

MAINE STATE LEGISLATURE

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CHARLOTTESVILLE VIRGINIA

Chapter 137.

Crimes against Public Health, Safety and Policy.

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Corrupting Waters.

Sec. 1. Corrupting water used for domestic or other uses.—Whoever knowingly and willfully poisons, defiles or in any way corrupts the waters of any well, spring, brook, lake, pond, river or reservoir used for domestic purposes for man or beast, or knowingly corrupts the sources of any public water supply, or the tributaries of said sources of supply in such manner as to affect the purity of the water so supplied, or knowingly defiles such water in any manner, whether the same be frozen or not, or puts the carcass of any dead animal or other offensive material in said waters or upon the ice thereof, shall be punished by a fine of not more than \$5,000 or by imprisonment for any term of years. (R. S. c. 124, § 1.)

Cross references.—See c. 79, § 11, re pollution of certain inland or tidal waters; c. 131, § 32, re malicious injuries to ice.

Purpose of section.—In view of the language used in this section to define the felony and the severe punishment imposed, it was the intent and policy of the legislature to prevent the introduction into domestic water, of some foreign, impure, poisonous substance which would change those waters from a sound to a putrid or putrescent state, which would taint them, which would vitiate them physically and render them dangerous or perhaps deadly for domestic use. State v. Blaisdell, 118 Me. 13, 105 A. 359.

The severity of this section may be better appreciated when it is contemplated

that it is greater than those defining and imposing punishments for manslaughter, mayhem or assault with intent to murder. It should therefore be interpreted with a degree of strictness commensurate with its severity. State v. Blaisdell, 118 Me. 13, 105 A. 359.

Stirring of spring with stick not within section.—It was not the intent and policy of the legislature to impose the drastic and severe punishment provided by this section upon one who merely stirs, with a clean stick, the natural soil which lines the sides and bottom of a spring whose waters chance to be used for domestic purposes. State v. Blaisdell, 118 Me. 13, 105 A. 359.

Cited in Wade v. Warden of State Prison, 145 Me. 120, 73 A. (2d) 128.

Unwholesome Provisions and Drinks.

Sec. 2. Sale of unwholesome provisions or drinks.—Whoever sells diseased, corrupted or unwholesome provisions for food or drink, knowing them to be such, or fraudulently adulterates for the purpose of sale any substance intended for food, or any wine, spirits or other liquors intended for drink, so as to render them injurious to health, shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 5 years. (R. S. c. 124, § 2.)

Sec. 3. Sale of impure or adulterated milk or cream.—Whoever by himself, clerk, servant or agent sells, exchanges or delivers, or has in his custody or possession with intent to sell, exchange or deliver, or exposes or offers for sale or exchange milk which is not of good standard quality, adulterated milk or milk to which water or any foreign substance has been added, or milk produced from sick or diseased cows, or milk in or from cans or other utensils that are not in a clean or sanitary condition, or as pure milk, milk from which the cream or a part thereof has been removed; and whoever by himself, clerk, servant or agent sells, exchanges or delivers, or has in his custody with intent to sell, exchange or deliver cream containing less than 18% of milk fat shall for the 1st offense be punished by a fine of not more than \$50, for a 2nd offense by a fine of not less than \$50 nor more than \$100, and for a subsequent offense by a fine of \$100 and by imprisonment for not less than 30 days nor more than 60 days. In prosecutions hereunder milk which upon analysis is shown to contain less than 11 75/100% of milk solids or less than 3 25/100% of fat shall not be considered milk of good standard quality. Nothing in this section shall be construed to prohibit the sale of skimmed milk as such. (R. S. c. 124, § 4.)

See c. 32, § 126, re court jurisdiction.

Sec. 4. Possession of diseased meat or milk for human food.—Whoever, having charge of any animal or meat or milk of any animal affected with tuberculosis or other contagious or infectious disease, knowing that the animal is thus affected, shall hold the animal or its meat or milk for human food shall be punished by a fine of not less than \$5 nor more than \$50. (R. S. c. 124, § 5.)

See c. 32, § 126, re court jurisdiction.

Sec. 5. Imitations of butter or cheese not manufactured or sold.—No person shall manufacture, sell, expose for sale or have in his possession with intent to sell, or take orders for the future delivery of any article, substance or compound made in imitation of yellow butter or cheese, and not made exclusively and wholly of cream or milk, or containing any fats, oil or grease not produced from milk or cream, whether said article, substance or compound be named oleomargarine, butterine or otherwise named; nor shall any person, firm or corporation sell, expose for sale or have in his possession with intent to sell oleomargarine unless the original package in which the same is shipped or conveyed from place of manufacture shall have the word "oleomargarine" in letters $\frac{3}{4}$ inch high and of proportionate width plainly printed or stenciled on the top or side thereof and unless each carton or wrapper containing said oleomargarine and in which such oleomargarine is sold or kept for sale shall have the word "oleomargarine" printed on 2 principal display panels in plain gothic letters not less than 20-point type. When said oleomargarine is sold from a tub or box or other container in which it is kept for sale in bulk, said oleomargarine must be wrapped in wrappers plainly stamped or printed on the outside thereof with the word "oleomargarine" in plain gothic letters not less than 20-point size, and shall also contain the name and address of the seller thereof and the quantity sold. For the purpose of this section any article, substance or compound manufactured from animal fats or oils, vegetable oils or from compounds or mixtures of animal fats or oils and vegetable oils which has been churned in cream, milk or water, or bathed in a solution of brine, shall be considered oleomargarine; nor shall any person, firm or corporation within this state use in any way in connection or association with the sale, or exposure for sale or advertisement of any oleomargarine or any substance designed to be used as a substitute for butter, the word "butter", "creamery", "dairy" or the name or representation of any breed of dairy cattle, or any combination of such word or words and representation, or any other words or symbols or combinations thereof commonly used in the sale of butter. Whoever violates any of the provisions of this section shall be punished for the 1st offense by a fine of

not more than \$100 and for the 2nd offense by a fine of not more than \$200. (R. S. c. 124, § 6.)

Cross references.—See § 10, re duty of officers; c. 32, § 126, re court jurisdiction.

Section not absolute prohibition of wholesome substitutes for butter.—This section does not assume to impose an absolute prohibition on the manufacture or sale of "oleomargarine" or "butterine" in its avowed character as such. It does not seek to interfere with any inherent right or privilege the people may have to engage in the manufacture and sale of any wholesome product or compound designed simply to be used as a substitute for butter, provided it is not made in imitation of yellow butter, and the true character of it is openly designated and published. It only prohibits the manufacture and sale of any "substance or compound made in imitation of yellow butter," and not made "wholly of cream or milk." *State v. Rogers*, 95 Me. 94, 49 A. 564.

But is aimed at intentional imitation of butter.—This section is aimed at a designed and intentional imitation of dairy butter, in manufacturing the new product, and not at a resemblance in qualities inherent in the articles themselves and common to both. *State v. Rogers*, 95 Me. 94, 49 A. 564.

And deception of purchasers.—This section prohibits the sale of a simulated article put upon the market in such form and color as to be calculated to deceive the purchaser. The obvious purpose of it was to prevent the fraud and deception practiced in selling for genuine yellow butter any spurious article or compound made in imitation of it. *State v. Rogers*, 95 Me. 94, 49 A. 564.

Sec. 6. Oleomargarine.—No person shall by himself, his clerk, servant or agent furnish oleomargarine or any other substitute instead of butter in any hotel, restaurant, boardinghouse, lunchroom or lunch cart to a guest or patron thereof without notifying said guest or patron that the substance so furnished is not butter by placing on the walls of said hotel, restaurant, boardinghouse, lunchroom or lunch cart where oleomargarine or other substitute is served, a white placard on which is printed in black ink, in plain roman letters of not less than 3 inches in length and not less than 2 inches in width the words "Oleomargarine sold or used here," or the name of the substitute displayed on the placard instead of the word oleomargarine, such placard to be displayed at all times in such conspicuous place as to be readily seen by any and all persons entering such hotel dining room, restaurant, boardinghouse, lunchroom or lunch cart, where oleomargarine or other substitute is served. Whoever violates any of the provisions of this section shall be punished for the 1st offense by a fine of not more than \$100 and for the 2nd offense by a fine of not more than \$200. (R. S. c. 124, § 7.)

See § 10, re duty of officers; c. 32, § 126, re court jurisdiction.

Sec. 7. Imitations not sold.—No person shall sell or offer for sale to any person who asks, sends or inquires for butter or cheese, any substance or com-

Section is a valid exercise of police power under Maine constitution.—The enactment of this section for the prevention of fraud, the protection of public morals, and the promotion of a sound public policy, may well be deemed a reasonable exercise by the legislature of the police powers of the state, and not in conflict with any provision of our state constitution. *State v. Rogers*, 95 Me. 94, 49 A. 564.

And does not violate the federal constitution.—A state enactment forbidding the sale of deceitful imitations of articles of food in general use among the people does not abridge any privilege secured to citizens of the United States, nor, in any just sense, interfere with the freedom of commerce among the several states. *State v. Rogers*, 95 Me. 94, 49 A. 564.

Knowledge and intent of seller need not be shown.—It is not incumbent on the government to show knowledge on the part of a defendant that the "article, substance or compound" sold by him was "not made exclusively and wholly of milk or cream," or to prove an intention on his part to deceive the purchaser. By the plain and simple terms of this section the act of selling such an imitation of yellow butter, as therein described, is made to constitute the offense. It contains no words indicative of a legislative purpose to make such knowledge or intention an essential element of the offense. The words "knowingly," "intentionally," or "with intent to deceive" are not found in the enactment. *State v. Rogers*, 95 Me. 94, 49 A. 564.

pound made in imitation of butter or cheese. Whoever violates any of the provisions of this section shall be punished for the 1st offense by a fine of not more than \$100 and for the 2nd offense by a fine of not more than \$200. (R. S. c. 124, § 8.)

See § 10, re duty of officers.

Sec. 8. Renovated butter labeled.—No person shall sell, offer or expose for sale any renovated butter, unless the words “renovated butter” shall be conspicuously and plainly stamped, labeled or marked, so that said words cannot be easily defaced, upon the top and side of every tub, firkin, box or package containing said article or compound. The seller at retail of said article or compound, which is not in the original package, shall attach to each package so sold and deliver therewith to the purchaser a label or wrapper bearing in a conspicuous place upon the outside of the package the words “renovated butter.” Whoever violates any of the provisions of this section shall be punished for the 1st offense by a fine of not more than \$100 and for the 2nd offense by a fine of not more than \$200. (R. S. c. 124, § 9.)

See § 10, re duty of officers; c. 32, § 126, re court jurisdiction.

Sec. 9. Butter and cheese defined.—For the purposes of this chapter, the terms “butter” and “cheese” mean the products usually known by those names, and which are manufactured exclusively from milk or cream, or both, with salt and rennet and with or without coloring matter. (R. S. c. 124, § 10.)

Sec. 10. Duty of officers to make complaints; suspected articles analyzed.—Every inspector of milk, sheriff, deputy sheriff or constable shall institute complaint for any violations of the provisions of sections 5 to 8, inclusive, whenever he has reasonable cause therefor, and on the information of any person who shall lay before him satisfactory evidence of such violation. Said inspector or officer shall take specimens of suspected butter or cheese and cause the same to be analyzed or otherwise satisfactorily tested. The expense of such analysis or test, not exceeding \$20 in any one case, may be included in the costs of prosecution, and taxed and allowed to the officer paying the same. (R. S. c. 124, § 11.)

Sec. 11. Bread offered for sale enclosed in sanitary wrapper; jurisdiction.—No person, firm or corporation shall distribute, transport or sell for distribution or transportation any bread, in loaf form, which is not properly enclosed in a sanitary wrapper. Any person, firm or corporation who violates any provision of this section shall be punished by a fine of not more than \$100 for the 1st offense and by a fine of not more than \$200 for each subsequent offense. Trial justices shall have original jurisdiction, concurrent with municipal courts and the superior court, of the above offenses. (R. S. c. 124, § 12.)

Sec. 12. Throwing or leaving samples of patent medicines upon doorsteps and streets.—Any person, firm or corporation who, by himself, his servant or agent, or as the servant or agent of any other person or firm, leaves, throws or deposits or has in his possession with intent to leave, throw or deposit upon the doorstep, hall, porch, doorway, vestibule or premises owned or occupied by another, or distributes on any street, any patent or proprietary medicine or any preparation, pill, tablet or drug shall be punished by a fine of not less than \$20 no more than \$1,000, or by imprisonment for not less than 30 days nor more than 11 months. (R. S. c. 124, § 13.)

Sec. 13. Swelling of scallop meats; jurisdiction.—No person shall swell or expand scallop meats by the use of fresh water, baking soda or by any other artificial means. Whoever violates the provisions of this section shall be punished by a fine of \$5 for each gallon of scallops so treated. Trial justices shall have original jurisdiction, concurrent with municipal courts and the superior

court, of prosecutions for offenses under the provisions of this section. (R. S. c. 124, § 14.)

Sec. 14. Sale of adulterated candy and brandy drops.—Whoever, by himself, his servant or as agent of any other person or corporation, manufactures for sale, or knowingly sells or offers for sale any candy adulterated by the admixture of terra alba, barytes, talc, or any other mineral or metallic substance, or by poisonous colors or flavors, or containing brandy, whiskey, rum, wine, or any alcoholic liquor in liquid form or other ingredients deleterious or detrimental to health, or offers for sale any candy under the name of brandy, whiskey, rum or wine drops shall be punished by a fine of not less than \$50 nor more than \$100. The candy so adulterated shall be forfeited and destroyed under the direction of the court. County attorneys shall prosecute all complaints under this section in all the courts in their respective counties. (R. S. c. 124, § 15.)

Sec. 15. Offering prize candy for sale; liability to summary arrest.—Whoever sells or offers for sale prize candy in packages containing or purporting to contain a prize or gift shall, for each offense, be punished by a fine of not more than \$20 or by imprisonment for not more than 30 days; and, if discovered in the commission of such offense in any railroad car, steamboat, public conveyance or other place by any officer qualified to serve criminal process, he may be arrested by such officer and detained by imprisonment or otherwise for not more than 24 hours, until a complaint has been made and a warrant issued against him. (R. S. c. 124, § 16.)

Re-use of Barrels for Food.

Sec. 16. Re-use of barrels for food.—No person, firm or corporation shall use for packing fresh fish for shipment, barrels that have been previously so used; provided, however, that the provisions of this section shall not apply to the re-use of barrels that have been thoroughly cleaned or sterilized. Whoever violates any of the provisions of this section shall be punished for the 1st offense by a fine of not more than \$100 and for the 2nd offense by a fine of not more than \$200. (1949, c. 344.)

Expectoration in Public Places.

Sec. 17. Spitting in public places.—No person shall expectorate or spit on any public sidewalk, or public street crossing or cross walk, or, except in receptacles provided for the purpose, in any city or town hall, in any courthouse or courtroom, in any factory, in any public library or museum, in any church or theatre, in any lecture or music hall, in any ferry boat or steamboat, in any railroad car except a smokingcar, in any street or interurban railroad car, in any public conveyance, in any railroad station or waiting room, or any sidewalk or platform connected therewith. Whoever violates any of the provisions of this section shall be punished by a fine of not more than \$20. (R. S. c. 124, § 17.)

Depositing Rubbish on Another's Land.

Sec. 18. Depositing rubbish on another's land.—Whoever deposits rubbish or garbage on land not his own, without the consent of the owner, shall be punished by a fine of not more than \$25. (1951, c. 305.)

Dangerous Weapons.

Sec. 19. Threatening display of and carrying concealed firearms or weapons; licenses.—No person shall in a threatening manner display, or shall wear under his clothes, or conceal about his person any firearm, slung shot,

knuckles, bowie knife, dirk, stiletto or other dangerous or deadly weapon unless first licensed to do so as herein provided. The chief of police or city marshal of any city or the selectmen of any town may upon written application therefor issue to any legal resident of such city or town of good moral character, a certificate setting forth that such person has been duly licensed to carry any weapon or weapons mentioned in this section. If such applicant is a resident of the state and is domiciled in unorganized territory, such certificate may be issued by the police or city marshal of any city or the selectmen of any town nearest to the unorganized territory. Said license shall continue in effect to the end of the calendar year in which issued and for 1 year thereafter unless sooner revoked by the chief of police, city marshal, or by the selectmen of the town in which said license was issued. The official or officials, issuing a license, shall make a permanent record of it in a suitable book or file, kept for that purpose. Such record shall include date of issuance, the name, age, sex and street address of licensee, together with complete description of weapon, and in case of firearms, the caliber, make and number. The provisions of this section shall not be construed as prohibiting the carrying or wearing of such weapons by United States marshals, sheriffs and their deputies, constables, police officers, licensed private detectives and other officers charged with the enforcement of law. Whoever violates any of the provisions of this section shall be punished by a fine of not more than \$100 or by imprisonment for not more than 90 days. (R. S. c. 124, § 18. 1945, c. 123. 1949, c. 46. 1953, c. 167.)

See c. 37, § 78, re hunting from automobiles.

Sec. 20. Treating of gunshot wounds.—Any person who professionally treats a human being for a wound apparently caused by the discharge of a firearm shall immediately report the same to the county attorney or sheriff or any of his deputies or any police officer of the county in which the wound was treated. Whoever fails to so report any such treatment shall be punished by a fine of not more than \$100. (1953, c. 295.)

Fireworks.

Sec. 21. Sale of fireworks.—No person shall sell, or keep or offer for sale, or use, explode or cause to explode any combustible or explosive composition or substance, or any combination of such compositions or substances, or any other article, which was prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, including in the above terms blank cartridges or toy cannons in which explosives are used, the type of balloon which requires fire underneath to propel the same, firecrackers, torpedoes, skyrockets, roman candles, bombs, sparklers, rockets, wheels, colored fires, fountains, mines, serpents, or other fireworks of like construction, or any fireworks containing any explosive or flammable compound, or any tablets or other device containing any explosive substance or flammable compound; provided that the term "fireworks" as used herein shall not include toy pistols, toy canes, toy guns or other devices in which paper caps containing 25/100ths grains or less of explosive compound are used, if they are so constructed that the hand cannot come in contact with the cap when in place for the explosion, or toy pistol paper caps which contain less than 20/100ths grains of explosive mixture, the sale and use of which shall be permitted at all times; and provided further, that this section shall not apply:

I. To the sale of any article herein named to be shipped directly out of the state; or

II. To the sale of any such article for its use by persons or organizations having obtained from the insurance commissioner a permit to display such article or fireworks under the provisions of section 22; or

III. To the sale of flares, lanterns or fireworks for use by railroads, railways, boats, motor vehicles or other transportation agencies, or other activity, lawfully permitted or required to use any or all of such articles for signal purposes, illumination or otherwise; or

IV. To the sale or use of blank cartridges for a duly licensed show or theatre or for signal or ceremonial purposes in athletics or sports; or

V. To experiments at a factory for explosives; or

VI. To the sale of blank cartridges for use by the militia or any organization of war veterans or other organizations authorized by law to parade in public a color guard armed with firearms; or

VII. In teaching the use of firearms; or

VIII. To the sale of shells for firearms, cartridges, gunpowder and explosives for the purpose of any legal use of firearms.

Violation of any provision of this section shall be punished by a fine of not more than \$100 or by imprisonment for not more than 1 month, or by both such fine and imprisonment. Each such sale or use shall constitute a separate offense. (R. S. c. 124, §§ 19, 20, 1949, c. 372.)

Sec. 22. Permits for supervised displays; rules and regulations.—

All persons, municipalities, fair associations, amusement parks and other organizations or groups of individuals desiring to discharge, fire off, explode or display fireworks in accordance with the provisions of subsection II of section 21 shall apply in writing to the insurance commissioner for a permit at least 15 days in advance of the proposed date of the display. The insurance commissioner, upon receipt of such application, shall determine if the applicant is competent and if the proposed display will in other respects be in accordance with the law and any rules and regulations which may have been promulgated thereunder. If the insurance commissioner finds that such applicant is competent and that the proposed display is in accordance with the law and all rules and regulations, he shall issue a permit, otherwise he shall refuse to issue a permit. The insurance commissioner shall make rules and regulations for the granting of the permits above referred to and shall promulgate such rules and regulations relative to the supervised display of fireworks as shall be conducive to public safety. (R. S. c. 124, § 21, 1949, c. 372.)

See § 26, re penalty.

Sec. 23. Storage of fireworks.—No person shall store fireworks except in such buildings as may be permitted by the rules and regulations of the insurance commissioner outside the premises of a fireworks manufactory if such building or other structure is located within 1,000 feet of any church, hospital, theatre, hall, place of assembly, workshop, factory or any inhabited building, nor shall any person manufacture fireworks, without first furnishing the insurance commissioner, in an amount to be determined by him, a certificate of public liability insurance to cover the losses, damages or injuries that might ensue to persons or property by reason thereof. (1949, c. 372.)

See § 26, re penalty.

Sec. 24. Display or exhibit of fireworks.—No person engaged in the business of displaying, exploding or exhibiting fireworks shall, by himself or his agents, discharge, fire off, explode or display fireworks without first furnishing the insurance commissioner, in an amount to be determined by him, a certificate of public liability insurance to cover the losses, damages or injuries that might ensue to persons or property by reason thereof. (1949, c. 372.)

See § 26, re penalty.

Sec. 25. Application of 2 preceding sections.—Firecrackers and pyrotechnical ship or railway signals shall be included and classed as fireworks, but the provisions of the 2 preceding sections shall not apply to the storage of pyrotechnical ship or railway signals nor to the discharge, firing or exploding of the said signals when used for the protection of life and property. (1949, c. 372.)

See § 26, re penalty.

Sec. 26. Violation of §§ 22 to 25.—Whoever violates any provision of the 4 preceding sections shall be punished by a fine of not more than \$500 or by imprisonment for not more than 6 months, or by both such fine and imprisonment. (1949, c. 372.)

Sec. 27. Appeal.—Any person aggrieved by any decision of the insurance commissioner under the provisions of sections 22 to 24, inclusive, within 30 days after such decision may appeal therefrom to a justice of the superior court, in term time or vacation, who shall forthwith, after notice and hearing, affirm or reverse such decision, and the finding of such justice shall be final. (1949, c. 372.)

Dangerous Use of and Deposits on Ways.

Sec. 28. Riding with a naked scythe.—Whoever rides on the highways or in any lanes, streets or alleys with a naked scythe, sharpened and hung in a snath, forfeits \$2 for each offense. (R. S. c. 124, § 22.)

Sec. 29. Placing obstructions on any traveled road.—Whoever places rocks, stones, snow, ice or other obstructions in such a manner as to obstruct traffic on a traveled road and leaves them there shall be punished by a fine of not more than \$10 for each offense, to be recovered on complaint, to the use of the town where the offense is committed. (R. S. c. 124, § 23. 1947, c. 189.)

Sec. 30. Dumping of rubbish in highways.—No person, firm or corporation shall throw, place or cause to be placed any waste material, bottles, rubbish or garbage of any nature within the limits of the right-of-way of any public highway; provided, however, that this section shall not apply to the proper use of the right-of-way for highway purposes.

For the purposes of this section, where the limits of the highway are not known, they shall be considered as extending 33 feet both sides of the center line of the traveled portion of the highway.

Whoever violates the provision of this section shall be punished by a fine of not more than \$50. (R. S. c. 124, § 24. 1951, c. 286.)

Sec. 31. Throwing of bottles, etc., on highways.—Whoever throws or deposits on any public way or on land within the bounds of such way any bottles or metal cans, except in proper containers placed for rubbish collection and removal, shall be punished by a fine of not more than \$10. (1953, c. 308, § 100.)

Sec. 32. Depositing sawdust within limits of highway.—It shall be unlawful for any owner, operator, manager or employee of any mill used in the sawing of lumber to establish, locate or use the same within such proximity to any way of the state as to allow the sawdust therefrom to blow into such highway. Whoever violates the provisions of this section shall be punished by a fine of not less than \$10 nor more than \$50 for each offense. (R. S. c. 124, § 25.)

Tramps, Vagrants, Rogues, Vagabonds and Idle Persons.

Sec. 33. Begging, etc., evidence of being a tramp; refusing to labor; jurisdiction.—Whoever goes about from town to town or from place to place in any town, asking for food or shelter or begging or subsisting upon charity shall be deemed a tramp and be punished by imprisonment for not less than 30 days

nor more than ten months, at hard labor for ten hours each day, Sundays excepted. Should any person so sentenced refuse to labor in accordance with the provisions of this section, he shall be provided with no food except bread and water until he shall consent to labor in conformity with the requirements of this section. Trial justices shall have original jurisdiction, concurrent with municipal courts and the superior court, of all offenses arising under the provisions of this section. (R. S. c. 124, § 26.)

Sec. 34. Tramps entering dwelling, kindling fire in highway, etc.—If a tramp enters a dwelling house, or kindles a fire in the highway, or on the land of another without the consent of the owner or occupant, or is found carrying any firearm or other dangerous weapon, or threatens to do injury to any person or to the real or personal estate of another, he shall be punished by imprisonment at hard labor for not more than 2 years. (R. S. c. 124, § 27.)

Nonconsent of owner is a necessary allegation.—Where, as in this section, nonconsent of the owner is made a ma-
 terial part of the offense, an allegation of such nonconsent is necessary. *State v. Glovsky*, 119 Me. 546, 112 A. 347.

Sec. 35. Malicious injury to person or property by tramp.—If a tramp willfully and maliciously does injury to any person or to the real or personal estate of another, he shall be punished by imprisonment at hard labor for not more than 5 years. (R. S. c. 124, § 28.)

Sec. 36. Nonresident tramps sleeping or lodging in barns, etc., without permission.—If any tramp, not resident in the state, sleeps or lodges in any barn or other outbuilding without consent of the owner or occupant, he shall be punished by a fine of \$20 and, in default of payment, shall be imprisoned at hard labor in the nearest work-jail for not less than 4 months for the 1st offense, and not less than 6 months for every subsequent offense. A nonresident committing any act of beggary or vagrancy shall be deemed a tramp and may be arrested by any officer and detained for not more than 24 hours until a warrant, issued on complaint of some resident of the state, can be obtained. (R. S. c. 124, § 30.)

Sec. 37. Arrest by any citizen; exceptions.—Any person, upon view of an offense described in sections 33 to 37, inclusive, may apprehend the offender and take him before any competent magistrate for examination, but the provisions of said sections shall not apply to any blind person, or female, or minor under the age of 14 years. (R. S. c. 124, § 31.)

Sec. 38. Fees of officers; when costs paid by state.—The fees of officers and magistrates under the provisions of section 36 shall be the same as in case of common vagrants, except that the fees for commitment shall be \$1.50 for each day necessarily employed, and actual expenses of transportation. All costs incurred under the provisions of said section shall be paid by the state, upon the order of the county commissioners, out of the state pauper fund; provided that the governor and council are satisfied that the person confined is a tramp, having no pauper settlement in the state. (R. S. c. 124, § 32.)

See c. 94, § 21, re state paupers.

Sec. 39. Vagrant, tramp or beggar refusing to leave dwelling house on request.—If any vagrant, tramp, beggar or other person who goes about from place to place asking or subsisting upon charity, or without means of support, having entered a dwelling house, remains therein to the terror or fright of any of its occupants, or refuses or neglects on request to depart, he shall be punished by imprisonment at labor for not more than 30 days in any jail, workhouse, house of correction or at any town farm or almshouse in the town in which the offense was committed and by a fine of not more than \$10, and in default of payment, by imprisonment for an additional 30 days. (R. S. c. 124, § 33.)

Sec. 40. Convict to labor; keeper; profits.—The keeper of the jail, workhouse, house of correction, or, in case of a sentence to any town farm or almshouse, the overseers of the poor of such town or the keeper or agent of such town farm or almshouse may require a convict committed thereto to labor at any lawful work within the town where such institution is situated, and may appoint any suitable person keeper over him, and may collect and receive the wages, compensation or profits of his labor, and at the expiration of his sentence pay to the convict such reasonable compensation as in their judgment the profits of his labor will warrant, deducting therefrom the costs of commitment and any fine imposed under the provisions of the preceding section. (R. S. c. 124, § 34.)

Sec. 41. Rogues, vagabonds, idle persons, etc., commitment.—All rogues, vagabonds and idle persons going about in any town in the county begging; persons using any subtle craft, jugglery or unlawful games or plays, or for the sake of gain pretending to have knowledge in physiognomy, palmistry, to tell destinies or fortunes, or to discover lost or stolen goods; common pipers, fiddlers, runaways, drunkards, nightwalkers, railers, brawlers and pilferers; persons wanton or lascivious in speech or behavior, or neglecting their callings or employments, misspending what they earn and not providing for the support of themselves and their families; all idle and disorderly persons having no visible means of support, neglecting all lawful calling or employment; and all idle and disorderly persons who neglect all lawful calling or employment and misspend their time by frequenting disorderly houses, houses of ill fame or gaming houses may, on complaint under oath before a municipal court or trial justice in his county, be committed to jail or to the house of correction in the town where the person belongs or is found, for a term of not more than 90 days. (R. S. c. 124, § 35.)

Cross reference.—See c. 94, §§ 33, 36, re removal of paupers and intemperate paupers.

History of section.—See *State v. Burgess*, 123 Me. 393, 123 A. 178.

The common practice and not particular acts constitute the offense.—In the class of offenses covered by this section, it is the common practice and not the particular words or acts which constitute the crime alleged. It may, and doubtless does, become necessary to prove the doing of particular acts and the utterance of certain words of a wanton and lascivious nature in order to make out the offense under this section, but these are merely evidence of the general charge and need not be alleged in the complaint. When an offense consists of a series of acts or a habit of life, the indictment may charge the of-

fense in general terms, and the particular acts which establish the guilt of the party need not be stated. *State v. Burgess*, 123 Me. 393, 123 A. 178.

And offenses may be charged in words of section.—A party can well be charged in the words of this section. They meet all the requirements of criminal pleading, in that they appraise the defendant of the precise nature of the charge against him; they enable the court to determine whether the facts constitute an offense and to render proper judgment thereon; and the judgment so rendered is a bar to further prosecution for the same offense. *State v. Burgess*, 123 Me. 393, 123 A. 178.

Being wanton and lascivious in speech and behavior is made a distinct offense under this section. *State v. Burgess*, 123 Me. 393, 123 A. 178.

Marathons and Walkathons.

Sec. 42. Marathon dances; walkathons.—No person or persons shall permit any person to compete in a marathon dance competition, a walkathon competition or a similar competition for more than 6 hours in any 1 day, and no person or persons shall permit any person to enter or compete in such a competition who has entered or competed in any similar competition within 24 hours prior to the beginning of said competition. Whoever violates the provisions of this section shall be punished by a fine of not more than \$500 for each offense. No such marathon dance competition, walkathon competition or similar competition shall be held in any city or town excepting after a vote therefor by the legal voters of said city or town. (R. S. c. 124, § 36.)

Monopolies and Profiteering.

Sec. 43. Contracts in restraint of trade.—Every contract, combination in the form of trusts or otherwise, or conspiracy, in restraint of trade or commerce in this state is declared to be illegal. Whoever shall make any such contract or engage in any such combination or conspiracy shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 6 months, or by both such fine and imprisonment. (R. S. c. 124, § 37.)

See c. 53, § 81, re prohibition of trusts.

Sec. 44. Conspiring to monopolize trade.—Whoever shall monopolize or attempt to monopolize or combine or conspire with any other person or persons to monopolize any part of the trade or commerce of this state shall be punished upon conviction thereof by a fine of not more than \$1,000 or by imprisonment for not more than 6 months, or by both such fine and imprisonment. (R. S. c. 124, § 38.)

Sec. 45. Damages.—Whoever shall be injured in his business or property by any other person or corporation by reason of anything forbidden or declared to be unlawful by the 2 preceding sections may sue therefor in an action on the case and shall recover 3 times the damages by him sustained. (R. S. c. 124, § 39.)

Sec. 46. Profiteering in necessities of life.—Any dealer, trader, manufacturer or warehouseman who with intent to enhance the price or restrict the supply of the necessities of life willfully destroys or permits preventable waste in the production, manufacture, storage or distribution of the same, or, with such intent, prevents, limits, lessens or restricts the manufacture, production, supply or distribution of said necessities, or hoards said necessities, or enters into any contract, combination or conspiracy in restraint of trade or commerce, or exacts or demands any unjust or unreasonable profit in the sale, exchange or handling of the said necessities, or unreasonably discriminates against any person in the sale of said necessities, or in any way aids or abets the doing of any act hereinbefore mentioned, shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 3 years, or by both such fine and imprisonment.

The term "necessities of life" shall include food for human consumption, food for domestic animals, wearing apparel, shoes, building materials, gas and electricity for light, heat and power, ice, fuel of all kinds, fertilizer and fertilizer ingredients, together with tools, utensils, implements, machinery and equipment required for the actual production or manufacture of the same. (R. S. c. 124, § 40.)

Sec. 47. Profiteering in rents.—Whoever demands or collects an unreasonable or unjust rent or charge, taking into due consideration the actual market value of the property at the time, with a fair return thereon, or imposes an unreasonable or unjust term or condition, for the occupancy of any building or any part thereof, rented or hired for dwelling purposes, shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 11 months, or by both such fine and imprisonment. (R. S. c. 124, § 41.)

Sec. 48. Attorney general to investigate.—The attorney general upon his own initiative or upon petition of 50 or more citizens of this state shall investigate all seeming violations of the provisions of sections 46 to 48, inclusive, all contracts, combinations or conspiracies in restraint of trade or commerce, and all monopolies, and may require, by summons, the attendance and testimony of witnesses and the production of books and papers before him relating to any such matter under investigation. Such summons shall be served in the same manner as summons for witnesses in criminal cases, and all provisions of law relating thereto shall apply to summonses issued under the provisions of this section so far as they are applicable. All investigations or hearings thereunder or connected therewith

to which witnesses are summoned or called upon to testify or to produce books, records or correspondence shall be public and shall be held in the county wherein the act to be investigated is alleged to have been committed, or if the investigation is on petition it shall be held in the county where the petitioners reside. The expense of such investigation shall be paid from the appropriation provided by section 13 of chapter 20.

If, upon investigation, it appears to the attorney general that the laws of this state, including the provisions of sections 46 to 48, inclusive, have been violated in any respect, he shall forthwith prosecute the guilty parties and present all available information bearing upon such apparent violation to the proper prosecuting officer of the United States.

Any justice of the superior court may by order, upon application of the attorney general, compel the attendance of witnesses, the production of books and papers, including correspondence, and the giving of testimony, before the attorney general in the same manner and to the same extent as before said courts; and any failure to obey such order may be punished by such court as a contempt thereof. (R. S. c. 124, § 42.)

Regulation of Radio Waves.

Sec. 49. Regulation of radio waves; disturbing reception.—It shall be unlawful to use any radio receiving set which radiates radio waves between 200 meters wave length and 550 meters wave length which causes interference with the reception of any other radio receiving set. Whoever knowingly, maliciously or wantonly by any means unreasonably disturbs the reception of radio waves used for radiotelephony, between 200 meters wave length and 550 meters wave length, shall be punished by a fine of not less than \$10 nor more than \$50, to be recovered by complaint in any municipal court or before any trial justice. (R. S. c. 124, § 43.)

Notices Discriminating Against Persons.

Sec. 50. Discrimination against persons and classes by printed notices and distribution by operators of places of accommodation.—No person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, resort or amusement shall directly or indirectly, by himself or another, publish, issue, circulate, distribute or display, in any way, any advertisement, circular, folder, book, pamphlet, written or painted or printed notice or sign, of any kind or description, intended to discriminate against or actually discriminating against persons of any religious sect, creed, class, denomination or nationality, in the full enjoyment of the accommodations, advantages, facilities or privileges offered to the general public by such places of public accommodation, resort or amusement.

A place of public accommodation, resort or amusement within the meaning of this section shall be deemed to include any inn, whether conducted for the entertainment, housing or lodging of transient guests, or for the benefit, use or accommodation of those seeking health, recreation or rest, any restaurant, eating house, public conveyance on land or water, bathhouse, barbershop, theatre and music hall.

Nothing in this section contained shall be construed to prohibit the mailing of a private communication in writing, sent in response to specific written inquiry.

Any person who shall violate any of the provisions of this section, or who shall aid in or incite, cause or bring about, in whole or in part, the violation of the provisions of this section, shall, for each and every violation, be punished by a fine of not more than \$100 or by imprisonment for not more than 30 days, or by both such fine and imprisonment. (R. S. c. 124, § 44.)