

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIRST LEGISLATURE

Legislative Document

No. 426

S. P. 149

In Senate, January 17, 1963

Referred to Committee on Judiciary. Sent down for concurrence and ordered printed.

CHESTER T. WINSLOW, Secretary.

Presented by Senator Stitham of Somerset.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-THREE

AN ACT Relating to Penalties for Possession of Narcotic Drugs.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., c. 68, § 29, amended. Section 29 of chapter 68 of the Revised Statutes is amended to read as follows:

'Sec. 29. Narcotic drugs, contraband; search warrants; procedure. ~~Each building, place or tenement which is resorted to by habitual users of narcotic drugs for the purpose of using such drugs, or which is used for the illegal keeping or sale of the same, shall be deemed a common nuisance~~

Narcotic drugs unlawfully in the possession or under the control of any person and which are 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 the provisions of this chapter. In all cases where an officer may seize narcotic drugs or the vessels containing them upon a warrant, he may seize the same without a warrant and keep them in some safe place for a reasonable time until he can procure such warrant.

If any person ~~competent to be a witness in civil suits~~ makes sworn complaint ~~before any judge of a municipal to a District Court or trial justice,~~ that he believes that narcotic drugs are unlawfully kept or deposited in any place in the State by any person, or that the same are intended for sale within the State in violation of law, such ~~magistrate judge~~ 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 narcotic drugs are ~~there~~ found **there**, to seize the same with

the vessels in which they are contained, and ~~them~~ safely keep ~~them~~ until final action thereon, and make immediate return of said warrant. The name of the person so keeping said drugs ~~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 drugs, to arrest said person and hold him to answer as having in possession said drugs ~~as aforesaid~~. Any person who may be suspected of unlawfully having in his possession, or selling from, or keeping for illegal sale in his pockets, narcotic drugs, may be searched in the same manner and by the same process as is provided for the search of places and, if drugs are found upon his person, may be held to answer as though such drugs were kept and deposited by him in any place. If narcotic drugs are in any manner 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 drugs may be held to have been unlawfully in possession and the penalties shall be the same as if said drugs had been seized. If the name of the person keeping such drugs is unknown to the complainant, he shall so allege in his complaint, and the ~~magistrate~~ judge shall thereupon issue his warrant as provided in the first sentence of this paragraph. ~~If upon trial, the court is of the opinion that the drug was possessed as aforesaid or 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 shall be punished by a fine of not less than \$100 nor more than \$500, and costs, and in addition thereto by imprisonment for not less than 2 months nor more than 6 months, and in default of payment of said fine and costs he shall be imprisoned 6 months additional.~~

Sec. 2. R. S., c. 68, § 30, repealed. Section 30 of chapter 68 of the Revised Statutes is repealed.

Sec. 3. R. S., c. 68, § 31, amended. Section 31 of chapter 68 of the Revised Statutes is amended to read as follows:

Sec. 31. Forms provided in intoxicating liquor cases made applicable. The forms set forth in ~~section 97 of~~ chapter 61, **section 97**, when changed by substituting the words "narcotic drugs" for the words "intoxicating liquors," wherever found in the same, together with such other changes therein as further adapt them for use under ~~the provisions of~~ this chapter, and with such additional changes as adapt them for use in ~~cities, towns and plantations~~ **municipalities**, are sufficient in law for all cases arising under the provisions of ~~sections 29 to 32~~ to which they purport to be adapted.'

Sec. 4. R. S., c. 68, § 32, repealed. Section 32 of chapter 68 of the Revised Statutes is repealed.

Sec. 5. R. S., c. 68, § 45, repealed. Section 45 of chapter 68 of the Revised Statutes is repealed.

Sec. 6. R. S., c. 68, § 51, amended. Section 51 of chapter 68 of the Revised Statutes is amended to read as follows:

Sec. 51. Violation of sections 29 to 51. Whoever violates any provision of sections ~~33~~ 29 to 51 shall upon conviction be punished by a fine of not more

than \$1,000 and by imprisonment for not less than 2 nor more than ~~5~~ 8 years. For a 2nd offense, or if, in case of a first conviction of violation of any provision of sections ~~33~~ 29 to 51, the offender shall previously have been convicted of any violation of the laws of the United States or of any other state, territory or district relating to narcotic drugs or marihuana, the offender shall be punished by a fine of not more than ~~\$1,000~~ \$2,000 and by imprisonment for not less than 5 nor more than ~~10~~ 15 years. For a 3rd or subsequent offense, or if the offender shall previously have been convicted 2 or more times in the aggregate of any violation of the laws of the United States or of any other state, territory or district relating to narcotic drugs or marihuana, the offender shall be punished by a fine of not more than ~~\$1,000~~ \$5,000 and by imprisonment for not less than 10 nor more than 20 years.

Except in the case of conviction for a first offense for violation of ~~the provisions of~~ sections ~~33~~ 29 to 51, the imposition or execution of sentence shall not be suspended ~~and probation or parole~~. Parole shall not be granted until the minimum imprisonment herein provided for the offense shall have been served.'