

TITLE ELEVEN.

Crimes and offences, proceedings in criminal cases, punishments and incidental provisions.

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 CHAPTER 117.

OFFENCES AGAINST THE SOVEREIGNTY OF THE STATE.

- SEC. 1. Treason, its definition, proof, and punishment.
2. Misprision of treason, its definition, proof, and punishment.
3. Limitation of prosecutions therefor to three years.
4. Usurpation of jurisdiction by a foreign power.

Treason, its
definition,
proof, and
punishment.

SEC. 1. Treason consists in levying war against the state, adhering to its enemies, and giving them aid and comfort. No person can be convicted of it without the testimony of two wit-

nesses to the same overt act, or confession in open court. Its punishment is death. CHAP. 117.

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 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 be to one, and another to a different overt act of the same species of treason; or by confession in open court. It shall be punished by imprisonment not exceeding five years, or by fine not exceeding one thousand dollars.

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

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

R. S., c. 153,
§ 1, 2.
Misprision of
treason, its
definition, &c.
R. S., c. 153,
§ 3, 4.

Limitation of
prosecutions
to three years.
R. S., c. 153,
§ 5.

Usurpation of
jurisdiction by
a foreign
power.
R. S., c. 153,
§ 6.

CHAPTER 118.

OFFENCES AGAINST THE LIVES AND PERSONS OF INDIVIDUALS.

- SEC. 1. Murder defined.
2. Murder of the first degree defined and punished.
 3. Murder of the second degree defined and punished.
 4. Degree of murder how ascertained.
 5. Manslaughter defined and punished.
 6. Willful disturbance or obstruction of a railroad, by which human life is destroyed, murder of second degree, if not, how punished.
 7. Misconduct or gross neglect respecting steam in steamboats occasioning loss of life or danger of it.
 8. Murder of the first degree by duelling defined.
 9. Murder of the first degree by a second to such duel.
 10. Conviction or acquittal in another state a bar to an indictment under eighth, ninth, and thirteenth sections.
 11. Fighting, challenging, or aiding a duel.
 12. Accepting a challenge or aiding it.
 13. Leaving the state to elude provisions of the two preceding sections, and doing such acts out of the state.
 14. Posting for not fighting a duel, or sending or accepting a challenge.
 15. Maim defined and punished.
 16. Robbery defined and punished.
 17. Rape defined and punished.
 18. Abduction defined and punished.
 19. Forcible confinement, kidnapping, selling as a slave.

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- SEC. 20. Abandonment of children.
21. Apprentices and minors carried out of the state by masters of vessels.
22. Enlistment of minors into army of United States.
23. Extortion or compulsion by threats.
24. Assault with intent to commit a rape.
25. Assault with intent to murder, kill, maim, rob, steal, or to commit arson or burglary.
26. Assault with intent to commit other felonies.
27. Attempts to murder or kill without assault.
28. Assaults, and assaults and batteries.
29. Slaves voluntarily brought into the state, free. Punishment for restraining such.

Murder defined.
R. S., c. 154,
§ 1.

Murder of the first degree defined and punished.

R. S., c. 154,
§ 2.

Murder of the second degree defined and punished.

R. S., c. 154,
§ 3.

Degree of murder, how ascertained.

R. S., c. 154,
§ 4.

Manslaughter defined and punished.

R. S., c. 154,
§ 5.

Willful disturbance or obstruction of a railroad by which human life is destroyed, &c.

1846, c. 197,
§ 1, 2, 3.

Misconduct and gross neglect respecting steam in steamboats, &c.

1848, c. 70, § 1.

SEC. 1. Murder is the unlawful killing of a human being with malice aforethought, either express or implied.

SEC. 2. When murder is committed with express malice aforethought, or in perpetrating or attempting to perpetrate a crime punishable by death, imprisonment for life, or for an unlimited term of years, it shall be deemed murder of the first degree and punished with death.

SEC. 3. When murder is committed otherwise than is set forth in the preceding section, it shall be deemed murder of the second degree, and punished by imprisonment for life.

SEC. 4. The jury, finding a person guilty of murder, shall find whether he is guilty of murder in the first or second degree. When a person is found guilty of murder by confession in open court, the court, from testimony, shall determine the degree of murder, and sentence accordingly.

SEC. 5. Whoever unlawfully kills a human being in the heat of passion, on sudden provocation, without express or implied malice aforethought, or commits manslaughter as defined by the common law, shall be punished by imprisonment not more than ten years, or by fine not exceeding one thousand dollars.

SEC. 6. Whoever willfully and maliciously displaces a switch or rail, disturbs, injures, or destroys, any part of a track or bridge of any railroad, or places any obstruction thereon, with intent that any person or property passing on the same should be thereby injured, and human life is thereby destroyed, shall be deemed guilty of murder of the second degree, and punished accordingly. If human life is thereby endangered and not destroyed, or property is injured, he shall be punished by solitary imprisonment not less than thirty days, and afterwards to hard labor not more than twenty, nor less than five years.

SEC. 7. Any person, having charge of a steamboat used for conveyance of passengers, or of the boiler or other apparatus for generating steam therein, who, through ignorance, gross neglect, or for the purpose of racing, creates or allows to be created such a quantity of steam as to break such boiler, apparatus, or machinery connected therewith, and thereby human life is destroyed, shall be punished by imprisonment not more than four, nor less than two years; and if human life is endangered and not destroyed, by imprisonment less than one year, and by fine not exceeding two hundred and fifty dollars.

CHAP. 119.

CHAPTER 119.

OFFENCES AGAINST HABITATIONS AND OTHER BUILDINGS.

- SEC. 1. Arson of a dwellinghouse in the night and day time. Punishment.
2. Arson of a dwellinghouse owned in whole or in part by himself. Punishment.
3. Burning of public and private buildings in the night and day time. Punishment.
4. Burning of other buildings, vessels, locks, dams, and flumes. Punishment.
5. Burning of produce, trees, and other property. Punishment.
6. Wife liable though property burnt is her husband's.
7. Burglary defined and punished.
8. Breaking and entering a dwellinghouse in the day time, entering it in night time, breaking and entering other buildings and vessels. Punishment.
9. Dwellinghouse defined.

Arson of a dwellinghouse.
R. S., c. 155,
§ 1, 2.

SEC. 1. Whoever willfully and maliciously sets fire to the dwellinghouse of another, or to any building adjoining thereto, or to any building owned by himself or another, with the intent to burn such dwellinghouse, and it is thereby burnt, in the night time, shall be punished with death. If he proves, and the jury find, that there was no person lawfully in such dwelling house at the time, or if the offence was committed in the day time, he shall be punished by imprisonment for life.

Arson of a dwellinghouse owned by himself.
1854, c. 62.

SEC. 2. Whoever willfully and maliciously sets fire to a dwellinghouse owned wholly or partly by himself, or to any other building owned by himself or another, with intent to burn such dwellinghouse, another person being lawfully therein, and it is thereby burnt, shall be punished by imprisonment for life.

Burning of public and private buildings.
12 Maine, 214.
R. S., c. 155,
§ 3, 4.
1849, c. 95.

SEC. 3. Whoever willfully 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 dwellinghouse, so that it is thereby endangered, and such public or other building is thereby burnt in the night time, shall be punished by imprisonment for life, or any term of years; but if such offence was committed in the day time, or without the curtilage of, and without endangering a dwellinghouse, by imprisonment not less than one, nor more than ten years.

Burning of other buildings, vessels, &c.
R. S., c. 155,
§ 5.

SEC. 4. Whoever willfully 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 not less than one, nor more than ten years.

Burning of produce, trees, and other property.
R. S., c. 155,
§ 6.

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

Wife liable though property burnt is her husband's.
R. S., c. 155,
§ 7.

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

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 dwellinghouse, any person being then lawfully therein, shall be deemed guilty of burglary; and if armed with a dangerous weapon before or after entering, or if he assaults any person lawfully therein, or has any confederate present aiding or abetting, he shall be punished by imprisonment for life; otherwise by imprisonment for life or any term of years.

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Burglary defined and punished.

R. S., c. 155,
§ 8, 9, 10.

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 dwellinghouse; or breaks and enters any office, bank, shop, store, warehouse, vessel, or building in which valuable things are kept, any person being lawfully therein and put in fear, shall be punished by imprisonment not less than one, nor more than ten years; but if no person was lawfully therein and put in fear, by imprisonment not more than five years, or by fine not exceeding five hundred dollars.

Breaking and entering a dwellinghouse, or any building named, or vessel, &c.
R. S., c. 155,
§ 11.

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

Dwellinghouse defined.
R. S., c. 155,
§ 12.

CHAPTER 120.

LARCENY, AND RECEIVING STOLEN GOODS.

- SEC. 1. Larceny defined and punished.
2. Larceny in a dwellinghouse and with breaking and entering other buildings and vessels in the night or day time. Punishment.
 3. Larceny in a building on fire or of property removed at fires. Punishment.
 4. Larceny from the person of another. Punishment.
 5. Common thief described and punished.
 6. Larceny by falsely personating another, described and punished.
 7. Larceny by embezzlement or fraudulent conversion. Punishment.
 8. Larceny in like manner of property entrusted to be carried.
 9. Buying, receiving, or aiding to conceal stolen property knowingly.
 10. Officers to secure stolen property, which is restored to owner on conviction of thief.
 11. Court may make compensation to prosecutor and officer.
 12. Action for stolen property without conviction of thief.

SEC. 1. Whoever steals, takes, and carries away, of the property of another, any 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, shall be deemed

Larceny defined and punished.
19 Maine, 225,
398.
20 Maine, 14.
22 Maine, 171.
R. S., c. 156,
§ 1.

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. 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.

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.

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.

Punishment,
when convict
has before been
sentenced to
state prison.

R. S., c. 167,
§ 12.

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.

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

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.

Minutes made
by the clerk,
when authority
for officer.

R. S., c. 168,
§ 6.

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.

Removal of
convicts to
state prison
upon sentence.

R. S., c. 168,
§ 7.

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.

Convicts under
sentence of
death, &c.

R. S., c. 168,
§ 8, 9.
1844, c. 101.

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.

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.

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.

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.