

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

Effect of amendment.—The 1961 amendment substituted “within 30 days to the superior court” for “to the next term of the superior court” in the second sentence of the second paragraph of this section and substituted “the superior court” for

“the supreme judicial court in equity or the superior court in equity” in the fourth sentence of such paragraph.

As the rest of the section was not affected by the amendment, only the second paragraph is set out.

Sec. 24. Blasting rocks, notice given.

Whoever violates any provision of this section forfeits to the prosecutor \$5 for each offense, to be recovered in a civil action, and is liable for all damages caused by any explosion. If the persons engaged in blasting rocks are unable to pay or, after judgment and execution, avoid payment of the fine, damages and costs by the poor debtor's oath, the owners of the quarry, in whose employment they were, are liable for the same. (R. S. c. 128, § 22. 1961, c. 317, § 474.)

Effect of amendment.—The 1961 amendment divide the last paragraph of this section into two sentences and substituted “a civil action” for “an action of debt” in the present first sentence of such para-

graph.

As the first paragraph of the section was not affected by the amendment, it is not set out.

Sec. 25. Dangerous buildings.

Cited in *Levesque v. Fraser Paper Ltd.*, 159 Me. 131, 189 A. (2d) 373.

Sec. 26. Town officers may order nuisance abated.—If no application is made to the superior court, as is provided, the municipal officers of such town shall cause said nuisance to be abated, removed or altered in compliance with their order, and all expenses thereof shall be repaid to the town within 30 days after demand, or may be recovered of such person by an action for money paid. (R. S. c. 128, § 24. 1961, c. 317, § 475.)

Effect of amendment.—The 1961 amendment substituted “the superior court, as is provided” for “a justice of the supreme ju-

dicial court or the superior court, as is hereafter provided” near the beginning of this section.

Sec. 27. Owner may apply to superior court.—Any owner aggrieved by such order may, within 30 days after said order is so made and filed, apply to the superior court which shall forthwith, after notice and hearing, affirm, annul or alter such order. (R. S. c. 128, § 25. 1947, c. 27. 1961, c. 317, § 476.)

Effect of amendment.—The 1961 amendment substituted “the superior court which” for “a justice of the supreme judicial or superior court in term time or vaca-

tion, who” in the first sentence of this section and deleted the former second sentence.

Chapter 142.

Timber upon Rivers, Streams and Adjacent Lands.

Sec. 3. Presumptive evidence of guilt; double damages.—In prosecutions under sections 1 and 2, if such log, mast or spar is found in the possession of the accused partly destroyed, partly sawed or manufactured, or with the marks cut out or altered, not being his property, it is presumptive evidence of his guilt. The burden of proof is then on him. Whoever is guilty of the offense described in either section is liable to the owner, in a civil action, for double the value of the log, mast or spar so dealt with. (R. S. c. 129, § 3. 1961, c. 317, § 477.)

Effect of amendment.—The 1961 amendment divided this section into three sentences, substituted “a civil action” for “an

action of debt” in the present third sentence and made other minor changes in the section.

Sec. 4. Right of owner to search mill, boom or raft for lost logs.—The owner of such logs, masts or spars may at any time, by himself or his agent, enter in a peaceable manner upon any mill, mill-brow, boom or raft of logs or other timber in search of such lost property. Whoever willfully prevents or obstructs such search forfeits for each offense not less than \$20 nor more than \$50, to the person by whom or on whose account such entry was claimed, to be recovered in a civil action. (R. S. c. 129, § 4. 1961, c. 317, § 478.)

Effect of amendment.—The 1961 amendment divided this section into two sentences and substituted “an action of debt” at the end of the section. “an action of debt” at the end of the section.

Sec. 5. Logs or timber in Saco River or tributaries.—If any boom on the Saco River, or any of the waters connected therewith, is so placed or constructed as to prevent the free and usual passage of timber down the river, the owner or occupant thereof, at his own expense, shall release and turn out the timber so detained, when requested to do so by the owner thereof, if it can be done with safety. If, for 2 days after request, he neglects or refuses to do so, he is liable to the owner of the timber in a civil action for all damages by him sustained. (R. S. c. 129, § 5. 1961, c. 317, § 479.)

Effect of amendment.—The 1961 amendment divided this section into two sentences and substituted “a civil action” for “an action on the case” near the end of the section.

Sec. 6. Logs and timber of different owners intermixed; lien for expenses; libel.—Any person whose timber in any waters of the State is so intermixed with the logs, masts or spars of another that it cannot be conveniently separated for the purpose of being floated to the market or place of manufacture may drive all timber with which his own is so intermixed toward such market or place, when no special and different provision is made by law for driving it; and is entitled to a reasonable compensation from the owner, to be recovered after demand therefor on said owner or agent, if known, in a civil action. He has a prior lien thereon until 30 days after it arrives at its place of destination to enable him to attach it. If the owner cannot be ascertained, the property may be libeled according to law and enough of it disposed of to defray the expenses thereof, the amount to be determined by the court hearing the libel. (R. S. c. 129, § 6. 1961, c. 317, § 480.)

Effect of amendment.—The 1961 amendment divided this section into three sentences and substituted “a civil action” for “an action on the case” at the end of the present first sentence.

Sec. 8. Owner may remove timber on tender of damages; otherwise, damages for landowner.—The owner of said timber may enter on said land and remove it at any time before forfeiture, having previously tendered to the owner or occupant thereof a reasonable compensation for all damages occasioned by the lodging, remaining or removal of said timber and the expense of advertising it; but if the timber is removed by the owner, or otherwise, without such tender, the owner of the land may recover, in a civil action the damages aforesaid. (R. S. c. 129, § 8. 1961, c. 317, § 481.)

Effect of amendment.—The 1961 amendment substituted “a civil action” for “an action of trespass” near the end of this section.

Sec. 9. Unlawful conversion of railroad sleepers, ship knees or cedar lumber on ponds and streams; double damages.—Whoever willfully and fraudulently takes, carries away or otherwise converts to his own use any railroad sleeper, knee or other ship timber or cedar for shingles or other purposes, the property of another, whether known or not, without his consent, lying in any river, stream, pond, bay or inlet, or on or near the shore thereof; or cuts out, alters or destroys any mark thereon, forfeits \$10 for each offense, to be recovered and appropriated as provided in section 1; and is liable to the

owner in double the amount thereof in a civil action. Such owner has all the rights and is subject to all the liabilities provided for the owner of logs, masts and spars in sections 3 to 8. (R. S. c. 129, § 9. 1961, c. 317, § 482.)

Effect of amendment.—The 1961 amendment divided this section into two sentences, substituted “a civil action” for “an action of debt” at the end of the present first sentence and substituted “sections 3 to 8” for “the 6 preceding sections” at the end of the present second sentence.

Chapter 144.

Prevention of Crime. Private Detectives.

Sections 12-A to 12-C. Possession of Firearms by Felons.

Proceedings for Prevention of Crime.

Sec. 1. Power of courts to keep the peace; security required.—The justices of the superior court and judges of the district court, in term time or in vacation, have power to cause all laws for the preservation of the public peace to be kept; and in the execution thereof may require persons to give security to keep the peace and be of good behavior, as provided. (R. S. c. 131, § 1. 1963, c. 402, § 233.)

Effect of amendment.—The 1963 amendment substituted “the district court” for “municipal courts,” deleted “and trial justices in their counties” preceding “have power” and deleted “hereinafter” preceding “provided” at the end of the section.

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.

Design.—This section coupled with §§ 2 and 4 of this chapter are procedures designed by statute for the prevention of crime and to keep the public peace, and have nothing whatever to do with a chargeable crime. *Haynes v. Robbins*, 158 Me. 17, 177 A. (2d) 352.

No inconsistency of purpose with c. 130, §§ 27 and 28.—There is no inconsistency in the purposes intended by the provisions of §§ 27 and 28 of c. 130 and §§ 1, 2 and 4 of this chapter. *Haynes v. Robbins*, 158 Me. 17, 177 A. (2d) 352.

Sec. 2. Complaint that offense threatened.—Any magistrate described in section 1, on complaint that any person threatens to commit an offense against the person or property of another, shall examine, on oath, the complainant and any other witnesses produced, reduce the complaint to writing and cause the complainant to sign it. If on examination of the facts he thinks that there is just cause to fear the commission of such offense, he shall issue a warrant reciting the substance of the complaint, and commanding the officer, to whom it is directed, forthwith to arrest the accused and bring him before such magistrate or court. (R. S. c. 131, § 2. 1963, c. 402, § 234.)

Effect of amendment.—The 1963 amendment divided the section into two sentences and deleted “subject to the provisions of section 9 of chapter 146” at the end of the present second sentence.

Application of amending act.—See note

to § 1.

Design.—See same catchline in note to § 1 of this chapter.

No inconsistency of purpose with c. 130, §§ 27 and 28.—See same catchline in note to § 1 of this chapter.

Sec. 4. Sureties to keep peace; costs; bound over.

Design.—See same catchline in note to § 1 of this chapter.

No inconsistency of purpose with c. 130,

§§ 27 and 28.—See same catchline in note to § 1 of this chapter.

Sec. 9. Recognizance returned to court, which may remit penalty.—All recognizances taken under this chapter shall be returned to the Superior