

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 April 4, 1913

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TITLE ELEVEN.

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

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

OFFENSES AGAINST THE SOVEREIGNTY OF THE STATE.

SEC. 1. Whoever is guilty of treason against the state, shall be punished by imprisonment for life.

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. Whoever is guilty of misprision of treason shall be punished by imprisonment not exceeding five years, or fine not exceeding one thousand dollars.

Treason.
 R. S., c. 118, § 1.
 Const. Me.,
 definition
 Art. 1, § 12.
 Misprision of
 treason, its
 definition
 and punish-
 ment.
 R. S., c. 118, § 2.

CHAP. 119.

Prosecution
to be within
three years.
R. S., c. 118, § 3.
Usurpation
of jurisdiction
by a foreign
power.
R. S., c. 118, § 4.

—overt acts
within the
state, how to
be punished.
1905, c. 13.

Desecration of
flag of U. S.
or of this
state.
R. S., c. 118, § 5.

—how pun-
ished.

—inscriptions,
symbols, etc.,
may be placed
on flag pur-
suant to
law, etc.

State seal,
removal of,
injury to,
and neglect
or refusal to
deliver up,
prohibited.
R. S., c. 118, § 6.

—punishment.

Use of great
seal in any
place but the
office of
secretary of
state, pro-
hibited.
R. S., c. 118, § 7.

—punishment.

Books and
papers,
removal
from state
offices,
secrection,
mutilation,
or refusal
to return,
prohibited.
R. S., c. 118, § 8.

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.

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 the 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.

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.

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.

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.

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 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.

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.

Persons who have held public office, shall deliver moneys and other public property to successors.
R. S., c. 118, § 9.

—punishment for refusal.

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.

Person, falsely assuming to act as a state officer, how to be punished.
R. S., c. 118, § 10.

CHAPTER 120.

OFFENSES AGAINST THE LIVES AND PERSONS OF INDIVIDUALS.

Murder defined and punished.
R. S., c. 119, § 1.

Manslaughter defined and punished.
R. S., c. 119, § 2.
1906, c. 153.

Penalty for carelessly shooting a human being while engaged in hunting.
R. S., c. 119, § 3.
County attorney and sheriff shall investigate violations.
R. S., c. 119, § 4.
—penalty.

Penalty for destroying human life by obstructing railroads.
R. S., c. 119, § 5.
107 Me., 479.
—endangering life, or injuring property.

Misconduct or gross neglect, respecting steam in steamboats, and boilers.
R. S., c. 119, § 6.

—interference with safety valve, etc.

—penalty.

Murder by duelling, defined and punished.
R. S., c. 119, § 7.

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, being under the legal duty to care and provide for any child or other person, wilfully fails or neglects to provide for such child or other person, necessary food, clothing, treatment for the sick, or other necessities of life, thereby causing or hastening the death of such child or other person, or commits manslaughter as defined by the common law, shall be punished by imprisonment for not more than twenty years, or by fine not exceeding one thousand dollars. (b)

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 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 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 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.

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

(a) 37 Me., 469; 39 Me., 66, 87; 51 Me., 222; 54 Me., 415; 57 Me., 582; 58 Me., 567-589; 95 Me., 372; 109 Me., 202.

(b) 32 Me., 374; 33 Me., 55; 39 Me., 67; 109 Me., 207.—

mortal wound on any person, of which he dies in the state, is guilty of murder, 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, 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 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 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.*

SEC. 17. Whoever takes a woman unlawfully and against her will, and by force, menace or duress, compels her to marry him, or any other

Murder, by a second to such duel.
R. S., c. 119, § 8.

Trial in another state, bars indictment here.
R. S., c. 119, § 9.

Duelling, how punished.
R. S., c. 119, § 10.

Accepting a challenge, or aiding a duel, how punished.
R. S., c. 119, § 11.

Leaving state to elude two preceding sections and then doing such acts, punished.
R. S., c. 119, § 12.

Posting for not fighting a duel, etc.
R. S., c. 119, § 13.

Mayhem, defined and punished.
R. S., c. 119, § 14.

Robbery, defined and punished.
R. S., c. 119, § 15.
86 Me., 430.

Rape defined and punished.
R. S., c. 119, § 16.

Protection of girls between the ages of fourteen and sixteen.
R. S., c. 119, § 17.

Abduction, defined and punished.
R. S., c. 119, § 18.

CHAP. 120.

Kidnapping,
how
punished.
R. S., c. 119, § 19.

—jurisdiction.

—consent.

Abandonment
of children.
R. S., c. 119, § 20.

Shipmasters,
carrying
apprentices
and minors
out of state.
R. S., c. 119, § 21.
11 Me., 106.

Enlistment
of minors
into the army
of U. S.
R. S., c. 119, § 22.

Extortion or
compulsion,
by threats, or
mischievously
vexing or tor-
menting
another.
R. S., c. 119, § 23.
1905, c. 167.
24 Me., 72.
68 Me., 474.
85 Me., 195.
99 Me., 227.
104 Me., 125.

—by means of
telephone.
See c. 129, § 27.

Assault on a
female with
intent to
commit a
rape.
R. S., c. 119, § 24.

Assault with
intent to mur-
der, maim,
rob, etc.
R. S., c. 119, § 25.

person, or to be defiled, shall be punished by imprisonment 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.

SEC. 18. 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.

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. (a)*

SEC. 19. 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.

SEC. 20. 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.

SEC. 21. 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, and whoever without reasonable cause or provocation shall wilfully and wantonly or maliciously vex, irritate, harass or torment any person by communications to, or conversation with, such person over or by means of any telephone, or shall call out any fire department, police department or other municipal department, or any portion or persons thereof, by intentionally giving a false alarm or call to such department or to any officer or member thereof by means of any telephone line or lines shall be punished by imprisonment not exceeding two years, or by fine not exceeding five hundred dollars.

SEC. 22. 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, nor more than twenty years.

SEC. 23. 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

(a) Sections 17 and 20 are numbered 27 and 28 under subtitle, "Crimes against children," of this chapter.

CHAP. 120.

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)

SEC. 24. 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. 25. 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. 26. 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.

To commit other felony.
R. S., c. 119, § 26.
69 Me., 182.

Attempt to murder, without assault.
R. S., c. 119, § 27.

Assault, and assault and battery.
R. S., c. 119, § 28.
59 Me., 575.
69 Me., 182.
73 Me., 281.
98 Me., 424.

CRIMES AGAINST CHILDREN.

SEC. 27. 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 section sixteen of this chapter.

SEC. 28. 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.

SEC. 29. Any parent, guardian or other person, having the care and custody of any child, who cruelly treats such child by abuse, neglect, overwork or extreme punishment, shall be punished by fine not exceeding one hundred dollars, or by imprisonment not exceeding one year.

SEC. 30. Whoever admits or allows to remain in any disorderly house, house of ill fame, gambling place or place where intoxicating liquors are sold, or other place injurious to health or morals, owned, kept, maintained, managed or controlled by him in whole or in part, any child under the age of sixteen years, shall be punished by a fine not exceeding one hundred dollars or by imprisonment not exceeding sixty days.

SEC. 31. Whoever by himself, his clerk, servant or agent, directly or indirectly has in his possession with intent to sell, offers for sale, sells or gives away to any child under the age of sixteen years, or to any such child for any other person, any intoxicating liquors, and whoever by himself, his clerk, servant or agent, directly or indirectly employs or permits any such child to aid or assist him in the illegal keeping or the illegal sale of intoxicating liquors, shall be punished in addition to the penalties otherwise provided against the illegal keeping for sale or illegal sale of intoxicating liquors, by fine not less than one hundred dollars or by imprisonment not less than sixty days.

SEC. 32. No person shall employ or cause to be employed, exhibit, use or have in custody, or train for use, employment or exhibition, any child under sixteen years of age, and no parent, guardian or other person, having care, custody and control of such child, shall procure or permit the training, use, employment or exhibition of any such child, in begging or soliciting or receiving alms in any manner or under any pretence, or in any illegal, indecent or immoral exhibition or practice, or in any exhibi-

Protection of girls between the ages of fourteen and sixteen.
R. S., c. 119, § 17.

Abandonment of children.
R. S., c. 119, § 20.

Cruelty to children.
R. S., c. 61, § 44.

Punishment for allowing children in disorderly house, etc.
1905, c. 123, § 7.

Punishment for offering for sale, selling or giving intoxicating liquors to children under 16 years of age.
1905, c. 123, § 8.
See c. 127, §§ 21-27.

Punishment for exhibiting children under 16 years of age, or for permitting begging by the same.
1905, c. 123, § 9.

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

CHAP. 120.

tion of any such child when insane or idiotic, or when possessing any deformity and unnatural physical formation, or in any practice, exhibition or place dangerous or injurious to the life, limb, health or morals of such child. Whoever *offends against the provisions of* (violates) this section shall be punished by a fine not exceeding one hundred dollars or by imprisonment not exceeding sixty days.

Section 10 of P. L. 1905, c. 123, is consolidated with section 40 of this chapter.

Penalty for selling or giving cigarettes, tobacco, liquor or narcotic drugs to children. 1909, c. 166, § 1. See c. 130, § 23.

SEC. 33. It shall be considered injurious to the physical, mental or moral welfare of any child, *or children within the age defined by the* except as otherwise provided herein, shall be deemed guilty of encouraging sixteen years,) to smoke or use tobacco in any form, or to *use or* drink alcoholic or intoxicating liquors, or to use narcotic drugs of any kind or description unless prescribed by a physician, or otherwise used in case of sickness; and any person selling, (or) giving (to such child,) or furnishing any such child with cigarettes, cigarette papers, tobacco, liquor or narcotic drugs in any form, or encouraging such child to use the same, except as otherwise provided herein, shall be deemed guilty of encouraging, causing or contributing to the delinquency or distress of such child, and shall be punished, on conviction thereof, by a fine not exceeding one hundred dollars or imprisonment for a term not exceeding thirty days.

Selling firearms or dangerous weapons to children forbidden except in certain cases. 1909, c. 166, § 2.

SEC. 34. It shall also be considered dangerous to the welfare of such children to give, furnish or sell to them any dangerous weapon or firearms, except in cases where the parents, guardians, teachers or instructors of children may furnish them with such weapons for hunting or target shooting outside the limits of any incorporated town or city, or where the same may be used in any *regular licensed* shooting gallery; any person violating this *provision* (section) shall *also* be deemed guilty of causing, encouraging or contributing to the delinquency or distress of children, and *may be similarly proceeded against and* (shall be) punished as *under* (provided in) the preceding section.

—penalty.

Note: The commissioner is not aware of any law of this state requiring that shooting galleries be licensed. He recommends that such places be included in chapter 31, §§ 3-8.

Other laws not affected. 1909, c. 166, § 3.

SEC. 35. Sections thirty-three and thirty-four of this chapter shall not be construed to repeal any criminal law of this state forbidding the sale of tobacco, liquor, narcotic drugs or firearms to minors, or any law of this state for the protection of children or minors, or to forbid proceedings under such laws in cases which may also come within the provisions of the two preceding sections.

Court may suspend sentence. 1909, c. 166, § 4.

SEC. 36. The court may suspend any sentence, stay or postpone the *enforcement of* execution (thereof,) or release from custody any person found guilty in any case under sections thirty-three and thirty-four upon such conditions as shall be imposed by the court.

Evidence required to find person guilty. 1909, c. 166, § 5.

SEC. 37. In order to find any person guilty of violating sections thirty-three and thirty-four it shall not be necessary to prove that the child is actually in delinquency or distress, provided it appears from the evidence that through any act or neglect or omission of duty or by any improper act or conduct on the part of *any such person* (the accused) the distress or delinquency of any child may have been caused or merely encouraged. Sections thirty-three to thirty-seven, both inclusive, shall always be liberally construed in favor of the state for the protection of the child from neglect or omission of parental duty towards the child by the parents, as well as for the protection of the children of the state from the effects of improper conduct, acts, or the bad example of any person or persons whomsoever, which may be calculated to cause, encourage or contribute to the distress or delinquency of children, although such persons are in no way related to the child.

Note. Proceedings when child under sixteen years of age is arrested and charged with crime, c. 137, § 12.

DESERTION AND NON-SUPPORT OF FAMILIES.

SEC. 38. *Any person who* (whoever) shall without lawful excuse desert his wife when such wife is in destitute or necessitous circumstances, or, *any person who* being able by means of his property or labor to provide for the necessary support and maintenance of his wife, shall (without lawful excuse,) wilfully, neglect or refuse to provide such support and maintenance when such wife is in destitute or necessitous circumstances, or *any person who* (whoever) shall without lawful excuse desert his or her minor child or children under the age of sixteen years, (when such child or children are in such circumstances,) or, *who* being able by means of his or her property or labor to provide for the necessary support and maintenance of his or her minor child or children under said age, shall wilfully neglect or refuse to provide such support and maintenance when such child or children are in destitute or necessitous circumstances, shall be deemed guilty of a felony, and on conviction thereof shall be punished by a fine of not more than five hundred dollars or by imprisonment with or without hard labor for not more than two years, or by both such fine and imprisonment; and if a fine is imposed, *it may be directed by the court to* (may direct that it) be paid in whole or in part to the wife or to the guardian or custodian of the minor child or children; *provided* that, before the trial, with the consent of the defendant, or after conviction; instead of imposing the punishment hereinbefore provided, or in addition thereto, the court in its discretion having regard to the circumstances and to the financial ability or earning capacity of the defendant, may make an order, which shall be subject to change by it from time to time as circumstances may require, directing the defendant to pay a certain sum weekly for the space of one year to the wife, or to the guardian or custodian of the minor child or children, or to an organization or individual approved by the court, as trustee, and to release the defendant from custody on probation for the space of one year upon his or her entering into a recognizance, with sureties, in such sum as the court may direct. The condition of the recognizance shall be such that if the defendant shall make his or her personal appearance in court whenever ordered to do so within the year, and shall further comply with the terms of the order and of any subsequent modification thereof, then the recognizance shall be void, otherwise in full force and effect.

If the court shall be satisfied by information *and due proof* (or evidence) under oath, that at any time during the year the defendant has violated the terms of such order, it may forthwith proceed with the trial of the defendant under the original indictment, or sentence him under the original conviction, or enforce the original sentence, as the case may be. In case of forfeiture of a recognizance, and enforcement thereof by execution, the sum recovered may, in the discretion of the court, be paid in whole or in part to the wife or to the guardian or custodian of the minor child or children.

Note. The commissioner suggests that the words "without lawful excuse" be inserted in the fifth line of § 38. His attention was called to the apparent omission by a letter from Chief Justice Savage, from which he is permitted to quote.

"Yesterday I had before me a case involving a construction of that part of Chap. 178, Laws of 1909, which begins 'or any person who being able by means of his property or labor to provide, etc.' To my surprise, I found that there is no qualification or limitation, that is, there is no expression 'without lawful excuse,' as in the clause before and in the clause after. Construing the language according to the usual canons of interpretation, it would seem that the husband is bound at all hazards to make provision for his destitute and necessitous wife, whatever may have been her conduct towards him. She may have deserted him years ago. She may be guilty of adultery. She may be a common prostitute. She may be drunk and disorderly and violent. No matter what she is, he must provide. I can hardly conceive that the legislature meant that such a result should follow, for it is grossly unjust. It is almost abhorrent to any sense of fairness. And I wonder whether in phrasing this statute the words 'without lawful excuse,' were unintentionally or inadvertently omitted, or if not so, whether it would not be within the province of the commissioner to suggest an amendment."

Desertion of wife in destitute circumstances. 1907, c. 42, § 1. 1909, c. 178, § 1. 104 Me., 352.

—desertion of children. See 1907, c. 42, § 1.

—neglect to support.

—penalty.

—court may direct fine to be paid to wife.

—or may order respondent to make weekly payments.

—condition of recognizance.

On proof of violation of order court may proceed under original indictment.

—amount recovered may be paid to wife or guardian.

CHAP. 121.

Earnings of persons sentenced, how disposed of.
1907, c. 42, § 2.
1909, c. 178, § 2.
1911, c. 144.

Fines and penalties, how recovered.
1905, c. 123, § 10.
1907, c. 42, § 3.
1909, c. 54;
c. 178, § 3.
1911, c. 144.

SEC. 39. When any person is sentenced to hard labor and actually employed in such labor in a county jail or any other county correctional institution or reformatory on account of any sentence imposed under the preceding section, the keeper of said jail or other institution or reformatory, shall certify at the end of each week to the county commissioners the number of days during which such persons shall have been actually employed in said jail as aforesaid, and the county commissioners shall thereupon draw their order upon the county treasurer for a sum equal to fifty cents for each day's hard labor so performed by such person and the same shall thereupon be paid forthwith by the county treasurer to the wife of such person or to the guardian or custodian of his or her minor child or children, or to any organization or individual as trustee which shall be approved by the court imposing such sentence.

SEC. 40. All fines or penalties provided for by the terms of sections thirty, thirty-one, thirty-two and thirty-eight (the last ten sections) of this chapter may be recovered or enforced by complaint or indictment and in all prosecutions under said sections *and any amendments and additions thereto*, judges of municipal and police courts and trial justices within their respective counties shall have original and concurrent jurisdiction with the supreme judicial court and superior courts.

CHAPTER 121.

OFFENSES AGAINST HABITATIONS AND OTHER BUILDINGS.

Arson of a dwelling-house.
R. S., c. 120, § 1.
55 Me., 367.
63 Me., 135.
66 Me., 307.
71 Me., 355.

Arson of a dwelling-house, owned by himself.
R. S., c. 120, § 2.
See c. 128, § 21.

Burning of public and private buildings.
R. S., c. 120, § 3.
12 Me., 215.
45 Me., 329.
58 Me., 243.

Burning of other buildings, vessels, bridges, etc.
R. S., c. 120, § 4.
45 Me., 329.

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 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 any term of years.

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.

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 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.

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.

CHAP. 121.

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.

Burning of
produce,
trees, etc.
R. S., c. 120, § 5.

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.

Wife is liable,
although
property
burned is her
husband's.
R. S., c. 120, § 6.

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 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-seven.

Burglary,
defined and
punished.
R. S., c. 120, § 7.

—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. 120, § 8.
25 Me., 502.
32 Me., 584.
36 Me., 227.
92 Me., 72.
99 Me., 331.

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. 120, § 9.

CHAPTER 122.

LARCENY, AND RECEIVING STOLEN GOODS.

Larceny,
defined and
punished.
R. S., c. 121, § 1.
See c. 46, § 2.
17 Me., 195.
19 Me., 228, 400.
21 Me., 18.
62 Me., 285.
66 Me., 441.
72 Me., 468.
86 Me., 432.
99 Me., 334.

Larceny by
night in a
dwelling-
house, or at
any time
breaking and
entering
certain other
buildings,
vessel or
railroad car.
R. S., c. 121, § 2.

Larceny
at a fire.
R. S., c. 121, § 3.
See c. 29, § 11.

Larceny from
the person.
R. S., c. 121, § 4.
86 Me., 433.

Common
thief, de-
scribed and
punished.
R. S., c. 121, § 5.
91 Me., 80, 85.

Larceny,
by falsely
personating
another.
R. S., c. 121, § 6.

Taking of any
beasts or
birds kept in
confinement,
larceny.
R. S., c. 121, § 7.

Larceny, by
embezzlement
or fraudulent
conversion
of property.
R. S., c. 121, § 8.
See c. 46, § 2.
62 Me., 108.
69 Me., 28, 364.
70 Me., 265.
90 Me., 144.
95 Me., 183.
101 Me., 159.

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.

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.

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.

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.

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.

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, and shall be punished accordingly. And any insurance agent, or agent of any corporation doing business in the state, who fraudulently 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.

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

CHAP. 122.

—the receiver liable.

—proviso.

Prosecutions for embezzling, or fraudulently converting money, etc., by cashier or other officer. R. S., c. 121, § 9.

—allegations in the indictment.

—evidence at the trial.

—evidence sufficient to maintain the charge in the indictment.

Larceny, by one entrusted with property. R. S., c. 121, § 10. 1913, c. 29. 33 Me., 131. 91 Me., 111. 95 Me., 1821. 99 Me., 70. —insurance, or other agent, appropriating money to his own use, is guilty of larceny.

Public officers are forbidden to have pecuniary interest in public contracts, etc. R. S., c. 121, § 11. 108 Me., 548. —such contracts are void. —penalty.

Buying, receiving, or aiding to conceal stolen property. R. S., c. 121, § 12. 29 Me., 334.

—restoration of the stolen property.

—subsequent conviction.

Officer to secure and keep stolen property for

CHAP. 123.

the owner.
R. S., c. 121, § 13.

Court may
make com-
pensation
to the
prosecutor
and officer.
R. S., c. 121, § 14.

Action for
stolen
property.
R. S., c. 121, § 15.
53 Me., 132.
67 Me., 77.
68 Me., 236.

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.

CHAPTER 123.

FORGERY AND COUNTERFEITING, AND FRAUDULENT STOCKS.

FORGERY AND COUNTERFEITING.

Forgery of
and publish-
ing as true,
forged
records and
written
instruments.
R. S., c. 122, § 1.
2 Me., 366.
20 Me., 82.
22 Me., 281.
47 Me., 167.
50 Me., 419.

Forgery or
counterfeiting
of public
securities,
bank bills or
coin, etc.
R. S., c. 122, § 2.

Bringing into
the state, or
having in
possession
counterfeits,
with intent to
pass them.
R. S., c. 122, § 3.

Second and
third con-

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.

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.

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.

SEC. 4. Whoever, after being convicted of an offense described in the preceding section, is again convicted thereof, or is convicted of three such

CHAP. 123.

distinct offenses at the same term of the court, shall be punished by imprisonment for not less than three, nor more than ten years.

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.

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-seven.

Note. The fine fixed in this section seems inadequate. The commissioner recommends that it be raised.

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.

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.

FALSE CERTIFICATES, AND FALSE ISSUES AND TRANSFERS OF STOCKS.

SEC. 9. If any person, legally authorized to take the proof or acknowledgment of any instrument that by law may be recorded, wilfully and falsely certifies that such proof or acknowledgment 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.

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.

SEC. 11. Whoever undertakes to do business, or does business of any kind in behalf of any corporation, the charter of which has been forfeited under the provisions of chapter two hundred and thirty-five, of the public laws of nineteen hundred and three, or chapter one hundred and seventy-

victions.
R. S., c. 122, § 4.
Counterfeit-
ing foreign
coin for
exportation.
R. S., c. 122, § 5.

Manufacture
or possession
of implements
and materials
for counter-
feiting.
R. S., c. 122, § 6.

—disposal
of them.

Fraudulent
alterations
of written
instruments.
R. S., c. 122, § 7.

Testimony,
sufficient to
prove public
securities and
bank bills to
be counter-
feits in cer-
tain cases.
R. S., c. 122, § 8.

Forgery by
false certifi-
cates, and
fictitious
signatures.
R. S., c. 122, § 9.

Making or
issuing false
certificates of
stock, or
pledging
genuine,
without
authority.
R. S., c. 122, § 10.

Acting for
corporation
after forfeit-
ure of charter.
R. S., c. 122, § 11.
1905, c. 172, § 2.

CHAP. 124.

1907, c. 109, § 2.
 1909, c. 127, § 2.
 1911, c. 182, § 2.
 1913, c. 186, § 2.

two, of the public laws of nineteen hundred and five, or chapter one hundred and nine, of the public laws of nineteen hundred and seven, or chapter one hundred and twenty-seven of the public laws of nineteen hundred and nine, or chapter one hundred and eighty-two of the public laws of nineteen hundred and eleven, or chapter one hundred and eighty-six, of the public laws of nineteen hundred and thirteen, or holds out such corporation as doing business, or sells, transfers or puts upon the market any stocks or other evidence of indebtedness whatsoever of any such corporation, shall be punished by a fine of three hundred dollars.

REWARDS TO INFORMERS AND PROSECUTORS.

Rewards for
 conviction
 of forgers
 and counter-
 feitters.
 R. S., c. 122, § 12.

SEC. 12. 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.

CHAPTER 124.**OFFENSES AGAINST PUBLIC JUSTICE.**

Definition and
 punishment of
 perjury and
 subornation
 of perjury.
 R. S., c. 123, § 1.

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 crime, punishable by imprisonment for life, 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)

Attempted
 subornation
 of perjury.
 R. S., c. 123, § 2.

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.

Proceedings,
 by any court,
 on presump-
 tion of per-
 jury commit-
 ted before
 such court.
 R. S., c. 123, § 3.

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

(a) See c. 6, § 163; c. 19, § 5; c. 29, § 53; c. 43, § 17; c. 48, § 42; c. 51, § 168; c. 62, § 5; c. 69, § 6; c. 89, § 77; 26 Me., 36, 71; 39 Me., 339; 49 Me., 413; 50 Me., 217; 59 Me., 141; 69 Me., 219; 76 Me., 66; 106 Me., 507.

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 proceedings, against the peace of said state and contrary to the form of the statute in such case made and provided.

A true bill.

_____, Foreman.

_____, County Attorney."

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 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.

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.

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.

Form of indictment for perjury in court.
R. S., c. 123, § 4.
69 Me., 139.
79 Me., 120.
91 Me., 313.
106 Me., 370.

Bribery and acceptance of bribes by public officers.
R. S., c. 123, § 5.

—penalty.

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

Corrupt solicitation of influence to procure places of trust.
R. S., c. 123, § 6.
—acceptance thereof.

Bribery of jurors, referees, masters in chancery, appraisers or auditors, and acceptance thereof by them.
R. S., c. 123, § 7.

CHAP. 124.

Informers is
exempted
from
punishment.
R. S., c. 123, § 8.
Malfeasance
in office,
penalty.
R. S., c. 123, § 9.

Attempts to
corrupt
jurors or
referees, etc.
R. S., c. 123, § 10.
99 Me., 316.

Sheriffs and
other officers,
receiving
bribes, for
neglect of
official duty.
R. S., c. 123, § 11.

Corrupt
agreements
by attorneys
and others.
R. S., c. 123, § 12.
See c. 82, § 30.
70 Me., 272.
79 Me., 42.
81 Me., 38.
82 Me., 495.
84 Me., 587.
85 Me., 172.

—penalty.

Officers,
refusing or
omitting to
execute
processes.
R. S., c. 123, § 13.

Voluntarily
suffering
criminals
to escape.
R. S., c. 123, § 14.

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.

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.

SEC. 10. Whoever attempts improperly to influence a juror, or any one drawn, appointed or sworn as such, or an arbitrator, 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.

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.

Note. The limit of punishment provided in this section seems inadequate. The commissioner thinks that it should be raised.

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 of not less than twenty, nor more than one thousand dollars, or by imprisonment for not more than one year.

ESCAPES BY THE MISCONDUCT OF OFFICERS AND OTHERS.

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 felony, punishable by imprisonment for life, by a fine not exceeding one thousand dollars, and by imprisonment for life; if charged

CHAP. 124.

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.

—escape of
other
criminals.

Negligent
escapes, and
refusal to
receive
prisoners.
R. S., c. 123, § 15.
See c. 83, § 49.

Forcibly
rescuing,
furnishing
means, or
otherwise
aiding an
escape.
R. S., c. 123, § 16.
97 Me., 80.

COMPOUNDING FELONIES.

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 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.

Compounding
felonies, how
punishable.
R. S., c. 123, § 17.

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.

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 sixteen; and if the justice made known or declared his office to such person, he shall not plead ignorance thereof.

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

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 punished by imprisonment not exceeding one year and by fine not exceeding three hundred dollars.

Refusing to
aid officers.
R. S., c. 123, § 18.
See c. 83, § 62.

Refusing to
obey justices
of the peace,
when re-
quired to aid.
R. S., c. 123, § 19.

Obstructing
officer serv-
ing criminal
process.
R. S. c. 123, § 20.

Obstructing
officer in
service of
civil process.
R. S., c. 123, § 21.
96 Me., 152,
108 Me., 240.

CHAP. 124.

Assaults upon
or interfer-
ence with
officers.
R. S., c. 123, § 22.
See c. 62, § 50;
c. 126, § 61.
108 Me., 240.
Jurisdiction.
R. S., c. 123, § 23.

SEC. 22. Whoever assaults, intimidates, or in any manner wilfully obstructs, intimidates or hinders any sheriff, deputy sheriff, coroner, constable or police officer while in the lawful discharge of his official duties, whether with or without process, shall be punished by imprisonment not exceeding one year, or by fine not exceeding five hundred dollars.

SEC. 23. In offenses under the preceding section, not of an aggravated nature, trial justices may try and punish by a fine of not more than twenty dollars or by imprisonment in the county jail for sixty days, and municipal or police courts may punish by a fine of not more than thirty dollars, or sixty days' imprisonment.

FALSELY ASSUMING TO BE A JUSTICE OR OFFICER.

Penalty for
falsely
assuming to
be an officer.
R. S., c. 123, § 24.
6 Me., 282.

SEC. 24. 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.

DISGUIISING, TO OBSTRUCT THE EXECUTION OF THE LAWS.

Punishment
for disguising,
to obstruct
the execution
of the laws.
R. S., c. 123, § 25.

SEC. 25. 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.

EXTORTION.

Penalty for
extorting ille-
gal fees, etc.
R. S., c. 123, § 26.
11 Me., 145.

SEC. 26. 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.

CHAPTER 125.

OFFENSES AGAINST THE PUBLIC PEACE.

AFFRAYS AND RIOTS.

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.

Affrays
between two
or more
persons.
R. S., c. 124, § 1.

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.

Unlawful
assembly
and riot.
R. S., c. 124, § 2.
18 Me., 347.
33 Me., 556.
34 Me., 236.
104 Me., 282.

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.

One person
may be
convicted,
without the
others.
R. S., c. 124, § 3.

PRIZE FIGHTS.

SEC. 4. Whoever instigates, engages in, encourages or does any act to further a contention or fight or premeditated fight without weapons between two or more persons or a fight commonly called a ring or prize fight, or who engages in a public or private exhibition or who sends or publishes a challenge or acceptance of a challenge for such contention, exhibition or fight, or carries or delivers such a challenge for acceptance or trains or assists any person in training or preparing for such contention, exhibition or fight or acts as umpire or judge or is in any way connected therewith 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.

Participation
in prize
fights, or
premeditated
fights.
R. S., c. 124, § 4.
1907, c. 53, § 1.
See c. 126, § 27.

—penalty.

SEC. 5. The preceding section shall not apply to purely boxing contests consisting of not more than six *three minutes* rounds, (of three minutes each) in which new six ounce gloves are used which have not been broken, or tampered with by pushing back the padding from the knuckles of said gloves, and where there is not more than five pounds difference in the weight of the contestants and where contestants have had a rigid physical examination by a reputable physician just prior to said contest and said physician certifies that each of said contestants is in good physical condition; and in which contest no decision is given.

Shall not
apply to
boxing
contests.
1907, c. 53, § 2.

SEC. 6. 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 forty-six of chapter one hundred and twenty-six, 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.

Complaint,
warrant and
proceedings
to prevent,
as well as to
punish such
offense.
R. S., c. 124, § 5.
See c. 126, § 46.

CHAP. 125.

STRIKES AND UNLAWFUL COMBINATIONS AGAINST PUBLIC SERVICE CORPORATIONS.

Combinations of employees to stop or delay trains, or injure property of railroads, how punished.
R. S., c. 124, § 6.

SEC. 7. Any employee 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 employees, 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 railroad 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.

Malicious obstruction of any engine or car, or abandonment of the same on a railroad, how punished.
R. S., c. 124, § 7.
See c. 55, § 34.

SEC. 8. 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 aids or assists therein; or whoever, having charge of any locomotive or carriage while upon or in use on any railroad, 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 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.

Gross carelessness and neglect or malicious delay, in the management or control of railroads, how punished.
R. S., c. 124, § 8.

SEC. 9. 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 thereon, 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.

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. 124, § 9.

SEC. 10. 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 employees 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.

Unlawful refusal of railroad employees to perform duty, how punished.
R. S., c. 124, § 10.

SEC. 11. 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 employees, 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 employee, shall be punished by fine not

exceeding five hundred dollars, or imprisonment in the state prison or in jail not exceeding one year.

SUPPRESSION OF MOBS BY OFFICERS AND ARMED FORCE.

SEC. 12. 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, it shall be the duty of each of the municipal officers, constables, marshal, deputy marshal and police officers 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 officers shall command the assistance 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 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.

Duty of officers to disperse unlawful assembly.
R. S., c. 124, § 11.

—disobedience, how punished.

—penalty for neglect of officer.

SEC. 13. When persons, so riotously or unlawfully assembled, neglect or refuse, on command as aforesaid, to disperse without unnecessary delay, any two of the 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 officers mentioned in the preceding section.

When rioters refuse to disperse, officers may order out an armed force.
R. S., c. 124, § 12.

—how to be commanded.

SEC. 14. 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 officers and persons acting with them by their order, shall be held guiltless and justified in law; but if any of said 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 officers, shall be answerable therefor.

If any person is killed or wounded, the officers shall be held guiltless.
R. S., c. 124, § 13.
—liability of rioters.

PUNISHMENT AND REMEDY FOR INJURIES BY MOBS.

SEC. 15. 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.

Punishment, for pulling down houses, or premeditated personal injuries.
R. S., c. 124, § 14.
63 Me., 48.
65 Me., 429.

SEC. 16. 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.

Liability of towns for injury by mobs.
R. S., c. 124, § 15.
63 Me., 48.
65 Me., 429, 438.
—town's remedy against rioters.

CHAP. 126.

INSURRECTION AND INVASION.

Governor may call out the militia to suppress insurrection. R. S., c. 124, § 16.

Governor and council may employ armed vessels to protect the coast of the state. R. S., c. 124, § 17.

SEC. 17. 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. 18. 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.

CHAPTER 126.

OFFENSES AGAINST CHASTITY, MORALITY AND DECENCY.

Adultery. R. S., c. 125, § 1.

—cohabitation after a divorce is adultery.

Incest. R. S., c. 125, § 2.

Crime against nature. R. S., c. 125, § 3.

Polygamy, its punishment and where tried. R. S., c. 125, § 4. 6 Me., 149. 53 Me., 440. 91 Me., 207. 97 Me., 324, 325.

Lascivious cohabitation and lewdness. R. S., c. 125, § 5. 7 Me., 58.

—indecent exposure, penalty for.

Penalty for taking indecent liberties. 1913, c. 62.

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 cohabit, each shall be deemed guilty of adultery. (a)

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.

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.

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.

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.

SEC. 6. Whoever, being twenty-one years or more of age, takes any indecent liberty or liberties, or indulges in any indecent or immoral practice or practices, with the sexual parts or organs of any other person,

(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.

CHAP. 126.

male or female, under the age of sixteen years, either with or without the consent of such male or female person, shall, upon conviction thereof, be punished by imprisonment at hard labor, *for each and every offense*, for not less than one year and not exceeding ten years.

SEC. 7. 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. 125, § 6.

CONCEALMENT OF BIRTHS AND PROCURING ABORTIONS.

SEC. 8. 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. 125, § 7.
57 Me., 31.

SEC. 9. 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 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.

Punishment,
for procuring
or attempting
to procure
abortion.
R. S., c. 125, § 8.
32 Me., 374.
33 Me., 54.

SEC. 10. The publication or sale or distribution by hand or otherwise within this state of any circular, pamphlet, or book containing recipes or prescriptions for the cure of chronic female complaints or private diseases, or recipes or prescriptions for drops, pills, tinctures, or other compound designed to prevent conception, or tending to produce miscarriage or abortion is hereby prohibited; and for each copy thereof, so published and sold, containing such prohibited recipes or prescriptions, the publisher and seller shall each be deemed guilty of a misdemeanor, and *shall be liable to the same penalties provided for a violation of the preceding section*. Any person or persons, their agents or clerks, who shall fail to comply with the requirements herein expressed, shall be deemed guilty of a misdemeanor and shall be liable to a fine of not less than fifty, nor more than one hundred dollars, or to imprisonment in the county jail not exceeding three months, or both, for each and every offense.

Publication
or sale of
certain cir-
culars, etc.,
prohibited.
1907, c. 189, § 1.
1909, c. 192, § 1.

—penalty
for viola-
tion.

Note: Section 1 of chapter 189 of P. L., 1907, now section 10 of chapter 126, is confused as to its penal provisions. There was no "preceding section." If the section is construed as imposing the penalties named in the last sentence for violations of the first part of the section, the penalties seem to be excessive.

The attention of the legislature is called to this section, that it may be amended.

SEC. 11. Any person, firm or corporation who, by himself, his servant or agent, or as the servant or agent of any other person or firm, shall leave, throw, or deposit, or have in his possession with intent to leave, throw or deposit upon the doorstep, hall, porch, doorway, vestibule, or premises owned or occupied by another, any patent or proprietary medicine or any preparation, pill, tablet, or drug, shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than twenty, nor more than one thousand dollars, or by imprisonment for not less than thirty days nor more than one year.

Penalty
for throw-
ing or leav-
ing samples
of patent
medicines
upon door-
steps, etc.
1907, c. 189, § 2.
1909, c. 192, § 2.

CHAP. 128.

HOUSES OF ILL-FAME.

Keeping
houses of
ill-fame.
R. S., c. 125, § 9.
40 Me., 561.
75 Me., 592.
See c. 127, § 49.

SEC. 12. 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. 125, § 10.
54 Me., 26.

SEC. 13. 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.

Procura-
tion con-
stituted
a felony.
1913, c. 97, § 1.

SEC. 14. *Any person who* (whoever) shall procure a female inmate for a house of prostitution; or *who* shall induce, persuade, encourage, inveigle, or entice a female person to become a prostitute; or *who* (whoever) by promises, threats, violence or by any device or scheme, shall cause, induce, persuade, inveigle, take, place, harbor, encourage or entice a female person to become an inmate of a house of prostitution, or assignation place, or any place where prostitution is practiced, encouraged, or allowed; or *any person who* (whoever) by promises, threats, violence, or by any device or scheme, shall cause, induce, persuade, encourage, inveigle or entice an inmate of a house of prostitution or place of assignation to remain therein as such inmate, or *any person who*, (whoever) by promises, threats, violence, by any device or scheme, by fraud or artifice, or by duress of person, of goods, or by abuse of any position of confidence or authority, or having legal charge, shall take, place, harbor, inveigle, entice, persuade, encourage or procure any female person to enter any place within this state in which prostitution is practiced, encouraged or allowed, for the purpose of prostitution or for any other immoral purpose; or *any person who* (whoever) shall inveigle, entice, persuade, encourage or procure any female person to come into this state or leave this state for the purpose of prostitution or for any other immoral purpose; or *who* (whoever) takes or detains a female with the intent to compel her by force, threats, menace, or duress to marry him or to marry any other person or to be defiled; or upon the pretense of marriage takes or detains a female person for the purpose of sexual intercourse; or *who* (whoever) shall receive or give or agree to receive or give any money or thing of value for procuring or attempting to procure any female person to become a prostitute or to come into this state or leave this state for the purpose of prostitution or for any other immoral purpose shall be guilty of a felony, and on conviction thereof, shall be punished by imprisonment in the penitentiary for a term of not less than two years nor more than twenty years.

—punish-
ment.

Placing of
a wife in
house of

SEC. 15. *Any person who* (whoever) by force, fraud, intimidation or threats, places or leaves, or procures any other person or persons to place

CHAP. 126.

or leave, his wife in a house of prostitution or to lead a life of prostitution shall be guilty of a felony, and on conviction thereof, shall be punished by imprisonment *in the penitentiary* for a term of not less than two years or more than twenty years.

SEC. 16. *Any person who* (whoever) shall knowingly accept, receive, levy or appropriate any money or other valuable thing, without consideration, from the proceeds of the earnings of any woman engaged in prostitution, shall be guilty of a felony, and on conviction thereof, shall be punished by imprisonment *in the penitentiary* for a term of not less than two years nor more than twenty years. Any such acceptance, receipt, levy or appropriation of such money or valuable thing, shall, upon any proceeding or trial for violation of this section, be presumptive evidence of lack of consideration.

SEC. 17. *Any person who* (whoever) attempts to detain any female person in a house of prostitution, assignation place, or any place where prostitution is practiced, encouraged or allowed, because of any debt or debts she has contracted, or is said to have contracted, shall be guilty of a felony and on conviction thereof shall be punished by imprisonment *in the penitentiary* for not less than two years nor more than twenty years.

SEC. 18. *Any person who* (whoever) shall knowingly transport or cause to be transported, or aid or assist in obtaining transportation for, by any means of conveyance into, through or across this state, any female person for the purpose of prostitution or for any other immoral purpose, or with the intent and purpose to induce, entice or compel such female person to become a prostitute, shall be guilty of a felony, and on conviction thereof, shall be punished by imprisonment *in the penitentiary* for a term of not less than two years nor more than twenty years. *Any person who* (whoever) commits the crime mentioned in this section may be prosecuted, indicted, tried and convicted in any county or city in or through which he shall have transported or attempted to transport any female person as aforesaid.

SEC. 19. It shall not be a defense to a prosecution for any of the acts prohibited in the *foregoing* (five preceding) sections that any part of such act or acts shall have been committed outside this state, and the offense in such case shall be deemed and alleged to have been committed and the offender tried and punished in any county in which the prostitution was intended to be practiced or in which the offense was consummated, or any overt act in furtherance of the offense shall have been committed.

SEC. 20. Any such female person referred to in the *foregoing* (six preceding) sections shall be a competent witness in any prosecution thereunder to testify for or against the accused as to any transaction, or as to any conversation with the accused, or by him with another person or persons in her presence, notwithstanding her having married the accused before or after the violation of any provision of said sections, whether called as a witness during the existence of the marriage or after its dissolution. In any prosecution under the six preceding sections evidence of the general reputation or common fame of a house or place shall be admissible for the purpose of proving that the house or place is one of ill fame, prostitution or assignation.

SEC. 21. 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.

prostitution, a felony.
1913, c. 97, § 2.
—punishment.

Acceptance of money from woman engaged in prostitution, a felony.
1913, c. 97, § 3.
—punishment.

Detention of female in house of prostitution on account of debt, a felony.
1913, c. 97, § 4.
—punishment.

Transportation of female persons for purpose of prostitution, a felony.
1913, c. 97, § 5.
—punishment.

—may be tried and convicted in any county.

No defense if prohibited acts were committed outside this state.
1913, c. 97, § 6.

Females referred to shall be competent witnesses.
1913, c. 97, § 7.

—evidence of general reputation of house admissible.
1913, c. 97, § 8.
See 64 Me., 523.

Warrants to search for females supposed to be so enticed.
R. S., c. 125, § 11.

CHAP. 126.

Lease of tenant of house of ill-fame is void, at the option of the landlord.
R. S., c. 125, § 12.
See c. 22, § 3.

SEC. 22. 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. 125, § 13.
See c. 15, § 149.

SEC. 23. 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, nor less than one hundred dollars.

Warrants to search for the same.
R. S., c. 125, § 14.

SEC. 24. 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.

Circulation among minors of criminal news and obscene pictures, punished.
R. S., c. 125, § 15.

SEC. 25. Whoever knowingly sells, lends, gives away or shows to any minor, 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, handbill or poster containing obscene, indecent or immoral representations; or in any manner hires, uses or employs any minor to sell or give away, or in any manner to distribute, or who, having the care, custody or control of any minor, permits such 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 of not less than twenty-five, nor more than one hundred dollars, or by both imprisonment and fine.

—penalty .

Jurisdiction of offenses.
R. S., c. 125, § 16.

SEC. 26. 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.

Reproduction of prize fights prohibited.
R. S., c. 125, § 17.

SEC. 27. Whoever publicly exhibits any photographic or other reproduction of a prize fight shall be punished by a fine not exceeding five hundred dollars.

Penalty for using a phonograph which utters profane or obscene language.
R. S., c. 125, § 18.

SEC. 28. 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.

CHAP. 126.

SEC. 29. Whoever as owner, manager, director, 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.
R. S., c. 125, § 19.

BLASPHEMY AND PROFANITY.

SEC. 30. Whoever blasphemes the holy name of God by 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. 125, § 20.

SEC. 31. 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. 125, § 21.

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

SEC. 32. 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, 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.

Rude behavior
in a house of
worship or
religious
assembly.
R. S., c. 125, § 22.

SEC. 33. 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, and to sell tickets for admission to such meetings, who shall conform therein to such regulations as the officers appointing them prescribe.

Special police
at camp-
meetings,
how to be
appointed.
R. S., c. 125, § 23.
1911, c. 76.
—presiding
officer, or
committee,
may appoint
persons to
keep boarders
and sell
refreshments.

SEC. 34. Every justice of the peace, sheriff, deputy sheriff, constable and grand juror, 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.

Offenders are
liable to be
arrested and
detained
by divers
officers.
R. S., c. 125, § 24.
—penalty, for
refusing to
aid officers.

SEC. 35. 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

Business
traveling
and recrea-
tion, prohib-
ited on the

CHAP. 126.

Lord's Day.
R. S., c. 125, § 25.
See c. 85, § 135.

Innholders
and victualers
shall not
allow gam-
bling, diver-
sion, or busi-
ness, on the
Lord's Day.
R. S., c. 125, § 26.
65 Me., 38.

Duration of.
R. S., c. 125, § 27.

Persons con-
scientiously
observing the
seventh day,
excepted.
R. S., c. 125, § 28.

Prosecutions
under § 32, 35
and 36.
R. S., c. 125, § 29.

Disturbance
of public
meetings
and lawful
assemblies,
how to be
punished.
R. S., c. 125, § 30.

Arrest of
dead body
forbidden.
R. S., c. 125, § 31.

Disinterment,
concealment,
exposure or
abandonment
of dead
bodies, etc.
R. S., c. 125, § 32.
See c. 62, § 29.

—physicians,
surgeons and
students of
anatomy.
See c. 17,
§§ 1-6.

Injury to
monuments
and places,
of burial.
R. S., c. 125, § 33.

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

SEC. 38. 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 for doing such business or labor on the first day of the week, if he does not disturb other persons.

SEC. 39. Any person may prosecute for all offenses described in sections thirty-two, thirty-five and thirty-six, at any time within six months after the commission thereof.

DISTURBANCE OF PUBLIC MEETINGS AND LAWFUL ASSEMBLIES.

SEC. 40. Whoever by rude and indecent behavior, or in any way wilfully 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.

PROTECTION OF DEAD BODIES AND GRAVES.

SEC. 41. 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.

SEC. 42. Whoever, without permission of the 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.

SEC. 43. 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

(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; 96 Me., 172; 101 Me., 457; 108 Me., 305.

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.

CRUELTY TO ANIMALS.

SEC. 44. 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 of not less than five, and not exceeding two hundred dollars.

SEC. 45. 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 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. Nothing in this section prohibits the shooting of wild game in its wild state.

SEC. 46. 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 six of chapter one hundred and twenty-five applies to this section.

SEC. 47. 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.

SEC. 48. 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.

SEC. 49. 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. But nothing in this section allows any officer to enter a dwelling-house without a warrant.

SEC. 50. 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,

Cruelty to animals, how punished.
R. S., c. 125, § 34.
76 Me., 400.
86 Me., 195.

Shooting of pigeons and other birds for amusement.
R. S., c. 125, § 35.

—section is not applicable to wild game.

Premeditated fights between animals, penalty for instigation of.
R. S., c. 125, § 36.
See c. 125, § 6.

Places for fighting or baiting dogs, cocks or other creatures.
R. S., c. 125, § 37.

Owning, or training, any bird or animal, to fight.
R. S., c. 125, § 38.

Officers may enter buildings where birds or animals are kept for unlawful training.
R. S., c. 125, § 39.

—dwelling protected.

Exhibition of bears, prohibited.
R. S., c. 125, § 40.

CHAP. 126.

—penalty.

—menageries
excepted.

Railroads
shall give cars
containing
animals
continuous
passage and
preference to
other freight.
R. S., c. 125, § 41.

Animals
brought into
the state,
shall be
allowed rest,
shelter, food
and water.
R. S., c. 125, § 42.
1909, c. 135, § 1.

—animals
in transit.—liability of
company for
neglect.

Time of
confinement
may be ex-
tended up-
on request.
1909, c. 135, § 2.

—in the
case of
sheep.

Penalty for
violation of
§§ 51-53.
R. S., c. 125, § 43.

Sections 51, 52
shall apply
to owners,
shippers, etc.
R. S., c. 125, § 44.

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. 51. 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, except that calves, for a period not to exceed twenty-four hours may be transported in a separate compartment. 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 of such animals in case of storms or severely cold weather.

SEC. 52. Animals coming into the state on the same or connecting roads or other transportation lines, shall, within twenty-eight 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-eight 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.

SEC. 53.* Upon the written request of the owner or person in custody of any particular shipment of animals, which written request shall be separate and apart from any printed bill of lading or any railroad form, the time of confinement of any particular shipment of animals may be extended to thirty-six hours; *and it shall not be required that sheep be unloaded* (a railroad company or transportation line shall not be required to unload sheep) in the night time, but where the time expires in the night time, in case of sheep, the same may continue in transit to a suitable place for unloading, not exceeding, however, the limitation of thirty-six hours during which they may be confined.

SEC. 54. A railroad company or other transportation line violating any provision of the *two* (three) preceding sections, forfeits not less than fifty, nor more than five hundred dollars for every such offense.

SEC. 55. Sections fifty-one and fifty-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 fifty-

one and fifty-two, shall be subject to the same penalties as are imposed upon railroad companies for a like violation, by section fifty-four.

SEC. 56. Any railroad company or other transportation line shall have a lien on all animals in transit for reimbursement 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.

SEC. 57. 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.

SEC. 58. 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.

SEC. 59. 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 or 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 or in a condition from lack of food, water or shelter, past recovery for any useful purpose.

SEC. 60. 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 substance, 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. 61. 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. 62. Any person may take charge of an animal whose owner has cruelly abandoned it, or cruelly fails 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, and the keeping or leaving sheep on any of the uninhabited and barren islands, lying off the coast of Maine, within said state, during the months of December, January, February and March of any year, without providing sufficient

Railroad companies have a lien on such animals for penalties, and for care and protection. R. S., c. 125, § 45.

Officers may take possession of animals detained in violation of law. R. S., c. 125, § 46. —lien.

Lien, how to be enforced. R. S., c. 125, § 47.

Abandoned animals may be destroyed. R. S., c. 125, § 48. 1905, c. 70.

Any old, diseased or disabled animal may be destroyed. R. S., c. 125, § 49.

—proceedings. 80 Me., 206.

Officers may interfere to prevent cruelty. R. S., c. 125, § 50. See c. 124, § 22.

Care of abandoned or neglected animals at the owner's expense. R. S., c. 125, § 51. 1905, c. 113.

—sheep abandoned on islands.

CHAP. 126.

Penalty for
docking
horses' tails.
R. S., c. 125, § 52.

—how fines
shall be
disposed of.

Duty of
officers to
prosecute for
violations.
R. S., c. 125, § 53.
1905, c. 107.
—fines, how
disposed of.

—services,
how paid.
See c. 114, § 9.

Governor and
council may
appoint
officers to
enforce
twenty
preceding
sections.
R. S., c. 125, § 54.

Magistrates'
jurisdiction.
R. S., c. 125, § 55.

Rules of
construction
of the twenty-
two preced-
ing sections.
R. S., c. 125, § 56.

food and proper shelter therefor, shall be deemed prima facie evidence that the owner or person having the custody and control of such sheep has violated the provisions of this section.

SEC. 63. 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. 64. 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 services and expenses in conducting such investigations such agents shall be paid a reasonable sum by the county in which such services are rendered and expenses incurred, and for their travel 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. 65. 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. 66. 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, 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 court or a superior court, and in default thereof to be committed to jail.

SEC. 67. 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 "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.

Note. Traps set in incorporated places shall be visited at least once in every twenty-four hours, c. 32, § 48.

CHAPTER 127.

GAMBLING. BUCKET SHOPS. SALE OF INTOXICATING LIQUORS.

GAMBLING.

SEC. 1. Whoever keeps or assists in keeping a gambling house, or tenement or other place occupied, used, kept or resorted to for the purposes described in section eleven of this chapter, or is found gambling or present as described in said section eleven, or permits any person to gamble in any way in any tenement or other place under his care or control, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than four months; and the municipal officers, constables and police officers 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 in their respective municipalities when there is probable cause to believe such person to be guilty of a violation of this section. Trial justices and judges of municipal or police courts, shall have jurisdiction in all prosecutions for violations of this section.

Punishment
for keeping
a gambling
house or
permitting
gambling
in house
or shop.
R. S., c. 126, § 1.
1905, c. 105, § 1.
15 Me., 237.
23 Me., 44.
85 Me., 237.
99 Me., 488.

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. 126, § 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. 126, § 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.

Pool selling.
R. S., c. 126, § 4.

GAMBLING IN RAILROADS 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.

Gambling on
railroads or
steamboats.
R. S., c. 126, § 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. 126, § 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. 126, § 7.
—penalty for
neglect.

CHAP. 127.

RECOVERY OF MONEY LOST BY GAMBLING.

Loser by gambling or betting, may recover back his loss.
R. S., c. 126, § 8.

—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. 126, § 9.

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, 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. (a)

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. 126, § 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. 126, § 11.
1905, c. 105, § 2.

—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 tenement or other place is unlawfully used as and for a common gambling house, for the purpose of gambling for money or other property, or is kept, used or occupied for promoting a lottery, or for the sale of lottery tickets, or for promoting the game known as policy lottery or policy, or for the buying or selling of pools or registering of bets upon any race, game, contest, act or event, and that persons resort to the same for any such purpose, such magistrate, whether the names of the persons last mentioned are known to the complainant or not, shall issue a warrant commanding the sheriff or any of his deputies or any constable or police officer to enter such tenement or other place, and to arrest the keepers thereof, all persons in any way assisting in keeping the same, whether as janitor, door keeper, watchman, or otherwise, all persons who are there found participating in any form of gambling and all persons present whether so participating or not, if any lottery, policy or pool tickets, slips, checks, manifold books or sheets, memoranda of any bet, or other implements, apparatus or materials of any form of gambling are found in

(a) 18 Me., 339; 19 Me., 336; 21 Me., 28; 48 Me., 319; 63 Me., 11; 91 Me., 45; 110 Me., 303.

said place, and to take into their custody all the implements, apparatus or materials of gambling, as aforesaid, and all the personal property, furniture and fixtures, so that they may be forthcoming before some court or magistrate, to be dealt with according to law. All articles and property seized under the provisions of this section, or found in the possession or under the control of any person arrested for keeping or assisting in keeping a gambling house or for gambling, shall be disposed of in the manner provided in the following section for the disposal of counterfeiting and burglars' tools; and the finding in any tenement or other place of any lottery, policy or pool tickets, slips, checks, manifold books or sheets, memoranda of any bet, or other implements, apparatus or materials of any form of gambling shall be prima facie evidence that said tenement or other place is occupied, used, kept and resorted to for the purpose of gambling.

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 for gambling, and all monies therein contained, 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. All such articles, devices, tools and materials, shall thereupon be declared forfeited by said court, and ordered destroyed, and shall by order of the court rendering final judgment be turned over to the sheriff of the county where the seizure was made, or to such of his deputies as the court shall order, by any officer competent to serve the process on which they were seized, who shall forthwith make return accordingly to said court; and said sheriff, or his said deputy, shall receipt to said officer therefor. As soon thereafter as may be said sheriff, or his said deputy receiving said forfeited articles, shall burn or otherwise destroy them, and make return to said court as to how he executed its order; *provided, however*, that all monies so seized shall be declared forfeited to the county in which they were seized.

Tools and implements for gambling, counterfeiting, and burglars' tools, forfeited.
R. S., c. 126, § 12.
1905, c. 105, § 3.
1909, c. 162.
See c. 121, § 7.
c. 123, § 6.
c. 130, § 18.
79 Me., 549.
95 Me., 518.

BUCKET SHOPS.

SEC. 13. A bucket shop, within the meaning of this section and the three following sections, is defined to be an office, store or other place wherein the proprietor or keeper thereof, either in his or its own behalf, or as the agent or correspondent of any other person, corporation, association or copartnership within or without the state, conducts the business of making, or offering to make, contracts, agreements, trades, or transactions respecting the purchase or sale of any stocks, grain, provisions, or other commodity, or personal property, wherein both parties thereto, or said proprietor or keeper, contemplate or intend that such contracts, agreements, trades or transactions shall be, or may be closed, adjusted or settled according to, or upon the basis of, the public market quotations of prices made on any board of trade or exchange, upon which the commodities or securities referred to in such contracts, agreements, trades or transactions are dealt in, and without a bona fide transaction on such board of trade or exchange; or wherein both parties, or such keeper or proprietor, shall contemplate or intend that such contracts, agreements, trades or transactions shall be, or may be, deemed closed or terminated when the public market quotations of prices made on such board of trade or exchange for the articles or securities named in such contracts, agree-

Bucket shop defined.
1907, c. 152, § 1.

CHAP. 127.

ments, trades or transactions shall reach a certain figure; and also any office, store or other place where the keeper or proprietor thereof either in his or its own behalf, or as agent as aforesaid, therein makes or offers to make, with others, contracts, trades or transactions for the purchase or sale of any such securities or commodities, wherein the parties thereto do not contemplate the actual or bona fide receipt or delivery of such securities or commodities, but do contemplate a settlement thereof based upon differences in the prices at which said securities or commodities are, or are claimed to be, bought and sold.

Keeping of a
bucket shop
prohibited.
1907, c. 152, § 2.

—penalty for
violation.

—penalty for
second
offense.

—second
offense
defined.

SEC. 14. No corporation, association, copartnership or person shall keep, or cause to be kept, within the state any bucket shop, as defined in the preceding section, or shall make or offer to make any such contract, agreement, trade or transaction as is defined in said section; and any person, whether acting individually or as a member, officer, agent or employee of any corporation, association, or copartnership, who shall keep or assist in the keeping of any bucket shop within this state, or who shall make or offer to make any such prohibited contract, agreement, trade or transaction, whether the offer is accepted or not, shall, upon conviction thereof, be punished for a first offense by a fine not exceeding three thousand dollars, or by imprisonment until such fine is paid, but not for more than one year; and whoever shall be guilty of a second offense under this section shall, upon conviction thereof, be punished by imprisonment for not less than two years and not more than five years; if the offender is a corporation, it shall forfeit its charter. The continuing of the keeping of a bucket shop by any person, corporation, association or copartnership, after a first conviction therefor, shall be deemed a second offense under this section. *It is the purpose of sections thirteen to sixteen both inclusive of this chapter to prohibit, punish and prevent the carrying on of the business carried on in places commonly known as bucket shops, including the practice commonly known as bucket shopping by persons, corporations, associations or copartnerships ostensibly carrying on the business of commission merchants or brokers in grain, provisions, petroleum, stocks and bonds.*

Statement of
quotations
with view to
transaction
prohibited.
1907, c. 152, § 3.

SEC. 15. Any corporation, association, copartnership or person who shall communicate, receive, exhibit or display, in any manner, any statements of quotations of the prices of any property mentioned in section thirteen, with a view to any transaction prohibited in the two preceding sections, shall be deemed an accessory, and upon conviction thereof shall be subject to the same penalty as the principal, and as provided in the preceding section.

Statement of
transaction
shall be
furnished.
1907, c. 152, § 4.

SEC. 16. Every commission merchant, copartnership, association, corporation or broker *doing business as such* shall furnish, upon demand, to any customer or principal for whom such commission merchant, broker, copartnership, corporation or association has executed any order for the actual purchase or sale of any of the securities or commodities hereinbefore mentioned, either for immediate or future delivery, a written statement containing the names of the parties from whom such property was bought, or to whom it shall have been sold, as the case may be, the time when, the place where, and the price at which, the same was either bought or sold; and in case such commission merchant, broker, copartnership, corporation or association shall refuse promptly to furnish such statement within twenty-four hours after such demand, the fact of such refusal shall be prima facie evidence that the property was not sold or bought in a legitimate manner.

MANUFACTURE AND SALE OF INTOXICATING LIQUORS.

Manufactur-
ing for sale.
R. S., c. 29, § 36.
See § 40.
69 Me., 134.
105 Me., 28.

SEC. 17. Whoever manufactures for sale any intoxicating liquor, except cider, and whoever sells any intoxicating liquor manufactured by him in this state, except cider, shall be imprisoned two months and fined one thousand dollars.

CHAP. 127.

SEC. 18. This chapter does not apply to the sale of unadulterated cider, unless the same is sold to be used as a beverage or for tippling purposes. (a)

SEC. 19. No person shall travel from town to town, or from place to place, in any city, town or plantation, on foot or by public or private conveyance, either by land or water, carrying for sale or offering for sale intoxicating or fermented liquors, and no person shall solicit, obtain or offer to obtain orders for the sale or delivery of any intoxicating or fermented liquors, in any quantity. Any person violating the provisions of this section shall be liable to a penalty of not less than twenty, nor more than five hundred dollars and costs, for each offense, to be recovered on complaint or by indictment; half to the complainant, and half to the county in which the offense is committed; and in default of payment thereof, said person shall be imprisoned for a term of not less than two, nor more than six months. (b)

SEC. 20. No person shall knowingly transport from place to place in the state, any intoxicating liquors, with intent to sell the same in the state in violation of law, or with intent that the same shall be so sold by any person, or to aid any person in such sale, under a penalty of not less than fifty, nor more than one hundred dollars, and sixty days' imprisonment. Any servant, agent or employee of any railroad corporation, or of any express company doing business in this state, who shall remove any intoxicating liquors from any railroad car at any place other than the usual and established stations or places of business of such railroad corporation, or who shall aid in or consent to such removal, shall be subject to a penalty of fifty dollars for every such offense; *provided*, that said penalty shall not apply to any liquor in transit when changed from car to car to facilitate transportation. All such liquors intended for unlawful sale in the state, may be seized while in transit and proceeded against the same as if they were unlawfully kept, and deposited in any place. (c)

Sale of pure cider.
R. S., c. 29, § 37.

Traveling liquor peddlers, dealers and solicitors of orders for liquor.
R. S., c. 29, § 38.
1909, c. 248.

—alternative penalty.

Intoxicating liquors intended for unlawful sale, not to be transported.
R. S., c. 29, § 39.

—removal of, from car at any place other than usual station, prohibited.

—penalty.

—may be seized in transit.

UNLAWFUL SALE OF LIQUORS. COMMON SELLERS. DRINKING HOUSES AND TIPPLING SHOPS. SEARCH AND SEIZURE. DRUNKENNESS.

SEC. 21. No person shall at any time, by himself, his clerk, servant or agent, directly or indirectly, sell any intoxicating liquors, of whatever origin, except as hereinbefore provided; wine, ale, porter, strong beer, lager beer and all other malt liquors, and cider when kept or deposited with intent to sell the same for tippling purposes, or as a beverage, as well as all distilled spirits, are declared intoxicating within the meaning of this chapter; but this enumeration shall not prevent any other pure or mixed liquors from being considered intoxicating. (d)

SEC. 22. Whoever by himself, clerk, servant or agent, sells any intoxicating liquors in this state, in violation of law, shall pay a fine of not less than fifty dollars and costs, and in addition thereto be imprisoned thirty days. In default of said payment he shall be imprisoned thirty days additional, and on each subsequent conviction he shall be punished by a fine of two hundred dollars and costs, and in addition thereto be imprisoned six months, and in default of payment of said fine and costs, he shall

Sale of intoxicating liquors, prohibited.
R. S., c. 29, § 40.

—intoxicants defined.
See c. 22, § 1.

Penalties for selling liquors in violation of law.
R. S., c. 29, § 41.
See c. 137, § 1.

—subsequent convictions.

(a) 62 Me., 262; 69 Me., 134.

(b) 61 Me., 388; 64 Me., 425; 65 Me., 136; 68 Me., 420; 79 Me., 107.

(c) 74 Me., 563; 79 Me., 107, 542; 84 Me., 25, 489; 94 Me., 338; 95 Me., 140; 96 Me., 415; 97 Me., 275; 101 Me., 437.

(d) 6 Me., 413; 33 Me., 496, 561; 37 Me., 161; 54 Me., 502; 55 Me., 356, 430; 62 Me., 262; 63 Me., 224; 64 Me., 537; 67 Me., 243; 69 Me., 134; 70 Me., 257; 75 Me., 124; 79 Me., 107; 80 Me., 118; 81 Me., 389; 97 Me., 289; 98 Me., 351, 462; 100 Me., 542; 101 Me., 39.

CHAP. 127.

—clerk, servant or agent, assisting in violations, subject to same penalties.

Common sellers.
R. S., c. 29, § 42.
79 Me., 107.
94 Me., 61.
99 Me., 63.
See § 40; c. 137, § 1.

Drinking houses, prohibited.
R. S., c. 29, § 44.
See § 40; c. 137, § 1.

Penalty for advertising sale of liquors.
R. S., c. 29, § 45.
97 Me., 488.
101 Me., 483.
104 Me., 291.

Penalty for furnishing intoxicating liquors to persons in confinement.
R. S., c. 29, § 46.

—exception.

See c. 137, § 1.

Possession or deposit with intent to sell, prohibited.
R. S., c. 29, § 47.
1909, c. 232.

Liquors for unlawful sale, forfeited.
R. S., c. 29, § 48.

be imprisoned six months additional. Any clerk, servant, agent or other person in the employment or on the premises of another, who violates or in any manner aids or assists in violating any provision of law relating to intoxicating liquors, is equally guilty with the principal and shall suffer like penalties. (a)

SEC. 23. No person shall be a common seller of intoxicating liquors. Whoever violates this section shall be fined one hundred dollars and imprisoned thirty days, or instead of such fine he may be imprisoned sixty days additional. On a second and every subsequent conviction, he shall be fined two hundred dollars and imprisoned four months, and in default of payment of fine and costs, he shall be punished, by four months additional imprisonment.

SEC. 24. No person shall keep a drinking house and tippling shop. Whoever sells intoxicating liquors in any building, vessel or boat, contrary to law, and the same are there drank, is guilty of keeping a drinking house and tippling shop, and upon conviction thereof shall be fined one hundred dollars and costs, and in addition thereto be imprisoned sixty days. In default of payment of said fine and costs, the party shall suffer an additional imprisonment of sixty days. (b)

SEC. 25. Whoever advertises or gives notice of the sale or keeping for sale of intoxicating liquors, or knowingly publishes any newspaper in which such notices are given, shall be fined for such offense the sum of twelve dollars and costs, to be recovered by complaint. One-half of said fine shall be paid to the complainant and one-half to the town in which said notice is published.

SEC. 26. Whoever gives or delivers to a person confined in any jail, house of correction or other place of confinement, or to a person in custody of any officer qualified to serve criminal processes, any spirituous or intoxicating liquor, or has in possession, within the precincts of any jail, house of correction or other place of confinement, any such liquor, with intent to convey or deliver the same to any person confined therein, unless under the direction of the physician appointed to attend said prisoner, or of the officer in charge of said place of confinement of said prisoner, shall be punished by fine not exceeding twenty dollars, or by imprisonment in the jail or house of correction not exceeding thirty days.

SEC. 27. No person shall deposit or have in his possession intoxicating liquors with intent to sell the same in the state in violation of law, or with intent that the same shall be so sold by any person, or to aid or assist any person in such sale. Whoever violates this section shall be fined one hundred dollars and costs and be imprisoned sixty days, and in default of payment, sixty days additional. (c)

SEC. 28. Intoxicating liquors kept and deposited in the state, intended for unlawful sale in the state, and the vessels in which they are contained, are contraband and forfeited to the county in which they are so kept at the time when they are seized under this chapter. And in all cases where an officer may seize intoxicating liquors or the vessels containing them, upon a warrant, he may seize the same without a warrant, and keep them

(a) Sale to child under sixteen years of age, c. 120, § 31; 28 Me., 67; 33 Me., 497; 34 Me., 219; 45 Me., 321; 53 Me., 539; 54 Me., 383; 55 Me., 92; 65 Me., 239, 247; 68 Me., 204; 70 Me., 455; 72 Me., 426; 74 Me., 220; 79 Me., 107; 80 Me., 118; 83 Me., 418.

Sale in militia camp or armory, c. 14, § 125;

(b) 45 Me., 436; 48 Me., 217; 53 Me., 539; 69 Me., 135; 79 Me., 107; 82 Me., 213; 94 Me., 61.

(c) 47 Me., 427; 48 Me., 581; 50 Me., 514; 56 Me., 91; 59 Me., 384; 63 Me., 214; 79 Me., 107; 98 Me., 462; 101 Me., 164; 105 Me., 28, 162.

in some safe place for a reasonable time until he can procure such warrant. (a)

SEC. 29. If any person competent to be a witness in civil suits, makes sworn complaint before any judge of a municipal or police court or trial justice, that he believes that intoxicating liquors are unlawfully kept or deposited in any place in the state by any person, and that the same are intended for sale within the state in violation of law, such magistrate shall issue his warrant, directed to any officer having power to serve criminal process, commanding him to search the premises described and specially designated in such complaint and warrant, and if said liquors are there found, to seize the same, with the vessels in which they are contained, and them safely keep until final action thereon, and make immediate return on said warrant. The name of the person so keeping said liquors as aforesaid, if known to the complainant, shall be stated in such complaint, and the officer shall be commanded by said warrant, if he finds said liquors to arrest said person and hold him to answer as keeping said liquors intended for unlawful sale. Any person who may be suspected of selling from, or keeping for illegal sale in his pockets, intoxicating liquors, may be searched in the same manner and by the same process as is provided for the search of places and if liquors are found upon his person, may be held to answer as though such liquors were kept and deposited by him in any place. If fluids are poured out or otherwise destroyed by the tenant, assistant or other person, when premises are about to be searched, manifestly for the purpose of preventing their seizure by officers authorized to make such search and seizure, such fluids may be held to have been intoxicating and intended for unlawful sale, and the penalties shall be the same as if said liquors had been seized. If the name of the person keeping such liquors is unknown to the complainant, he shall so allege in his complaint, and the magistrate shall thereupon issue his warrant as provided in the first sentence of this section. If upon trial, the court is of the opinion that the liquor was so aforesaid kept and intended for unlawful sale, by the person named in said complaint, or by any other person with his knowledge or consent, he shall be found guilty thereof, and sentenced to a fine of one hundred dollars and costs and in addition thereto be imprisoned sixty days. In default of payment of fine and costs the party shall be imprisoned sixty days additional. The payment of the United States special tax as a liquor seller, or notice of any kind in any place of resort, indicating that intoxicating liquors are there sold, kept or given away unlawfully, shall be held to be prima facie evidence that the person or persons paying said tax, and the party or parties displaying said notices, are common sellers of intoxicating liquors, and the premises so kept by them common nuisances. (b)

SEC. 30. When liquors and vessels are seized as provided in the preceding section, the officer who made such seizure shall immediately file with the magistrate before whom such warrant is returnable, a libel

Warrants of search and seizure may be granted on complaint. R. S., c. 29, § 49. See § 40; c. 137, § 1.

—fluids poured out to prevent seizure, may be held to have been intended for unlawful sale.

See § 34.

—penalty.

—payment of U. S. special tax as liquor seller, shall be prima facie evidence, the person paying such tax is a common seller. 80 Me., 57.

Duty of officer on seizure. R. S., c. 29, § 50.

(a) 33 Me., 561; 47 Me., 427; 54 Me., 37; 55 Me., 424; 56 Me., 91, 92; 59 Me., 384; 63 Me., 217; 65 Me., 102, 557; 68 Me., 420; 71 Me., 357; 78 Me., 403; 79 Me., 108; 86 Me., 527; 96 Me., 124; 97 Me., 275; 99 Me., 251; 101 Me., 164; 102 Me., 209; 104 Me., 392.

(b) 33 Me., 530, 561, 569; 38 Me., 288; 42 Me., 305; 46 Me., 526; 47 Me., 360, 392, 429; 48 Me., 581; 49 Me., 286; 53 Me., 173; 54 Me., 36; 56 Me., 92; 59 Me., 384; 62 Me., 262, 422; 63 Me., 217; 64 Me., 431 537; 66 Me., 130; 67 Me., 250, 425; 68 Me., 410, 411, 421; 70 Me., 201; 71 Me., 454; 78 Me., 38, 403; 79 Me., 54, 99, 104; 80 Me., 57, 93; 85 Me., 307, 463; 86 Me., 427, 529; 90 Me., 451; 95 Me., 198; 96 Me., 172; 97 Me., 275; 98 Me., 460; 99 Me., 251; 101 Me., 164; 102 Me., 291; 103 Me., 65, 390, 469; 104 Me., 392; 105 Me., 162; 107 Me., 94; 109 Me., 253; 110 Me., 262.

CHAP. 127.

—libel, what to set forth.

—proceedings of magistrate in case of libel.

—notice of hearing.

In case no claimant appears.
R. S., c. 29, § 51.
—claimant how to proceed.

—claimant to be admitted as a party.

—trial.

—duty of magistrate if claimant is entitled.

—otherwise, judgment for costs and liquors forfeited.
See § 33.

—appeal.

Dwelling-house not to be searched, except in certain cases.
R. S., c. 29, § 52.

Liquors forfeited by order of court.
R. S., c. 29, § 53.

against such liquors and vessels, setting forth their seizure by him, describing the liquors and their place of seizure, and that they were deposited, kept and intended for sale within the state in violation of law, and pray for a decree of forfeiture thereof, and such magistrate shall thereupon fix a time for the hearing of such libel, and shall issue his monition and notice of the same, to all persons interested, citing them to appear at the time and place appointed, and show cause why said liquors and the vessels in which they are contained should not be declared forfeited, by causing a true and attested copy of said libel and monition to be posted in two public and conspicuous places in the town or place where such liquors were seized, ten days at least before the day to which said libel is returnable. (a)

SEC. 31. If no claimant appears, such magistrate shall, on proof of notice as aforesaid, declare the same forfeited to the county in which they were seized. If any person appears and claims such liquors, or any part thereof, as having a right to the possession thereof at the time when the same were seized, he shall file with the magistrate such claim in writing, stating specifically the right so claimed, and the foundation thereof, the items so claimed, the time and place of the seizure, and the name of the officer by whom the same were seized, and in it declare that they were not so kept or deposited for unlawful sale, as alleged in said libel and monition, and also state his business and place of residence, and shall sign and make oath to the same before said magistrate. If any person so makes claim, he shall be admitted as a party to the process; and the magistrate shall proceed to determine the truth of the allegations in said claim and libel, and may hear any pertinent evidence offered by the libellant or claimant. If the magistrate is, upon the hearing, satisfied that said liquors were not so kept or deposited for unlawful sale, and that the claimant is entitled to the custody of any part thereof, he shall give him an order in writing, directed to the officer having the same in custody, commanding him to deliver to said claimant the liquors to which he is so found to be entitled, within forty-eight hours after demand. If the magistrate finds the claimant entitled to no part of said liquors, he shall render judgment against him for the libellant for costs, to be taxed as in civil cases before such magistrate, and issue execution thereon, and shall declare said liquors forfeited to the county where seized. The claimants may appeal and shall recognize with sureties as on appeals in civil causes from a magistrate. (b)

SEC. 32. No warrant shall be issued to search a dwelling-house occupied as such, unless it, or some part of it, is used as an inn or shop, or for purposes of traffic, or unless the magistrate before whom the complaint is made, is satisfied by evidence presented to him, and so alleges in said warrant, that intoxicating liquor is kept in such house or its appurtenances, intended for sale in the state, in violation of law. (c)

SEC. 33. All spirituous and distilled liquors and all other liquors, declared forfeited by any court under this chapter, which shall have been found by said court to contain more than twenty per cent of alcohol, shall, by order of the court rendering final judgment thereon, be turned over to the sheriff of the county where such seizure was made, by any officer competent to serve the process on which they were forfeited, and he shall make return accordingly to said court; and said sheriff shall

(a) 33 Me., 561, 573; 47 Me., 400; 48 Me., 188, 581; 53 Me., 172; 54 Me., 37; 61 Me., 523; 62 Me., 265; 80 Me., 93, 207.

(b) 48 Me., 583; 61 Me., 523; 62 Me., 422; 69 Me., 525; 73 Me., 279; 83 Me., 161; 101 Me., 164; 110 Me., 181.

(c) 62 Me., 422; 79 Me., 82; 85 Me., 471; 86 Me., 529; 101 Me., 49; 106 Me., 399; 109 Me., 253.

CHAP. 127.

receipt to said officer therefor; said sheriff shall mingle said liquors together, and as soon as he has accumulated a quantity equal to five barrels, he shall ship the same to some responsible rectifying distiller, outside of this state, and have the alcohol re-distilled therefrom, as is herein-after provided. Said sheriffs shall annually contract with some responsible rectifying distiller, outside the limits of this state to take such liquors and distil the alcohol therefrom, and to account for and pay over to the treasurer of the county from which said liquors are received, in cash, at an agreed price for each gallon of one hundred degrees strength, determined by the United States internal revenue inspector at place of rectification. Before delivering any liquor under the aforesaid contract, the said sheriff shall take a bond, with sureties residing in this state, and to be approved by the treasurer of the county, from said rectifying distiller to the treasurer of his county, in the penal sum of one thousand dollars, conditioned that all of said liquors so received under said contract, shall be rectified and the alcohol distilled therefrom, and that the contractor will account for and pay over to the treasurer of said county from which said liquors are received, in cash, the amount due under said contract. In all suits upon bonds given under this section, the damages shall be the full penal sum of said bond. *For all services in connection herewith, the said sheriff shall receive from the county treasurer five per cent of the net amount received from said contractor.* All other liquors declared forfeited by any court under this chapter, shall, by order of the court rendering final judgment thereon, be destroyed by any officer competent to serve the process on which they were forfeited, and he shall make return accordingly to said court. Such liquors shall be destroyed by pouring them upon the ground. A record of vessels forfeited shall be kept by each officer, and returned to the county commissioners once in each three months, and once in six months, or oftener, if they deem it advisable, the commissioners shall order such officers to sell the vessels at public or private sale, and pay the proceeds thereof into the county treasury.

SEC. 34. If complaint is made upon oath to any magistrate against any claimant under this chapter, alleging that the liquors so claimed by him were, prior to, and at the time when the same were seized, kept or deposited by said claimant, or by some person by his authority, and intended for unlawful sale in this state, either by such person, or the said claimant, the magistrate shall issue his warrant against such claimant so charged, and he shall be arrested thereon, and be brought before such magistrate, and on conviction shall be punished as is provided in section twenty-nine.

SEC. 35. If an officer having a warrant, issued under this chapter, committed to him, directing him to seize any liquors, and to arrest the owner or keeper thereof, is prevented from seizing the liquors by their being poured out or otherwise destroyed, he shall arrest the alleged owner or keeper named in the warrant, and bring him before the magistrate, and make return upon the warrant that he was prevented from seizing said liquors by their being poured out or otherwise destroyed, as the case may be, and in his return he shall state the quantity so poured out or destroyed, as nearly as may be, and the magistrate shall put the owner or keeper so arrested upon trial; and if it is proved that such liquors as were described in the warrant were so poured out or destroyed, and that they were so kept or deposited and intended for unlawful sale, and that the person so arrested was owner or keeper thereof, he shall be punished in the same manner as if the liquors described in the warrant and in the return had been seized on the warrant and brought before the magistrate by the officer. All dumps or appliances for concealing, disguising or destroying liquors, so that the same cannot be seized or identified, found

—officer shall send out of the state, and have alcohol re-distilled therefrom.

—officer shall contract with distiller, outside of state, to distil liquors and sell same for cash.

—shall take bond of distiller.

See c. 117, § 6.

—all other forfeited liquors shall be destroyed.

—vessels may be sold.

Warrant to be issued against claimant upon oath of complainant.
R. S., c. 29, § 54.
See c. 137, § 1.

—arrest.

—trial.

—punishment.

Seizure prevented by destruction of liquors.
R. S., s. 29, § 55.
65 Me., 102.
103 Me., 391.
—arrest of alleged owner.

—how to make returns in such cases.
47 Me., 360.

—trial of owner.

—penalty.

—dumps and appliances for preventing

CHAP. 127.

seizure or
identification
of liquors,
shall be taken
and presented
to grand jury
for considera-
tion.

Deputy sheriff
dying, etc.
R. S., c. 29, § 56.
—other officer
dying, duty of
magistrate.

Persons
drunk in
streets shall
be punished.
R. S., c. 29, § 57.
1911, c. 77.
47 Me., 464.
78 Me., 421.
14 Atl. 942.

—person
drunk in his
own house,
and disturb-
ing the peace,
shall be pun-
ished.

—formal ar-
rest and trial.

Responsibility
for injuries
by drunken
persons.
R. S., c. 29, § 58.

—damages.

—owner or
lessee of build-
ing.

—proof of
relationship.

in the possession or under the control of any person or persons, shall be taken by the officer making said search or seizure, so far as the same is practicable, together with all bottles and drinking glasses or vessels found in the possession or under the control of any such person or persons, and carried before the next grand jury sitting in said county where said seizure and search is made, and the same, together with all evidences of such dumps or appliances for concealing, disguising or destroying liquors, shall be presented to said grand jury for their consideration, and the same shall thereafter be subject to the order of the court issuing the warrant for said search and seizure.

SEC. 36. If any deputy sheriff, after having executed such warrant by a seizure dies or goes out of office before final execution in the proceedings is done, the liquors shall be held in the custody of the sheriff or another deputy. If any other officer dies or goes out of office under like circumstances, the magistrate before whom the proceedings were commenced, shall designate in writing some officer lawfully authorized to execute such a warrant, who shall hold such liquors in his custody until final judgment and order of the court thereon.

SEC. 37. *Any person* (Whoever is) found intoxicated in any street, highway or other public place, shall be punished for the first offense by a fine not exceeding ten dollars, or by imprisonment not exceeding thirty days, and upon any subsequent conviction by imprisonment not exceeding ninety days, except that in any county where a county farm for the reformation of inebriates has been established, any male person who has been previously convicted of intoxication may be sentenced to said farm for a period of not less than ninety days or not exceeding one year. *Any person* (Whoever is) found intoxicated in his own house, or in any other building or place, who is disturbing the public peace, or the peace of his own or any other family, shall be punished for the first and any subsequent conviction, as provided in the preceding clause of this section. Any such intoxicated person shall be taken into custody by any sheriff, deputy sheriff, constable, marshal, police officer or watchman, and committed to the watch-house or police station or restrained in some other suitable place, until a complaint can be made and a warrant issued against him, upon which he may be arrested and tried. (a)

SEC. 38. Every wife, child, parent, guardian, husband or other person who is injured in person, property, means of support or otherwise, by any intoxicated person, or by reason of the intoxication of any person, has a right of action in his own name against any one who by selling or giving any intoxicating liquors, or otherwise, has caused or contributed to the intoxication of such person; and in such action the plaintiff may recover both actual and exemplary damages. The owner, lessee or person renting or leasing any building or premises, having knowledge that intoxicating liquors are sold therein, are liable, severally or jointly with the person selling or giving intoxicating liquors as aforesaid. And in actions by a wife, husband, parent or child, general reputation of such relationship is prima facie evidence thereof, and the amount recovered by a wife or child shall be her or his sole and separate property. (b)

(a) Penalty for intoxication on part of engineer, conductor, brakeman, motorman or switchman on railroad, c. 54, § 78.

County farm in Cumberland County authorized, P. & S. L. 1911, c. 181; in Penobscot County, P. & S. L., 1913, c. 191.

(b) 66 Me., 472; 67 Me., 519; 69 Me., 81, 84; 76 Me., 213; 95 Me., 559; 96 Me., 88; 99 Me., 366.

SPECIAL PROVISIONS FOR THE ENFORCEMENT OF THE LAW.

SEC. 39. Liquors seized as hereinbefore provided, and the vessels containing them, shall not be taken from the custody of the officer by a writ of replevin or other process while the proceedings herein provided are pending; and final judgment in such proceedings is in all cases a bar to all suits for the recovery of any liquors seized or the value of the same, or for damages alleged to arise by reason of the seizure and detention thereof.

Liquors and vessels seized, not repleviable, pending proceedings. 62 Me., 535. R. S., c. 29, § 59.

—final judgment, effect. 91 Me., 479.

SEC. 40. Prosecutions for manufacturing liquors in violation of law, for keeping drinking houses and tipling shops, and for being common sellers of intoxicating liquors, shall be by indictment; but in all other prosecutions under this chapter, except when otherwise expressly provided, judges of municipal and police courts and trial justices have by complaint, jurisdiction, original and concurrent with the supreme judicial and superior courts. All prosecutions in the supreme judicial and superior courts shall be by indictment. Said magistrates, in cases not within their jurisdiction, may examine and hold to bail. And in appeals from any judgment or sentence before such magistrate, the penal sum in every recognizance shall be two hundred dollars. No recognizance before such magistrate, shall be in a sum less than two hundred dollars; nor in the supreme judicial or superior court in less than five hundred dollars.

Prosecutions, how commenced and conducted. R. S., c. 29, § 60. See §§ 41, 45. 8 Me., 113. 54 Me., 566. 60 Me., 107. 84 Me., 28.

—penalties of recognizances.

SEC. 41. Every trial justice, recorder, clerk and judge of a municipal or police court, and every county attorney, having knowledge of a previous conviction of any person accused of violating this chapter, in preparing complaints, warrants or indictments, shall allege such previous conviction thereon; and, after such indictment is entered in court, no county attorney shall dismiss or fail to prosecute it except by special order of said court. If any trial justice, recorder, clerk or judge of a municipal or police court, or county attorney, neglects or refuses to allege such previous conviction, or if any county attorney fails so to prosecute, he forfeits one hundred dollars in each case, to be recovered in an action of debt, to be brought by the attorney general in behalf of the state.

Previous convictions to be alleged. R. S., c. 29, § 61.

—indictments not to be dismissed, but by order of court.

—neglect to allege former conviction, or failure to prosecute, penalty.

SEC. 42. When a person has been convicted in the supreme judicial or superior court, of a violation of this chapter, the county attorney shall have him sentenced at the same term, unless for reasons satisfactory to the court, the case is continued for sentence one term, but no longer.

County attorney to cause speedy sentence. R. S., c. 29, § 62. 101 Me., 522.

SEC. 43. In appeals, the proceedings shall be the same in the appellate court as they would be in the court of the magistrate, and shall be conducted in said appellate court by the attorney for the state. The jury shall find specially under the direction of the court, on all facts necessary to determine the adjudication thereof; and if a claimant or other respondent fails to appear for trial in the appellate court, the judgment of the court below, if against him, shall be affirmed. No portion of the penalty of any recognizance taken under so much of this chapter as relates to intoxicating liquors shall be remitted by any court in any suit thereon, nor shall a surety in any such recognizance be discharged from his liability therein by a surrender of his principal in court after he has been defaulted upon his recognizance unless the principal has been actually sentenced upon the indictment or complaint on which the recognizance was taken. The appeals of claimants provided for in section thirty-one, shall be entered as all other appeals in criminal cases, and be subject to the requirements of law appertaining to them. (a)

Appeal, proceedings in case of. R. S., c. 29, § 63.

—jury to find specially.

—affirmation of judgment.

—recognizances.

—penalties not remitted, nor surety discharged by surrender of principal, unless sentenced. See c. 135, § 26.

(a) 33 Me., 573; 37 Me., 161; 48 Me., 581; 49 Me., 286; 60 Me., 105; 61 Me., 117; 93 Me., 43.

CHAP. 127.

Action not maintainable for liquors sold or kept in violation of law.

R. S., c. 29, § 64.

—exception.

Delivery, evidence of sale.
R. S., c. 29, § 65.

—partner liable.

—who may be included in complaint.

—town officers, may commence suit on bond.

—duty to prosecute for violation.

—penalty for municipal officers neglecting to prosecute.

—officer, neglecting to execute process, is liable.

—judgment.

—assessors.

—plantations.
See c. 1, § 6, ¶ xix.

—allegation of previous conviction sufficient.

—any process may be amended as to form.

Persons engaged in un-

SEC. 44. No action shall be maintained upon any claim or demand, promissory note or other security contracted or given for intoxicating liquors sold in violation of this chapter, or for any such liquors purchased out of the state with intention to sell the same or any part thereof in violation thereof; but this section shall not extend to negotiable paper in the hands of a holder for a valuable consideration and without notice of the illegality of the contract. (a)

SEC. 45. Whenever an unlawful sale is alleged, and a delivery proved, it is not necessary to prove a payment, but such delivery is sufficient evidence of sale. A partner in business is liable for the unlawful keeping or selling of his copartner, done in the copartnership business, or by any other person, in any shop, store or other place of business, of such copartnership, with his knowledge or assent. A principal and his agent, clerk and servant, may all be included in the same complaint and process. The mayor or aldermen, selectmen or assessors, may cause a suit to be commenced on any bond or recognizance given under this chapter in which his city, town or plantation is interested, and the same shall be prosecuted to final judgment unless paid in full with costs. The mayor and aldermen, selectmen, assessors and constables, in every city, town and plantation, shall make complaint and prosecute all violations of this chapter, and promptly enforce the laws against drinking houses. If a municipal officer, after being furnished with a written notice of a violation of this chapter, signed by two persons competent to be witnesses in civil suits, and containing the names and residences of the witnesses to prove such offense, wilfully neglects or refuses to institute proceedings therefor, he shall be fined not less than twenty, nor more than fifty dollars, to be recovered by indictment. The oath required of any such officer to the complaint may be, in substance, that from a written notice signed by two persons competent to be witnesses in civil suits, he believes the complaint signed by him to be true. If an execution or other final process, issued in any civil or criminal suit instituted under this chapter, is placed in the hands of any proper officer to be by him executed, and he unreasonably neglects or refuses so to do, an action may be commenced against him by any voter in the county, and prosecuted to final judgment, which shall be for the full amount of the judgment and interest on such execution; and if it is a process that requires him to take and commit an offender to prison, the damages shall not be less than fifty, nor more than five hundred dollars. Selectmen of towns herein mentioned include assessors of plantations. In suits, complaints, indictments or other proceedings for a violation of any provision of this chapter relating to intoxicating liquors, other than for the first offense, it is not requisite to set forth particularly the record of a former conviction, but it is sufficient to allege briefly, that such person has been convicted of a violation of any particular provision, or as a common seller, as the case may be, and such allegation in any criminal process, legally amendable in any stage of the proceedings before final judgment, may be amended, without terms, and as a matter of right. Any process civil or criminal, legally amendable, may, in any stage of the proceedings, be amended in any matter of form, without costs, on motion at any time before final judgment. (b)

SEC. 46. No person engaged in the unlawful traffic in intoxicating liquors is competent to sit as a juror in any case arising under this chap-

(a) 44 Me., 54; 46 Me., 527; 47 Me., 60, 126, 473; 48 Me., 188, 552; 50 Me., 79; 51 Me., 255; 55 Me., 356, 431, 541; 57 Me., 180, 359; 59 Me., 443; 63 Me., 31; 66 Me., 141; 70 Me., 257; 72 Me., 279; 87 Me., 518; 89 Me., 140; 92 Me., 388, 421; 93 Me., 299; 94 Me., 444; 95 Me., 536; 96 Me., 457; 100 Me., 246, 544; 102 Me., 219; 108 Me., 340; 110 Me., 182.

(b) 54 Me., 563; 65 Me., 247, 273; 67 Me., 129; 69 Me., 576; 78 Me., 40; 79 Me., 104; 80 Me., 118; 92 Me., 427.

CHAP. 127.

ter; and when information is communicated to the court that a member of any panel is engaged in such traffic, or that he is believed to be so engaged, the court shall inquire of the jurymen of whom such belief is entertained; and no answer which he makes shall be used against him in any case arising under this chapter; but if he answers falsely, he shall be incapable of serving on any jury; but he may decline to answer, in which case he shall be discharged by the court from all further attendance as a jurymen.

SEC. 47. The offenses described in this chapter fall within section fourteen of chapter one hundred and thirty-three, and no such offense is barred by any period of time less than six years after the commission thereof. No portion of time during which the offender is not usually and publicly a resident in this state shall be a part of said six years.

SEC. 48. All the provisions of this chapter, chapter twenty-two, section twenty-five of chapter one hundred and thirty-five, and section one of chapter one hundred and thirty-seven, so far as they relate to intoxicating liquors, are hereby made to apply to all intoxicating liquor imported in the original package.

SEC. 49. Sheriffs and their deputies and county attorneys shall diligently and faithfully inquire into all violations of law, within their respective counties, and institute proceedings in case of violations or supposed violations of law, and particularly the law against illegal sale of intoxicating liquors, and the keeping of drinking houses and tippling shops, gambling houses or places, and houses of ill-fame, either by promptly entering a complaint before a magistrate and executing the warrants issued thereon, or by furnishing the county attorney promptly and without delay, with the names of alleged offenders, and of the witnesses. Any sheriff, deputy sheriff or county attorney, who shall wilfully or corruptly refuse or neglect to perform any of the duties required by this section, shall be punished by fine not exceeding one thousand dollars or by imprisonment not exceeding one year.

The attorney-general shall take charge of all investigations before the grand jury in case of refusal or neglect of any sheriff, deputy sheriff or county attorney, to perform any of the duties required by this section, and in case of the finding of an indictment to conduct all subsequent proceedings in court in behalf of the state as prosecuting attorney. In all such prosecutions the attorney-general shall act in place of the county attorney, and is hereby invested with all the rights, powers and privileges of the county attorney for that purpose, the powers of the county attorney with respect to prosecutions under this section being hereby suspended.

For services under this section, *sheriffs, and their deputies acting under their direction*, (deputy sheriffs) shall receive *the same per diem compensation, as for attendance on the supreme judicial court*, (two dollars a day,) the same fees for travel as for the service of warrants in criminal cases, together with such necessary incidental expenses as are just and proper; bills for which shall be audited by the county commissioners, and paid from the county treasury. But said commissioners shall not allow any per diem compensation to said *sheriffs, or their deputies*, for any day for which *said sheriffs or their deputies* (they) are entitled to fees or compensation for attendance at or service in any court. The provisions of this section as to compensation of *sheriffs and their deputies*, (deputy sheriffs) and the provisions of section five of chapter one hundred and eighteen shall not apply to the (deputies of the) sheriff of Cumberland county, *and his deputies* acting under the provisions of this section.

SEC. 50. County attorneys shall cause to be summoned promptly before the grand jury, all witnesses whose names have been furnished

lawful traffic not to sit upon jury.
R. S., c. 29, § 66.
See c. 109, § 3.

Proceedings under this chapter not barred within six years.
R. S., c. 29, § 67.
—absence deducted.

Law applies to importations in original package.
R. S., c. 29, § 68.

Special duty of sheriffs, deputies and county attorneys.
R. S., c. 29, § 69.
67 Me., 375.
101 Me., 353.
See c. 126, § 12.

—penalty for refusal or neglect.
1905, c. 41.

—when attorney general shall take charge of investigations before grand jury.
1913, c. 187.

—per diem for services.
91 Me., 316.
111 Me., 33.

See c. 117, § 6.

See c. 83, § 23.

Similar duty of county attorneys.
R. S., c. 29, § 70.

CHAP. 127.

Clerk of courts shall publish disposition of appealed cases and indictments.
R. S., c. 29, § 71.

What forms are sufficient.
R. S., c. 29, § 72.

—costs, taxable.

them by any sheriff or his deputies, as provided in the preceding section, and shall faithfully direct inquiries before that body into violations of law, prosecute persons indicted, and secure the prompt sentence of convicts.

SEC. 51. The clerk of courts, shall within thirty days after the adjournment of any superior or supreme judicial court, publish in some newspaper of the county, the disposition of each appealed case and indictment for violation of the laws regulating the use and sale of intoxicating liquors.

SEC. 52. The forms herein set forth, with such changes as adapt them for use in cities, towns and plantations, are sufficient in law, for all cases arising under the foregoing provisions, to which they purport to be adapted; and the costs to be taxed and allowed for the libel, shall be fifty cents; for entering the same, thirty cents; for trying the same, one dollar; for monition, fifty cents; for posting notices and return, one dollar; order to restore or deliver, twenty-five cents; executing the order, fifty cents. (a)

Form of indictment in case of common seller.

STATE OF MAINE.

—form of indictment.
80 Me., 118.

“——, ss. — At the supreme judicial or superior court begun and held at ——, within and for the county of ——, on the —— Tuesday of ——, in the year of our Lord one thousand nine hundred and ——:

The jurors for said state upon their oath present, that A. B., of ——, in said county, at ——, in said county of ——, on the —— day of ——, in the year of our Lord one thousand nine hundred and ——, and on divers other days and times between said —— day of —— aforesaid and the day of the finding of this indictment, without lawful authority, license or permission, was a common seller of intoxicating liquors, against the peace of said state, and contrary to the form of the statute in such case made and provided;” (in case of a former conviction add,) “and the jurors aforesaid, upon their oaths aforesaid, do further present, that said ——, has been —— before convicted of being a common seller of intoxicating liquors, under the laws of the State of Maine regulating the sale of intoxicating liquors, to wit:—at a term of the supreme judicial court, begun and held at A—— within and for the county of B. on the third Tuesday of —— in the year of our Lord one thousand nine hundred and ——.

A true bill:
——, County Attorney. ——, Foreman.”

See 65 Me., 234.
92 Me., 422.
94 Me., 60.

Form of complaint for single sale.

STATE OF MAINE.

—form of complaint for single sale.
65 Me., 247.

“——, ss.—To ——, esquire, a trial justice within and for the county of ——.

A. B., of ——, in said county, on the —— day of ——, in the year of our Lord one thousand nine hundred and ——, in behalf of said state, on oath —— complains, that ——, of ——, in said county, on the —— day of ——, 19——, at said ——, in said county of ——, without lawful authority, license or permission therefor, did then and there sell a quantity of intoxicating liquors, to wit: one —— of intoxicating liquor to one ——,” (or if the individual is unknown, “to some person to said complainant unknown.”)

(a) 59 Me., 384; 65 Me., 247, 273; 67 Me., 129; 69 Me., 576; 80 Me., 94; 86 Me., 527; 103 Me., 470.

"against the peace of said state, and contrary to the form of the statute in such case made and provided.

A. B.

On the — day of —, 19—, said — makes oath, that the above complain^t, by — subscribed, is true.

Before me, —, *Trial Justice.*"

Form of warrant upon the same.

STATE OF MAINE.

"—, ss.—To the sheriff of our said county of —, or either of his deputies, or either of the constables of the town of —, or of either of the towns in said county.

—form of
warrant for
single sale.

GREETING.

[I. s.] Whereas, A. B., of —, on the — day of —, in the year of our Lord one thousand nine hundred and —, in behalf of said state, on oath — complained to me, the subscriber, one of the trial justices within and for said county of —, that — of —, in said county, on the — day of —, 19—, at said —, in said county of —, without lawful authority, license or permission therefor, did sell a quantity of intoxicating liquors, to wit: one — of intoxicating liquor to one —, against the peace of said state and contrary to the form of the statute in such case made and provided.

Therefore, in the name of the State of Maine, you are commanded forthwith to apprehend said —, if he may be found in your precinct, and bring him before me, the subscriber, or some other trial justice within and for said county, to answer to said state upon the complaint aforesaid.

Witness, my hand and seal at — aforesaid, this — day of —, in the year of our Lord nineteen hundred and —.

—, *Trial Justice.*"

Form of recognizance in case of a single sale.

"Be it remembered, that at a justice court held by me, the subscriber, one of the trial justices within and for the county of —, at my office in —, in said county, on the — day of —, in the year of our Lord one thousand nine hundred and —, personally appeared —, — and —, and severally acknowledged themselves to be indebted to the State of Maine, in the respective sums following, to wit:

—form of
recognizance
for single sale.

The said —, as principal, in the sum of — dollars, and the said — and —, as sureties, in the sum of — dollars each, to be levied of their respective goods, chattels, lands or tenements, and in want thereof of their bodies, to the use of the state, if default is made in the condition following:

The condition of this recognizance is such, that whereas said — has been brought before said court, by virtue of a warrant duly issued upon the complaint on oath — of —, charging him, said —, with having sold at said —, one — of intoxicating liquor to one —, without lawful authority, license or permission therefor, against the peace of said state, and contrary to the form of the statute in such case made and provided. And said —, having pleaded not guilty to said complaint, but having been by said court found guilty of the same, and been sentenced to —; and said — having appealed from said sentence to the supreme judicial" (or superior) "court, next to be held at —, within and for the said county of —, on the — Tuesday of —, in the year of our Lord nineteen hundred and —.

CHAP. 127.

Now therefore, if said ——— shall appear at the court aforesaid, and prosecute his said appeal with effect, and abide the order and judgment of said court, and not depart without license, then this recognition shall be void; otherwise shall remain in full force and virtue.

Witness, ———, *Trial Justice.*"

Form of mittimus.

STATE OF MAINE.

—form of
mittimus.

"County of ———, ss.—To the sheriff of the county of ———, or either of his deputies, or either of the constables of the town of ———, and to the keeper of the jail in ———, in our said county, GREETING.

[L. s.] Whereas, E. F., of ———, in our county of ———, now stands convicted before me, A. B., esquire, one of the trial justices in and for the said county of ———, on complaint of ———, who, on his oath ——— complains that" ——— (here insert the substance of the complaint) "against the peace of the state, and contrary to the form of the statute in such case made and provided, for which offense, he, said E. F., is sentenced to pay a fine to the state, of ——— dollars, and costs of prosecution, taxed at ——— dollars and ——— cents, (and to stand committed until the sentence is performed, all which sentence said E. F., now before me, the said justice, fails and refuses to comply with and perform.)

These are therefore, in the name of the State of Maine, to command you, the said sheriff, deputies and constables, and each of you, forthwith to convey said E. F. to the common jail in ———, in the county aforesaid, and to deliver him to the keeper thereof, together with this precept. And you the keeper of the said jail in ——— aforesaid, are hereby in like manner commanded, in the name of the State of Maine, to receive said E. F. into your custody, in said jail, and him there safely to keep until he shall comply with said sentence, or be otherwise discharged by due course of law.

Given under my hand and seal, this ——— day of ———, A. D. ———.
A. B., *Trial Justice.*"

Form of complaint in case of seizure.

STATE OF MAINE.

—form of com-
plaint, in case
of seizure.
47 Me., 431.
63 Me., 214.
64 Me., 532.
95 Me., 199.

"———, ss.—To A. B., esquire, one of the trial justices within and for the county of ———.

A. B., of ———, in said county, competent to be a witness in civil suits, on the ——— day of ———, in the year nineteen hundred and ———, in behalf of said state, on oath complains, that he believes, that on the ——— day of ———, 19—, at said ———, intoxicating liquors were, and still are kept and deposited by ———, of ———, in said county, in ———" (here describe with precision the place to be searched,) "said ——— not being then and there authorized by law to sell said liquors within said ———; and that said liquors then and there were, and now are intended by said ——— for sale in the state in violation of law, against the peace of the state and contrary to the form of the statute in such case made and provided.

I therefore pray, that due process be issued to search the premises hereinbefore mentioned, where said liquors are believed to be deposited, and if there found, that said liquors and vessels be seized and safely kept until final action and decision be had thereon, and that said ———

be forthwith apprehended and held to answer to said complaint, and to do and receive such sentence as may be awarded against him.

A. B.

——, ss.—On the —— day of ——, 19——, said A. B. made oath that the above complaint by him signed is true. —oath.

Before me, ——, Trial Justice."

Form of warrant in case of seizure.

STATE OF MAINE.

"——, ss.—To the sheriff of our said county of ——, or either of his deputies, or either of the constables of the town of ——, or of either of the towns within said county.

—form of
warrant, in
case of
seizure.
66 Me., 478.

[L. s.] Whereas A. B., of ——, in said county, competent to be a witness in civil suits, on the —— day of ——, in the year nineteen hundred and ——, in behalf of said state, on oath complained to the subscriber, one of the trial justices within and for said county, that he believes, that on the —— day of ——, 19——, at said ——, intoxicating liquors were and still are deposited and kept by ——, ——, of ——, in said county, in ——" (here follows a precise description of the place to be searched,) "and that said —— then and there intended and now intends to sell the same in the state, in violation of law as fully appears by the complaint hereunto annexed, and prayed that due process be issued to search the premises hereinbefore mentioned, where said liquors are believed to be deposited, and, if there found, that said liquors and vessels be seized and safely kept until final action and decision be had thereon, and that said —— be apprehended and held to answer to said complaint, and to do and receive such sentence as may be awarded against him:—

You are therefore required in the name of the state, to enter the —— before named, and therein to search for said liquors, and, if there found, to seize and safely keep the same, with the vessels in which they are contained, until final action and decision is had on the same; and to apprehend said —— forthwith, if he may be found in your precinct, and bring him before me, the subscriber, or some other trial justice within and for said county, to answer to said complaint, and to do and receive such sentence as may be awarded against him.

Witness, ——, esquire, at —— aforesaid, this —— day of ——, in the year of our Lord nineteen hundred and ——.

——, Trial Justice."

Form of recognizance in case of seizure.

"Be it remembered, that at a justice court held by me, the subscriber, one of the trial justices within and for the county of ——, at my office in said ——, on the —— day of ——, in the year of our Lord nineteen hundred and ——, personally appeared A. B., C. D. and E. F. and severally acknowledged themselves to be indebted to the State of Maine, in the respective sums following, to wit:

—form of re-
cognizance, in
case of
seizure.

The said ——, as principal, in the sum of —— dollars, and the said —— and ——, as sureties, in the sum of —— dollars each, to be levied of their respective goods, chattels, lands or tenements, and in want thereof, of their bodies, to the use of the state, if default is made in the condition following: .

The condition of this recognizance is such, that whereas said —— has been brought before said court, by virtue of a warrant duly issued upon the complaint on oath, of G. H., of ——, a competent witness in civil suits, charging him, said ——, with having at

CHAP. 127.

——, in the said county of ——, on the —— day of ——, 19——, kept and deposited certain intoxicating liquors in ——” (here describe the place where the same are deposited) “with intent to sell the same in said ——, in violation of law; said —— not being then and there authorized or appointed to sell the same in said ——, and a search warrant having been issued upon said complaint, and said liquors above described, having been seized thereon, and said —— arrested thereon; and said —— having pleaded not guilty to said complaint, but having been by said court found guilty of the same, and been sentenced to —— . And said ——, having appealed from said sentence to the supreme judicial or superior court, next to be held at ——, within and for said county of ——, on the —— Tuesday of ——, in the year of our Lord nineteen hundred and ——:

Now therefore, if said —— shall appear at the court aforesaid, and prosecute his said appeal with effect, and abide the order and judgment of said court, and not depart without license; then this recognizance shall be void; otherwise shall remain in full force and virtue.

—— ———, *Trial Justice.*”

Form of libel.

STATE OF MAINE.

—form of
libel.

“County of ——, ss.—To A. B., a trial justice, in and for said county:
The libel of C. D., of ——, shows that he has, by virtue of a warrant duly issued on the —— day of ——, A. D. 19——, by ——, esquire, a trial justice in and for said county, seized certain intoxicating liquors and the vessels in which the same were contained, described as follows: ——” (here follows a description of the liquors,) “because the same were kept and deposited at ——” (describing the place) “in the said county of ——, and were intended for sale within the state, in violation of law. Wherefore he prays for a decree of forfeiture of said liquors and vessels, according to the provisions of law in such case made and provided.

Dated at ——, in said county, this —— day of ——, in the year of our Lord nineteen hundred and ——.

(Signed.) ———.”

Form of monition and notice.

STATE OF MAINE.

—form of
monition and
notice.

“County of ——, ss.

[L. s.] To all persons*interested in ——” (here insert the description of the liquors, as in the libel).

“The libel of C. D., hereunto annexed, this day filed with me, A. B., esquire, a trial justice, in and for said county, shows that he has seized said liquors and vessels, because” (insert as in the libel), “and prays for a decree of forfeiture of the same according to the provisions of law in such case made and provided.

You are, therefore, hereby notified thereof, that you may appear before me, the said justice, at ——, in said county, on the —— day of ——, 19——, and then and there show cause why said liquors and the vessels in which they are contained should not be declared forfeited.

Given under my hand and seal at ——, on the —— day of ——, in the year of our Lord nineteen hundred and ——.

—— ———, *Trial Justice.*”

CHAPTER 128.

CHEATING BY FALSE PRETENSES; FRAUDS, CONSPIRACIES AND MONOPOLIES.

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.

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.

SEC. 3. *Any person, who* (whoever) shall knowingly make or cause to be made, either directly or indirectly, or through any agency, whatsoever, any false statement in writing, by him signed, with intent that it shall be relied upon, respecting the financial condition, or means or ability to pay, of himself, or any other person, firm or corporation, of which firm he is a member, or of which corporation he is an officer, or for which person, firm or corporation he is acting, for the purpose of procuring in any form whatsoever, either the delivery of personal property, the payment of cash, the making of a loan or credit, the extension of a credit, the discount of an account receivable, or the making, acceptance, discount, sale or indorsement of a bill of exchange, or promissory note, for the benefit of either himself, or of such person, firm or corporation; or, *who* (whoever) knowing that any such false statement in writing has been so made and signed respecting the financial condition, or means or ability to pay, of himself, or such person, firm or corporation, of which firm he is a member, or of which corporation he is an officer, or for which person, firm or corporation he is acting, procures upon the faith thereof, for the benefit either of himself, or of such person, firm or corporation, either or any of the things of benefit mentioned in the first sub-division of this section; or, *who* (whoever) knowing that any such statement in writing has been so made and signed respecting the financial condition or means or ability to pay, of himself or such person, firm or corporation, of which firm he is a member or of which corporation he is an officer, or for which person, firm or corporation he is acting, represents on a later day in writing by him signed, that such statement theretofore made, if then again made on said day, would be then true, when in fact, said statement if then made would be false, and procures upon the faith thereof, for the benefit either of himself or of such person, firm or corporation, either or any of the things of benefit mentioned in the first sub-division of this section, shall be guilty of a misdemeanor and shall be punished by a fine of not exceeding one thousand dollars or imprisonment for not more than one year.

Cheating
by false
pretenses.
R. S., c. 127, § 1.
See c. 38, § 7.
17 Me., 216.
24 Me., 77.
33 Me., 499.
64 Me., 157.
87 Me., 465.
98 Me., 286.
107 Me., 527.

Uttering
forged
receipts of
delivery or
deposit of
goods, bonds
or securities.
R. S., c. 127, § 2.
73 Me., 156.

False state-
ments in
writing for
the purpose
of obtaining
credit.
1913, c. 63.

—penalty.

CHAP. 128.

Parties to fraudulent conveyances, or assignments.
R. S., c. 127, § 3.
61 Me., 365.
68 Me., 477.
75 Me., 474.

Removal or concealment of mortgaged personal property, how punished.
R. S., c. 127, § 4.

Defrauding owner of garage.
1913, c. 214.

—printed copy of this section to be posted in garage.

Gross fraud at common law.
R. S., c. 127, § 7.

Circulating advertisements in the similitude of bank bills.
R. S., c. 127, § 8.

Unauthorized use of badge of G. A. R. or Sons of Veterans, punished.
R. S., c. 127, § 9.
See c. 59, § 9.

Fraudulent issue of transfer tickets.
1906, c. 99.

SEC. 4. 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.

SEC. 5. 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.

Note. R. S., c. 127, §§ 5, 6, were superseded by P. L., 1913, c. 101, §§ 8, 9, 10. (C. 30, §§ 17, 18, 19.)

SEC. 6. Whoever puts an automobile in a public garage or other place where automobiles are stored for hire, and without having an express agreement for credit, procures supplies, accessories or accommodation for himself or said automobile, and with intent to defraud the owner or keeper of said garage, removes or causes to be removed any such automobile from such garage without paying the reasonable charges due for repairs, supplies, accessories and accommodation furnished thereon, shall be punished by imprisonment not exceeding three months or by fine not exceeding one hundred dollars. In order for the owner or keeper of such a garage to obtain the benefits of this section, a printed copy thereof must be posted in some conspicuous place in said garage.

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.

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 the state, 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, 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. Every conductor of a street railroad car or other public conveyance, and every other person whose duty it is to collect fares on such car or conveyance, or issue a transfer ticket, or written or printed instrument, giving, or purporting to give, the right of transfer to another person or persons from a public conveyance operated upon one line or route of a street railroad, to a public conveyance upon another line or route of a street railroad, or from one car to another car upon the same line of a street railroad, who shall knowingly and with intent to defraud the person or corporation operating such public conveyance or car, issue, sell, or give any such transfer ticket or instrument to another person not lawfully entitled thereto, or receive, use, or return any such transfer ticket or instrument unlawfully issued or presented for fare in lieu of a regular cash fare, or substitute any such transfer ticket or instrument for any cash fare collected by him; and every person who shall fraudulently and with intent to evade the payment of fare receive and use or offer for passage any transfer ticket or instrument not originally issued to him; and every person who shall sell or give any such transfer ticket or instrument originally issued to him, to another person with intent to have such

transfer ticket or instrument used or offered for passage by such other person, shall be fined not more than fifty dollars, or imprisoned not more than thirty days, or both.

SEC. 11. Whoever enters into an agreement to labor for another in any lumbering operation or in driving logs and in consideration thereof receives any advance of goods, money, or transportation, and unreasonably and with intent to defraud fails to enter into said employment as agreed, and labor for a sufficient length of time to reimburse his employer for said advances and expenses of transportation, shall be punished by fine of not exceeding ten dollars or by imprisonment not exceeding thirty days. Judges of municipal (and police) courts and trial justices shall have jurisdiction of the offense described in this section.

Intention to defraud in lumbering operations. 1907, c. 7. 219 U. S. 219.

—jurisdiction.

SEC. 12. Whoever knowingly and wilfully, and with intent to defraud, issues a check upon any bank, and uses the same in payment of any debt, or demand, or in exchange for money, when there are not sufficient funds in said bank to redeem such check, shall be punished by imprisonment for not more than two years, or by fine not exceeding one thousand dollars.

Penalty for issuing a fraudulent check. 1913, c. 5.

SEC. 13. 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 whoever knowingly exhibits, makes or gives 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.

Penalty for securing false registration, etc., of domestic animals. R. S., c. 127, § 10. See c. 37, § 19.

SEC. 14. 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 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 one hundred and one.

Penalty for entering for premiums any horse that has been disguised, etc. R. S., c. 127, § 11.

—how enforced.

SEC. 15. 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 trademark, 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.

Standard for sale of sterling and coin silver. R. S., c. 127, § 12.

—penalty for violation.

CHAP. 128.

SUPPRESSION OF WILLS.

Suppression
of last wills
and testa-
ments.
R. S., c. 127, § 13.

SEC. 16. 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 four.

MARITIME FRAUDS.

Fraudulent
destruction
of vessels,
and fitting
them out for
that purpose.
R. S., c. 127, § 14.

SEC. 17. 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 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.

Making false
invoices, bills
of lading,
or false
estimates of
property
shipped.
R. S., c. 127, § 15.

SEC. 18. 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.

False affi-
davits and
protests by
master, offi-
cer, mariner
or owner of
vessel or
cargo.
R. S., c. 127, § 16.

SEC. 19. 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.

Penalty for
aiding sailors
to desert.
R. S., c. 127, § 17.

SEC. 20. 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. Municipal and police courts and trial justices shall have original jurisdiction in all cases arising under this section.

—jurisdiction
of offenses.

BURNING PROPERTY FOR THE INSURANCE.

Persons
burning their
own property
to defraud
insurers.
R. S., c. 127, § 18.

SEC. 21. 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.

CONSPIRACIES.

Conspiracies,
to prosecute
an innocent
person.
R. S., c. 127, § 19.
81 Me., 256.

SEC. 22. 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
in other

SEC. 23. If two or more persons conspire and agree together, with the fraudulent or malicious intent wrongfully and wickedly to injure the

CHAP. 128.

person, character, business or property of another; or to do any illegal 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. 24. Any employer, employee 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.

cases.
R. S., c. 127, § 20.
15 Me., 102.
30 Me., 134.
31 Me., 388, 400.
34 Me., 321.
48 Me., 235.
64 Me., 370.

Preventing by threats, any person from entering or leaving employment.
R. S., c. 127, § 21.

MONOPOLIES.

SEC. 25. Every contract, combination in the form of trusts or otherwise, or conspiracy, in restraint of trade or commerce in this state is hereby declared to be illegal. *Every person who* (whoever) shall make any such contract or engage in any such combination or conspiracy shall be punished by a fine not exceeding one thousand dollars or by imprisonment not exceeding six months, or by both such fine and imprisonment, in the discretion of the court.

Contracts in restraint of trade declared illegal.
1913, c. 106, § 1.
—penalty.

SEC. 26. *Every person who* (whoever) shall monopolize or attempt to monopolize or combine or conspire with any other person or persons to monopolize any part of the trade or commerce of this state shall be punished upon conviction thereof by a fine not exceeding one thousand dollars or by imprisonment not exceeding six months or by both such fine and imprisonment in the discretion of the court.

Penalty for conspiring to monopolize trade.
1913, c. 106, § 2.

SEC. 27. *Any person who* (whoever) shall be injured in his business or property by any other person or corporation by reason of anything forbidden or declared to be unlawful by the two preceding sections may sue therefor in an action on the case and shall recover three times the damages by him sustained.

Persons injured by violation may recover damages.
1913, c. 106, § 3.

SEC. 28. *Nothing in the three preceding sections shall in any way be construed to interfere with or modify the federal statutes relating to this subject.*

Federal statutes not modified.
1913, c. 106, § 4.

CHAPTER 129.

MALICIOUS MISCHIEFS AND TRESPASSES.

Maliciously
killing or
injuring
domestic
animals.
R. S., c. 128, § 1.
1907, c. 23.
1909, c. 208.
See c. 19, § 18.
75 Me., 563.

Unlawful
taking of
saddled or
harnessed
horse.
R. S., c. 128, § 2.

Unlawful
taking and
use of
boats, vehicles
or draft
animals.
R. S., c. 128, § 3.

Injuries to
property of
any water
system.
R. S., c. 128, § 4.
1905, c. 93.
See c. 58, § 7.

Unlawful
diversion
of water.
1907, c. 76.
See § 11.

Wilful,
wanton or
malicious
injuries to ice.
R. S., c. 128, § 5.

Wilful or
malicious
injury to
property of
any railroad.
R. S., c. 128, § 6.
1911, c. 111.

SEC. 1. Whoever wilfully or maliciously kills, wounds, maims, disfigures or poisons any domestic animal, or dog, or exposes any poisonous substance with intent that the life of such animal (or dog) shall be destroyed thereby, or steals or entices away or confines or harbors such animal for the purpose of obtaining a reward or for any other illegal purpose, shall be punished by imprisonment for not more than four years or by fine of not less than twenty, and 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 wilfully injures any property of any water company, or of any city, town or municipal corporation used by it in supplying water to its inhabitants, shall be punished by a fine not exceeding one thousand dollars and by imprisonment not exceeding one year; and such persons shall also forfeit and pay to such water company, city, town or municipal corporation, three times the amount of actual damages sustained, to be recovered in an action on the case.

SEC. 5. Whoever unlawfully and intentionally taps or interferes with the water pipes (or fixtures) belonging to (any water company, or to) any city, town or water district, or pipes lawfully connected therewith, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than one year or by both such fine and imprisonment.

SEC. 6. 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; and it is not necessary to allege or prove the title or ownership of the ice so cut, injured, marred, damaged or destroyed.

SEC. 7. Whoever wilfully, mischievously or maliciously breaks the seal upon any freight car, or breaks and enters any railroad car on any railroad in the state, or destroys, injures, defiles or defaces any railroad car on any railroad in the 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 the state, shall be punished by imprisonment not exceeding two years, or by fine not exceeding five hundred dol-

lars, 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.

SEC. 8. Whoever wilfully and maliciously takes or removes the waste or packing from a journal box or boxes of a locomotive, engine, tender, carriage, coach, car, caboose or truck used or operated upon a railroad, whether operated by steam or electricity, shall be punished by imprisonment for not more than three years, or by fine of not more than five hundred dollars.

Removal of waste from journal boxes of cars, etc.
1911, c. 41.

SEC. 9. Whoever wilfully or maliciously disturbs, removes or destroys any transit point, reference point, stake, plug, hub, guard-stake, bench mark, or other monument of any railroad, highway or other engineering location or survey, shall be punished by a fine not exceeding twenty-five dollars, or by imprisonment for not exceeding thirty days; and in addition thereto shall be liable in an action of debt for the amount of damage done.

Destruction or removal of transit points, etc.
R. S., c. 128, § 7.
1905, c. 100.
1913, c. 6.

SEC. 10. 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, 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.

Injuries to dams, canals, mill machinery, ponds, engines and electrical fixtures.
R. S., c. 128, § 8.
See c. 21, § 35.

—obstruction of bridges and ways.
30 Me., 183.
40 Me., 594.
105 Me., 56.

SEC. 11. Whoever unlawfully and intentionally injures or destroys or suffers to be injured or destroyed any meter, pipe, conduit, wire, line, pole, lamp, or other apparatus belonging to a corporation *or company* engaged in the manufacture or sale of gas or electricity for lighting purposes or power purposes, or belonging to any water company, or unlawfully and intentionally prevents an electric, water or gas meter from duly registering the quantity of electricity, water or gas supplied, or in any way interferes with its proper action or just registration, or without the consent of such *company* or corporation unlawfully and intentionally diverts any electric current from any wire of such corporation *or company*, or otherwise unlawfully and intentionally uses or causes to be used without the consent of such corporation any electricity manufactured or distributed by such corporation *or company*, or unlawfully and intentionally and without the consent of such company taps, or interferes with the pipes or fixtures of any *water or gas company*, shall for every such offense be punished by a fine of not more than one hundred dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment.

Injury to, or interference with apparatus of apparatus of persons or corporations engaged in furnishing gas or electricity.
1905, c. 112.
See § 5.

SEC. 12. Whoever unlawfully and intentionally injures, molests or destroys any insulator, wire, post, cross-arm, bracket, or other structure or mechanism which forms part of, or is used in connection with an electrical transmission line constructed and maintained for the transmission of intelligence, heat, light or power by electricity, or destroys or in any way interferes with the proper working of such transmission line, or anything pertaining thereto, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.

Injuring, or interfering with telegraph or telephone lines, etc.
1909, c. 86.

SEC. 13. Whoever wilfully or maliciously drives or causes to be driven into any log or logs intended to be sawed 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,

Injuries to logs intended for manufacture.
R. S., c. 128, § 9.

CHAP. 129.

Injuring or cutting loose booms, rafts, vessels or boats; civil action for double damages.
R. S., c. 128, § 10.

Mooring vessels or rafts to buoys or beacons, and for destroying them.
R. S., c. 128, § 11.

Trespass upon land of Maine school for feeble-minded.
1911, c. 12.

Malicious injuries to trees, fences, gates or produce.
R. S., c. 128, § 12.

Advertising on fences, rocks, etc., forbidden.
R. S., c. 128, § 13.
1906, c. 33.

Trespasses on improved lands, how to be punished.
R. S., c. 128, § 14.
1913, c. 117.
See c. 98, § 11.

Wilfully entering or passing over the land of another after being forbidden, is trespass.
R. S., c. 128, § 15.
—§ 22 applies.

Injures to fruit gardens.
R. S., c. 128, § 16.
See c. 98 § 11.

shall be punished by fine of not less than one hundred, nor more than five hundred dollars, and imprisonment for not less than one, 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.

SEC. 14. 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.

SEC. 15. 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.

SEC. 16. Whoever wilfully trespasses upon land which belongs to the state and is appurtenant to the Maine school for feeble-minded, or after notice from an officer of said institution to leave said land, remains thereon, shall be punished by imprisonment for not more than three months or by a fine of not more than fifty dollars.

SEC. 17. 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. (a)

SEC. 18. 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 the consent of the owner in writing, or if in the highway or any other public place, without the consent of the municipal officers in writing, shall be punished for each offense by a fine of not less than five dollars, nor more than twenty dollars, *together with costs*.

SEC. 19. Whoever wilfully commits any trespass, or knowingly authorizes or employs another to do so, by entering the garden, orchard, pasture, cranberry ground, improved blueberry 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 one hundred dollars, and imprisonment for not more than ninety days.

SEC. 20. 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 twenty-two applies to violations of this section.

SEC. 21. 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

(a) See c. 98, § 9; 3 Me., 178; 5 Me., 409; 37 Me., 331; 60 Me., 410; 78 Me., 31.

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.

—fines shall be given to the poor.

The commissioner suggests the repeal of the last sentence of § 21.

SEC. 22. 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.

The owner or occupant may arrest offenders.
R. S., c. 128, § 17.

SEC. 23. Whoever, except a 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.

Trespass on timber, or wood standing, etc.
R. S., c. 128, § 18.
5 Me., 409.

SEC. 24. 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.

Malicious injuries to monuments, landmarks, guide-boards, lamps.
R. S., c. 128, § 19.

SEC. 25. 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)

Malicious injury to buildings, fixtures, goods or valuable papers.
R. S., c. 128, § 20.

SEC. 26. 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, or to any literary or educational institution, or any statue erected in any public park or square, or upon any ground open to the public, shall be punished by imprisonment for not more than three months, or by a fine not exceeding fifty dollars.

Wanton injury to books, pictures, and statues.
R. S., c. 128, § 21.

SEC. 27. Whoever knowingly and wilfully gives or causes to be given a false alarm of fire in any city, town or village corporation maintaining an organized fire department, shall upon conviction thereof be punished by a fine of not more than fifty dollars. Judges of municipal and police courts and trial justices shall have jurisdiction of all prosecutions under this section.

False alarm of fire.
1913, c. 98.
See c. 120, § 21.

SEC. 28. 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. 128, § 22.

SEC. 29. Whoever deposits or dumps refuse or waste material of any kind, within the limits of any public way, except upon written authority of the municipal officers, shall be punished by a fine not exceeding ten

Dumping waste material in public ways.
1909, c. 157.

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

CHAP. 129.

Riding with a
naked scythe.
R. S., c. 128, § 23.

Certain
pageantry
prohibited in
streets in the
night.
R. S., c. 128, § 24.

—bonfires in
streets and
towns pro-
hibited.

Limitations
of prosecu-
tions, and
jurisdiction
of offenses.
R. S., c. 128, § 25.
See c. 44, § 68.

dollars, to be recovered to the use of the town where the offense is committed.

SEC. 30. Whoever rides in the highways or in any lanes, streets or alleys with a naked scythe, sharpened and hung in a snath, forfeits two dollars for each offense.

SEC. 31. If three or more persons, between sunset and sunrise, assemble in any street or lane in a town and have any imagery or pageantry for a public show, whether armed or disguised, or requiring or receiving money, or other valuable things or not, on account thereof; and if any person sets fire to a pile of combustible stuff, or is concerned in making or causing a bonfire in any street, lane or other part of the town within ten rods of any building, all such offenders shall forfeit eight dollars, or be imprisoned not more than one month for each offense.

SEC. 32. Prosecutions for offenses hereinbefore described, except those set forth in sections one, ten, (eleven, twelve) and fourteen, 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.

TRANSPORTATION OF BAGGAGE AND WILFUL INJURY THEREOF.

Wilful
destruction
of, or injury
to baggage;
punishment.
R. S., c. 128, § 26.

SEC. 33. 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.

Jurisdiction
of offenses.
R. S., c. 128, § 27.

SEC. 34. 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.

WEARING OF SPIKED BOOTS.

Wearing of
spiked boots
and shoes in
public places,
forbidden.
R. S., c. 128, § 28.

SEC. 35. 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.

Penalty for
violation.
R. S., c. 128, § 29.

SEC. 36. Whoever violates either of the provisions of the preceding section shall, on complaint and conviction, be fined not less than one, 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 thirty-five.

Printed copies
of §§ 35 to 38
must be

SEC. 37. No person shall be convicted of any offense under section thirty-five unless a printed copy of sections thirty-five to thirty-eight

CHAP. 130.

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.

SEC. 38. 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.

Note. Malicious injury to the structure of meridian lines, c. 47, § 32; to toll gate or toll bridge, c. 52, § 6.

posted in
public places.
R. S., c. 128, § 30.

Penalty for
destroying
notices.
R. S., c. 128, § 31.

CHAPTER 130.

OFFENSES AGAINST THE PUBLIC HEALTH, SAFETY AND POLICY.

UNWHOLESOME PROVISIONS AND DRINKS.

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 any public water supply, 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* (Whoever,) 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, nor more than fifty dollars.

SEC. 3. Whoever by himself, clerk, servant or agent, sells, exchanges or delivers, or has in his custody or possession with intent to sell, exchange or deliver, or exposes or offers for sale or exchange milk which is not of good standard quality, adulterated milk or milk to which water or any foreign substance has been added, or milk produced from sick or diseased cows, or milk in or from cans or other utensils that are not in a clean or sanitary condition, or as pure milk, milk from which the cream or a part thereof has been removed; and whoever by himself, clerk, servant or agent, sells, exchanges or delivers, or has in his custody with intent to sell, exchange or deliver, cream containing less than eighteen per cent of milk fat, shall for the first offense be punished by a fine not exceeding fifty dollars, for a second offense by a fine of not less than fifty, nor more than one hundred dollars and for a subsequent offense by a fine of one hundred dollars and by imprisonment for not less than thirty nor more than sixty days. And in prosecutions hereunder milk, which upon analysis is shown to contain less than eleven and seventy-five hundredths per cent of milk solids or less than three and twenty-five hundredths per cent of fat shall not be considered milk of good standard quality. Nothing in this section shall be construed to prohibit the sale of skimmed milk as such.

SEC. 4. Whoever sells diseased, corrupted or unwholesome provision for food or drink, knowing it to be such, or fraudulently adulterates for

Corrupting
water used
for domestic
or other
uses.
R. S., c. 129, § 1.
1905, c. 97.
1907, c. 104.
See 1891, c. 82,
§ 3.

Holding any
diseased meat
or milk, for
human food.
R. S., c. 129, § 2.

Sale of im-
pure or adul-
terated milk
or cream, for-
bidden.
R. S., c. 129, § 3.
1905, c. 40.
1909, c. 144.
1911, c. 96.

—penalty.

—standard
milk.

—skimmed milk
excepted.

Sale of
unwholesome
provisions

CHAP. 130.

or drinks.
R. S., c. 129, § 4.

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

Warrants
may be issued
to search for
such veal.
R. S., c. 129, § 5.

Imitations of
butter or
cheese not
to be manu-
factured
or sold.
R. S., c. 129, § 6.
1905, c. 38, § 1.

Oleo-
margarine.
1905, c. 38, § 2.
1911, c. 107.

Imitations
not to be sold.
1905, c. 38, § 3.

Renovated
butter shall
be labeled
as such.
1906, c. 38, § 4.

Penalty for
violation of
four preceding
sections.
1905, c. 38, § 5.
1907, c. 22, § 1.
See c. 36, § 19.

Duty of offi-
cers to make
complaints,
R. S., c. 129, § 7.

—suspected
articles to be
analyzed.

—costs, how
to be taxed.

Butter and
cheese,
defined.

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; 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 warrants 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. No person shall manufacture, sell, expose for sale or have in his possession with intent to sell, or take 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 oleo-margarine, butterine, or otherwise named.

SEC. 7. No person shall by himself, his clerk, servant or agent, furnish oleo-margarine in any hotel, restaurant or boarding house, or at any lunch counter, to a guest or patron thereof, instead of butter, without notifying said guest or patron that the substance so furnished is not butter.

SEC. 8. No person shall sell or offer for sale to any person who asks, sends or inquires for butter or cheese, any substance or compound made in imitation of butter or cheese.

SEC. 9. No person shall sell, offer or expose for sale any renovated butter, unless the words "renovated butter" shall be conspicuously and plainly stamped, labeled or marked, so that said words cannot be easily defaced, upon the top and side of every tub, firkin, box or package containing said article or compound. The seller at retail of said article or compound, which is not in the original package, shall attach to each package so sold and deliver therewith to the purchaser a label or wrapper bearing in a conspicuous place upon the outside of the package the words "renovated butter."

SEC. 10. Whoever violates any provision of the four preceding sections shall be punished for the first offense by a fine not exceeding one hundred dollars and for the second offense by a fine not exceeding two hundred dollars. *Municipal and police courts and trial justices shall have original jurisdiction, concurrent with the supreme judicial court and superior courts, of prosecutions for violations of said sections.*

SEC. 11. 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.

SEC. 12. For the purposes of this chapter, 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.

SEC. 13. Whoever, by himself or his agent, sells or offers for sale eggs that have been in cold storage or limed, 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.

SEC. 14. No person shall swell, or expand scallop meats, by the use of fresh water, baking soda, or by any other artificial means. Whoever violates this section shall be punished by a fine of five dollars for each gallon of scallops so treated. Municipal and police courts and trial justices shall have jurisdiction of prosecutions for offenses under this section.

EXPECTORATION IN PUBLIC PLACES.

SEC. 15. No person shall expectorate or spit on any public sidewalk, or public street crossing, or cross walk, or, except in receptacles provided for the purpose, upon the floor in any city or town hall, in any court house or court room, in any factory, in any public library or museum, in any church or theatre, in any lecture or music hall, in any ferryboat or steamboat, in any railroad car, except a smoking car, in any street or inter-urban railroad car, in any railroad or railway station, or waiting-room or any sidewalk or platform connected therewith. Whoever violates this section shall be punished by a fine of not more than twenty dollars.

CHAP. 130.

R. S., c. 129, § 8.
1905, c. 38, § 6.

Selling pre-served eggs, without notice to purchaser, prohibited.
R. S., c. 129, § 9.
—penalty.

Swelling of scallop meats prohibited.
1909, c. 89.

Spitting in public places, prohibited.
1909, c. 76.

—penalty

FIRE-WORKS.

SEC. 16. Whoever sells, or offers for sale, crackers, squibs, rockets or other fire-works, 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. 17. 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.

Sale of fire-works without license.
R. S., c. 129, § 18.

Toy pistols, sale of, prohibited.
R. S., c. 129, § 19.

—penalty and liability.

LOTTERIES.

SEC. 18. 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 handbill, 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, nor more than one thousand

Lotteries, of all kinds, schemes of chance, at church fairs and gatherings, or otherwise, prohibited.
R. S., c. 129, § 20.
7 Me., 502.
15 Me., 123.
78 Me., 73.
82 Me., 319.
85 Me., 238.
99 Me., 70, 488.

—penalty.

CHAP. 130.

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

Attorney
general
may have
injunction
to restrain
any lottery.
R. S., c. 129, § 21.

—proceedings.

Payments
and securities
for lotteries
are void, and
may be recov-
ered back.
R. S., c. 129, § 22.
82 Me., 319.

Sale of
adulterated
candy and
brandy drops
forbidden.
R. S., c. 129, § 23.

—penalty.

—county
attorney to
prosecute.

Penalty for
offering
prize candy
for sale.
R. S., c. 129, § 24.

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 fifteen, 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-seven. 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. 19. 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. 20. 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.

CANDY AND CIGARETTES.

SEC. 21. 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, 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.

SEC. 22. 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 dis-

CHAP. 130.

covered 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.

SEC. 23. Whoever by himself, clerk, servant or agent, directly or indirectly, sells, offers for sale, has in his possession with intent to sell, or gives away to, or in any way obtains for any person under the age of twenty-one years, any cigarette, cigarette paper, so called, or tobacco such as is used for making any cigarette, shall be punished by a fine not exceeding fifty dollars or by imprisonment not exceeding sixty days. Trial justices and municipal and police courts shall have jurisdiction of offenses under this section.

—liability to summary arrest.

Sale of cigarettes to minors prohibited. R. S., c. 129, § 25. 1909, c. 123. See c. 120, § 33.

—penalty.

TRAMPS.

SEC. 24. 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.

Begging, etc., evidence of being a tramp. R. S., c. 129, § 26.

—penalty.

SEC. 25. 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.

—refusing to labor, how punished.

SEC. 26. 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.

Penalty for entering dwelling, kindling fire in highway, etc., without leave. R. S., c. 129, § 27.

Malicious injury to person or property. R. S., c. 129, § 28.

SEC. 27. 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.

State prison sentences for less than a year. R. S., c. 129, § 29.

SEC. 28. Any person, upon view of an offense described in sections twenty-four to thirty, inclusive, 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.

Arrest by any citizen. R. S., c. 129, § 30.

—exceptions.

SEC. 29. 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.

Non-resident tramps forbidden to sleep or lodge in barns, etc., without permission. R. S., c. 129, § 31.

—evidence.

—arrest and detention.

SEC. 30. 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

Fees of officers. R. S., c. 129, § 32.

—when costs shall be paid by the state. See c. 28, § 26.

CHAP. 131.

Vagrant, tramp or beggar, refusing to leave a dwelling-house on request, how to be punished.
R. S., c. 129, § 33.

Such convict may be required to labor.
R. S., c. 129, § 34.

—keeper may be appointed.
—convict is entitled to the net profits of his labor.

Special constables.
R. S., c. 129, § 35.

council are satisfied that the person confined is a tramp, having no pauper settlement in the state.

SEC. 31. If any public vagrant, tramp, beggar or other person who goes about from place to place asking or subsisting upon charity, or without means of support, having entered a dwelling-house, remains therein to the terror or fright of any of its occupants, or refuses or neglects, on request, to depart, he shall be punished by imprisonment and labor not exceeding thirty days in any jail, workhouse, house of correction or at any town farm or almshouse in the town in which the offense was committed, and by fine not exceeding ten dollars, and in default of payment he shall be imprisoned for an additional thirty days.

SEC. 32. The keeper of the jail, workhouse, house of correction, or in case of a sentence to any town farm or almshouse, the overseers of the poor of such town, or the keeper or agent of such town farm or almshouse, may require such convict to labor at any lawful work within the town where such institution is situated, and may appoint any suitable person keeper over him, and may collect and receive the wages, compensation or profits of his labor, and at the expiration of such sentence pay to the convict such reasonable compensation, as in their judgment the profits of his labor will warrant, deducting therefrom, the costs of commitment and any fine imposed under the preceding section.

SEC. 33. Mayors and selectmen shall appoint special constables to arrest and prosecute all tramps in their respective municipalities.

CHAPTER 131.

LIBELS.

Definition of a libel and of a publication.
R. S., c. 130, § 1.
32 Me., 533.
72 Me., 21.
89 Me., 293.

Punishment for libel.
R. S., c. 130, § 2.
66 Me., 327.

Who are responsible for libels printed or published.
R. S., c. 130, § 3.

Punishment for securing the publication of any

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.

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.

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.

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 publica-

tion 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.

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.

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)

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, and not less than twenty-five dollars, to each and every person, severally and not jointly, whose name appears in any such list.

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

(a) See Const., Art. I, § 4; 18 Me., 348; 53 Me., 342; 62 Me., 510; 89 Me., 293.

CHAP. 131.

false or
libelous
statement.
R. S., c. 130, § 4.

How far the
truth of a
publication is
a justification.
R. S., c. 130, § 5.

Jury to judge
law and fact.
R. S., c. 130, § 6.

Publishing
lists of
debtors
prohibited.
R. S., c. 130, § 7.
102 Me., 132.

—penalty.

Sec. 7 does
not apply to
executors,
etc., or
officials.
R. S., c. 130, § 8.

CHAPTER 132.

PROCEEDINGS FOR THE PREVENTION OF CRIMES.

Security
to keep the
peace may
be required.
R. S., c. 131, § 1.

On complaint
that an
offense is
threatened,
proceedings.
R. S., c. 131, § 2.

Accused may
be ordered to
find sureties
to keep the
peace, and to
pay costs.
R. S., c. 131, § 3.
10 Me., 332.
96 Me., 567.

If he com-
plies, he shall
be discharged;
otherwise,
he shall be
committed.
R. S., c. 131, § 4.

Proceedings,
if complaint
is not
sustained.
R. S., c. 131, § 5.
—if frivolous,
or malicious,
proceedings.

Appeal and
proceedings
thereon.
R. S., c. 131, § 6.

Consequences,
if appellant
fails to
prosecute.
R. S., c. 131, § 7.

Recognizance
after com-
mitment.
R. S., c. 131, § 8.

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.

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-four.

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.

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.

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.

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.

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.

CHAP. 132.

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 magistrates on view, may require sureties without a formal complaint.
R. S., c. 131, § 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. 131, § 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. 131, § 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. 131, § 12.

PRIVATE DETECTIVES.

SEC. 13. The governor, with the advice of the council, may license not exceeding twenty-five licensed 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 (in the sum of five hundred dollars,) 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 chapter one hundred and twenty-two and the first twelve sections of chapter one hundred and twenty-seven. No person so licensed shall advertise or represent himself as a state detective, under penalty of the forfeiture of his license and a fine not to exceed twenty dollars, to be recovered upon complaint. (a)

Detectives, license of by the Governor.
R. S., c. 131, § 13.
1907, c. 9, § 2.
1909, c. 156;
c. 182.
1911, c. 1.

—unlawful to advertise as state detective.
—penalty.

SEC. 14. Private detectives, licensed as aforesaid, shall have the same authority to arrest in cases of offenses under chapters one hundred and twenty-two and the first twelve sections of chapter one hundred and twenty-seven, 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.
R. S., c. 131 § 14.

—fees.

(a) By P. L. 1907, c. 9, § 2, the amount of the bond to be given by a licensed detective was fixed at five hundred dollars; the later amendments disregarded this change. The commissioner calls attention to the omission that, if unintentional, it may be remedied. Unless the amount of the bond is so fixed, there seems to be no provision for fixing it.

CHAPTER 133.

JURISDICTION OF OFFENSES AND GENERAL PROVISIONS RELATING THERETO.

JURISDICTION OF CRIMES.

Jurisdiction of the supreme and superior courts.
R. S., c. 132, § 1.
72 Me., 468.
73 Me., 281.

Offenses committed near the boundary of two counties.
R. S., c. 132, § 3.
84 Me., 461.
85 Me., 193.

Death within the state, from an injury inflicted without the state.
R. S., c. 132, § 4.
76 Me., 334.

Acquittal of part of an indictment, and conviction of the residue.
R. S., c. 132, § 5.
39 Me., 68, 70.
87 Me., 78.

Trial of an accessory, before or after the fact.
R. S., c. 132, § 6.

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. 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. 3. 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. 4. 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. 5. 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.

Accessory before the fact, punished same as the principal, and may be convicted, with or without him.
R. S., c. 132, § 7.
29 Me., 86.
39 Me., 68.
68 Me., 546.

Who are accessories, after the fact.
R. S., c. 132, § 8.
92 Me., 73.

SEC. 6. 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. 7. 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. 8. 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 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. 132, § 9.
32 Me., 599.
70 Me., 198.
99 Me., 331.
101 Me., 517.

GENERAL PROVISIONS.

SEC. 9. The term "felony," includes every offense punishable by imprisonment in the state prison. (a)

Definition of "felony."
R. S., c. 132, § 10.

SEC. 10. 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. 132, § 11.

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

—proviso.
—process may be amended in form.

SEC. 11. 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. 132, § 12.

SEC. 12. 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 venires 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. 132, § 13.
15 Me., 124, 477.
69 Me., 182.
82 Me., 342.
87 Me., 81.

—nor for unimportant defect in venires.
67 Me., 336.

SEC. 13. 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. 132, § 14.
59 Me., 191.

SEC. 14. 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. 132, § 15.
See c. 119, § 3;
c. 127, § 47;
c. 129, § 32.

(a) 29 Me., 86; 32 Me., 373; 33 Me., 57; 48 Me., 236; 69 Me., 182; 99 Me., 334.

CHAPTER 134.

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. 133, § 1.
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. 133, § 2.
See c. 2, § 40.
104 Me., 354.

—magis-
trates may
require aid.

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 the 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.

Jurisdiction
of larcenies,
when the
value does
not exceed
ten dollars.
R. S., c. 133, § 3.
27 Me., 282.
37 Me., 133.
72 Me., 468.
104 Me., 354.

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 twenty-two, 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.

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

Of complaints as to vicious dogs, c. 4, § 109.

Of assaults upon, and obstruction of officers, c. 124, § 23; in cases relating to protection of children, c. 61, § 50.

Violations of truancy laws, c. 15, §§ 69, 115; of laws relating to public health, c. 18, § 65; of laws as to sale of poisons, c. 19, § 28.

Obstruction of ditch or drain in public way, c. 23, § 77; neglect to maintain guide posts on public highway, § 102.

Violation of law relating to use of wide rimmed wheels, c. 25, § 10; building laws, c. 29, § 35; law for the protection of innkeepers, c. 30, § 19; requiring licenses for public exhibitions, c. 31, § 13.

Violations of law relating to inland fisheries and game, c. 32, §§ 74, 75;

Of prosecutions under pure food law, c. 35, § 38; under law regulating sale of milk and dairy products, c. 36, § 19; under law for protection of nursery stock, c. 37, § 12.

Violations of law regulating intelligence offices, c. 41, § 12; sea and shore fisheries, c. 44, § 71; itinerant vendors, c. 40, § 27; law relating to weights and measures, c. 47, § 26.

Violations of insurance laws, c. 51, § 83; fraternal beneficiary laws, c. 51, § 175.

Of prosecutions for desertion and non-support of families, and for crimes against children, c. 120, § 40.

Violations of law prohibiting prize fights, c. 125, § 6; keeping houses of ill-fame, c. 126, § 12; circulation of criminal news among children, c. 126, § 26; fights between animals, c. 126, § 46; cruelty to animals, c. 126, §§ 57, 66; of law against gambling houses, c. 127, § 1; relating to sale of intoxicating liquors, § 40; relating to sterling and coin silver, c. 128, § 15; fraudulently obtaining advances in lumbering operations, c. 128, § 11; desertion of vessel by seamen, c. 128, § 20; giving false fire alarms, c. 129, § 27; malicious mischiefs, c. 129, § 32; wanton injury to baggage, c. 129, § 34; sale of cigarettes, c. 120, § 40; c. 130, § 23; relating to tramps, c. 130, § 24.

Penalty for swelling scallop meats by artificial means, c. 130, § 14.

To order removal of paupers, c. 28, §§ 38, 40; to commit to house of correction, c. 28, § 42; c. 143, § 6; to state school for boys, c. 144, § 3; to industrial school for girls, c. 144, §§ 20, 24.

Judges of municipal and police courts and trial justices required to make returns of prosecutions under law relating to inland fisheries and game, c. 32, § 81.

CHAP. 134.

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.

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.

SEC. 6. When complaint is made to any such magistrate, charging a 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)

SEC. 7. In any prosecution before a municipal or police court or trial justice for 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.

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.

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. (b)

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

Jurisdiction of breaches of the peace and violations of law.
R. S., c. 133, § 4.
Sec § 7.
26 Me., 73.
39 Me., 478.
47 Me., 465.
73 Me., 281.
84 Me., 272.
104 Me., 354.

They may, on complaint, cause all offenders to be arrested.
R. S., c. 133, § 5.
23 Me., 532.
95 Me., 452.
100 Me., 78.
104 Me., 354.
—proceedings.

Must examine on oath into the circumstances of the alleged offenses.
R. S., c. 133, § 6.
—shall issue warrant on any day.

Rule for prosecutions of violation of municipal ordinance.
R. S., c. 133, § 7.

Jurisdiction of trial justices, in towns where there is a municipal or police court.
R. S., c. 133, § 8.
53 Me., 548.
80 Me., 94.

Warrants must be sealed and signed.
R. S., c. 133, § 9.

When and how, summonses may be issued.
R. S., c. 133, § 10.
39 Me., 61.

—when witnesses shall recognize.

(a) 3 Me., 51; 10 Me., 476; 25 Me., 491; 39 Me., 214; 86 Me., 529; 96 Me., 172; 100 Me., 336; 104 Me., 354.

(b) As to signature of recorder or clerk of a municipal or police court, c. 86, § 7; 34 Me., 222; 36 Me., 368.

CHAP. 134.

No costs are allowed to complainants; except to police officers and constables.
R. S., c. 133, § 11.

Witnesses may be required to attend any court in New England, in a criminal case pending.
R. S., c. 133, § 12.

Warrants for search, in what cases may be issued.
R. S., c. 133, § 13.
79 Me., 104.
95 Me., 199.

Complaint for such a warrant.
R. S., c. 133, § 14.
See Constitution, Art. 1, § 5.

Warrant, its contents, and how directed and served.
R. S., c. 133, § 15.
See Constitution, Art. 1, § 5.
25 Me., 491.
96 Me., 153.

Search of a dwelling-house.
R. S., c. 133, § 16.
95 Me., 199.

Persons aggrieved may appeal within twenty-four hours after sentence.
R. S., c. 133, § 17.
1 Me., 230.
96 Me., 498.
100 Me., 126.
104 Me., 351.

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.

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.

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 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.

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)

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. (b)

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.

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.

SEC. 17. Any person aggrieved at the decision or sentence of such magistrate, may within twenty-four hours after such sentence is imposed, Sunday not included, appeal therefrom to the next supreme judicial or superior court in the same county, and the magistrate shall thereupon order such appellant to recognize in a reasonable sum, not less than twenty dollars with sufficient sureties, to appear and prosecute his appeal and to

(a) See c. 29, § 22; c. 32, § 73; c. 36, § 30; c. 43, § 33; c. 44, § 3; c. 126, §§ 21, 24; c. 127, §§ 11, 12, 29; c. 130, § 5.

(b) 33 Me., 570; 79 Me., 104; 96 Me., 153; 100 Me., 448.

CHAP. 134.

be committed until the order is complied with. When such appeal is not taken before the adjournment of the session of court at which said sentence is imposed, mittimus shall issue and the respondent shall be committed thereon, under such sentence, but if after adjournment and commitment as aforesaid and within said twenty-four hours, application in writing is made to such magistrate to enter such appeal, he shall supersede such commitment by his written order to the jailer or other officer, and the respondent shall be brought before him and such appeal allowed and entered as if claimed before adjournment. The magistrate shall be allowed one dollar and fifty cents for copies of papers for the appellate court to be paid out of the county treasury.

SEC. 18. The magistrate shall send to the appellate court a copy of the whole process, and of all writings before the magistrate. 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 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.

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

Copies sent to appellate court; failure to prosecute appeal.
R. S., c. 133, § 18.
107 Me., 18.
109 Me., 283.

Appellant may withdraw appeal and abide by sentence.
R. S., c. 133, § 19.
109 Me., 283.

—fees of officer.

Respondent may appeal without trial.
R. S., c. 133, § 20.

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.

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-eight.

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

Fees for one warrant only.
R. S., c. 133, § 21.
—if no bill is found, or in case of acquittal, no fees for magistrate.
—exception.

Costs paid; how to be disposed of.
R. S., c. 133, § 22.

Costs, not paid, may be allowed by the county commissioners.
R. S., c. 133, § 23.
87 Me., 297.

CHAP. 135.

Costs in appealed cases.
R. S., c. 133, § 24.
87 Me., 297.

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.

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.

CHAPTER 135.

COMMENCEMENT OF PROCEEDINGS IN CRIMINAL CASES.

Criminal prosecutions must be by indictment.
R. S., c. 134, § 1.
—excepted cases.

Justices of courts, and magistrates, may issue processes.
R. S., c. 134, § 2.
39 Me., 213, 482.

How officer may make oath.
R. S., c. 134, § 3.

Arrests without warrant.
R. S., c. 134, § 4.

—liability.

Arrests in other counties.
R. S., c. 134, § 5.
17 Me., 195.

How he may be discharged upon recognizance, in the county where he was arrested.
R. S., c. 134, § 6.

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.

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-four, in vacation or term time, may issue processes for the arrest of persons charged with offenses.

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.

SEC. 4. Every sheriff, deputy sheriff, constable, city or deputy marshal 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. (a)

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.

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.

(a) 10 Me., 476; 36 Me., 320; 42 Me., 388; 68 Me., 149; 79 Me., 548; 92 Me., 410; 97 Me., 81.

CHAP. 135.

TRANSFER OF PERSONS, CHARGED WITH CRIME IN TWO COUNTIES.

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.

Of the transfer of persons when charged with crimes in two counties.
R. S., c. 134, § 7.

SEC. 8. The officer holding the person described in such order, shall deliver him to the officer presenting it, 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. 134, § 8.

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. 134, § 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; if the accused fails to appear at the time of adjournment, the magistrate may issue a *capias* to bring said accused before him; 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. 134, § 10.
1909, c. 139.

—If accused fails to appear.
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. 134, § 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. 134, § 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

When accused shall be discharged.
R. S., c. 134, § 13.

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

CHAP. 135.

—complainant
may appeal.

—proceed-
ings, if there
is probable
cause to
charge the
accused.

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)

PROCEEDINGS ON COMMITMENT OR BINDING OVER.

Sureties for
respondent
in criminal
prosecution
shall make
statement
of property.
R. S., c. 134, § 14.

SEC. 14. Any person offering to recognize before any trial justice, judge of a police or municipal court, or bail commissioner, as surety for the appearance before the supreme judicial court or a superior court of any respondent in a criminal prosecution, whether such respondent be an appellant from the finding of a trial justice or judge of a police or municipal court, or be ordered to recognize to await the action of the grand jury, or be arrested in vacation on *capias* issued on an indictment pending in such supreme judicial or superior court, may be required to file with said trial justice, judge or bail commissioner, a written statement signed and sworn to by said surety, describing all real estate owned by him within the state with sufficient accuracy to identify it, and giving in detail all encumbrances thereon and the value thereof, such valuation to be based on the judgment of said surety. Said certificate shall remain on file with the original papers in said case and a certified copy thereof shall be transmitted by the magistrate taking such bail to the clerk of the court before which said respondent so recognizes for his appearance.

Responsibility
of bail.
R. S., c. 134, § 15.

SEC. 15. All bail shall be responsible for the appearance of their principal at all times during the term of court at which they agree to have him, until verdict or certification of the case to the law court on demurrer or exceptions, unless said bail shall have sooner surrendered him into the custody of the sheriff or jailer of the county in which the case is pending.

Magistrate
shall recog-
nize material
witnesses, or
commit them.
R. S., c. 134, § 16.

SEC. 16. 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 minors
may recognize.
R. S., c. 134, § 17.

SEC. 17. Any person may so recognize for a minor to appear as a witness, or the magistrate may take the recognizance of 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. 134, § 18.
85 Me., 544.
95 Me., 453.

SEC. 18. 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.

Examina-
tions and
recognizances
to be re-
turned, etc.
R. S., c. 134, § 19.
61 Me., 175.
75 Me., 111.

SEC. 19. 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.

(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; 100 Me., 78.

DISMISSAL OF PROSECUTIONS.

SEC. 20. 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 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.

Dismissal of prosecutions on satisfaction for private injury.
R. S., c. 134, § 20.
92 Me., 411.

SEC. 21. 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.

Discharges shall be filed with clerk or jailer.
R. S., c. 134, § 21.
92 Me., 411.

REMEDIES ON RECOGNIZANCES. DISCHARGE OF BAIL.

SEC. 22. 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.

Forfeited recognizances shall be defaulted.
R. S., c. 134, § 22.
33 Me., 200, 539.
41 Me., 346.
79 Me., 176.

SEC. 23. 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.

Bail, how exonerated by surrender before default upon recognizance.
R. S., c. 134, § 23.

SEC. 24. 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 costs of suit, *provided*, that the court is satisfied as aforesaid.

When court may remit penalty, etc.
R. S., c. 134, § 24.
41 Me., 536.
50 Me., 56.

—or sureties may surrender principal in court.

SEC. 25. The preceding section is not applicable to recognizances taken under any of the last thirty-six sections of chapter one hundred and twenty-seven.

Liquor cases excepted.
R. S., c. 134, § 25.
See c. 127
§§ 43, 48.

SEC. 26. 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.

Suit on any recognizance may be dismissed.
R. S., c. 134, § 26.
See c. 127, § 43.

SEC. 27. 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

Unessential forms in recognizances, etc.
R. S., c. 134, § 27.

CHAP. 136.

Personal
recognizance
and cash bail.
1907, c. 36.

Respondent
may surren-
der before
default.
1907, c. 36.

Court may
order deposit
forfeited.
1907, c. 36.

Surrender
of respondent
after default.
1907, c. 36.

offense charged, that the magistrate was authorized to require and take the same. (a)

SEC. 28. When a person arrested on a criminal process has been ordered to recognize with sureties for his appearance before any court, he may, instead of giving sureties, at any time give his personal recognizance and deposit in money the amount of the bail which he is ordered to furnish, with the clerk of such court; in case there is no clerk, with the justice of such court, and such justice or clerk shall give him a certificate thereof, and upon delivering such certificate to the officer having him in custody, he shall be discharged from such custody.

SEC. 29. If money has been deposited as aforesaid, the respondent at any time before default, may surrender himself in the same manner that sureties in criminal cases may surrender their principal, and thereupon the money so deposited shall be returned to the respondent or his order.

SEC. 30. In case of the default of the respondent, said court may at any time thereafter order the money deposited as aforesaid to be forfeited, and the said justice or clerk with whom said deposit is made shall thereupon immediately pay over the said money to the county treasurer.

SEC. 31. At any time after a default, and before the money has been declared forfeited in accordance with the preceding section, the respondent may surrender himself in the manner provided in section twenty-nine, and after deducting any amount which the state has disbursed for the apprehension of the said respondent, the court may order the whole or any part of the remainder of the said money to be returned to the defendant as justice may require.

CHAPTER 136.

PROCEEDINGS IN COURT IN CRIMINAL CASES.

OATH AND DUTIES OF GRAND JURORS.

Clerk shall
prepare list of
grand jurors.
R. S., c. 135, § 1.
See c. 109.

Grand jurors'
oath.
R. S., c. 135, § 2.
64 Me., 284.

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. (b)

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."

(a) 59 Me., 413; 60 Me., 107; 71 Me., 204; 73 Me., 555; 81 Me., 410; 100 Me., 77; 105 Me., 488.

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

CHAP. 136.

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."

Form of affirmation for grand juror.
R. S., c. 135, § 3.

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.

Election of foreman.
R. S., c. 135, § 4.

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.

Term of foreman's office.
R. S., c. 135, § 5

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.

Oaths of witnesses before grand jury.
R. S., c. 135, § 6.
67 Me., 129.
76 Me., 317.

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.

Grand jury shall present all offenses.
R. S. c. 135, § 7.
4 Me., 444.

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.

—sufficient indictment for murder or manslaughter.
32 Me., 373.
54 Me., 413.
65 Me., 266.

SEC. 9. When an indictment has been returned into court, any justice of the supreme judicial court or superior court may order the material witnesses against the respondent or respondents named in the indictment to recognize with sufficient sureties to appear and testify at the trial of said indictment in said court; and if said witnesses refuse or fail to recognize they may be committed to prison and remain until discharged by law, and such justice may issue capias to bring such witness before the court to give his recognizance, or upon failure or refusal so to recognize to be committed as aforesaid.

Disclosures improper to be made by grand jurors.
R. S., c. 135, § 8.

Recognizance of witnesses.
1909, c. 188.

BAIL. ARRAIGNMENT AND TRIAL OF PRISONERS.

SEC. 10. Any person in prison charged with a crime punishable by imprisonment 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 persons in prison, may be bailed or discharged, if not indicted.
R. S., c. 135, § 9.

SEC. 11. 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.

When person indicted may claim trial.
R. S., c. 135 § 10.

CHAP. 136.

Standing
mute.
R. S., c. 135, § 11.

Jury for trials
of offenses
punishable by
imprisonment
for life,
how to be
impaneled.
R. S., c. 135, § 12.
1907, c. 146.
67 Me., 337.
74 Me., 507.

—challenges.

—rules by the
S. J. Court.

Trial of cases
of murder and
treason.
R. S., c. 135, § 13.

Persons
indicted for
felony
furnished
with copy of
indictment.
R. S., c. 135, § 14.
—witnesses
summoned
at state's
expense.
—counsel to
be assigned in
certain cases.
—compen-
sation.
76 Me. 207.

Prosecuting
officer may
summon wit-
nesses, etc.
R. S., c. 135, § 15.

—no tender of
fees to state
witnesses.

Punishment
of state wit-
ness for not
attending.
R. S., c. 135, § 16.
See c. 85, § 113.

Witnesses are
not entitled
to fees until
the second or
third day in
continued
cases, etc.
R. S., c. 135, § 17.

SEC. 12. 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. 13. When a person indicted for an offense punishable by imprisonment 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 determined, 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 ten 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.

SEC. 14. One justice of the supreme judicial court may hold a term thereof in any county, except in the *county of Cumberland*, (counties of Cumberland and Kennebec,) for the trial of persons indicted for treason or murder and exceptions may be taken as in other cases, to their rulings and decisions.

SEC. 15. 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 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 punishable by imprisonment 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.

SEC. 16. 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.

SEC. 17. 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.

SEC. 18. 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.

CHAP. 136.

SEC. 19. 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)

SEC. 20. 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 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. (b)

SEC. 21. 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. (c)

SEC. 22. The following oath shall be administered to jurors in cases punishable by imprisonment 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. 23. 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. 24. The court may order a view by any jury in a criminal case.

SEC. 25. The trial of any criminal case, except 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.

Prisoner need not be asked how he will be tried.
R. S., c. 135 § 18.
Sec. c. 80, § 4.
Depositions may be taken out of the state.
R. S., c. 135, § 19.

—depositions may be taken in the state.

—respondent may testify.

—not compelled to incriminate himself of other crime.
—failure to testify.

—husband or wife may testify.

Facts tried, challenges allowed, as in civil cases.
R. S., c. 135, § 20.

Juror's oath.
R. S., c. 135, § 21.

—juror may affirm.

Respondent must be present at trial for felony.
R. S., c. 135, § 22.
67 Me., 424.

View.
R. S., c. 135 § 23.
When court may postpone or continue.
R. S., c. 135, § 24.
85 Me., 171.

(a) 15 Me., 107; 23 Me., 114; 36 Me., 132; 37 Me., 333; 38 Me., 300; 39 Me., 361.

(b) 59 Me., 300; 63 Me., 211; 65 Me., 240; 72 Me., 534; 74 Me., 508; 76 Me., 410; 78 Me., 492; 85 Me., 96.

(c) 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.

CHAP. 136.

PAYMENT OF PRIVATE CLAIMS FROM FORFEITED RECOGNIZANCES.

Private claims may be paid out of forfeited recognizances.
R. S., c. 135, § 25.

SEC. 26. 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.

PROCEEDINGS AFTER VERDICT.

Sentence shall be imposed upon conviction.
R. S., c. 135, § 26.
1905, c. 106.

SEC. 27. Sentence shall be imposed upon conviction, either by verdict or upon demurrer, of a crime which is not punishable by imprisonment for life, although exceptions are alleged. 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, the court, on request of the defendant upon whom sentence is imposed may allow stay of execution of sentence, in which case commitment shall be to await final decision; otherwise, such commitment shall be in execution of sentence. When a verdict of guilty is rendered against any person for an offense punishable by imprisonment in the state prison, or any person is committed pending decision on report or exceptions, as herein provided, and remains imprisoned after the adjournment of court, 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. If a person shall be so admitted to bail after commitment in execution of sentence, as above provided, such admission to bail shall vacate the effect of the original commitment, and the full term of imprisonment shall commence from the date of commitment after final decision.

—form of recognizance.
41 Me., 167.
42 Me., 385.
59 Me., 305.
70 Me., 334.
80 Me., 82.
89 Me., 209.
98 Me., 288.
105 Me., 209.

—stay of execution of sentence may be had.

—bail after commitment.
See c. 102, § 35.

Appeal when punishment is imprisonment for life.
R. S., c. 135, § 27.
1909, c. 184.
1913, c. 18.

—in certain other criminal cases.

Copy of proceedings in murder cases shall be filed with clerk.
R. S., c. 135, § 28.

SEC. 28. If a motion for new trial in any case, in which a person has been convicted of any offense for which the punishment 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; and the concurrence of a majority of the justices shall be necessary to grant such motion. And in all other criminal cases amounting to a felony, where like motion is filed and appeal taken to the law court the concurrence of a majority of the justices shall be necessary to grant such motion, and sentence shall be imposed upon conviction, either by verdict or demurrer.

(a)

SEC. 29. 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, oth-

(a) 76 Me., 324; 82 Me., 285; 107 Me., 536; 109 Me., 201.

erwise 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. 30. 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.

In case of error in the sentence, proceedings.
R. S., c. 135, § 29.

CHAPTER 137.

SENTENCE, AND ITS EXECUTION IN CRIMINAL CASES, AND THE LIBERATION OF POOR CONVICTS.

WHAT SENTENCE MAY BE AWARDED.

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 twenty-two, twenty-three, twenty-four, twenty-nine and thirty-four of chapter one hundred and twenty-seven, he shall be sentenced to pay such costs.

No person shall be punished until convicted.
R. S., c. 136, § 1.
101 Me., 518.
110 Me., 98.

—sentence to imprisonment and fine, or to both.
See c. 127, § 48.

—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 any term of years.

Punishment when convict has before been sentenced to any state prison.
R. S., c. 136, § 2.

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.

State prison sentence, term of.
R. S., c. 136, § 3.
See c. 143, § 6.
69 Me., 182.
84 Me., 33.
99 Me., 334.

—imprisonment for misdemeanor
Work-jail sentences.
R. S., c. 136, § 4.
See c. 81, § 13.

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 alternative sentence is in the state prison, the sheriff of the county where such convict is imprisoned, shall forthwith, upon

Alternative sentences to work-jails, how to be inflicted.
R. S., c. 136, § 5.
See c. 81, § 13.
110 Me., 100.

—powers of inspectors, in case of incorrigible or dangerous convicts.

CHAP. 137.

Courts may sentence to any work-jail, nearest to the county where offense was committed.
R. S., c. 136, § 6.

—prison sentences include labor.

—service of precepts.

Commitment shall be in county where convicted.
R. S., c. 136, § 7.
—proviso.

Expenses of prisoners from other counties, how to be paid.
R. S., c. 136, § 8.

In all cases of misdemeanors, sureties to keep the peace may be required.
R. S., c. 136, § 9.
110 Me., 99.

Probation officers, appointment of.
1909, c. 263, § 1.

—tenure, and compensation.

—authority.

—county may have more than one officer.

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 situate, or in any county where there is no work-jail, may, subject to the provisions of the following section, 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. Any person sentenced by any trial justice or judge of any municipal or police court to a term of imprisonment in a jail, not exceeding four months, shall be committed to the jail in the county in which such person is convicted, *provided* such county has a suitable jail, otherwise such commitment may be to any jail in the state.

SEC. 8. 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.

SEC. 9. 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.

PROBATION OFFICERS AND THEIR DUTIES.

SEC. 10. The governor, by and with the consent of the council, shall, on recommendation of the county commissioners of any county, appoint therein one probation officer, who shall be a male citizen of the county in which he is appointed and of good moral character; he shall hold office during the pleasure of such governor and council, and shall receive as his compensation such sum as the county commissioners of his county shall fix, which shall be paid from the county treasury in equal monthly installments. The county commissioners of such county shall at their next session after such appointment by the governor, determine and fix the amount of such compensation, which shall not be diminished during the term of office of a probation officer, but may be increased if it seems just to the county commissioners so to do. In addition to such compensation, each probation officer shall receive monthly such sums as he has reasonably and properly paid for his expenses incurred in the performance of his duty; each probation officer shall on or before the last day of each month submit under oath to the county commissioners in his county an itemized statement of such expenditures. Each probation officer shall have the authority to perform the duties prescribed in sections ten to fifteen, of this chapter, both inclusive, and for the purpose of performing such duties is hereby invested with all the authority necessary therefor. If in any county it seems to the governor and council necessary to have more than one probation officer, the governor, by and with

the consent of the council, may appoint one or more associates, who shall have all the authority under the direction of the probation officer which such probation officer has, and who shall receive for compensation and expenses such sum as the county commissioners in his county shall deem just and proper. Such probation officers in each county shall attend the supreme judicial court or superior court during the times when persons convicted of crime are sentenced, and shall give to the court upon request such information with reference to any individual accused or convicted of crime as shall be in his possession. Such probation officer shall attend the sessions of other courts within his county having criminal jurisdiction as often and as continuously as the performance of his duties shall permit, and shall give to such other courts information of the kind above mentioned.

—shall attend supreme and superior court.

—shall attend other courts.

SEC. 11. When any person by plea of guilty, or upon trial, is convicted of any offense other than a *capital offense* (an offense punishable by imprisonment for life) before any court having criminal jurisdiction, such court may in its discretion continue the matter for sentence, suspend sentence, or suspend the execution of any sentence, to be done under the provisions of sections ten to fifteen, of this chapter, both inclusive; but nothing herein contained shall be held to take away the right of appeal from any respondent, or any right to have his case reviewed or re-tried under the provisions of law as they now exist. The court at or before the time for sentence shall inquire into the circumstances of the respondent and of his offense, and if the matter is continued for sentence, the respondent shall be placed in the custody and under the control of the probation officer in the county where such respondent has been convicted. Such sentence may be continued by the court indefinitely, or to a definite time, and in every instance the court may order the respondent to report to the probation officer at such times and places as the court shall designate, and shall cause a writing signed by the clerk or by the court, to be given to the respondent, showing such continuance for sentence, the time during which the same is continued, and the times and places when the respondent is to report to such probation officer.

Court may continue for sentence, suspend sentence, or suspend the execution of any sentence. 1909, c. 263, § 2.

—respondent placed in custody of probation officer.

—respondent to report to probation officer.

If the offense of which the respondent is convicted is within the jurisdiction of the court trying the same, the court may in its discretion impose a fine, or an alternative sentence of imprisonment, and release respondent into the custody of the probation officer, with an opportunity to pay such fine and costs to the probation officer within a definite time. When such respondent pays such fine and costs, or any part thereof, to the probation officer, such officer shall give the respondent a receipt therefor.

Court may impose sentence and release respondent to custody of probation officer, with opportunity to pay fine.

The court may in its discretion, if the offense is within the jurisdiction of the court trying the cause, suspend sentence for a definite period of time, or for an indefinite time not exceeding one year, and such respondent may be committed to the custody and control of the probation officer. In all cases where the respondent is committed to the custody or control of the probation officer, the court shall give to each respondent a writing showing the terms of his probation and the times and places when and where such respondent is to report to such probation officer. And if at any time any such respondent violates the terms of his probation, the probation officer shall forthwith report the same to the court which finally tried the cause, and the court may thereupon decree said probation ended, and either impose the sentence, if the cause has been continued for sentence, or in all other cases order the respondent to forthwith comply with the original sentence; and in all cases where sentence has not been imposed, the court may impose sentence.

Court may suspend sentence and commit respondent to custody of probation officer.

—court shall give respondent writing showing terms of his probation.

SEC. 12. Whenever a child under the age of sixteen years is arrested and charged with an offense other than a felony, or a crime which if committed by an adult would be a felony, the officer making such arrest

Personal recognition of parent of child under 16 years. 1909, c. 263, § 3.

CHAP. 137.

may accept in lieu of bail, and without committing such child to any jail or police station, the personal recognizance in writing, without security, of the parent, guardian or other lawful custodian of such child to produce such child before the proper court or magistrate on the following day at a time and place to be specified in said recognizance; and thereupon such officer shall place such child in the care and custody of the person executing such recognizance, who on failure to so produce such child, pursuant to the terms of such recognizance, shall be liable to punishment by the court or magistrate as for criminal contempt. And similar recognizance may be taken by the court or magistrate for the subsequent production of such child at a time and place to be specified therein pending the final termination of the proceedings, and non-compliance therewith shall subject the person giving the same to the same punishment.

Child convicted of offense may be placed in custody of probation officer.

When any such child has been convicted of any offense other than (an offense punishable by imprisonment for life) a *capital offense*, the court or magistrate having jurisdiction, instead of committing such child to confinement in any institution, or the ordering of payment of fine and costs, may place such child in the custody of the probation officer under suspension of such sentence, or a continuance of the same for a period not exceeding one year. At any time within such year, if it appears to the court that justice requires it, said court or magistrate may cause such child to be brought into court and either impose sentence, if the case has been continued for sentence, or order such child to enter upon the execution of his sentence, if the execution of the same has been suspended.

Notice of arrest to parent, guardian or legal custodian of child
—notice to probation officer.

Whenever any child under the age of sixteen years has been arrested for any offense and is confined in any jail or police station, the officer making such arrest shall forthwith notify the parent, guardian or legal custodian of such child of the fact of such arrest, and of the time and place where his trial is to be held. Such officer shall also notify a probation officer in his county of the fact of such arrest, and of the time and place of such trial. And any court having jurisdiction of the offense may upon application of such probation officer, by an order in writing, cause such child to be forthwith placed in the custody of such probation officer pending the trial and final determination of said cause.

Continuance without trial; child in custody of probation officer.

When any child under the age of sixteen years is brought before any court or magistrate for trial charged with any offense other than a *capital offense*, (an offense punishable by imprisonment for life) the court may in its discretion continue such cause without trial from time to time, not exceeding thirty days at any one time, and release such child into the custody and control of the probation officer, who shall have authority to permit such child to remain in the home of such child if the same seems to him proper, or he may retain such child in his own custody, if the same can be done without expense to the county or the state. If at any time it seems to the court just and proper to discharge any such respondent without trial, the same may be done, and no child so discharged, nor any other person, shall have any right of action against any officer or other person on account of any of the proceedings in such case.

—may discharge respondent without trial.

Court may appoint officer pro tempore.

In case of the absence of the probation officer at the time and place when any such child is so arrested or to be tried, the court having jurisdiction may appoint some discreet male citizen of the county a probation officer pro tempore for the purpose of that particular case, who shall perform his duties without compensation or expense, and such probation officer shall have all the authority to perform all of the duties of the probation officer under sections ten to fifteen, both inclusive of this chapter; but the authority of such probation officer shall cease when he shall have performed the duties with reference to that particular cause.

CHAP. 137.

Whenever any such child has been committed to the custody and control of any probation officer, the court or magistrate shall cause to be entered upon the records of such court the fact of such commitment and the terms thereof, and the court shall have authority to order such probationer to report to the probation officer at such times and places as the court in its order shall direct. If at any time it appears to the court that such probationer has violated the terms of his probation, or that justice requires it, the court may order such child brought before it and may summarily deal with such child as the law provides.

Record of commitment to custody of probation officer.

Any probation officer having committed to his custody any child or other person, shall have the same authority with reference to the person of such child or other person as he would have were he surety upon the recognizance of such child or other person.

Authority of probation officer.

SEC. 13. If any person commits an offense against another for which *that other* (the latter) would have a civil action for damages, (and such damages do) *which damages in amount would* not exceed the sum of twenty dollars, the court trying such offender may in its discretion, if such offender is found guilty, continue the matter for sentence and commit the respondent to the custody of the probation officer for a definite period, within which time such offender may make restitution to the person offended against. And if within such period such offender has made such restitution, the court at the expiration of such period may make such legal disposition of the case as seems proper to the court.

Continuance for sentence for purpose of restitution. 1909, c. 263, § 4.

SEC. 14. All probation officers shall investigate as fully as may be and order the attendance at some school of all children between the ages of five and sixteen, and for this purpose such probation officer shall have all authority of truant officers.

Investigation of school attendance. 1909, c. 263, § 6. See c. 16, §§ 61-69.

SEC. 15. The county of Cumberland is expressly excepted from the provisions of the five preceding sections; nor shall the provisions of chapter three hundred and forty-six of the special laws for the year nineteen hundred and five and of chapter three hundred and thirty-six of the special laws for the year nineteen hundred and seven be in any way thereby affected.

County of Cumberland excepted. 1909, c. 263, § 6.

Note. Probation officer for Cumberland county, P. & S. L. 1905, c. 346; for city of Westbrook, P. & S. L. 1907, c. 336.

INDETERMINATE SENTENCES.

SEC. 16. When any person shall be convicted of crime the punishment for which prescribed by law, may be imprisonment in the state prison at *Thomaston*, or the state school for boys at *South Portland*, the court imposing sentence, shall not fix a definite term of imprisonment in said state prison, and may not fix a definite term in said state school for boys, but shall or may fix a minimum term of imprisonment which shall not be less than six months in any case. The maximum penalty provided by law shall be the maximum sentence in all cases except as herein provided, and shall be stated by the judge in passing sentence. The judge shall at the time of pronouncing such sentence recommend and state therein what, in his judgment, would be a proper maximum penalty in the case at bar not exceeding the maximum penalty provided by law. He shall before or at the time of passing such sentence ascertain by examination of such prisoner on oath, or otherwise, and in addition to such oath, by such other evidence as can be obtained, any facts tending to indicate briefly the causes of the criminal character or conduct of such prisoner, which facts, and such other facts as shall appear to be pertinent in the case, he shall cause to be entered upon the minutes of the court. Every person confined in the state prison on the fourteenth day of March, nineteen hundred and thirteen, under sentence for a definite term for a felony, unless the term be

Sentences to state prison and to state school for boys. 1913, c. 60, § 1.

—maximum penalty shall be maximum sentence.

CHAP. 137.

—persons now in state prison, with certain exceptions, subject to parole.

—minimum and maximum terms of sentence fixed.

Maximum and minimum terms.
1913, c. 60, § 2.

—proviso.

Persons subject to imprisonment for life excepted.
1913, c. 60, § 3.

—proviso.

Record shall be forwarded to warden or superintendent and to the governor.
1913, c. 60, § 4.

—expenses of records forwarded, how paid.

Governor shall appoint an advisory board in matter of paroles.
1913, c. 60, § 5.
—clerk.

Authority to grant parole conferred on the governor

for life, who has never before been convicted of a crime punishable by imprisonment in a state prison, shall be subject to the jurisdiction of the governor and advisory board in the matter of paroles and may be paroled in the same manner and subject to the same conditions and penalties as prisoners confined under indeterminate sentences under the provisions of sections sixteen to thirty-four, both inclusive, of this chapter. The minimum and maximum terms of the sentences of said prisoners are hereby fixed and determined to be as follows: The definite term for which each person is sentenced shall be the maximum limit of his term and if the definite term for which the person is sentenced is two years or less the minimum limit of his term shall be one year. If the definite term for which the person is sentenced is more than two years, one-half of the definite term of his sentence shall be the minimum limit of his term.

SEC. 17. The maximum term of imprisonment shall not exceed the longest term fixed by law for the punishment of the offense of which the person sentenced is convicted, and the minimum term of imprisonment fixed by the court shall not exceed one-half of the maximum term of imprisonment fixed by statute. *Provided*, that where the law prescribing the punishment for the offense of which the prisoner stands convicted, fixes the minimum term of imprisonment, then the minimum term fixed by law shall be the minimum term of imprisonment.

SEC. 18. The provisions of sections sixteen to thirty-four, both inclusive, of this chapter, shall not apply to any person convicted of an offense the only punishment for which prescribed by law is imprisonment for life. *Provided*, that in all cases where the maximum sentence, in the discretion of the court, may be for life or any number of years, the court imposing sentence shall fix both the minimum and maximum sentence. The minimum term of imprisonment thus fixed by the court shall not exceed one-half of the maximum term so fixed.

SEC. 19. Whenever a person shall be convicted of a crime and sentenced to imprisonment pursuant to the provisions of sections sixteen to thirty-four, both inclusive, of this chapter, the clerk of the court shall make and forward to the warden or superintendent of the institution to which the convict is sentenced, and also to the governor, a record containing a copy of the information or complaint, the sentence pronounced by the court, the name and residence of the judge presiding at the trial, prosecuting attorney and sheriff, and the names and postoffice addresses of the jurors and the witnesses sworn on the trial, together with a statement of any fact or facts which the presiding judge may deem important or necessary for a full comprehension of the case, and a reference to the statute under which the sentence was imposed. One copy of the said record shall be delivered to the warden or superintendent at the time the prisoner is received into the institution and one copy shall be forwarded to the governor within ten days thereafter. In each case in which he shall perform the duties required by this section, the clerk of the court shall be entitled to such compensation as shall be certified to be just by the presiding judge at the trial, not to exceed three dollars for any one case, which shall be paid by the county in which the trial is had as a part of the expenses of such trial.

SEC. 20. The governor shall appoint a committee of three from the executive council to act as an advisory board in the matter of paroles. They may hire a clerk, who shall be sworn to keep a true copy of the records (of the proceedings) of said board and to the faithful and impartial performance of his duties. The governor and executive council may fix the compensation of said clerk.

SEC. 21. Authority to grant parole under the provisions of sections sixteen to thirty-four, both inclusive, of this chapter, is hereby conferred exclusively upon the governor, in all cases of manslaughter, *actual*

CHAP. 137.

forcible rape, for offenses by public officers in violation of their duties as such officers, and of persons convicted and serving sentence for conspiracy to defraud public municipalities, or for bribing, or attempting to bribe public officers. In all other cases such authority is hereby conferred upon the advisory board in the matter of paroles. The governor and the advisory board acting jointly, may adopt such rules as they may deem wise or necessary to properly carry out the provisions of sections sixteen to thirty-four, both inclusive, of this chapter, and may amend such rules at pleasure. Provided, that prisoners, under the provisions of said sections, shall be eligible to parole only after the expiration of their minimum term of imprisonment, and prisoners who have been twice previously convicted of a felony shall not be eligible to parole.

SEC. 22. Application shall be made to the governor, or to the advisory board, upon uniform blanks prescribed by the governor and the advisory board to the wardens or superintendents of the penal institutions named in section sixteen. The warden or superintendent when requested by a prisoner whose minimum term of imprisonment has expired and who is eligible to parole, shall furnish such prisoner with a blank application for parole. The application shall be filled out and delivered to the warden or superintendent who shall immediately forward the same to the governor or to the advisory board with his recommendation indorsed thereon. Upon receipt of such application and recommendation, the governor or the advisory board *in the matter of paroles*, shall make such investigation in the matter as they may deem advisable and necessary, and may, in their discretion, grant such application and issue a parole or permit to such applicant to go at large without the enclosures of the prison.

The prisoner so paroled, while at large by virtue of such parole, shall be deemed to be still serving the sentence imposed upon him, and shall be entitled to good time the same as if confined in prison. *Provided*, that whenever the prisoner so paroled shall have been committed to or confined in any such prison or reformatory from a county other than the county in which the prison or reformatory in which he has been last confined is situated, it shall be made a condition of his parole that he shall not live or remain in the county in which the prison or reformatory in which he was last confined is situated, without the express consent of the officers or board granting such parole, which consent may be granted or revoked by such officer or board, for cause shown at any time before such convict is finally discharged.

SEC. 23. No prisoner shall be released on parole until the governor or advisory board *in the matter of paroles* shall have satisfactory evidence that arrangements have been made for such honorable and useful employment of the prisoner as he is capable of performing, and some responsible person (not a relative) shall agree to act as his "first friend and adviser," who shall execute an agreement to employ the prisoner, or use his best efforts to secure suitable employment for him. Said "first friend and adviser" may, in the discretion of the governor or the advisory board *in the matter of paroles*, be required to furnish a bond, or other satisfactory security, to the governor for the faithful performance of his obligation as such "first friend and adviser." All money collected upon such bond or security shall be turned over to the treasurer of state and credited by him to the general fund of the state.

SEC. 24. Every such prisoner, while on parole, shall remain in the legal custody and under the control of the warden or superintendent of the prison from which he is paroled and shall be subject at any time to be taken back within the enclosure of said prison for any reason that may be satisfactory to the warden or superintendent, and full power to retake and return any such paroled prisoner to the prison from which he was allowed to go at large is hereby expressly conferred upon the warden or superintendent of such prison, whose written order shall be a sufficient

in certain cases. 1913, c. 60, § 6.

—in other cases authority rests with board.

—governor and advisory board may adopt rules.

—prisoners must serve minimum sentence.

Application for parole. 1913, c. 60, § 7.

—the governor and advisory board may issue parole.

Prisoner on parole deemed to be serving his sentence. —proviso.

Arrangements for employment of prisoner. 1913, c. 60, § 8.

—"first friend and adviser."

Prisoners on parole shall be in legal custody of warden or other officer. 1913, c. 60, § 9.

—may be returned to prison.

CHAP. 137.

—return shall be reported to advisory board.

A prisoner violating his parole shall be considered as an escaped prisoner.
1913, c. 60, § 10.

Crime by paroled prisoner while at large.
1913, c. 60, § 11.

Duration of parole.
1913, c. 60, § 12.

—when prisoner may receive final discharge.

Monthly report of paroled prisoner.
1913, c. 60, § 13.

—duty of officer receiving report.

—report of advisory board.

Record shall be kept at institution where prisoner was confined.
1913, c. 60, § 14.

Secretary of board to

warrant authorizing all officers named therein to return such paroled prisoner to actual custody in the prison from which he was permitted to go at large. When the warden or superintendent shall return to prison any paroled prisoner, he shall at once report the fact, and his reasons therefor, to the advisory board *in the matter of paroles* and his action shall stand approved unless reversed by a majority vote of said board, but no prisoner shall be returned twice for the same offense.

SEC. 25. A prisoner violating the provisions of his parole and for whose return a warrant has been issued by the warden or superintendent shall, after the issuance of such warrant be treated as an escaped prisoner owing service to the state, and shall be liable, when arrested, to serve out the unexpired portion of his maximum imprisonment, and the time from the date of his declared delinquency to the date of his arrest shall not be counted as any part or portion of the time to be served.

SEC. 26. Any prisoner committing a crime while at large upon parole or conditional release and being convicted and sentenced therefor shall serve the second sentence to commence from the date of the termination of the first sentence *after the* (whether such) sentence is served or annulled.

SEC. 27. At the time of granting parole to any prisoner either by the governor or the advisory board *in the matter of paroles*, they shall each respectively determine the length of time the prisoner shall remain on parole, which shall not be more than four years in any case. After any prisoner has faithfully performed all the obligations of his parole for the period of time fixed, and has regularly made his monthly reports as required by the rules providing for his parole, he shall be deemed to have fully served his entire sentence, and shall then receive a certificate of final discharge from the warden or superintendent in whose custody he is. A *duplicate* copy of such final discharge shall at once be sent to the secretary of the advisory board *in the matter of paroles*, who shall file the same in the office of the governor.

SEC. 28. On the last day of each month, each paroled prisoner shall make a written report to the warden of the prison, or superintendent of the institution from which he was released, showing his conduct during the current month, his employment, earnings and expenditures, his probable postoffice address and place of employment for the coming month, and the warden or superintendent in charge of each institution of this state named in section sixteen shall, not later than the fifteenth day of each month, tabulate and report to the advisory board *in the matter of paroles*, in writing, the information thus received, and he shall immediately communicate to the advisory board *in the matter of paroles* all violations and infractions of the rules governing such paroled prisoners. In their annual report to the governor, the advisory board *in the matter of paroles* shall include a summary of the paroles and releases under sections sixteen to thirty-four, both inclusive, of this chapter, the names of all prisoners who have violated their paroles, the nature of such violations, together with such information concerning the operations under the law as may be deemed to be of public interest.

SEC. 29. There shall be kept in the prison or institution named in section sixteen, by the warden or superintendent thereof, a book containing a full and accurate record of each and every transaction had under the provisions of this chapter relating to paroles. A summary of such record shall be filed with the advisory board *in the matter of paroles*, to be by said board compiled and included in its annual report, which report shall be submitted in writing to the governor on or before the first day of December annually and shall be accompanied by such recommendations as the board may see fit to make.

SEC. 30. The clerk of the advisory board in the matter of paroles is hereby authorized to provide all blanks required for the proper execution

CHAP. 137.

of the provisions of this chapter relating to paroles, after the forms for such blanks have been approved by the governor and the advisory board *in the matter of paroles*.

furnish
blanks.
1913, c. 60, § 15.

SEC. 31. Whenever any prisoner is released upon parole he shall receive from the state, clothing not exceeding ten dollars in cost, and a non-transferable ticket, at his own expense, to the county where his "first friend" resides. The warden may, in his discretion, at the risk of the state, advance to any paroled prisoner the cost of a ticket as above provided and expenses not to exceed two dollars, and failure on the part of the paroled prisoner to return the money so advanced within sixty days may be declared a violation of parole warranting the return of the violator to prison.

State to
furnish
clothing,
to paroled
prisoner.
1913, c. 60, § 16.

—ticket.

SEC. 32. Whenever the parole of any prisoner shall be ordered by the advisory board *in the matter of paroles*, or the governor, the clerk of said board shall at once notify the sheriff of the county or the chief of police of the city to which he is paroled, of the issuance of such parole, naming the county where convicted, the crime for which convicted, the name and address of the "first friend," and the length of time during which said prisoner shall be required to report before receiving final discharge.

Notice to
sheriff or
chief of
police.
1913, c. 60, § 17.

SEC. 33. Any sheriff, chief of police, or probation officer, shall upon the request of the governor or the advisory board *in the matter of paroles*, act as "first friend" and adviser for paroled prisoners while on parole from any prison or reformatory in the state, and shall, upon the approval of the clerk of the advisory board *in the matter of paroles*, be paid from the general fund of the state not otherwise appropriated, one dollar per month for each paroled prisoner for such service. Whenever the term of office of any such officer, acting as "first friend," shall expire while any such parole is in force, the duties of such "first friend" shall be assumed by the successor in office of such officer.

Sheriff, chief
of police
or probation
officer may
act as
"first
friend."
1913, c. 60, § 18.

—successor
shall assume
duties.

SEC. 34. Nothing in the eighteen preceding sections shall be construed to interfere or impair the power of the governor to grant pardons or commutations of sentence; nor shall anything therein contained be construed to interfere with the rights of any person who may be serving out a term of imprisonment in any penal institution in this state by virtue of a sentence imposed under any law heretofore or now in force.

Power of
governor to
grant pardons
not
impaired.
1913, c. 60, § 19.
See Const. Me.
Art. V, Part I,
§ 11.

EXECUTION OF SENTENCES.

SEC. 35. 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 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.
R. S., c. 136, § 10.
93 Me., 44.

SEC. 36. Whoever is convicted in any court or by a trial justice, of a crime which is punishable by a fine only, without imprisonment, and is liable to imprisonment in a county jail for the non-payment of said fine, may be sentenced to pay said fine and the costs of prosecution, and in default of payment thereof to be imprisoned in accordance with law; but the payment of said fine and costs at any time before the expiration of the imprisonment shall be a full performance of the sentence.

Sentence in
default of
payment of
fine and costs.
1905, c. 156.

SEC. 37. 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.

Removal of
convicts to
state prison,
must be
on clerk's
warrant.
R. S., c. 136, § 11.

CHAP. 137.

—clothing
for convicts.
Identification
of criminals
by Bertillon
method.
1911, c. 5.

The sheriff shall provide the convict with comfortable clothing in which to be removed to the state prison.

SEC. 38. Prisoners who have been convicted of a felony and committed under sentence may, if deemed advisable, for the purpose of subsequent identification be measured and described in accordance with the Bertillon method for the identification of criminals, and their photographs and finger prints taken.

LIBERATION OF POOR CONVICTS.

Convict,
unable to
pay fine or
costs, how to
be liberated,
after thirty
days.
R. S., c. 136, § 12.
74 Me., 220.

—such
convict may
be placed at
labor.

Such notes
are a lien on
convict's real
estate.
R. S., c. 136, § 13.

Penalty, for
making a
false
schedule of
property.
R. S., c. 136, § 14.

SEC. 39. 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.

SEC. 40. 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.

SEC. 41. 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.

CHAPTER 138.

COLLECTION AND DISPOSAL OF FINES AND COSTS IN CRIMINAL CASES.

DUTY OF THE CLERK IN RELATION THERETO.

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.

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 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.

Fines, forfeitures and criminal costs, shall be paid to county.
R. S., c. 137, § 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. 137, § 2.

Officers shall pay over to county treasurer fines and costs collected.
R. S., c. 137, § 3.
Penalty for neglect.
R. S., c. 137, § 4.

—duty of treasurer and county attorney.

Duty of officers receiving process for recovery of fines.
R. S., c. 137, § 5.

Sheriff shall deliver notes and securities to treasurer, quarterly.
R. S., c. 137, § 6.

DUTY OF TRIAL JUSTICES AND JUDGES OF MUNICIPAL AND POLICE

COURTS.

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

Magistrates shall pay over fines to

CHAP. 138.

those
entitled to
same.
R. S., c. 137, § 7.
See c. 134, § 22.

—penalty
for neglect.

Magistrates
shall give
bond for
faithful per-
formance of
duties.
R. S., c. 137, § 8.

—by whom
held and
enforced.

—penalty.

Trial justices
and munici-
pal and police
judges shall
keep docket
of fines and
forfeitures.
R. S., c. 137, § 9.

—examination
of docket and
magistrate
by county
commission-
ers.

—compensa-
tion.

If he fails to
appear, capias
may issue.
R. S., c. 137, § 10.

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 to 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.

Fees must be
claimed
within three
years.
R. S., c. 137, § 11.

Treasurer
shall exhibit
schedule of
notes to
county com-
missioners.
R. S., c. 137, § 12.

—proceedings
thereon.

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.

CHAP. 138.

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 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.

County treasurer shall publish list of costs.
R. S., c. 137, § 13.

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 others officers.

Treasurer shall make annual report to attorney general.
R. S., c. 137, § 14.
69 Me., 368.

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.

Neglect is a breach of treasurer's bond.
R. S., c. 137, § 15.
69 Me., 368.

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.

Each county attorney shall examine records of clerks and treasurers.
R. S., c. 137, § 16.

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.

He shall summon delinquent sheriff or other officer before court.
R. S., c. 137, § 17.

CHAPTER 139.

DISPOSAL OF INSANE CRIMINALS.

When a person, committed to jail on a criminal charge, pleads insanity, proceedings. R. S., c. 138, § 1. 107 Me., 340.

When grand jury omit to indict, or traverse jury acquit, on account of the insanity of the accused, they shall so certify to court. R. S., c. 138, § 2. 1907, c. 155, § 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. 138, § 3. —bond.

—when, and by whom he shall be re-committed.

Support at hospital. R. S., c. 138, § 4.

Governor shall appoint an examiner of insane convicts, in each county. 1905, c. 104, § 2. —proceedings when a prisoner becomes insane.

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.

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, acquit 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 (building for the criminal insane at Augusta,) *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 (building for the criminal insane at Augusta) *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 Augusta state hospital, or to the judge of probate for the county of Penobscot, if such commitment was to the Bangor state hospital, 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. The governor shall appoint in each county in the state a competent physician, who shall be a resident of the county, to act as an examiner of insane convicts in the county jail of the county. When a convict in the state prison or the county jail becomes insane or a convict whose sentence has expired is there detained, and in the opinion of the warden of the state prison or keeper of the jail is insane, the warden shall forthwith notify the prison physician and the jailer shall forthwith notify such examiner in the county of the fact, and the prison physician or such examiner shall forthwith investigate the case and make a personal exam-

ination of the convict or party so detained; and if such physician finds such convict or person detained to be insane he shall forthwith certify such fact in writing to the warden of the state prison or keeper of such jail. Said warden shall apply in writing to the judge of the municipal court for the city of Rockland in the county of Knox, and such keeper shall apply to the judge of the municipal court in the place where such jail is located, if any; otherwise to the judge of the nearest municipal court in the county, and if no municipal court in such county, to any judge of the supreme judicial court, stating the facts connected therewith, and praying that the condition of such convict or person detained as aforesaid may be inquired into and such decree made as to his commitment or detention as justice may require.

SEC. 6. Such judge shall thereupon appoint a time and place for a hearing by him of the allegations of such application, and shall cause a true copy of said application, to be given in hand to the person so alleged to be insane at least twenty-four hours prior to the time of said hearing, together with a notice of the time and place of said hearing, and that he has a right and will be given an opportunity then and there to be heard in the matter; he shall call before him all testimony necessary for a full understanding of the case, and shall personally examine and interview such person, whether he shall or shall not appear at such hearing, and shall require and receive evidence of at least two reputable physicians not in the employ of the state prison or either of the said jails, all such evidence to be given under oath before such judge, with the certificate signed by such physicians and filed with the papers in the case, that in their opinion such person is or is not insane. Such evidence and certificate to be based upon due inquiry and personal examination of the person to whom insanity is imputed.

At said hearing the judge shall appoint a guardian ad litem for the person so alleged to be insane, and may in his discretion appoint counsel for such person. The compensation of such guardian and counsel shall be fixed by the judge and included in the expense of the proceedings to be paid by the state or county. If upon the foregoing proceedings such judge shall determine that such convict or person detained as aforesaid is insane and that his comfort and safety or that of others interested will thereby be promoted, he shall, in case of such convict or person so detained in the state prison, commit him to the (building for the criminal insane at Augusta) *insane department of the said prison*, and in the case of a convict or person so detained in either of the county jails he shall commit him to one of the insane hospitals, with certificate stating the fact of his insanity and directing that he shall be received and detained accordingly until he is restored or discharged by law. The certificate of said judge shall state the town in which the prisoner or person detained or committed resided at the time of his original commitment to prison or jail. A certified copy of the certificate signed by the prison physician shall accompany said order of commitment made hereunder, and said judge shall keep a record of his doings and furnish a copy to any interested person requiring and paying for it.

SEC. 7. The certificate of such judge stating the town in which the prisoner or person detained resided, when such prisoner or person is in either of the insane hospitals, is sufficient evidence in the first instance to charge such town for the expenses of his support in such hospital, if he shall be there detained after sentence on which he was originally committed would have expired; but when his friends or others file a bond with the treasurer of the hospital in which he is confined, such town shall not be liable for his support, unless new action is had by reason of the inability of the patient or his friends longer to support him, and such action may be had in the manner provided by statute for recommitment of patients to the insane hospitals.

Hearing shall be appointed by judge.
1905, c. 104, § 3.

—proceedings.

Judge shall appoint a guardian ad litem and may appoint counsel.

—person detained in state prison may be committed to building for criminal insane.

—persons in county jails shall be committed to insane hospital.

Certificate of judge sufficient to charge town for expense of support.
1905, c. 104, § 4.

CHAP. 139.

—town may
recover.

Any town thus made chargeable in the first instance and paying for the support of such insane person may recover the amount paid from the insane, if able, or other persons legally liable for his support or from the town where his legal settlement is, but if he has no legal settlement in the state such expense shall be refunded by the state and the *governor and council* (state auditor) shall audit all such claims and (governor and council shall) draw their warrant on the treasurer therefor. Such person shall not suffer the disabilities of pauperism or be deemed a pauper by reason of such support, but the time during which such person is so supported shall not be included in the period of residence necessary to change his settlement.

Persons
recovering
before
expiration
of sentence.
1905, c. 104, § 5.

SEC. 8. If a person so committed as insane is restored or discharged from such commitment before the expiration of the term of the sentence on which he was originally committed, he shall be returned to the prison or jail in which he was serving his original sentence, and shall be there detained until the time when his original sentence would have expired.

Fees for
examination
and
certificate.
1905, c. 104, § 6.

SEC. 9. The fee of each physician for such examination and certificate and testifying before said judge shall be five dollars. All the fees, costs and expenses incident to any such hearing shall be taxed by the judge, and in any case relating to the state prison, audited and allowed by the *governor and council*, (state auditor,) and in any cases arising in either of the county jails, by the county commissioners for such county, who shall include therein a reasonable compensation for such judge, and said fees and costs shall be paid by the state and county respectively.

Superinten-
dent of
insane
hospital shall
visit insane
department
of state
prison
monthly.
1905, c. 104, § 7.

SEC. 10. The superintendent of the insane hospital at Augusta shall visit the insane department of the state prison not less than once in 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 said superintendent and prison physician and warden any person committed to the insane department of the state prison as hereinbefore provided can be better treated at either of the insane hospitals, they shall recommend the transfer of such person to either of said hospitals and report their conclusion to the governor and council, and thereupon the governor and council may order such transfer.

Commitment
of inmates
of jails and
persons under
indictment.
1905, c. 104, § 8.

SEC. 11. Inmates of the county jails and persons under indictment becoming insane before final conviction may be committed to either insane hospital by any judge of the supreme judicial court, or judge of the superior court in the county where such person is to be tried, or the case is pending, for observation, under such limitations as such judge may direct.

Insane
persons
may be
returned
to insane
department
of state
prison.
R. S., c. 138, § 6.
1905, c. 104, § 9.

SEC. 12. Insane persons transferred from the insane department of the state prison to either of the insane hospitals, upon satisfactory proof that such detention in such hospital will have a deleterious influence on the other patients, may be returned 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 discharged as hereinbefore provided for.

Any judge
of supreme
judicial
court shall
inquire into
cases of
alleged
unreasonable
detention.
1905, c. 104, § 10.

SEC. 13. A friend of any person adjudged insane and committed to the (building for the criminal insane at Augusta) *insane department of the state prison* under the foregoing proceedings, thinking such person is unreasonably detained, may apply in writing to any justice of the supreme judicial court, who shall inquire into the case and summon before him such witnesses as in his judgment may be necessary and upon such application vacate such commitment, and if the original sentence has expired, discharge such person. He shall tax legal costs and shall decide whether they shall be borne by the petitioner or by the state. If such application is unsuccessful, it shall not be *made again* (renewed) until the expiration of one year.

CHAP. 139.

SEC. 14. The judge of the municipal court of the city of Rockland is hereby authorized for the purposes provided in the nine preceding sections, if he shall see fit, to hold his court in the town of Thomaston in the county of Knox, and the judge of any municipal court to which application is made by any jailer, and which court is located in a town other than that in which the jail is situated, may hold his court for the purposes herein provided in the town where such jail is located.

Municipal judges may hold court in towns where prison or jails are located. 1905, c. 104, § 11.

SEC. 15. The superintendent of the Augusta state hospital and the hospital trustees may transfer any patients that are now or may be hereafter committed to the building for the criminal insane at Augusta to any other building of the Augusta state hospital used for the care of the insane, whenever in their judgment it appears necessary, and the safety of the other patients permit it.

Transfer of criminal insane. 1911, c. 93.

SEC. 16. If a person convicted of any crime, in the supreme judicial court or either superior court, is found by the judge of such court to be insane when motion for sentence is made, the court may cause such person to be committed to the (building for the criminal insane at Augusta) *insane department of the state prison* under such limitations as the court may direct; *provided* that the crime of which such person is convicted is punishable by imprisonment in the state prison; otherwise such commitment shall be to one of the insane hospitals; if at the expiration of the period of commitment to the (building for the criminal insane at Augusta) *insane department of the state prison* such person has not become of sound mind in the opinion of the superintendent of the Augusta state hospital, *prison physician and warden*, he shall be removed *by them* to one of the insane hospitals. Persons committed by a judge of the supreme judicial or a superior court before final conviction, or after conviction and before sentence whether originally committed or subsequently removed thereto, and insane convicts after the expiration of their sentences, shall be supported while in the insane hospital in the manner provided by law in the case of persons committed by municipal officers, and the provisions of sections twenty-eight to thirty-one inclusive, of chapter one hundred forty-five shall apply to such cases.

Persons insane when convicted may be committed to insane department of state prison. R. S., c. 138, § 7.

—at expiration of term of commitment if still insane, convict may be removed to insane hospital.

Note. Chapter 155 of the Public Laws of 1907 provided for the transfer of all inmates of the insane department of the state prison to the building for the criminal insane at Augusta; that all commitments to the insane department of the state prison should cease, and that future commitments under chapter 104 of the Public Laws of 1905, authorized by said chapter to be made to the insane department of the state prison, should be made to the building for the criminal insane at Augusta.

The commissioner has retained the phrase "building for the criminal insane at Augusta," but regards it as awkward and unsatisfactory; he suggests the use of the phrase "department for the criminal insane at the Augusta state hospital."

Sections 10 and 12 of chapter 139 appear to have been rendered obsolete by P. L. 1907, c. 155, and may be omitted.

Since January 1, 1910, towns are not responsible for the support of inmates of the insane hospitals, committed by municipal officers. No reason is perceived why commitments under P. L., 1905, c. 104, should be governed by a different rule. The effect of section 4 of the latter act appears to have been to amend the last section of c. 139 by striking out the words "and insane convicts after the expiration of their sentences", in the sixth and seventh lines from the end of that section. The commissioner recommends that section 7 of chapter 139 (1905, c. 104, § 4) be repealed, and that the last sentence of section 16 of chapter 139 be retained in the original form above given.

CHAPTER 140.

PARDONS, AND FUGITIVES FROM JUSTICE.

PARDONS.

Notice shall be given to county attorney, on all petitions for pardon.
R. S., c. 139, § 1.

—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. 139, § 2.

SEC. 1. 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. 2. When a person is sentenced to confinement in the state prison, the governor, with the advice and consent of the 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.

Governor may grant conditional pardons.
R. S., c. 139, § 3.
See Constitution, Art. v, part 1, § 11.

Conditions under which convict may be again arrested.
R. S., c. 139, § 4.

—officer shall notify executive.

If governor and council find that conditions have been violated, convict shall be remanded to prison.
R. S., c. 139, § 5.

SEC. 3. 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 the 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. 4. 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 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. 5. 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 the 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. 6. 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,

Officer, to whom warrant for pardon or commutation

CHAP. 140.

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.

is issued
shall make
return.
R. S., c. 139, § 6.

FUGITIVES FROM JUSTICE IN THIS STATE.

SEC. 7. 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 (by the state auditor) and paid from the treasury by order of the governor and council.

Governor
may appoint
an agent to
demand
fugitives in
other states.
R. S., c. 139, § 7.
See U. S. Con-
stitution, Art.
iv, § 2, ¶ 2.

SEC. 8. 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 the council, draw his warrant upon the treasurer for the payment thereof.

Reward for
the arrest and
return of
escaped
prisoners
and fugitives
from justice.
R. S., c. 139, § 8.

—when to be
paid.

FUGITIVES FROM JUSTICE IN OTHER STATES.

SEC. 9. When such demand as is mentioned in section seven is made on the governor of this state, he may investigate all the material facts which come to his knowledge and determine the expediency of complying therewith, and if 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.

Governor
may issue
his warrant
to surrender
fugitives
found in
this state.
R. S., c. 139, § 9.
1907, c. 14.

SEC. 10. 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.

When the
court or mag-
istrate may
issue a
warrant for
the arrest of
a fugitive.
R. S., c. 139, § 10.

SEC. 11. 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. 139, § 11.

SEC. 12. 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

When such
prisoner shall
be discharged
at the ad-
journed day.
R. S., c. 139, § 12.

CHAP. 141.

The complainant is answerable for costs.
R. S., c. 139, § 13.
See c. 115, § 81.

of any accused by an executive warrant, and such arrest discharges any such existing recognizance.

SEC. 13. 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.

CHAPTER 141.

CORONERS' INQUESTS.

When an inquest shall be taken.
R. S., c. 140, § 1.
See c. 54,
§§ 72, 73.
110 Me., 339.

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:

"[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."

Duties of constable and jurors, and penalties for neglect.
R. S., c. 140, § 2.

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.

Jurors' oath.
R. S., c. 140, § 3.

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 to his death, and you shall return to me a true inquest thereof according to your knowledge and the evidence laid before you. So help you God."

Talesmen.
R. S., c. 140, § 4.

SEC. 4. If the six jurors summoned do not appear as commanded, the coroner may require the constable or any other person whom he appoints, to return jurors from the bystanders to complete the number.

Subpoenas for witnesses.
R. S., c. 140, § 5.

SEC. 5. The coroner may issue subpoenas for witnesses, to be served as in other cases, and shall administer to them an oath as follows:

—form of oath.

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

CHAP. 141.

SEC. 6. Coroners, when holding inquests, have the same authority as probate courts, to compel the attendance of witnesses, and may commit for contempt.

SEC. 7. The evidence of all the witnesses shall be in writing *and signed by them* (or shall be taken by a sworn stenographer); and if it relates to the trial of any person concerned in the death, the coroner shall bind such witnesses by recognizance, in a reasonable sum, for their personal appearance at the next supreme judicial or superior court to be held in the same county, to give their testimony accordingly; and if they do not so recognize, he shall commit them to prison, and return to the same court the inquisition, written evidence and recognizance by him taken.

Note. The commissioner is informed that the fees of the coroner for time employed in obtaining the signatures of witnesses to stenographer's transcript often exceed his fees for attendance at the inquest.

SEC. 8. After the coroner has sworn the jurors, he shall charge them to declare whether the person died by felony, mischance or accident; if by felony, who were principals and accessories; the instrument employed, and all important circumstances; if by mischance, or by his own hand, in what manner, and all attending circumstances; and shall make proclamation for all persons who can give any evidence to draw near and be sworn.

SEC. 9. The jury, after examining the body, hearing the evidence and making all useful inquiries, shall draw up and deliver to the coroner their verdict in writing under their hands and seals, in substance as follows:

"An inquisition held at ———, within the county of ———, on the ——— day of ———, A. D., 19—, before S. F., one of the coroners of said county, upon view of the body of ——— ———, there lying dead, by the oaths of ——— ———, ——— ———, ——— ———, and ——— ———, good and lawful men, who, being charged and sworn to inquire for the state, when, how, and by what means said ——— ——— came to his death, upon their oaths say:" (then insert how, when and by what means, and with what instrument he was killed.) "In testimony whereof, the said coroner and the jurors of the inquest have hereunto set their hands and seals, the day and year abovesaid."

SEC. 10. If any person, charged by the inquest with causing the death of such person, is not then in custody, the coroner shall have the same power as a trial justice to issue a warrant for his apprehension, to be returned before any judge or trial justice, who shall proceed therein according to law.

SEC. 11. Every coroner within his county, after the return of an inquisition of the jury upon view of the dead body of a stranger, shall bury it in a decent manner; and all the expenses attending the burial and the expenses of the inquisition shall be paid out of the state treasury, if the coroner certifies under oath that the deceased was a stranger not belonging to the state, according to his best knowledge and belief; otherwise, the expenses of burial shall be paid to the coroner by the town where the body was found, and be repaid to such town by the town to which he belonged; and the expense of the inquisition, by the county. The word stranger shall be held to mean a person having no residence or place of abode in this state; but such word shall not apply to persons residing in the state and on whose account reimbursement might be had from the state by reason of his having no pauper settlement within the state.

Note. Section twelve, fixing the fees of coroners, jurors and witnesses (as amended by P. L. 1905, c. 62 and P. L. 1909, c. 185, § 2) has been transferred to c. 117, § 7.

SEC. 12. The governor, with the advice and consent of the council, shall appoint for a term of four years, for each county in the state, one

Witnesses
are compelled
to attend.
R. S., c. 140, § 6.
See c. 66, § 3.
Testimony
shall be in
writing, and
signed.
R. S., c. 140, § 7.
—when wit-
nesses shall
recognize.
—or be
committed.

Coroner's
charge to the
jury.
R. S., c. 140, § 8.
See c. 54,
§§ 72, 73.

—his proclamation for evidence.

Form of
verdict.
R. S., c. 140, § 9.

When cor-
oner may issue
a warrant
of arrest.
R. S., c. 140, § 10.
See c. 134, § 5.

Coroner
shall bury
the body of
a stranger.
—expenses,
how paid.
R. S., c. 140, § 11.
1909, c. 185, § 1.

—word
stranger,
how con-
strued.

Medical ex-
aminers,
appoint-

CHAP. 141.

ment and
tenure.
1909, c. 189, § 1.

Duty of
medical ex-
aminers.
1909, c. 189, § 1.

—may sum-
mon assis-
tant, who
shall act as
clerk and
make full
record.

Fees.
1909, c. 189, § 1.

Evidence
taken shall
be filed
with clerk
of courts.
R&S. c. 140, § 13.
1909, c. 189, § 2.
110 Me., 340.

—may em-
ploy stengor-
rapher.

or more able and discreet men, learned in the science of medicine and anatomy, to be medical examiners in said county. They shall be bona fide residents of the county for which they are appointed.

SEC. 13. Whenever a medical examiner is notified by the attorney general, county attorney for his county, or any coroner of his county that any person has come to his death by volence and that an autopsy is necessary, he shall immediately make a complete autopsy in the presence of the coroner who has the body in charge. The coroner and medical examiner, if they deem it necessary, may summon one local physician as an assistant and witness, who shall also act as clerk and make a full and complete record of all the facts and circumstances tending to show the condition of the body and all vital organs and the cause and manner of death, which record shall be signed by the medical examiner and the assistant and delivered to the coroner.

SEC. 14. The fees of the medical examiner shall be twenty-five dollars for the autopsy and actual travel and expenses. The fees of the assistant shall be ten dollars.

SEC. 15. The evidence of all the witnesses taken at any inquest together with the record of the medical examiner 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 for actual travel.

Note. Chapter 54, § 73 applicable to inquests in cases of fatal injury on steam or street railroad.