

MAINE STATE LEGISLATURE

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REVISED STATUTES

OF THE

STATE OF MAINE

1954

1961 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 4

Discard Previous Pocket Part Supplement

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1961

Effect of amendment.—The 1955 amendment made this section applicable to embezzlement of the money, etc., of a “municipal or quasi-municipal corporation,

public officer or tax collector,” and to embezzlement by a “public officer or tax collector.”

Sec. 9-A. Larceny by trustee in trust receipt transaction. — Any trustee, as defined under chapter 189, who fraudulently appropriates to his own use any money, goods or documents received by him in connection with a trust receipt transaction, or refuses or neglects to pay over and deliver the same to the party entitled to receive it, for 30 days after written demand upon him therefor, is guilty of larceny and shall be punished accordingly. (1961, c. 267.)

Sec. 9-B. Larceny by officer, partner or agent of trustee in trust receipt transaction.—In any case in which the trustee in a trust receipt transaction would be guilty of larceny under section 9-A, and the trustee is a corporation of partnership, any officer or director, partner or agent of such a trustee who willfully and wrongfully sells or disposes of or causes the trustee to sell or dispose of the goods, documents or instruments involved in a trust receipt transaction in which the trustee had no liberty of sale or other disposition, or who willfully or wrongfully diverts or causes the trustee to fail to account to the entruster for the proceeds of sale or other disposition or to pay to the entruster the amount due to the entruster under the trust receipt after such sale or other disposition where the trustee had liberty of sale or other disposition, shall be guilty of larceny and shall be punished as herein provided. (1961, c. 267.)

Willful Concealment of Merchandise.

Sec. 10-A. Willful concealment of merchandise. — Whoever, without authority, willfully conceals the goods or merchandise of any store, while still upon the premises of such store, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than \$100, or by imprisonment for not more than 6 months, or by both such fine and imprisonment. Goods or merchandise found concealed upon the person shall be prima facie evidence of a willful concealment. (1955, c. 66.)

Buying, Receiving or Aiding to Conceal Stolen Goods.

Sec. 11. Buying, receiving or aiding to conceal stolen property; restoration of stolen property; subsequent conviction.

Cited in *State v. Jutras*, 154 Me. 198, 144 A. (2d) 865.

Chapter 133.

Forgery, Counterfeiting, False Pretenses and Frauds.

Forgery and Counterfeiting.

Sec. 1. Forgery, definition. — Whoever, with intent to defraud, falsely makes, alters, forges or counterfeits any public record or proceeding filed or entered in any court; or process issued, or purporting to be issued by a competent court, magistrate or officer; or attestation or certificate of any person required by law or receivable as legal proof in relation to any matter; or any charter, deed, will, testament, bond, writing obligatory, power of attorney, letter of credit, policy of insurance, bill of lading, bill of exchange, promissory note, order or acceptance, or indorsement or assignment thereof, or of any debt or contract; or acquittance, discharge or accountable receipt for anything of value; or a motor vehicle operator's license or registration certificate; or any other written instrument of another, or purporting to be such, by which any pecuniary demand or obligation or any right in any property is or purports to be created, increased, conveyed, transferred, diminished or discharged; and whoever utters and publishes as true

any instrument before-mentioned, knowing it to be false, forged or counterfeit, with like intent, shall be punished by imprisonment for not more than 10 years. (R. S. c. 120, § 1. 1955, c. 29.)

Effect of amendment.—The 1955 amendment inserted the words “or a motor vehicle operator’s license or registration certificate” near the middle of the section.

False Pretenses and Other Frauds.

Sec. 11. Cheating by false pretenses.—Whoever, designedly and by any false pretense or privy or false token and with intent to defraud, obtains from another any money, goods or other property, the making of a loan or credit, the extension of credit, the discount of an account receivable or what is represented to be an account receivable, or the making, acceptance, discount, sale or indorsement of a bill of exchange, bank check or promissory note, or his signature to any written instrument, the false making of which is forgery, or whoever knowingly, and with intent to defraud, sells, conveys, mortgages or pledges to another personal property on which there is an existing mortgage or to which he has no title, without notice to the purchaser of such mortgage or of such want of title, is guilty of cheating by false pretenses and shall be punished by a fine of not more than \$500 or by imprisonment for not more than 7 years. A promise, if unconditional and made without present intention of performance, will constitute a false pretense within this section. (R. S. c. 120, § 11. 1961, c. 40.)

Effect of amendment.—The 1961 amendment added the last sentence in the section.

Sec. 11-A. Fraudulently obtaining long-distance telephone service without payment.—Whoever, with intent to cheat or defraud shall, by any impersonation, false pretense or false representation, wrongfully obtain, or attempt to obtain, any long-distance telephone service without paying the charge therefor, shall be punished by a fine of not more than \$100 or by imprisonment for not more than 30 days, or by both. (1961, c. 278.)

Sec. 25. Fraudulent issue of transfer tickets.—Every conductor of a public conveyance, and every other person whose duty it is to collect fares on such vehicle or conveyance, or issue a transfer ticket, or written or printed instrument, giving or purporting to give the right of transfer to another person or persons from a public conveyance operated upon line or route to a public conveyance upon the same or different lines or routes, who shall knowingly and with intent to defraud the person or corporation operating such public conveyance or vehicle issue, sell or give any such transfer ticket or instrument to another person not lawfully entitled thereto, or receive, use or return any such transfer ticket or instrument unlawfully issued or presented for fare in lieu of a regular cash fare, or substitute any such transfer ticket or instrument for any cash fare collected by him; and every person who shall fraudulently and with intent to evade the payment of fare receive and use or offer for passage any transfer ticket or instrument not originally issued to him; and every person, who shall sell or give any such transfer ticket or instrument originally issued to him to another person with intent to have such transfer ticket or instrument used or offered for passage by such other person, shall be punished by a fine of not more than \$50 or by imprisonment for not more than 30 days, or by both. (R. S. c. 120, § 25. 1961, c. 395, § 49.)

Effect of amendment.—The 1961 amendment, effective on its approval, June 17, 1961, deleted “street railroad car or other” near the beginning of this section, substituted “vehicle” for “car” twice in this section, substituted “to a public conveyance upon the same or different lines or routes”

for “of a street railroad to a public conveyance upon another line or route of a street railroad, or from one car to another upon the same line of a street railroad” and deleted “such fine and imprisonment” at the end of the section.

Sec. 26. Tampering with fare-box or fare-register of public vehicles or depositing mutilated coins therein with intent to defraud.—Whoever with intent to defraud opens, defaces or in any way tampers with any fare-box or fare-register of any public vehicles, or in any way disarranges the mechanism thereof; and whoever with intent to defraud deposits, causes to be deposited or furnishes to another person with intent that same shall be deposited in such fare-box or register any coin which has been, or may hereafter be, coined at the mints of the United States, or any foreign coin, of a sort that is in actual use or circulation as money within this State, knowing that said coin has been defaced, mutilated or altered in shape in such fashion that it will not be properly registered in such fare-box or register, shall be punished by a fine of not less than \$25 nor more than \$100, and by imprisonment for not more than 60 days. Whoever with intent to defraud procures or has in his possession any such coin so defaced, mutilated or altered in shape knowing that said coin is so defaced, mutilated or altered in shape and with intent to deposit such coin or cause same to be deposited in any fare-box or fare-register of any public vehicles, or with intent to furnish same to any third person with intent that same shall be deposited in such fare-box or register, shall be punished by a fine of not less than \$25 nor more than \$100, and by imprisonment for not more than 60 days. (R. S. c. 120, § 26. 1961, c. 395, § 50.)

Effect of amendment.—The 1961 amendment, effective on its approval, June 17, 1961, substituted “public vehicles” for “street railway company” twice in this section.

Sec. 28. Circulating advertisements in the similitude of bank bills.—Whoever puts in circulation or distributes any notice, advertisement or shop bill, in the form and similitude of a bank bill, forfeits \$50 for each offense, to be recovered by civil action in the name and to the use of the prosecutor. (R. S. c. 120, § 28. 1961, c. 317, § 461.)

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

Sec. 29. Fraudulent advertising.—Any person, firm, corporation or association who, with intent to sell or in anywise dispose of merchandise, service or anything offered by such person, firm, corporation or association, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto or an interest therein, makes, publishes, disseminates, circulates or places before the public, or causes, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in this state, in a newspaper or other publication, or in the form of a book, notice, handbill, poster, sign, billboard, bill, circular, pamphlet or letter, photograph, motion picture, radio, loud speaker, television, telephone, telegraph, or in any other way, an advertisement of any sort regarding merchandise, service or anything so offered to the public, which advertisement contains any assertion, representation or statement of fact which is untrue and designed to be deceptive or misleading, or is intended or designed not to sell the merchandise, commodities or service so advertised at the price stated therein, or otherwise communicated, or with intent not to sell the merchandise, commodities or service so advertised, may be enjoined from such advertising, and shall be punished by a fine of not more than \$500.

The provisions of this section shall not apply to any radio station, publisher of a newspaper, magazine or other publication, or any other established and recognized advertising media, or printer who publishes or prints said advertisement without actual knowledge of its falsity. The fact of the publishing or print-

ing of such advertisement shall not be prima facie evidence of such actual knowledge of falsity. (R. S. c. 120, § 29. 1955, c. 54.)

Effect of amendment.—The 1955 amendment rewrote the first paragraph and inserted the words “or any other established and recognized advertising media” in the second paragraph.

Chapter 134.

Crimes against Chastity, Morality and Decency. Sunday Activities.

Sexual Crimes.

Sec. 3. Crime against nature.

Age of victim or pathic is not material.—Where the crime against nature is charged, the age of the victim or pathic is not material and there is no requirement that it be alleged. *State v. Pratt*, 151 Me. 236, 116 A. (2d) 924.

Penetration of a natural orifice of the body essential.—An indictment which charged that the defendant committed the

offense of the crime against nature by causing a female to manipulate his sexual parts was vulnerable to demurrer, since the crime against nature involving mankind is not complete without some penetration, however slight, of a natural orifice of the body. *State v. Pratt*, 151 Me. 236, 116 A. (2d) 924.

Sec. 6. Indecent liberties.—Whoever, being 21 years or more of age, takes any indecent liberty or liberties or indulges in any indecent or immoral practice or practices with the sexual parts or organs of any other person, male or female, under the age of 16 years, either with or without the consent of such male or female person, or, whoever, being 21 years or more of age, induces or procures any person under the age of 16 years to take any indecent liberty or liberties or to indulge in any indecent or immoral practice or practices with the sexual parts or organs of any person, male or female, other than the said person under the age of 16 years, shall, upon conviction thereof, be punished by imprisonment at hard labor for not less than one year nor more than 10 years. (R. S. c. 121, § 6. 1961, c. 60.)

Effect of amendment.—The 1961 amendment inserted the provisions as to an adult procuring a person under 16 to take indecent liberties with another.

Section is similar to indecent assault statutes.—This section, with its limitation of ages, elimination of consent as a defense, and limitation of the offense to indecent liberties with the sexual parts, is a statute of like general purpose with indecent assault statutes. *State v. Rand*, 156 Me. 81, 161 A. (2d) 852.

Testimony of earlier happenings, etc.

In accord with original. See *State v. Norton*, 151 Me. 178, 116 A. (2d) 635.

Sentence.—Defendant, who pleaded

guilty to an indictment in two counts charging the offense of taking indecent liberties on June 20, 1945, and the conviction and sentence for a prior similar offense in 1936 was properly sentenced for 20 years pursuant to provisions of ch. 149, § 3, since provisions of ch. 149, § 11 requiring sentence for minimum and maximum terms did not apply to prosecutions under ch. 134, § 6 for taking of indecent liberties (ch. 149, § 12). *Carr v. State*, 151 Me. 226, 117 A. (2d) 63.

Quoted in *State v. Robinson*, 153 Me. 376, 139 A. (2d) 596.

Cited in *State v. Seaburg*, 154 Me. 162, 145 A. (2d) 550.

Houses of Ill Fame. Prostitution.

Sec. 12. Prostitution, lewdness and assignation; terms of probation and parole.

No female who shall be convicted of violating any of this section shall be placed