

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

the alterations prescribed and fix the time within which the same shall be done, and if not done within the time fixed, the same may be done by the plaintiffs. Whether by the town or by the plaintiffs, it shall be done in a faithful manner and to the acceptance of the commissioners. Whichever party makes said alterations has a claim upon the other for the proportion fixed by the commissioners for said other party to pay, and if it is not paid within 30 days after its approval by said commissioners and a demand therefor, it may be recovered in a civil action. (R. S. c. 166, § 41. 1961, c. 317, § 620.)

Effect of amendment.—The 1961 amendment divided this section into three sentences, substituted “plaintiffs” for “petitioners” in three places therein and also substituted “a civil action” for “an action on the case” at the end of the section.

Inspection of Dams and Reservoirs.

Sec. 48. Compensation of engineer.—Said engineer shall receive, as full compensation for his services, \$5 a day while actually employed in such service, together with his actual traveling expenses to be audited, allowed and paid from the state treasury, in cases where such dam or reservoir is by him adjudged safe and sufficient; and by the owners, occupants or lessees of said dam or reservoir, in cases where said dam or reservoir is by him adjudged unsafe and insufficient, to be recovered by said engineer in a civil action. (R. S. c. 166, § 47. 1961, c. 317, § 621.)

Effect of amendment.—The 1961 amendment substituted “a civil action” for “an action on the case” at the end of this section.

Mills and Their Repair.

Sec. 52. If part owner minor, or otherwise disqualified.—Where any part of such mill or dam at the time of meeting and notice is owned by minors, tenants by curtesy, in tail, for life or years, or by mortgagor or mortgagee, the guardians of such minors, such tenant, mortgagor or mortgagee shall be deemed, for the purposes of sections 49 to 54, the proprietors thereof, and shall be notified, vote and contribute accordingly. All advances so made by them, if not paid, may be recovered in a civil action, with interest. (R. S. c. 166, § 51. 1961, c. 317, § 622.)

Effect of amendment.—The 1961 amendment divided this section into two sentences, substituted “curtesy” for “courtesy” in the present first sentence, and “civil action” for “special action on the case” in the present second sentence.

Chapter 181.

Principals. Agents. Factors. Partnerships.

Factors and Agents.

Sec. 4. Factors' liens.—If so provided by any written agreement, all factors shall have a continuing general lien upon all materials, goods in process and merchandise from time to time consigned to or pledged with them, whether in their constructive, actual or exclusive occupancy or possession or not, and upon the proceeds resulting from the sale or other disposition of such materials, goods in process and merchandise, for all their loans and advances to or for the account of the person creating the lien, hereinafter called the borrower, together with interest thereon, and also for the commissions, obligations, indebtedness, charges and expenses properly chargeable against or due from said borrower and for the amounts due or owing upon any notes or other obligations given to or received by them for or upon account of any such loans or advances, interest, commissions, obligations, indebtedness, charges and expenses, and such lien shall

be valid from the time of filing the notice hereinafter referred to, whether such materials, goods in process or merchandise shall be in existence at the time of the agreement creating the lien or at the time of filing such notice or shall come into existence subsequently thereto or shall subsequently thereto be acquired by the borrower; provided that a notice of the lien is filed stating:

(1955, c. 25, § 1.)

Effect of amendment.—The 1955 amendment deleted, near the end of the opening paragraph of this section, a proviso relating to posting the name of the factor, and a designation of him as factor, on the

premises where the materials, etc., subject to the lien are located. As only the opening paragraph of the section was changed by the amendment, subsections I, II and III are not set out.

Sec. 6. Effect of recording.—Such notice may be recorded at any time after the making of the agreement and shall be effectual from the time of the recording thereof as against all claims of unsecured creditors of the borrower and as against subsequent liens of creditors, except that if, pursuant to the laws of this state, a lien should subsequently attach to the materials, goods in process or merchandise in favor of a processor, dyer, mechanic or other artisan, then the lien of the factor on such materials, goods in process or merchandise shall be subject to such subsequent lien. When materials, goods in process or merchandise subject to the lien provided for by sections 4 to 11, inclusive, are sold in the ordinary course of the business of the borrower, such lien, whether or not the purchaser has knowledge of the existence thereof, shall terminate as to the materials, goods in process or merchandise and shall attach without further act, writing or formality to the accounts receivable or proceeds of such sale in the hands of the borrower. (1945, c. 79. 1955, c. 25, § 2.)

Effect of amendment.—The 1955 amendment substituted, at the end of the second sentence, the words "without further act, writing or formality to the accounts re-

ceivable or proceeds of such sale in the hands of the borrower" for the words "to the proceeds of such sale in the hands of the borrower."

Sec. 9. Common law lien.—When any factor, or any third party for the account of any such factor, shall have possession of materials, goods in process or merchandise, such factor shall have a continuing general lien, as set forth in section 4, without recording the notice provided for in sections 4 to 11, inclusive. (1945, c. 79. 1955, c. 25, § 3.)

Effect of amendment.—The 1955 amendment deleted the words "and posting the

sign" before the word "provided" near the end of the section.

Sec. 10. Definitions.—The terms "factor" and "factors", wherever used in sections 4 to 11, mean persons, firms, banks and corporations, and their successors in interest, who purchase or lend on the security of materials, goods in process or merchandise, whether or not they are employed to sell such materials, goods in process or merchandise. The term "merchandise" wherever used in sections 4 to 11 shall mean any and all goods, wares and materials, raw, wrought or in process, including the products of agriculture. (1945, c. 79. 1959, c. 14.)

Effect of amendment.—The 1959 amendment added "including the products of agriculture" at the end of this section.

Publicity of Mercantile Partnerships.

Sec. 13. Sale proprietor to file certificate when adopting any business name or style other than own name.

Stated in *Globe Slicing Machine Co. v. Casco Bank & Trust Co.*, 154 Me. 59, 142 A. (2d) 30.

Limited Partnerships.

Sec. 21. Publication of such partnership and mode of renewing it.

—After such registry, the partners shall cause a copy of the certificate to be published in a newspaper printed in the county in which the principal place of business is situated, if any, otherwise in one printed in an adjoining county, or in the state paper, for 2 weeks successively, the first publication to be within 20 days thereafter. If not so published, or if upon every renewal or continuance of such partnership beyond the time originally fixed for its duration a certificate is not made, signed, acknowledged, recorded and published, it shall be deemed a general one. (R. S. c. 167, § 13. 1961, c. 102.)

Effect of amendment.—The 1961 amendment substituted “2” for “6” near the end of the present first sentence and made other minor changes.

Sec. 24. Prosecution of actions relating to partnership business.—

Actions respecting the business of such partnership shall be commenced and prosecuted by and against the general partners only, except in those cases in which provision is hereinbefore made, that special partners shall be deemed general partners, and special partnerships, general partnerships; in which cases all the partners deemed general partners may join or be joined in such actions. (R. S. c. 167, § 16. 1961, c. 317, § 623.)

Effect of amendment.—The 1961 amendment substituted “actions” for “suits” at the beginning and at the end of this section.

Sec. 26. Limited partners same as general.—In all cases not otherwise provided for herein, the members of limited partnerships are subject to the liabilities and entitled to the immunities incident to general partnerships, and the superior court may hear and determine in civil actions all questions between copartners in any partnership formed by virtue of this chapter, and between said copartners and any creditors of the firm. (R. S. c. 167, § 18. 1961, c. 317, § 624.)

Effect of amendment.—The 1961 amendment substituted “superior court may hear and determine in civil actions” for “superior judicial court and the superior court may hear and determine in equity” in this section.

Chapter 182.

Trade-Marks and Trade Names.

Sec. 3. Damages.—Whoever violates section 2 is liable to any party aggrieved thereby for all damages actually incurred, to be recovered in a civil action. (R. S. c. 168, § 3. 1961, c. 317, § 625.)

Effect of amendment.—The 1961 amendment substituted “section 2” for “the provisions of the preceding section” near the beginning of this section and “a civil action” for “an action on the case” at the end thereof.

Chapter 183.

Fair Trade Act.

Sec. 2. Unfair competition defined.—Willfully and knowingly advertising, offering for sale, selling or disposing of any commodity at less than the price stipulated in any contract entered into pursuant to section 1, whether the person so advertising, offering for sale, selling or disposing of is or is not a party