenced to pay the costs of prosecution; and for violations of sections forty-two, forty-three, forty-five, fifty and fifty-five of chapter twenty-seven, he shall be sentenced to pay such costs.

SEC. 2. When a person is convicted of a crime punishable by imprisonment in the state prison, and it is alleged in the indictment and proved or admitted on trial, that he had been before convicted and sentenced to any 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.

SEC. 3. Unless otherwise specially provided, all imprisonments for 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 jail, the sentence may be for imprisonment there or in a house of correction; and it may be conditional that the convict shall pay a fine and costs, but that if it is not paid in ten days, then he shall be imprisoned for not more than six months.

SEC. 4. When the punishment provided by law may be imprisonment in the state prison for three years or less, such punishment may be inflicted by the court, in its discretion, in either of the work-jails.

SEC. 5. When a convict is sentenced to imprisonment and labor in either of the work-jails, the court or magistrate may in addition sentence him to the other punishment provided by law for the same offense, with the condition that if such convict cannot be received at the work-jail to which he is sentenced, or if at any time before the expiration of said sentence, in the judgment of the inspectors of jails, he becomes incorrigible, or unsafe, they may order that he suffer such alternative sentence or punishment; and if said *alternate* (alternative) sentence is in the state prison, the sheriff of the county where such convict is imprisoned, shall forthwith, upon receiving the order of said inspectors, cause said convict to be conveyed to the state prison at the expense of the county where he was sentenced.

SEC. 6. The supreme judicial court, the superior court, and any municipal or police court or trial justice, in the county where a work-jail is situated, or in any county where there is no work-jail, may sentence any person convicted of an offense punishable by imprisonment, to either of the work-jails nearest or most convenient to the county where the offense is committed, and all sentences of imprisonment shall include labor. The keeper of such work-jail shall receive and detain such prisoner in the same manner as if committed by a court sitting in the county where such work-jail is situated. Any officer of any county qualified to serve criminal precepts in his county may serve any precept required by this section and the preceding, whether such service is performed in whole or in part in one or more counties, and processes shall be issued and directed accordingly.

SEC. 7. There shall be paid to the county to which a prisoner from any other county may be sentenced and committed, by such other county, such sum as may be agreed upon by the county commissioners of said counties, for subsistence and detention, deducting the amount received for labor, and if said commissioners do not agree upon the amount to be paid, representation of the facts may be made to the supreme judicial court, or any justice thereof, and the amount shall be determined by such court or justice, either in term time or vacation.

Expenses of prisoners from other counties, how to be paid.
R.S., c. 135, § 7.

SEC. 8. In addition to the punishment prescribed by law, the court may require any person convicted of an offense not punishable by 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 to stand committed until he so recognizes.

In all cases of misdemeanors, sureties to keep the peace may be required.
R.S., c. 135, § 8.

EXECUTION OF SENTENCES.

SEC. 9. When a convict is sentenced to pay a fine or costs, or to be imprisoned in the county jail or house of correction, the clerk of the courts, as soon as may be, shall make out and deliver to the sheriff or some officer in court, a transcript of the minutes of the conviction and sentence duly certified by him; which shall be sufficient authority for the officer to execute such sentence.

Clerk's minutes are authority for officer to execute sentences for misdemeanors.
R.S., c. 135, § 9.
93 Me., 44.

SEC. 10. When a convict is sentenced to confinement in the state prison, such clerk shall make out a warrant under seal of the court, directed to the warden of the prison, requiring him to cause such convict, without needless delay, to be removed from the county jail to the state prison; the warden and all sheriffs and jail keepers shall strictly obey its directions; and the clerk, as soon as may be, shall deliver such warrant to the sheriff of the county, and he shall forthwith deliver it to said warden. The sheriff shall provide the convict with comfortable clothing in which to be removed to the state prison.

Removal of convicts to state prison, must be on clerk's warrant.
R.S., c. 135, § 10.

—clothing for convicts.

LIBERATION OF POOR CONVICTS.

SEC. 11. Except when otherwise expressly provided, any convict, sentenced to pay a fine or costs, and committed for default thereof and for no other cause, who is unable to pay the same, may be liberated by the sheriff, after thirty days from his commitment, by giving his note for the amount due, to the treasurer of the same county, accompanied by a written schedule of all his property of every kind, signed and sworn to before the sheriff, jailer or any justice of the peace or trial justice, and the sheriff shall deliver the same to said treasurer, for the use of the county, within thirty days; and all convicts so committed may be placed at labor in the same manner as persons sentenced to imprisonment and labor.

Convict, unable to pay fine or costs, how to be liberated after thirty days.
R.S., c. 135, § 17.
74 Me., 220.

—such convict may be placed at labor.

SEC. 12. Such note continues a lien on all the maker's real estate until it is fully paid; and if judgment is rendered on it in favor of the treasurer, the same proceedings may be had on the execution as in other cases of contract.

Such notes are a lien on convict's real estate.
R.S., c. 135, § 18.

SEC. 13. If such convict is convicted of knowingly and wilfully making a false schedule, on oath, as to the nature or amount of his property, he shall receive no benefit from his liberation, but may be again imprisoned until the performance of the original sentence.

Penalty, for making a false schedule of property.
R.S., c. 135, § 19.

CHAPTER 135.

COLLECTION AND DISPOSAL OF FINES AND COSTS IN CRIMINAL CASES.

DUTY OF THE CLERK IN RELATION THERETO.

Fines, forfeitures and criminal costs, shall be paid to county.
R.S., c. 136, § 1.

—criminal costs and expenses to be paid by the counties.
—clerks shall make duplicate copies of bills of costs, and certificates of fines.

Duty of clerks to collect fines and costs, or to issue process for their collection.
R.S., c. 136, § 2.

SEC. 1. All fines, forfeitures, and costs in criminal cases shall be paid into the treasury of the county where the offense is prosecuted, for the use of such county, and all the costs and expenses attending the administration of criminal justice therein, shall be paid by said county, unless otherwise specially provided. The supreme judicial court, and the superior courts shall allow bills of costs accruing therein, but all other costs and expenses in criminal cases shall be audited by the commissioners of the county where they accrued. Clerks of courts shall attest duplicate copies of all bills of costs allowed therein, and certificates of all fines and forfeitures imposed and accruing to the county, before the rising of the court, or immediately after, and deliver one of said copies and certificates to the county treasurer, and retain one for the use of the county commissioners.

SEC. 2. Each clerk, in default of payment to him of fines, forfeitures, and bills of costs, shall issue warrants of distress, or such other process therefor as the court finds necessary to enforce the execution of any order, sentence or judgment in behalf of the State; deliver them to the sheriff, or to such coroner or constable as the county attorney directs, and enter of record the name of the officer and the time when they are delivered to him.

DUTY OF SHERIFFS AND OTHER OFFICERS.

Officers shall pay over to county treasurer fines and costs collected.
R. S., c. 136, § 3.
Penalty for neglect.
R. S., c. 136, § 4.

—duty of treasurer and county attorney.

Duty of officers receiving process for recovery of fines.
R.S., c. 136, § 5.

Sheriff shall deliver notes and securities to treasurer, quarterly.
R.S., c. 136, § 6.

SEC. 3. Sheriffs, jailers, constables, and coroners, who, by virtue of their office, receive any fines, forfeitures, or bills of costs, except debts and costs received upon executions in favor of the State, shall forthwith pay them to the treasurer of the county in which they accrued.

SEC. 4. If any such officer neglects to pay over such fine, forfeiture, or costs, for thirty days after the receipt thereof; or if he permits any person, sentenced to pay such fine, forfeiture, or bill of costs and committed to his custody, to go at large without payment, unless by order of law, and does not within thirty days after such escape, pay the amount thereof to the county treasurer, he forfeits to the county double the amount; and the county treasurer shall give notice of such neglect to the county attorney, who shall sue therefor in an action of debt, in the name of such treasurer.

SEC. 5. Every sheriff or other officer, to whom any process for the recovery of such fine, forfeiture, or costs, is committed by the clerk of the courts, shall, at the next session of the court in the same county, produce thereto a receipt in full for the same, or assign a satisfactory excuse for not so doing; and in case of neglect, the court shall order a prosecution to be commenced therefor by the county attorney.

SEC. 6. Each sheriff, as often as every three months, shall deliver to the treasurer of his county all notes or other securities by him taken for fines and costs, on the liberation of poor convicts from prison pursuant to law.

DUTY OF TRIAL JUSTICES, AND JUDGES OF MUNICIPAL AND POLICE COURTS.

Magistrates shall pay over fines to treasurer of county or town, or

SEC. 7. Every trial justice or judge of a municipal or police court shall render, under oath, an account of all fines and forfeitures upon convictions and sentences before him, and pay them over within two months after he receives the same; to the treasurer of the town if they accrue

to the town, and to the treasurer of the county if they accrue to the state or county, or any corporation, person, society or association, in whole or in part, for the use of the party entitled thereto; and for any neglect in making such payments, he forfeits in each instance double the amount so neglected to be paid over, to be recovered by indictment for the parties entitled to such fines and forfeitures, and in default of payment, according to the sentence of the court, he shall be imprisoned in jail not exceeding six months.

SEC. 8. Every trial justice or judge of a municipal or police court, before he performs any official act as such justice or judge, pertaining to any criminal process or proceeding, shall give bond to the county in such sum and with such sureties as the county commissioners of said county shall approve, conditioned that he will, during his continuance in office, faithfully perform, as the law requires, all his duties relating to the collection and payment over of all fines and forfeitures which may come into his hands by virtue of his office. Such bond shall be held by the county treasurer and enforced for the security of any and all parties entitled to such fines and forfeitures, and a suit on such bond for the benefit of one party shall not bar a suit thereon for the benefit of any other party. Every such justice or judge who shall perform any such official acts before giving such bond, forfeits not exceeding one hundred dollars, to be recovered by indictment, but a failure to give such bond shall not render invalid such official acts.

SEC. 9. Every such trial justice, or judge shall keep a correct docket of all examinations and trials before him of persons accused of offenses, setting forth therein a true account of all fines and forfeitures by him imposed or received upon conviction or sentence; and once a year shall deliver or transmit to the county commissioners of his county at one of their regular sessions such docket, or a copy thereof, accompanied by his affidavit that he has faithfully complied with the requirements of section seven; and said commissioners shall examine said docket or copies and may summon such justice or judge to appear before them with his original docket and records, by not less than ten days' written notice served by giving him a copy in hand, or by leaving it at his last and usual place of abode. He may be examined on oath relative to his official conduct, and if it is found that he has faithfully observed the official requirements of law he shall be allowed a reasonable compensation for his travel and expenses, to be paid from the county treasury.

SEC. 10. If he fails to appear, the commissioners may issue a capias and have him brought, with his papers, before them; and if he fails to show reasonable cause for his neglect, he shall pay the expenses of bringing him before the commissioners, and they may issue a warrant of distress for collection of the same.

DUTIES OF COUNTY TREASURERS.

SEC. 11. Sums allowed to any person as fees, or for expenses in any criminal prosecution, and payable from the county treasury, may be claimed by such person of the county treasurer, at any time within three years after the allowance, and not afterwards.

SEC. 12. A schedule of all notes and securities, with the amount due on each, received by the county treasurer from the sheriff pursuant to section six, shall be by him laid before the county commissioners at their next session, to be filed with the clerk, and the county commissioners, from time to time, shall examine such notes and securities; order the county attorney to take such measures for their collection as they judge expedient, or authorize the treasurer to compound and cancel them on such terms as they direct.

SEC. 13. Each county treasurer shall, at the close of each criminal term of the supreme judicial or superior court, and of each term of the court of county commissioners, in his county, publish in some paper printed

others entitled to same.
R.S., c. 136, § 7.
1897, c. 198.
See c. 131, § 22.
—penalty for neglect.

Magistrates shall give bond for faithful performance of duties.
1885, c. 308, § 2.

—by whom held and enforced.

—penalty.

Trial justices and municipal and police judges shall keep docket of fines and forfeitures.
R.S., c. 136, § 8.

—examination of docket and magistrate by county commissioners.

—compensation.

If he fails to appear, capias may issue.
R.S., c. 136, § 9.

Fees must be claimed within three years.
R.S., c. 136, § 10.

Treasurer shall exhibit schedule of notes to county commissioners.
R.S., c. 136, § 11.

—proceedings thereon.

County treasurer shall publish

list of costs.
R.S., c. 136, § 12.

Treasurer
shall make
annual report
to attorney
general.
R.S., c. 136, § 13.
69 Me., 368.

Neglect is
a breach of
treasurer's
bond.
R.S., c. 136, § 14.
69 Me., 368.

Each county
attorney
shall examine
records of
clerks and
treasurers.
R.S., c. 136, § 15.

He shall
summon
delinquent
sheriff or
other officer
before court.
R.S., c. 136, § 16.

in said county for three weeks successively, a list containing the aggregate amount of costs allowed in each case, and specifying the court or magistrate that allowed the same, and before whom the case originated.

SEC. 14. He shall, on or before the twentieth day of November, annually, make a report to the attorney general, showing the amount paid out of his office during the year ending on the first day of said November, for costs of prosecutions in the supreme judicial court, and in the superior court; upon bills of costs allowed by county commissioners for support of prisoners in jail; and to grand jurors and to traverse jurors at terms of court held for criminal business; also the amount received from fines, costs, and forfeitures in said courts, from magistrates, jailers and other officers.

SEC. 15. Neglect to make and forward such report is a breach of his official bond, and for every day of such neglect he forfeits five dollars to the State, and the attorney general shall bring an action on such treasurer's official bond, to recover such forfeiture.

DUTY OF COUNTY ATTORNEYS.

SEC. 16. County attorneys shall examine the records and files in the offices of clerks, and the certificates and accounts in the offices of treasurers, relating to fines, forfeitures and bills of costs accruing to their counties; ascertain, so far as practicable, the causes of any delinquencies in paying over the same; and move the court for all necessary orders and processes to enforce the collection thereof.

SEC. 17. When it appears that any sheriff or other officer is not discharged of any fine, forfeiture, or bill of costs, committed to him to collect, the county attorney shall cause him to be summoned and brought before the court that imposed it, to show a proper discharge, or the cause for not collecting and paying it over; and he shall carry into execution all lawful orders of the court relating to the collection and payment thereof, and shall, by all other means pertaining to his office, promote and enforce the same.

CHAPTER 136.

DISPOSAL OF INSANE CRIMINALS.

When a per-
son, commit-
ted to jail on
a criminal
charge,
pleads
insanity,
proceedings.
R.S., c. 137, § 1.
See c. 142, § 30.

SEC. 1. When a person is indicted for an offense, or is committed to jail on a charge thereof by a trial justice, or judge of a police or municipal court, any justice of the court before which he is to be tried, if a plea of insanity is made in court, or he is notified that it will be made, may, in vacation or term time, order such person into the care of the superintendent of either insane hospital, to be detained and observed by him until further order of court, that the truth or falsity of the plea may be ascertained. (The superintendent of the hospital to which such person is committed shall, within the first three days of the term next after such commitment, and within the first three days of each subsequent term so long as such person remains in his care, report to the judge of the court before which such person is to be tried, whether his longer detention is required for purposes of observation.)

When grand
jury omit to
indict, or
traverse jury
acquits, on ac-
count of the
insanity of
the accused,
they shall so

SEC. 2. When the grand jury omit to find an indictment against any person arrested to answer for an offense, by reason of his insanity, they shall certify that fact to the court; and when a traverse jury, for the same reason, acquits any person indicted, they shall state that fact to the court when they return their verdict; and the court, by a precept stating the fact of insanity, may commit him to the insane department of the

state prison or to either insane hospital; and any person so committed shall be discharged by the court having jurisdiction of the case only on satisfactory proof that his discharge will not endanger the peace and safety of the community; and when such person so discharged is on satisfactory proof again found insane and dangerous, any justice of the supreme judicial court may, by a precept stating the fact of his insanity, recommit him to the insane department of the state prison, or to either insane hospital.

SEC. 3. Any person so committed to an insane hospital may be discharged by any justice of the supreme judicial court, in term time or vacation, on satisfactory proof that his discharge will not endanger the peace and safety of the community; or such justice may, on application, commit him to the custody of any friend who will give bond to the judge of probate for the county of Kennebec, (if such commitment was to the insane hospital at Augusta, or to the judge of probate for the county of Penobscot, if such commitment was to the insane hospital at Bangor,) with sufficient sureties, approved by said judge of probate, conditioned for the safe keeping of such insane person, and the payment of all damages which any person may sustain by his acts. And when, on satisfactory proof, he is again found insane and dangerous, any justice of the supreme judicial court may, by a precept stating the fact of his insanity, recommit him to the insane hospital (from which he was discharged.)

SEC. 4. The person so committed shall be there supported at his own expense, if he has sufficient means; otherwise, at the expense of the State.

SEC. 5. When a convict in the state prison or a county jail becomes insane, the warden or jailer shall notify the governor of that fact, who, with the advice of the council shall appoint a commission of two or more skilful physicians to investigate the case, and if they find such convict insane, he shall be sent by order of the governor and council to the insane department of the state prison, until he becomes of sound mind. If this takes place before the expiration of the term of his sentence, he shall be returned to the prison or jail from which he was removed; if the term of his sentence has expired, he shall be discharged free. Inmates of county jails (and persons under indictment) becoming insane before final conviction may be committed to an insane hospital (by a judge of the supreme judicial, or superior court in the county where such person is to be tried or the case is pending, under such limitations as such judge may direct). The superintendent of the insane hospital (at Augusta) shall visit the insane department of the state prison not less than once each month to advise with the prison physician and warden as to the proper care, treatment and disposition of the convicts in said department. And whenever in the judgment of *the* (said) superintendent, any convict of the state prison who may be insane, can be better treated at the *Maine* insane hospital (at Augusta), he may recommend the transfer of said convict to said hospital, and report his conclusions to the governor and council, and thereupon they may order such transfer, and said convict shall be returned to the state prison whenever *the* (said) superintendent shall consider it advisable to do so, and if such person recovers after the expiration of his sentence, he shall be discharged free. Whenever any convict in said department at the expiration of his term of sentence shall, in the opinion of said superintendent, prison physician and warden be so far insane that his discharge will endanger the peace and safety of the community, they shall make a certificate setting forth briefly the facts of his sentence and its expiration and their opinion of his insanity, which certificate shall be by the warden recorded, and he shall detain said convict in said department until in the opinion of said superintendent, prison physician and warden he becomes of sound mind. All the expenses of said superintendent in connection with said department, as well as those of the commitment, removal and support of said convicts under this and the two following

certify to court.
R.S., c. 137, § 2.

—how court shall dispose of such accused.

How, and by whom, such person, so committed to the hospital, may be discharged.
R.S., c. 137, § 3.
See 1861, c. 24.

—bond.

—when, and by whom, he shall be re-committed.

Support at hospital.
R.S., c. 137, § 4.
Proceedings, when an inmate of state prison or jail becomes insane.
1893, c. 295, § 1.

—when of sound mind, may be discharged.

—superintendent of insane hospital required to visit insane department of state prison, monthly.

—he may recommend transfer of convict to insane hospital.

—if convict is insane when term expires, warden may detain such convict in insane department.

—expenses, how paid.

sections, shall be paid by the state by order of the governor and council, from state prison appropriations.

[The amendment suggested to sec. 5, is intended to supply the omission of any provision whereby the court may commit to an insane hospital any person found to be insane when his case is called for trial. See § 7.]

Insane convicts may be removed from insane hospital to insane department of prison.
1893, c. 295, § 2.

SEC. 6. Insane convicts *now* in the insane hospital, upon satisfactory proof that a longer residence therein will have a deleterious influence on the other patients, may be committed by the order of the governor and council setting forth the circumstances under which they have been detained in said hospital, to the insane department of the state prison to be there detained until of sound mind, subject to the provisions and conditions of the preceding section.

Person convicted of crime may, if insane, be removed to insane department of state prison.
1893, c. 295, § 3.

SEC. 7. If a person convicted *under section one of chapter one hundred and seventeen*, (of any crime, in the supreme judicial court or either superior court), is found by the *court* (judge of such court) to be insane when motion for sentence is made, the court may cause *him* (such person) to be removed to the insane department of the state prison under such limitations as the court may direct; (*provided*, that if the crime of which such person is convicted, is not punishable by imprisonment in the state prison, the period of such commitment shall not exceed one year; if at the expiration of such period, such person has not become of sound mind in the opinion of the superintendent of the insane hospital at Augusta, prison physician and warden, he shall be committed by them to one of the insane hospitals to be there detained and supported in the manner provided by law in the case of persons committed by municipal officers, and the provisions of sections twenty-one to twenty-four inclusive, of chapter one hundred and forty-two shall apply to such cases.)

—persons convicted of minor offenses shall not be detained longer than one year.

—may be committed to insane hospital,

[The amendment suggested to sec. 7, is intended to supply the omission of any provision whereby the court may commit to the insane department of the state prison any person, convicted of a crime other than murder, found to be insane when motion for sentence is made. The proviso is intended to meet a possible objection against the indefinite commitment to the insane department of the state prison of a person convicted of a minor offense.]

CHAPTER 137.

PARDONS, AND FUGITIVES FROM JUSTICE.

PARDONS.

Person convicted of murder desiring pardon or commutation, may present request to justices of S. J. court.
1887, c. 133, § 8.
85 Me., 548.

SEC. 1. Whenever any convict sentenced to imprisonment for life, for murder committed after the sixteenth day of April in the year eighteen hundred and eighty-seven, desires to obtain a pardon or a commutation of such sentence, he may present a written request to the justices of the supreme judicial court, in term time or vacation, asking that application therefor be made to the governor in his behalf, and he shall therein set forth, specifically, the grounds on which such application for pardon or commutation of sentence is requested, and the facts which he expects to prove in support of the same, together with the names and residences of the witnesses by whom he expects to prove such facts; and with such request, he shall present the affidavits of such witnesses, and a copy of all the evidence taken at the trial in which he was convicted, as certified by the official stenographer.

If justices are satisfied

SEC. 2. If, upon examination of said request and the affidavits there-
presented, said justices are of the opinion that new and material evi-

Note. The commissioner calls the attention of the legislature to the opinion of the justices of the Supreme Judicial Court, in answer to a question submitted by the Governor and Council, December 31, 1892, 85 Me., 547, and suggests that in view of that opinion, sections eight to twelve inclusive of P. L. 1887, c. 133, may appropriately be omitted from this revision.

dence has been discovered which was not known, and could not, by the use of due diligence, have been obtained at the time of the trial, and which would tend conclusively to show such convict innocent, notwithstanding the evidence taken at the trial, they shall appoint a time and place for a hearing thereon, and order notice to be given to the attorney general and to the county attorney of the county in which such convict was convicted, that they may appear in behalf of the state.

SEC. 3. At such hearing, no evidence shall be deemed pertinent, except such as has been discovered since the trial, and such as relates to material facts, tending to show that such convict was wrongfully or erroneously convicted, or that he is innocent.

SEC. 4. If, upon all the evidence, said justices are of the opinion that such convict was wrongfully convicted, or that he is innocent of the crime of which he was convicted, and that an application should be made for his pardon or for a commutation of his sentence, they shall so order, and thereupon the clerk of said court for the county in which such hearing is had, shall make up a record of the proceedings had on such request, and transmit a copy thereof, and of all the papers in the case, to the governor, together with an application to the governor made by him, in behalf of such person, under the order and direction of said justices, for such pardon or commutation of sentence.

SEC. 5. On receipt of such application, *and not otherwise*, the governor may, with the advice and consent of the council, grant a pardon or a commutation of sentence, upon such conditions and with such restrictions and limitations as may be deemed proper, and to carry the same into effect may issue his warrant directed to all proper officers who shall serve and obey it.

SEC. 6. On all petitions to the governor for pardon or commutation of sentences, written notice thereof shall be given to the county attorney for the county where the case was tried at least three weeks before the time of the hearing thereon, and three weeks' notice in some newspaper printed and published in said county; and if the crime for which said pardon is asked is punishable by imprisonment in the state prison, the county attorney for the county where the case was tried shall upon the request of the governor and council, attend the meeting of the governor and council at which the petition is to be heard, and the governor and council shall allow him his necessary expenses for such attendance, and a reasonable compensation for his services to be paid from the state treasury out of the appropriation for costs in criminal prosecutions. The governor and council may require the judge and prosecuting officer who tried the case to furnish them a concise statement thereof as proved at the trial and any other facts bearing on the propriety of granting pardon or commutation.

SEC. 7. When a person is sentenced to confinement in the state prison, the governor, with the advice and consent of council, may, if he deems it consistent with the public interest and the welfare of the convict, commute said sentence to imprisonment in any county jail, there to be supported at the charge of the State, at an expense not exceeding the price paid for the support of other prisoners in said jail.

CONDITIONAL PARDONS.

SEC. 8. In any case in which the governor is authorized by the constitution to grant a pardon, he may, by and with the advice and consent of council, and upon petition of the person convicted, grant it upon such conditions, with such restrictions and under such limitations as he deems proper, and he may issue his warrant to all proper officers to carry such pardon into effect; which warrant shall be obeyed and executed instead of the sentence originally awarded.

SEC. 9. When a convict has been pardoned on conditions to be observed and performed by him, and the warden of the state prison, or keeper of

that new evidence has been discovered, shall appoint hearing and order notice.
1887, c. 133, § 9.

At hearing, only new evidence shall be deemed pertinent.
1887, c. 133, § 10.

If justices are of the opinion that application should be made for pardon, they shall so order.
1887, c. 133, § 11.

—proceedings.

Governor may grant pardon.
1887, c. 133, § 12.
85 Me., 548.

Notice shall be given to county attorney, on all petitions for pardon.
R.S., c. 133, § 2.
1893, c. 296.

—if required, he shall attend hearing.

—judge and prosecuting officer, who tried case may be required to furnish facts.

When state prison sentence may be commuted to imprisonment in jail.
R.S., c. 133, § 3.

Governor may grant conditional pardons.
R. S., 138, § 4.
See Constitution, art. V, part 1, § 11.

Conditions under which

convict may
be again
arrested.
R.S., c. 138, § 5.

—officer
shall notify
executive.

If governor
and council
find that
conditions
have been
violated,
convict shall
be remanded
to prison.
R.S., c. 138, § 6.

Officer,
to whom
warrant for
pardon or
commutation
is issued,
shall make
return.
R.S., c. 138, § 7.

the jail, where the convict was confined, has reason to believe that he has violated the same, such officer shall forthwith cause him to be arrested and detained until the case can be examined by the governor and council; and the officer making the arrest shall forthwith give them notice thereof, in writing.

SEC. 10. The governor and council shall, upon receiving such notice, examine the case of such convict, and if it appears by his own admission, or by evidence, that he has violated the conditions of his pardon, the governor, with the advice and consent of council, shall order him to be remanded and confined for the unexpired term of the sentence. In computing the period of his confinement, the time between the pardon and the subsequent arrest shall not be reckoned as part of the term of his sentence. If it appears to the governor and council that he has not broken the conditions of his pardon, he shall be discharged.

SEC. 11. When a convict is pardoned, or his punishment is commuted, the officer to whom the warrant for that purpose is issued shall, as soon as may be after executing the same, make return thereof, under his hand, with his doings thereon, to the office of the secretary of state; and he shall also file in the clerk's office of the court in which the offender was convicted, an attested copy of the warrant and return, a brief abstract whereof the clerk shall subjoin to the record of the conviction and sentence.

FUGITIVES FROM JUSTICE IN THIS STATE.

Governor
may appoint
an agent to
demand
fugitives in
other states.
R.S., c. 138, § 8.
See U. S. Con-
stitution, art.
iv. § 2, ¶ 2.

Reward for
the arrest and
return of
escaped
prisoners
and fugitives
from justice.
R.S., c. 138, § 9.

—when to be
paid.

SEC. 12. 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 from the treasury by order of the governor and council.

SEC. 13. Whenever a prisoner convicted of, or charged with, a capital crime or other high offense, escapes from prison in this state; or there is reasonable cause to believe that a person who is charged with such offense and has not been apprehended therefor, cannot be arrested and secured in the ordinary course of proceedings, the governor may, upon application in writing, of the attorney general or county attorney for the county in which such offense was committed, and upon such terms and conditions as he deems expedient and proper, offer a suitable reward, not exceeding one thousand dollars, for the arrest, return and delivery into custody of such escaped prisoner or fugitive from justice; and upon satisfactory proof that the terms and conditions of such offer have been complied with, he may, with the advice and consent of council, draw his warrant upon the treasurer for the payment thereof.

FUGITIVES FROM JUSTICE IN OTHER STATES.

Governor
may issue his
warrant to
surrender
fugitives
found in
this state.
R.S., c. 138, § 10.

When the
court or mag-
istrate may
issue a
warrant for
the arrest of
a fugitive.
R.S., c. 138, § 11.

SEC. 14. When such demand as is mentioned in section twelve 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.

SEC. 15. When such fugitive from justice in another state is found in this state, any court or magistrate authorized to issue warrants in criminal cases, may, on complaint under oath, setting forth the offense and other facts necessary to bring the case within the provisions of law, grant a warrant and have the accused arrested for examination as in other cases.

SEC. 16. 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.

How such case shall be examined.
R.S., c. 138, § 12.

SEC. 17. 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, or the two preceding sections, shall prevent the arrest of any accused by an executive warrant, and such arrest discharges any such existing recognizance.

When such prisoner shall be discharged at the adjourned day.
R.S., c. 138, § 13.

SEC. 18. The complainant is 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 is answerable for costs.
R.S., c. 138, § 14.
See c. 112, § 81.

CHAPTER 138.

CORONERS' INQUESTS.

SEC. 1. Coroners shall hold inquests on dead bodies of such persons only as appear or are supposed to have come to their death by violence, and not when it is believed that their death was caused by casualty; and as soon as a coroner 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 or an adjoining town in said 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.
R.S., c. 139, § 1.
See c. 51, § 160.

"[L. s.] To either of the constables in the town of —, in the county of —,

GREETING.

—form of coroner's warrant.

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

Given under my hand and seal, at —, the — day of —, A. D., 19—. S. F."

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

Duties of constable and jurors, and penalties for neglect.
R.S., c. 139, § 2.

SEC. 3. The coroner shall, in view of the body, administer to the jurors who appear, the following oath: "You solemnly swear that you will diligently inquire and true presentment make on behalf of the State, how, when, and in what manner, the person whose body here lies dead came

Jurors' oath.
R.S., c. 139, § 3.

coroner shall pay to the party giving him notice that a dead body has been found, and to the person who picked up such dead body, and to the person who has had the care of such body until taken charge of by him, a suitable compensation, which shall be re-imbursed as for personal services.

and re-im-
bursement
of expenses.
R. S., c. 139, § 12.

SEC. 13. The evidence of all the witnesses taken at any inquest shall, within ten days after the delivery of the verdict to the coroner, be filed by the coroner with the clerk of courts for the county in which said inquest is held, and there remain open for public inspection. Coroners may employ a stenographer for the purpose of taking such evidence, who shall receive as compensation therefor the sum of six dollars a day and ten cents a hundred words for transcript of notes, and six cents a mile actual travel.

Evidence
taken shall
be filed with
clerk of
courts.
1885, c. 296.
1901, c. 267.

—may employ
stenog-
rapher.