

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

THE
REVISED STATUTES

OF THE
STATE OF MAINE,

PASSED OCTOBER 22, 1840;

TO WHICH ARE PREFIXED

THE CONSTITUTIONS

OF THE

United States and of the State of Maine,

AND TO WHICH ARE SUBJOINED THE OTHER

PUBLIC LAWS OF 1840 AND 1841,

WITH AN

APPENDIX.

PRINTED AND PUBLISHED IN COMPLIANCE WITH A RESOLVE OF OCTOBER 22, 1840.

Augusta:

PUBLISHED BY WILLIAM R. SMITH & Co., PRINTERS TO THE STATE.

.....
1841.

CHAP. 166. shall have original jurisdiction, exclusive, or concurrent with the district court, of such crimes, offences and misdemeanors, as is or shall be prescribed by law; and every person aggrieved by a judgment or decision of any justice of the peace, police or municipal court, in any prosecution pending before them respectively, may appeal therefrom to the district court, as mentioned in the one hundred and seventieth chapter, unless it is otherwise provided by law.

SECT. 4. Any offence committed on the boundary between any two counties, or within one hundred rods of the same, may be alleged in the indictment or complaint to have been committed, and may be prosecuted and punished, in either county.

SECT. 5. If any mortal wound, or other violence or injury shall be inflicted, or any poison administered, in one county, by means whereof death shall ensue in another county, the offence may be prosecuted and punished in either county.

SECT. 6. If any mortal wound, or other violence or injury shall be inflicted, or poison administered on the high seas, or on land without the jurisdiction of this state, by means of which death shall ensue within this state, such offence may be prosecuted and punished in the county, where such death shall happen.

SECT. 7. When any person, indicted for any felony or other offence, shall, by the verdict of the jury on trial, be acquitted of a part of the offence, and found guilty of the residue thereof, such verdict may be received and recorded by the court; and, thereupon, such person may be convicted of the offence, if any, which may appear to said court to be substantially charged by the residue of such indictment, of which he has thus been found guilty, and shall be sentenced and punished accordingly, although the offence of which he is thus convicted is not within the jurisdiction of said court, by the previous provisions of this chapter.

Offences committed on or near the boundary between two counties.

Death in one county from an injury in another.
1821, 59, § 40.
2 Pick. 550.

Death within the state, from an injury inflicted without.
1821, 59, § 41.

Acquittal of part of an indictment, and conviction of the residue.
1821, 59, § 43.
1829, 433.
21 Pick. 523.

CHAPTER 167.

GENERAL PROVISIONS RELATING TO CRIMES AND PUNISHMENTS.

- | | |
|---|---|
| <p>SECT. 1. Legal conviction to precede punishment.</p> <p>2. Of the term, "felony," as used in this title.</p> <p>3. Accessories before the fact, liable to the same punishment as principals.</p> <p>4. Liable to conviction either with or without the principal.</p> <p>5. May be tried, either in the county, where they became accessory, or where the principal offence was committed.</p> <p>6. Accessories after the fact.</p> <p>7. May be tried without conviction of the principal. Where to be tried.</p> | <p>SECT. 8. Explanation of the term, "owner," as used in indictments.</p> <p>9. General allegation of intent to defraud, sufficient.</p> <p>10. Attempt, with an overt act, to commit a crime, punishable.</p> <p>11. Of imprisonment for a term less than one year.</p> <p>12. Aggravation of punishment on a second conviction, whether the former was in this state or not.</p> <p>13. Fines and forfeitures to accrue to the state, unless otherwise appropriated.</p> <p>14. How to be recovered.</p> <p>15. Limitation of prosecutions; with certain exceptions.</p> |
|---|---|

CHAP. 167.

SECTION 1. No person, charged with any offence against the law, shall be punished for the same, unless he shall have been duly and legally convicted thereof in a court having competent jurisdiction of the cause and person.

Legal conviction to precede punishment.

SECT. 2. The term, "felony," when used in any chapter in this title, shall be construed to include murder, rape, arson, robbery, burglary, maims, larceny, and every offence punishable with death or by imprisonment in the state prison.

Of the term, "felony," as used in this title.

SECT. 3. Every person, who shall aid and abet in the commission of any felony, or who shall be accessory thereto before the fact, by counseling, hiring, or otherwise procuring the same to be committed, shall be punished in the same manner, which is or shall be prescribed for the punishment of the principal felon.

Accessories before the fact, liable to the same punishment as principals.
13 Mass. 356.
9 Pick. 496.
10 Pick. 477.

SECT. 4. Every person, who shall counsel, hire, or otherwise procure any felony to be committed, which shall be committed in consequence thereof, may be indicted and convicted, as an accessory before the fact, either with the principal felon, or after his conviction; or he may be indicted and convicted of a substantive felony, whether the principal felon shall or shall not have been convicted, or shall or shall not be amenable to justice; and shall, in the last mentioned case, be punished in the same manner, as if convicted of being an accessory before the fact.

Liable to conviction, either with, or without the principal.
1831, 504, § 1.
16 Mass. 423.

SECT. 5. Any person, charged with the offence mentioned in the preceding section, may be indicted and convicted in the same court and county, where the principal felon might be indicted and tried, although the offence of counseling, hiring, or otherwise procuring the commission of such felony, may have been committed on the high seas, or on land without the limits of this state; and, if the principal felony be committed in one county, and the offence of being accessory thereto be committed in another county, the last mentioned offence may be indicted, tried and punished in either of said counties.

May be tried either in the county where they became accessory, or where the principal offence was committed.
1831, 504, § 2.

SECT. 6. Every person, notwithstanding in the relation of husband or wife, parent or child, to the principal offender, who shall harbor, conceal, maintain or assist any principal felon or accessory, before the fact, to any felony, knowing him to be such, with intent that he shall avoid or escape from detection, arrest, trial or punishment, shall be deemed an accessory after the fact, and shall be punished by imprisonment in the state prison, not more than seven years, or in the county jail, not more than one year, 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 have been liable.

Accessories after the fact.
1831, 504, § 3.

SECT. 7. Every person, who shall be accessory after the fact to any felony, may be indicted, tried and sentenced in any court or county, having jurisdiction of the principal offence, whether the principal felon shall or shall not have been convicted, or shall or shall not be amenable to justice; and, if the principal felony shall be committed in one county, and the offence of being accessory after the fact in another county, the last mentioned offence may be indicted, tried and punished in either county.

May be tried, without conviction of the principal. Where to be tried.
1831, 504, § 3.

SECT. 8. In the prosecution of any offence committed upon, in

Explanation of

CHAP. 167.

the term, "owner," as used in indictments.

General allegation of intent to defraud, sufficient.
21 Pick. 515.

Attempt, with an overt act, to commit a crime, punishable.

Of imprisonment for a term, less than one year.

Aggravation of punishment on a second conviction, whether the former was in this state or not.
1824, 282, § 18.
21 Pick. 492.

Fines and forfeitures to accrue to the state, unless otherwise appropriated.
How to be recovered.

Limitation of prosecutions, with certain exceptions.

relation to, or any way affecting any real estate or personal property, it shall be sufficient and not be deemed a variance, if it be proved on the trial, that at the time when the offence was committed, either the actual or constructive possession, or the general or special property, in the whole or any part of such real estate or personal property, was in the person or community alleged in the indictment or complaint, to be the owner thereof.

SECT. 9. When an intent to defraud is required to be shewn, in order to constitute any offence, it shall be sufficient to allege in the indictment an intent to defraud, without naming therein the particular person or body corporate, intended to be defrauded; and, on trial of such indictment, it shall be sufficient, and shall not be deemed a variance, if there appear to be an intent to defraud the United States, or any state, county, city, town, parish or any body corporate, or any particular person or persons whatever.

SECT. 10. Every person, who shall attempt to commit an offence prohibited by law, and, in such attempt, shall do any act towards the commission of such offence, but shall fail in the perpetration, or shall be interrupted or prevented in the execution of the same, where no express provision is made by law for the punishment of such attempt; shall be punished, when the offence attempted to be committed is punishable with death, or by imprisonment in the state prison for life, by imprisonment in the state prison not more than ten years; and, when any other offence is so attempted to be committed, he shall be punished by imprisonment in the state prison or in the county jail, or by fine, respectively, as the offence so attempted to be committed is by law punishable; but, in no case, shall the punishment of such last mentioned attempt exceed one half of the greatest punishment, which might have been inflicted; if the offence, so attempted, had been committed.

SECT. 11. No convict shall be sentenced to the state prison for a less term than one year; all imprisonments, for a less term, shall be in the county jail or house of correction.

SECT. 12. When any person shall be convicted of a crime, the punishment of which shall be by imprisonment in the state prison, and it shall be alleged in the indictment on which such conviction is founded, and admitted or proved on trial, that such person has been before convicted and sentenced to imprisonment in any state prison, by any court of this state or of any other state or of the United States, whether such convict shall have been pardoned or not, he shall be punished by imprisonment in the state prison for life or any term of years.

SECT. 13. All fines and forfeitures, imposed as a punishment for any offence, or for a violation or neglect of any duty imposed by statute, where no other appropriation thereof is expressly made by law, shall accrue to the use of the state.

SECT. 14. All fines and forfeitures given or limited by law, in whole or in part to the use of the state, may be recovered by indictment in the district court, when no other mode is expressly provided.

SECT. 15. No person shall be prosecuted for any offence, except treason, murder, arson or manslaughter, unless the indictment

shall be found within six years after the offence shall have been committed; provided, that the offender shall not flee from justice; and that no other limitation for the prosecution of such offender is provided by law; but any period, during which the party charged was not usually and publicly resident within this state, shall not be reckoned as a part of the said six years.

CHAP. 167.
1839, 362.
1840, 11.

CHAPTER 168.

OF SENTENCE AND EXECUTION THEREOF IN CRIMINAL CASES.

- SECT. 1. What sentence to be passed, when none is provided by statute.
2. Where imprisonment may be either in the county jail, or house of correction.
3. Conditional sentence, to pay fine and costs, or be sent to the house of correction in ten days.
4. When sentence may be either fine or imprisonment, or both.
5. Sureties to keep the peace, &c. required in some cases of conviction.
6. Minutes made by the clerk, when sufficient authority for the officer.

- SECT. 7. Removal of convicts to the state prison, upon sentence.
8. Convicts under sentence of death, to be also sentenced to labor in the state prison, in the mean time.
9. Execution not to take place within one year. Warrant of the executive therefor.
10. How sentence of death shall be executed.
11. Sheriff and certain designated persons to be present.
12. Sheriff's return to be made and filed in the office of secretary of state.

SECTION 1. When a person shall be legally convicted of any offence, for the punishment of which no provision is made by statute, the court shall award such sentence as is conformable to the common usage and practice in this state, according to the nature of the offence, and not repugnant to the constitution.

What sentence to be passed, when none is provided by statute.
1821, 54, § 1.

SECT. 2. Any person convicted before the supreme judicial court or district court, of any crime or offence punishable, in part or in whole, by imprisonment in the county jail, may be sentenced to suffer imprisonment, either in the county jail or house of correction at their discretion, to be employed and kept at work there, in the same manner as rogues, vagabonds, and idlers are by law to be employed, when committed to such house.

Where imprisonment may be either in the county jail, or house of correction.
1821, 111, § 7.

SECT. 3. Either of said courts may sentence any person, convicted of any offence mentioned in the preceding section, conditionally, to pay a fine with costs of prosecution, or, in case he do not pay the same within ten days, that he be immediately thereafter conveyed to the house of correction, and there be kept at work as aforesaid, for a term, not exceeding six months.

Conditional sentence, to pay fine and costs, or to be sent to the house of correction in ten days.
1821, 111, § 8.

SECT. 4. Whenever it is provided that an offender shall be punished by imprisonment and a fine, the court may sentence him to either of those punishments without the other, or to both.

When sentence may be either fine or imprisonment, or both.

SECT. 5. Every court, before whom any person shall be convicted of an offence, not punishable by death or confinement in the state prison, may, in addition to the punishment by law prescribed, require such person to recognize to the state, with suffi-

Sureties to keep the peace, &c. required in some cases of conviction.

**The following page(s) from
“An Act to Amend the Revised Statutes”
include amendments to this chapter.**

R. S. ch. 159. SECTION 27. The one hundred and fifty ninth chapter shall be amended, by adding, at the close of the chapter, a new section, as follows :

In case of insurrection, governor may detach into actual service an adequate military force.
1821, 17, § 3.
R. S. ch. 167.

SECT. 14. Whenever an insurrection shall exist in this state, to obstruct the course of justice, or the due execution of the laws; the governor is hereby empowered to detach and call into actual service, such part of the militia, as in his opinion shall be adequate to suppress the same.

Convict sentenced for life to the state prison and committed, to be regarded, as civilly dead. Distribution of his estate.
1837, 292, § 3.

SECTION 28. The one hundred and sixty seventh chapter shall be amended, by adding, at the close thereof, a new section, as follows :

SECT. 16. If any person shall, by due course of law, be under sentence of imprisonment for life in the state prison, either by commutation of a previous sentence, or otherwise, and shall be actually imprisoned in pursuance of such sentence, then all contracts, of whatever nature, to which such person shall be a party, shall be affected, changed or annulled, as effectually, and in the same manner, as they would be, if such person were actually dead : and such person shall cease to have any title to, or any interest in any estate, real or personal, and the same shall be treated, disposed of, and descend, in all respects, as if the death of such person had actually taken place at the time of such imprisonment ; and all power and authority of whatsoever nature, which such person might lawfully exercise over any other person or persons, shall thenceforth cease, as if the person so imprisoned were dead.

General repealing act.
Repeal of certain acts relating to banks and banking.

SECTION 29. The act entitled, "an act to repeal all the acts, which are consolidated in the revised statutes," passed October 22, 1840, shall be amended, by inserting at the end of the first section, the following words :

Acts passed in the year 1821.

1821.
Chap. 142.
Chap. 143.
Chap. 144.
Chap. 145.
Chap. 146.

An act concerning plates for printing bank notes.
An act to enforce the payment of bank notes and for other purposes.
An act imposing a tax on the banks within this state.
An act making further provisions in respect to the banks within this state.
An act directing the mode and time of making returns of, and enforcing the right to loans from the several banks in this state.
An act to restrain unincorporated banking associations and for other purposes.

Chap. 147.
1825.

Acts passed in the year 1825.

Chap. 290.
Chap. 315.

An additional act concerning plates for printing bank notes.
An act to prevent frauds in the business of banks, and of public offices and trusts.

1827.
Chap. 364.

Act passed in the year 1827.

An additional act respecting banks.

1831.
Chap. 519.

Act passed in the year 1831.

An act to regulate banks and banking.

1832.
Chap. 16.
Chap. 32.

Acts passed in the year 1832.

An act respecting banks, and other incorporated companies.
An act in addition to an act to regulate banks and banking.

1833.
Chap. 80.
1836.

Act passed in the year 1833.

An act additional to an act to regulate banks and banking.

Acts passed in the year 1836.

Chap. 215.
Chap. 233.

An act prohibiting the emission and circulation of bank bills of a small denomination, and certain other purposes.
An act further regulating banks and banking.

1838.
Chap. 326.

Act passed in the year 1838.

An act additional regulating banks and banking.

1840.
Chap. 90.

Act passed in the year 1840.

An act suspending the operation of an act, entitled, "an act prohibiting the emission and circulation of bank bills of a small denomination and certain others," and of the fourth section of an act, entitled, "an act further regulating banks and banking."

Time when this

SECT. 30. All the provisions of this act; except the third sec-