

# MAINE STATE LEGISLATURE

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THE  
REVISED STATUTES

OF THE  
STATE OF MAINE,

PASSED JANUARY 25, 1871;

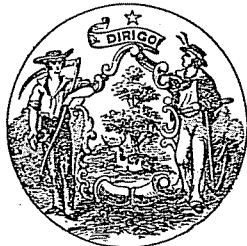
TO WHICH ARE PREFIXED  
THE CONSTITUTIONS

OF THE  
UNITED STATES AND OF THE STATE OF MAINE:

WITH AN APPENDIX.

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BY AUTHORITY OF THE LEGISLATURE.



PORTLAND:  
PUBLISHED BY BAILEY & NOYES.

CHAP. 135. admitted to bail only by the justice trying him, by some person by him appointed therefor, or by some other justice of the court.

In case of error in sentence, proceedings. 1870, c. 90.

SEC. 27. 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.

## 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.

- SEC. 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.

- SEC. 7. Copy of evidence to be made and certified by judge, upon conviction. Copy of whole record to be sent to governor.
8. Governor and council shall review. Unless pardon or commutation is granted, governor shall issue his warrant for execution in one year after sentence.
9. Disposition of convicts under sentence of death.
10. How and where sentence of death shall be executed, and who may be present.
11. Sheriff's return to be made and filed in the office of secretary of state.

#### LIBERATION OF POOR CONVICTS.

- SEC. 12. 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.
13. Such notes a lien on their real estate, and execution thereon may be proceeded with as in other cases.
14. Penalty for willfully making a false schedule of property.

#### WHAT SENTENCE MAY BE AWARDED.

No person can be punished, till convicted. R. S. c. 135, § 1. 1860, c. 176.

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, 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. In all cases where a fine is imposed he may be sentenced to pay the costs of prosecution. CHAP. 135.

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.

No convict sent to state prison less than a year, &c.  
R. S. c. 135, § 2.

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.

Punishment, when convict has before been sentenced to state prison.  
R. S. c. 135, § 3.

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.

In what cases, sureties to keep the peace may be required, &c.  
R. S. c. 135, § 4.

#### 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.

Minutes made by the clerk, when authority for officer.  
R. S. c. 135, § 5.

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. The sheriff shall provide the convict with comfortable clothing in which to be removed to the state prison.

Removal of convicts to state prison upon sentence.  
R. S. c. 135, § 6.  
1867, c. 96.

#### EXECUTION OF SENTENCE IN CAPITAL CASES.

SEC. 7. In case of trial of an indictment for any capital offence, the judge presiding shall, at the expense of the county, employ suitable persons to attend the trial, and to take the evidence in capital cases.

An accurate copy of evidence in capital cases.

## CHAP. 135.

tal cases to be made.

In case of conviction to be certified by judge.

In case of sentence of death copy of record and evidence to be sent to

governor by clerk of court. 1869, c. 72, § 1.

Governor and council to review the record and evidence, and unless pardon or commutation of sentence is granted by

them, the governor at expiration of one year, except in case of review, to issue warrant for execution. 1869, c. 72, § 2.

Disposition of convicts under sentence of death.

R. S. c. 135, § 7.

1869, c. 72, § 4.

How and where sentence of death shall be executed,

R. S. c. 135, § 8.

Sheriff's return to be made and filed in the office of the secretary of state.

R. S. c. 135, § 9.

ble means to preserve an accurate and full copy of the evidence; and in case of conviction, he shall correct and certify such evidence to be a true copy of all the evidence in the case. And in case of sentence of death awarded upon such conviction, it shall be the duty of the clerk forthwith to transmit to the governor a true and attested copy of such evidence; and in all cases of sentence of death, the clerk shall forthwith transmit to the governor a copy of the whole record.

SEC. 8. Upon receiving such record and evidence, it shall be the duty of the governor and council carefully to review the whole case, and unless they think proper to pardon the convict, or commute his sentence, the governor shall, upon the expiration of one year after the day of the sentence, issue his warrant, as provided in sections nine and ten of this chapter.

SEC. 9. 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 in the state prison till such punishment is inflicted; but he shall not be executed 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 the state, directed to the sheriff or one of his deputies, of the county wherein the state prison is situated, commanding him to carry said sentence of death into execution.

SEC. 10. 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. 11. 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.

CHAP. 135.

SEC. 12. 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.

Persons imprisoned for non-payment of fines or costs, &c.  
R. S. c. 135, § 10.  
1865, c. 300 § 2

SEC. 13. 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.

Such notes a lien on their real estate, &c.  
R. S. c. 135, § 11.

SEC. 14. 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.

Penalty for making a false schedule of property.  
R. S. c. 135, § 12.