

MAINE STATE LEGISLATURE

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REVISED STATUTES
OF THE
STATE OF MAINE
1954

1963 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 4

Discard Previous Supplement

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1963

maliciously vexes, irritates, harasses or torments any person in any way, after having been forbidden to do so by any sheriff, deputy sheriff, constable, police officer or justice of the peace, and whoever without reasonable cause or provocation willfully and wantonly or maliciously vexes, irritates, harasses or torments any person by communications to or conversation with such person over or by means of any telephone, when such offense is of a high and aggravated nature, shall be deemed guilty of a felony and on conviction thereof shall be punished by a fine of not more than \$500 or by imprisonment for not more than 2 years; but when such offense is not of a high and aggravated nature, shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than \$100 or by imprisonment for not more than 11 months. (R. S. c. 117, § 29. 1963, c. 331, § 5.)

Effect of amendment.—The 1963 amendment substituted “having attained his 16th birthday” for “being more than 16 years of age” near the beginning of this section.

Libels.

Sec. 35. Publishing lists of debtors; certain officials excepted.—No person, firm or corporation shall publicly advertise for sale in any manner whatever, or for any purpose whatever, any list or lists of debts, dues, accounts, demands, notes or judgments containing the names of any of the persons who owe the same. Any such public advertisement containing the name of but 1 person who owes as aforesaid shall be construed as a list within the meaning of this section. Any person, firm or corporation violating any of the provisions of this section shall be liable in a civil action to a penalty of not less than \$25 nor more than \$100, to each and every person, severally and not jointly, whose name appears in any such list. The provisions of this section shall not apply to executors, administrators, guardians, trustees, trustees in bankruptcy, assignees in insolvency, sheriffs, deputy sheriffs, constables, collectors of taxes, town treasurers or any other officials whose official duties require them to publish any such list or lists. (R. S. c. 117, § 34. 1961, c. 317, § 453.)

Effect of amendment.—The 1961 amendment substituted “a civil action” for “an action of debt” in the third sentence of this section.

Chapter 131.

Crimes against Habitations, Buildings and Property.

Sections 36-A to 36-C. Emergency Use of Party Lines.

Arson and Other Burnings.

Sec. 3. Burning of other buildings, vessels, bridges, etc. — Whoever willfully and maliciously burns any building of his wife or of another not mentioned in section 2, or any motor vehicle, aircraft, vessel, bridge, lock, dam or flume of his wife or of another, shall be punished by imprisonment for not less than one year nor more than 10 years. (R. S. c. 118, § 3. 1957, c. 62.)

Effect of amendment. — The 1957 amendment added motor vehicle and aircraft to the list of articles enumerated.

Burglary, Assault with Intent. Breaking and Entering with Intent to Commit a Felony.

Sec. 11. Breaking and entering with intent to commit a felony or any larceny.—Whoever, with intent to commit a felony or any larceny, breaks and

enters in the daytime or enters without breaking in the nighttime any dwelling house, or breaks and enters any office, bank, shop, store, warehouse, vessel, railroad car of any kind, motor vehicle, aircraft, house trailer, or building in which valuable things are kept, any person being lawfully therein and put in fear, shall be punished by imprisonment for not more than 10 years; but if no person was lawfully therein and put in fear, by imprisonment for not more than 5 years or by a fine of not more than \$500. (R. S. c. 118, § 11. 1947, c. 167, § 2. 1959, c. 59. 1963, c. 21, § 1.)

Effect of amendments.—The 1959 amendment added “motor vehicle, aircraft, house trailer” after the words “of any kind.”

The 1963 amendment deleted “less than one year nor” formerly preceding “more than 10 years.”

Malicious Mischiefs.

Sec. 16-A. Placing objects on utility poles. Whoever, without the prior consent of the utility owning or using the pole, places any poster, bill or advertisement, tack, nail or other object on any utility pole, whether or not within the limits of a public way, shall be punished by a fine of not more than \$100 or by imprisonment for not more than 30 days, or by both. (1963, c. 214.)

Sec. 17. Malicious injury; tampering with; setting in motion any railroad car.—Whoever willfully, mischievously or maliciously breaks the seal upon any freight car, or breaks and enters any railroad car, locomotive or work equipment on any railroad in the state, or destroys, injures, defiles or defaces any railroad car, locomotive or work equipment on any railroad in the state, or mischievously or maliciously releases the brakes upon, moves or sets in motion any railroad car, locomotive or work equipment on the track or sidetrack of any railroad in the state, shall be punished by a fine of not more than \$500 or by imprisonment for not more than 2 years, and shall be liable to the corporation injured in a civil action for the amount of injury so done. (R. S. c. 118, § 17. 1961, c. 317, § 454.)

Effect of amendment.—The 1961 amendment deleted “also” preceding “be liable” and substituted “a civil action” for “an ac-

tion of trespass” near the end of this section.

Sec. 19. Willful destruction of or injury to baggage.—Any baggage-master, express agent, stage driver, hackman or other person whose duty it is to handle, remove or take care of trunks, valises, boxes, packages or parcels, whether in the employment of a railroad, steamboat or stage company or not, who, while loading, transporting, unloading, delivering or storing such property, wantonly or recklessly injures or destroys the same, shall be punished by a fine of not more than \$100 or by imprisonment for less than 1 year; and such offenders may be prosecuted by the owner of property so destroyed or injured or by his authorized agent, within 1 year from the day of the offense, half of the fine to be paid to such owner and half to the county in which the offense was committed. (R. S. c. 118, § 19. 1963, c. 402, § 207.)

Effect of amendment.—The 1963 amendment deleted the former last sentence in the section, relating to the jurisdiction of trial justices.

Application of amending act.—Section 280 of c. 402, P. L. 1963, provides that the

act shall apply only to the district court when established in a district and that the laws in effect prior to the effective date of the act shall apply to all municipal and trial justice courts.

Sec. 20. Interference, removal or destruction of transit points, etc.—Whoever willfully or maliciously disturbs, removes or destroys any lawfully established transit point, reference point, stake, plug, hub, guard-stake, bench mark, pipe, iron, concrete post, stone post or other monument of any railroad, highway, public utility or other engineering location or survey or any such monu-

ment marking the bounds of public or private property shall be punished by a fine of not more than \$100 or by imprisonment for not more than 30 days; and in addition thereto shall be liable in a civil action for the amount of damage done, which shall be measured by the cost of replacing such monument, including necessary engineering services. (R. S. c. 118, § 20. 1961, c. 317, § 455. 1963, c. 220, § 2.)

Cross reference.—As to negligent interference, removal or destruction of transit points, etc., see c. 124, § 10-A.

Effect of amendments.—The 1961 amendment substituted “a civil action” for “an action of debt” in this section.

The 1963 amendment inserted “lawfully established” near the beginning of the section, inserted “pipe, iron, concrete post,

stone post,” “public utility,” and “or any such monument marking the bounds of public or private property” near the middle of the section, substituted “\$100” for “\$25,” and added “which shall be measured by the cost of replacing such monument, including necessary engineering services” at the end of the section.

Sec. 22. Malicious injury to buildings, fixtures, goods or valuable papers, civil action for damages not exceeding treble amount.—Whoever willfully and wantonly or maliciously destroys, injures or defaces any building or fixture attached thereto without consent of the owner; or destroys, injures or secretes any goods, chattels or valuable papers of another, shall be punished by a fine of not more than \$500 or by imprisonment for not less than one year; and shall be liable to the party injured, in a civil action, for the amount of injury so done and for a further sum, not exceeding in all 3 times such amount, as the jury deems reasonable. (R. S. c. 118, § 22. 1961, c. 317, § 456.)

Effect of amendment.—The 1961 amendment deleted “also” preceding “be liable” and substituted “a civil action” for “an ac-

tion of trespass” below the middle of this section.

Sec. 24. Mooring vessels or rafts to buoys or beacons and for destroying them.—Whoever moors a vessel, boat, scow or raft to any buoy or beacon, placed by the United States or this state in any of the navigable waters of this state, or in any manner makes the same fast thereto, forfeits \$50; and whoever willfully destroys any such buoy or beacon shall forfeit \$100 and be imprisoned for 3 months. Said forfeitures may be recovered by complaint or civil action, $\frac{1}{2}$ to the plaintiff or informer and $\frac{1}{2}$ to the county in which the trial is had. (R. S. c. 118, § 24. 1961, c. 317, § 457.)

Effect of amendment.—The 1961 amendment substituted “civil action” for “action of debt” in the last sentence of this section.

Sec. 25. Unlawful taking and use of boats, vehicles, aircraft or draft animals; limitation.

Stated in *State v. Greenlaw*, 159 Me. 141, 189 A. (2d) 370.

Sec. 26. Unlawful injuring of or tampering with vehicles or aircraft.—Whoever shall individually or in association with one or more others willfully break, injure, tamper with or remove any part or parts of any vehicle or aircraft for the purpose of injuring, defacing or destroying such vehicle or aircraft or temporarily or permanently preventing its useful operation, or for any purpose against the will or without the consent of the owner of such vehicle or aircraft, or who shall in any other manner willfully or maliciously interfere with or prevent the running or operation of such vehicle or aircraft shall be punished by a fine of not more than \$200 or by imprisonment for a term of not more than 3 months, or by both. Whoever is convicted the 2nd time for a violation of any of the provisions of this section shall be punished by a fine of not less than \$200

nor more than \$500, or by imprisonment for not more than 11 months, or by both. (R. S. c. 118, § 26. 1957, c. 87.)

Effect of amendment.—The 1957 amendment made this section applicable also to aircraft and deleted the words “such fine and imprisonment” following the word “both” in two places.

Sec. 26-A. Propelling substances or missiles at transportation vehicles.—Whoever willfully, maliciously or wantonly propels by any means whatsoever a rock, stone, bullet or any other substance or missile at any automobile, train, bus, truck or other form of public or private conveyance shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than \$100. (1963, c. 249.)

Sec. 28. Driving nails, spikes, etc., in logs intended for manufacture; civil action for double damage.—Whoever willfully or maliciously drives or cause to be driven into any log or logs intended to be sawed or manufactured any nail, spike, bolt or other article such as is likely to cause injury to or destruction of any saw or instrument used in the manufacture of such logs or endanger the life or person of anyone engaged in such manufacture, shall be punished by a fine of not less than \$100 nor more than \$500, and by imprisonment for not less than one year nor more than 5 years; and shall be liable to any person injured in a civil action for double the damages sustained by such person. (R. S. c. 118, § 28. 1961, c. 317, § 458.)

Effect of amendment.—The 1961 amendment deleted “also” preceding “be liable” and substituted “a civil action” for “an ac-

tion on the case” near the end of this section.

Sec. 29. Injuring or cutting loose booms, rafts, vessels or boats; civil action for double damages.—Whoever willfully or maliciously, without consent of the owner, cuts away, lets loose, injures or destroys any boom, raft or logs or other lumber, or any vessel, gondola, scow or other boat, fastened to any place, of which he is not the owner or legal possessor, shall be punished by a fine of not more than \$500 and by imprisonment for less than one year; and shall be liable to the person injured in a civil action for double the damages by him sustained. (R. S. c. 118, § 29. 1961, c. 317, § 459.)

Effect of amendment.—The 1961 amendment deleted “also” preceding “be liable” and substituted “a civil action” for “an ac-

tion of trespass” near the end of this section.

Sec. 31. Protection of rhododendron maximum linnaeus and kalmia latifolia linnaeus.—Whoever without the consent of the owner of the land whereon the same may be growing injures, destroys, digs up or removes any rhododendron maximum linnaeus or kalmia latifolia linnaeus, or any part or parts of the plants of either of said species growing upon the land of another, shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$100, and in addition thereto shall be liable to the owner of the land upon which the same was growing in a civil action in treble damages. (R. S. c. 118, § 31. 1961, c. 317, § 460.)

Effect of amendment.—The 1961 amendment substituted “a civil action” for “an

action of trespass” near the end of this section.

Emergency Use of Party Lines.

Sec. 36-A. Definitions.—As used in sections 36-A to 36-B, the following words shall have the following meanings:

I. Party line. “Party line” means a subscribers’ line telephone circuit, consisting of 2 or more main telephone stations connected therewith, each station with a distinctive ring or telephone number.

II. Emergency. "Emergency" means a situation in which property or human life is in jeopardy and the prompt summoning of aid is essential. (1961, c. 125.)

Sec. 36-B. Refusal to surrender party line for emergency call prohibited.—A person shall not wilfully refuse to surrender the use of a party line to another person for the purpose of permitting such other person to report a fire or summon police, medical or other aid in case of emergency.

A person shall not request the use of a party line on pretext that an emergency exists, knowing that an emergency does not exist. (1961, c. 125.)

Sec. 36-C. Penalty for violation of §§ 36-A and 36-B.—Whoever violates sections 36-A and 36-B shall be punished by a fine of not more than \$300 or by imprisonment for not more than one month, or by both. (1961, c. 125.)

Trespass.

Sec. 37. Trespass upon lands appurtenant to certain State institutions.—Whoever willfully trespasses upon lands which belong to the state and are appurtenant to the Pineland hospital and training center, reformatory for women, reformatory for men, Stevens training center, boys training center or the Maine state prison, or whoever shall unlawfully interfere with the inmates of any of said institutions, or, after notice from an officer of any of said institutions to leave said lands, remains thereon, shall be punished by a fine of not more than \$50 or by imprisonment for not more than 3 months. (R. S. c. 118, § 38. 1955, c. 183. 1961, c. 395, § 48.)

Effect of amendments.—The 1955 amendment made this section applicable to the Maine state prison.

The 1961 amendment, effective on its approval, June 17, 1961, substituted "Pineland

hospital and training center" for "Pownal state school", substituted "Stevens training center" for "state school for girls" and substituted "boy's training center" for "state school for boys".

Sec. 38. Trespasses on improved lands and fish ponds. — Whoever willfully commits any trespass or knowingly authorizes or employs another to do so by entering the garden, orchard, pasture, cranberry ground, improved blueberry ground, arboretum, botanic garden or improved land of another or pond of another used for the lawful cultivation of fish. with intent to take, carry away, **destroy or injure trees, shrubs, plants, flowers, grain, grass, hay, fruit, vegetables, turf or soil thereon or the fish in such pond,** shall be punished by a fine of not more than \$100 and by imprisonment for not more than 90 days. (R. S. c. 118, § 39. 1961, c. 199.)

Effect of amendment.—The 1961 amendment added the provisions as to fish ponds.

Sec. 39. Trespass on commercial or residential property.—Whoever willfully enters in and upon any land commercially used, including parking lots, or whoever willfully enters in and upon residential property or the improved lands appertaining to any farm, summer camp or cottage, or whoever parks any motor vehicle in any private drive or way in a manner to block the same or on a public highway in such a manner as to block the entrance to a private driveway, gate or barway, or whoever willfully permits his cattle, horses, sheep or swine to enter in and upon residential property, including summer residences and cottages after having been forbidden to do so by the owner or occupant thereof, either personally or by an appropriate notice posted conspicuously on the premises, shall be guilty of trespass and shall be punished by a fine of not more than \$100 or by imprisonment for not more than 90 days, or by both such fine and imprisonment. (1949, c. 327, § 1. 1953, c. 325. 1955, c. 165.)

Effect of amendment.—The 1955 amendment inserted the provision as to permit-

ting cattle, horses, sheep or swine to enter on residential property.

Sec. 39-A. Trespass on certain buildings. — Whoever willfully enters any dwelling house, camp, cottage or locked building, without the permission of the owner or occupant thereof, shall be punished by a fine of not more than \$100, or by imprisonment for not more than 90 days or by both such fine and imprisonment. (1955, c. 407.)

Sec. 41. Trespass on timber or wood standing, etc. — Whoever, except a road commissioner acting within the scope of his lawful authority, willfully commits any trespass by cutting, destroying or carrying away timber or wood on the land of another; by digging up, taking and carrying away therefrom earth, sand, stone, grass, corn, grain, fruit, hay or other vegetables, or by carrying away from any wharf or landing place goods in which he has no interest, shall be punished by a fine of not more than \$100 and by imprisonment for not more than 2 months. (R. S. c. 118, § 41. 1955, c. 198. 1961, c. 189.)

Effect of amendments.—The 1955 amendment increased the maximum fine from \$50 to \$100. The 1961 amendment inserted “sand”.

Sec. 42. Limitations of prosecutions.—Prosecutions for offenses described in sections 13 to 41, except those set forth in sections 15, 16, 19, 29, 31, 35 and 36, must be commenced within 4 years after the commission thereof. (R. S. c. 118, § 42. 1963, c. 402, § 208.)

Effect of amendment.—The 1963 amendment deleted the last portion of the section, which gave trial justices jurisdiction in certain cases and fixed the maximum punishment in such cases.

Application of amending act.—See note to § 19.

Chapter 132.

Larceny, Embezzlement and Receiving Stolen Goods.

Section 10-A. Willful Concealment of Merchandise.

Larceny, Embezzlement and Common Thief.

Sec. 1. Larceny, defined.—Whoever steals, takes and carries away, of the property of another, 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 is guilty of larceny; and shall be punished, when the value of the property exceeds \$100, by imprisonment for not more than 5 years; and when the value of the property does not exceed \$100, by a fine of not more than \$100 or by imprisonment for not more than 6 months, or by both. (R. S. c. 119, § 1. 1963, c. 21, § 2.)

Cross references.

See notes to c. 145, § 12, re-ownership of property of corporations and unincorporated associations.

Effect of amendment.—The 1963 amendment deleted “less than 1 year nor” formerly preceding “more than 5 years” and deleted “such fine and imprisonment” at the end of the section.

Essential element of larceny.—That the property alleged to have been stolen was the property of one other than the accused is an essential element of larceny which must be alleged and proved. *State v. Small*,

156 Me. 10, 157 A. (2d) 874.

Felonious intent must be shown. — A conviction for larceny will not be sustained unless a felonious intent at the time of the taking is shown. *State v. Greenlaw*, 159 Me. 141, 189 A. (2d) 370.

In order to constitute a larceny, there must be not only a taking and carrying away of the goods of another, but there must also exist contemporaneously the felonious intent, the *animus furandi*, on the part of the taker, which means a taking without excuse or color or right with the intent to deprive the owner permanently of