

MAINE STATE LEGISLATURE

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THE
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED APRIL 17, 1857;

TO WHICH ARE PREFIXED

THE CONSTITUTIONS

OF THE

UNITED STATES AND OF THE STATE OF MAINE:

WITH AN

APPENDIX.

PUBLISHED BY AUTHORITY OF THE LEGISLATURE.

BANGOR:
WHEELER & LYNDE.

1857.

would have been entitled to receive from the penalty affixed to the offence, if paid on conviction, and not on recognizance.

CHAP. 134.

R. S., c. 172,
§ 39.

EXCEPTIONS, AND BAIL AFTER VERDICT.

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

Questions of law may be reserved, &c.
R. S., c. 172,
§ 41.
1850, c. 152.

CHAPTER 135.

SENTENCE, AND ITS EXECUTION IN CRIMINAL CASES, AND THE LIBERATION OF POOR CONVICTS.

WHAT SENTENCE MAY BE AWARDED.

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

EXECUTION OF SENTENCE.

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

IN CAPITAL CASES.

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

LIBERATION OF POOR CONVICTS.

10. Persons imprisoned for non-payment of fines or costs, may be liberated by the sheriff, after thirty days, on giving their notes, and a sworn schedule of their property.
11. Such notes a lien on their real estate, and execution thereon may be proceeded with as in other cases.
12. Penalty for willfully making a false schedule of property.

WHAT SENTENCE MAY BE AWARDED.

SEC. 1. No person can be punished for an offence till convicted thereof in a court having jurisdiction of the person and case. When no punishment is provided by statute for an offence,

No person can be punished till convicted, &c.

CHAP. 135.

R. S., c. 167,
§ 1.
c. 168, § 1, 4.

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

R. S., c. 167,
§ 16.
c. 168, § 2, 3.

Punishment,
when convict
has before been
sentenced to
state prison.
R. S., c. 167,
§ 12.

In what cases,
sureties to
keep the peace
may be re-
quired, &c.
R. S., c. 168,
§ 5.

Minutes made
by the clerk,
when authority
for officer.
R. S.,
§ 6.

Removal of
convicts to
state prison
upon sentence.
R. S., c. 168,
§ 7.

Convicts under
sentence of
death, &c.
R. S., c. 168,
§ 8, 9.
1844, c. 101.

a person convicted thereof shall be imprisoned 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, he may be sentenced to either or both.

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

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

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

EXECUTION OF SENTENCES.

SEC. 5. When a convict is sentenced to pay a fine or costs, or be imprisoned in the county jail or house of correction, the clerk of the courts, as soon as may be, shall make out and deliver to the sheriff or some officer in court, a transcript of the minutes of the conviction and sentence duly certified by him; and this shall be a sufficient authority for the officer to execute such sentence.

SEC. 6. When any 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; and the warden and all sheriffs and jail keepers are required strictly to 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.

IN CAPITAL CASES.

SEC. 7. When any person is convicted of a crime punishable with death and sentenced therefor, he shall at the same time be sentenced to solitary confinement and hard labor in the state prison, till such punishment is inflicted; but he shall not be executed within one year from the day the sentence of

death was passed, nor until the whole record of such proceedings or case is certified by the clerk of said court, under the seal thereof, to the supreme executive authority of the state, and a warrant is issued by said executive authority, under the great seal of this state, directed to the sheriff of the county wherein the state prison is situated, commanding him to carry said sentence of death into execution.

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

SEC. 9. When a sheriff inflicts the sentence of death as aforesaid, he shall immediately make return of the warrant therefor, under his hand, with his doings thereon, to the office of the secretary of state; and file an attested copy of the warrant and return in the office of the clerk of the court where the conviction was had; and the clerk shall file the same with the indictment, and subjoin to the record a brief abstract of such return.

LIBERATION OF POOR CONVICTS.

SEC. 10. 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, and the sheriff shall deliver the same to said treasurer for the use of the county within thirty days.

SEC. 11. Such note shall be and continue a lien on all the maker's real estate till the same 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. 12. If such convict is convicted of knowingly and willfully 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 imprisoned again till the performance of the original sentence.

CHAP. 135.

How and where sentence of death shall be executed, &c.
R. S., c. 168, § 10, 11.

Sheriff's return to be made and filed in the office of the secretary of state.
R. S., c. 168, § 12.

Persons imprisoned for non-payment of fines or costs, &c.
R. S., c. 175, § 1.

Such notes a lien on their real estate, &c.
R. S., c. 175, § 2, 3.

Penalty for making a false schedule of property.
R. S., c. 175, § 4.