

MAINE STATE LEGISLATURE

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L A W S

OF THE

STATE OF MAINE;

TO WHICH ARE PREFIXED

THE

CONSTITUTION OF THE U. STATES

AND OF SAID STATE,

IN TWO VOLUMES,

WITH AN APPENDIX.

.....
VOL. I.
.....

Published according to a resolve of the State, passed
March 8, 1821.

BRUNSWICK.

Printed by J. Griffin, for the State.

.....
1821.

ERRATA:

**The following leaf is
inserted because one or more pages
in this chapter have errors
noticed and corrected here.**

VOLUME THE FIRST.

Page.	
40	L. 12 of the page for 'preceding' read 'presiding'
54	Sec. 4 L. 14 of Sec. for 'time' read 'term'
55	7 2 for 'a' read 'or'
55	7 9 before the word 'said' insert 'the'
56	9 3 for 'the' read 'her'
57	1 6 for 'to' read 'in'
58	1 5 for 'and' after the word 'house' read 'or'
61	in the title of the act, ch. vi. insert 'the' before the word 'crimes'
62	Sec. 2 L. 9 of S. before the word 'offender' insert 'such'
69	16 8 for 'Treasurer' read 'Treasury'
73	1 15 after the word 'for' insert 'the'
77	13 6 for 'to' read 'of'
78	first line of the page, dele the word 'by'
80	L. 2 of the p. after the word 'willingly' insert 'aid or'
80	17 for 'counterfeited' read 'counterfeit'
82	1 after the word 'in' insert 'all'
82	Sec. 7 L. 4 of Sec. after the word 'devised' dele 'or' and insert ' , '
83	Sec. 7 L. last of S. for 'aggravations' read 'aggravation'
84	10 6 for 'and' read 'or'
90	1st L. of p. for 'Commissioner' read 'Commissioners'
90	L. 20 before the word 'Commissioner' insert 'said'
97	6 for 'assumst' read 'assumpsit'
97	14 for 'cover' read 'covin'
98	at the end of the act for 'January' read 'February'
99	L. 17 of p. after the word 'year' dele ' ; ' & insert ' , and'
100	15 at the end of the line insert 'the'
105	at the end of the Act for '1820' read '1821'
108	L. 14 of page, for 'nuisances' read 'nuisance'
108	20 after the word 'each' insert 'one'
111	25 after the word 'fail' insert 'of'
113	11 for 'on' read 'or'
144	last for 'performance' read 'performing'
145	Sec. 2 L. 9 of Sec. after the word 'of' insert 'the'
147	7 6 before the word 'release' for 'to' read ' a '
150	Sec. 6 L. 2 of Sec. for 'in' read 'is'
151	in the title, before the word 'Lands' insert 'reserved'
153	1st line of the p. for 'whenever' read 'wherever'
155	last before the word 'Court' for 'a' read 'any'
156	Sec. 4 L. 26 of Sec. for 'notification' read 'notifications'
159	9 8 for 'purpose' read 'purposes'
167	14 5 for 'votes' read 'vote'
193	4 10 dele 'such'
199	17 1 for 'when' read 'where'
202	22 6 after the word 'near, dele 'to'
202	23 10 for 'be' read 'he'
203	24 16 for 'of' read 'in'
203	25 16 for 'meeting' read 'meetings'
205	L. 18 of p. before the word 'estate' insert 'other'
210	2 before the word 'tenement' insert 'other'
215	4 before the word 'guardians' insert 'guardian or'
226	Sec. 73 L. 6 of Sec. dele 'a'
229	3 last for 'agreeably' read 'agreeable'
230	7 19 for 'agreeably' read 'agreeable'
231	8 6 for 'resided' read 'reside'
242	2 5 for 'sentence' read 'sentences'
245	7 3 after the word 'herein' insert 'before'
247	L. 7 of the act, ch. 56, after the word 'otherwise' insert 'interested'
247	11 for 'statement' read 'statements'
247	Sec. 1 L. 2 of Sec. for 'whenever' read 'wherever'
248	3 1 for 'whenever' read 'wherever'
248	3 14 for 'Justice' read 'Justices'

Page.	
252	L. 3 of p. for 'where' read 'wherein'
257	5 after the word 'have' insert 'his or'
265	Sec. 39 L. 3 of Sec. for 'when' read 'where'
271	L. 1 and 3 of p. for 'affect' read 'effect'
271	Sec. 6 L. 2 of Sec. before the word 'execution' insert 'the'
278	19 4 for 'on' read 'in'
280	L. 2 of p. for 'have' read 'had'
281	22 for 'of' read 'on'
283	13 for 'lies' read 'lays'
283	last before the word 'defendant' insert 'the'
284	Sec. 32 L. 2 of Sec. for 'a' read 'any'
288	5 18 for 'whenever' read 'wherever'
291	9 4 for 'as' read 'or'
292	L. 4 of p. for 'examinations' read 'examination'
293	Sec. 13 L. 5 of Sec. after the word 'article' insert 'or articles'
297	7 5 for 'and' read 'or'
301	L. 8 of p. for 'he' read 'be'
309	24 between the words 'the' and 'day' should be a ' , '
310	20 for 'debt' read 'debtor'
311	2 for 'with' read 'and of'
312	7 for 'summon' read 'summons'
312	9 between the words 'our' and 'Court' should be a ' , '
318	31 for 'writs' read 'writ a'
328	Sec. 8 L. 4 of Sec. for 'grieved' read 'aggrieved'
353	L. 14 of p. at the end of the line insert 'the'
361	Sec. 1 L. 18 of Sec. for 'cause' read 'case'
370	3 10 for 'to' read 'of'
371	2 7 dele 'to'
373	L. 15 of p. before the word 'require' insert 'to'
376	Sec. 1 L. 10 of Sec. dele 'the' before the word 'payment'
378	at the end of the act, for '17' read '20'
378	in the title, for 'selection' read 'selecting'
379	Sec. 4 L. 5 of Sec. before the word 'divide' insert 'shall'
394	1 9 for 'part' read 'parts'
395	1 8 for 'acceptances' read 'acceptance'
404	1 34 before the word 'authorized' insert 'hereby'
407	7 4 dele 'the'
414	last word of the 1st act on the page, for 'therein' read 'thereon'
423	Sec. 3 L. 15 of Sec. after the word 'assignments' insert 'thereof, and also of the assignments'
424	Sec. 6 L. 13 of S. after the word 'papers' insert 'as'
425	L. 7 of p. before the word 'action' insert 'an'
428	22 for 'twelve' read 'twenty'
431	8 for 'fifteen' read 'fifty'
432	first line of the page should be put after the third
432	L. 5 of the p. dele 'entering'
432	between the 28th and 29th lines of the p. insert 'Every blank writ of attachment, with a summons thereon, fifteen cents'
432	L. 37 of p. for 'judgment' read 'jurymen'
435	9 for 'appear' read 'appears'
435	10 for 'make' read 'makes'
435	18 for 'taking' read 'taxing'
444	Sec. 1 L. 6 of Sec. before the word 'records' insert 'the'
445	1 9 for 'within' read 'of'
445	1 19 after the word 'escape' insert 'sickness'
455	11 1 after the word 'of' insert 'the'

CHAPTER XIV.

An Act respecting the wilful destruction and casting away of Ships and Cargoes ; the custody of Shipwrecked Goods, and Trade and Navigation.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That if any owner of, captain, master, officer or other mariner belonging to, any ship or vessel, shall, within the body of any County of this State, wilfully cast away, burn, sink, or otherwise destroy, the ship or vessel of which he is owner, or to which he belong, or in any wise direct or procure the same to be done, with intent or design to prejudice any person or persons, that hath underwritten, or shall underwrite any policy or policies of insurance thereon, or, of any merchant or merchants, that shall load goods thereon; or of any owner or owners of such ship or vessel; every person so offending, being thereof lawfully convicted, before the Supreme Judicial Court of this State, shall be deemed and adjudged a felon, and shall be sentenced to imprisonment for life, or for a term not less than five years, at the discretion of the Court: *Provided nevertheless*, That nothing herein contained shall be construed to bar or prevent the party injured from having and maintaining his action for the damages, sustained thereby.

Punishment for wilfully destroying a vessel, or causing it to be done.

Party injured may also have his action for damages.

SEC. 2. *Be it further enacted*, That if any owner of any ship or vessel shall equip, or fit out such ship, or vessel, within this State, with intent that the same should be wilfully cast away, burnt, or otherwise destroyed, to the prejudice of any owner of any goods, laden on board said ship or vessel, or of any underwriter upon any policy, or policies of insurance upon such ship or vessel, or upon any goods laden thereon, and shall be thereof convicted before the Supreme Judicial Court of this State, such offender shall be sentenced to pay a fine not exceeding five thousand dollars, or be punished by solitary imprisonment for a term, not exceeding three months, and confinement to hard labour for a term, not exceeding five years.

Punishment for fitting out a vessel, with intent to be wilfully cast away.

SEC. 3. *Be it further enacted*, That if any owner of any ship or vessel, or of any goods laden on board such ship

Punishment for making out

false invoice, &c. of cargoes, to defraud underwriters.

or vessel, shall make out and exhibit, or cause to be made and exhibited any false or fraudulent bills of parcels, invoices, or estimates of any such goods, laden or pretended to be laden on board such ship or vessel, with intent to defraud any underwriter upon any policy or policies of insurance upon such ship or vessel, or upon any goods laden thereon; every person, so offending, and being thereof lawfully convicted, shall be sentenced to pay a fine not exceeding five thousand dollars, or be punished by solitary imprisonment, for a term not exceeding three months, and confinement to hard labour, for a term not exceeding five years.

Punishment for making any false affidavit or protest.

SEC. 4. *Be it further enacted*, That if any captain, mate or mariner of any ship or vessel, shall make out and swear to any false affidavit, or protest; or if any owner of any such ship or vessel, or of any goods laden thereon, shall procure such false affidavit, or protest, or, knowing the same to be false, shall exhibit the same, with intent to deceive and defraud any underwriter upon any policy of insurance upon any such ship or vessel, or any goods laden thereon, every person convicted thereof before the Supreme Judicial Court aforesaid, shall be punished in the manner prescribed in the third section of this Act.

Governor to appoint Commissioners of wrecks in the several counties,

who are to be sworn.

And to give bond to Judge of Probate;

same remedy thereon, as on administration bond.

Commissioners to take charge of wrecked goods,

SEC. 5. *Be it further enacted*, That the Governor, with the advice of Council, be, and he is hereby authorized to appoint, in the several counties of this State, a sufficient number of COMMISSIONERS, removeable at the pleasure of the executive, OF WRECKS and LOST GOODS, all of whom shall be commissioned and sworn to the faithful performance of their duty, and shall give bond to the Judge of Probate for the county in which they reside, with sufficient sureties to the acceptance of said Judge, for the faithful discharge of their trust. And the same remedy may be had, on said bonds, to any owner, agent, or other person interested in said property, as is had on bonds, given to Judges of Probate, for the faithful administration on estates.

SEC. 6. *Be it further enacted*, That any Commissioner, appointed in pursuance of this Act, immediately on receiving information of any shipwreck, finding of any goods or shipwrecked property of any kind, to the amount of one hundred dollars, or upwards, on any of the shores, or waters,

within this State, shall immediately repair to said property, and in case the same is unattended by any owner, or agent, shall take charge of the same for the lawful owner; and in the best way and manner, in his power, preserve and secure the same; and said Commissioner shall have all the power and authority of a fireward to preserve and secure the same, and compel assistance for that purpose; and it shall be the duty of said Commissioner to take an inventory of the same, and when required by the owner, or agent of said property, or any insurance company, or underwriter, or other person interested in said property, shall make oath that the same is the whole property which has come to his custody, and shall immediately deliver the same to the lawful owner, agent, or other person legally authorized to receive it: *Provided*, he is paid or secured to be paid, such reasonable compensation for his services and expenses, and such custom house duties, as may be due from said property, or which may have been previously paid by said Commissioners; and said Commissioner and the owner, or agent, shall have power to agree on the proper compensation to be allowed for said services and expenses: but in case they shall not agree, said Commissioner shall receive such sum, as shall be awarded by referees, mutually chosen by the parties; said Commissioner to choose one referee, the owner, agent, or other person interested, another, and the two thus chosen, shall choose a third; and the referees thus appointed, and the parties thus appointing them, shall proceed in all respects as is required by "An Act for rendering the decision of civil causes as speedy and as little expensive as possible;" and if either party shall be dissatisfied with the award of the referees aforesaid, notice shall be given to the opposite party and an appeal shall lie to the Supreme Judicial Court, next to be holden in and for the county, in which such property shall be found; and the Supreme Judicial Court shall have power to hear and determine the case, in the same manner, as if the cause came before them on an appeal from the Circuit Court of Common Pleas; and no owner or agent, or other person interested in said property, shall be holden to pay any charge to any other person for services or expenses, in taking or securing said property, than

and take an inventory, and make oath thereto, when required by owner,

and deliver the same to owner, on payment for services, expenses and custom house duties.

Compensation to be settled by referees, if not agreed by the parties interested.

Appeal from decision of referees to S. J. Court.

the Commissioner aforesaid, unless it be that property taken and secured before the arrival of said commissioner; in which case said Commissioner shall, upon due hearing of all parties interested determine the compensation to be received as aforesaid, and from his award in writing there shall be no appeal, unless the sum demanded and allowed by said Commissioner shall exceed the sum of fifty dollars; in which case an appeal shall lie to the Supreme Judicial Court, to either party aggrieved by the doings of said Commissioner; and similar process shall be had by said Court as is had in cases carried by appeal from the Circuit Court of Common Pleas: and in case any person or persons shall, after the arrival of the Commissioner aforesaid, intermeddle with, take, secrete, or detain any property shipwrecked or found as aforesaid, but as he or they are authorized and directed by the Commissioner, owner, or agent, or other person interested, he or they shall forfeit and pay the sum of one thousand dollars, for each and every offence, to be recovered by an action of debt in any Court proper to try the same; and the Commissioner, owner, agent, or other person interested, or either of them, are hereby authorized to bring said action and receive said penalty to their own use.

Penalty for secreting shipwrecked property;

or intermeddling with it after the arrival of a Commissioner.

Commissioners on their arrival at any wreck to publish an account of facts;

penalty for neglect.

Commissioners may sell sufficient of the property at auction to pay duties,

SEC. 7. *Be it further enacted,* That it shall be the duty of the Commissioners aforesaid, immediately on their arrival at any wreck or goods found as aforesaid, to publish in the most expeditious manner, the facts they shall ascertain, that the knowledge of the event may come to the owner, agent, or person interested, as soon as may be; and in all cases they shall publish the particulars of said shipwreck, or goods found, in the nearest newspaper to said shipwreck or goods found, on penalty of fifty dollars, to be recovered by an action of debt, in any Court, proper to try the same, at the suit of the owner, agent, or other person interested, who are hereby authorized to bring said action and receive the penalty recovered, to their own use; and it shall and may be lawful for said Commissioners to dispose of so much of said property, at public auction, within thirty days from taking the same into custody, as shall be sufficient to pay all duties, due for the same, to the Custom House, and shall forthwith pay, or give security to the Custom House officer,

for the discharge of the same; and in case the property so taken as aforesaid is perishable, and cannot be retained in possession for one year, without essentially lessening its value, and no owner, agent, or other person, interested in the same, shall appear to claim it, for the space of sixty days, it shall be the duty of said Commissioners to advertise said property in the public newspapers, and sell the same at auction to the best advantage, and if no owner, agent or other person, interested in said property, shall appear, in one year to claim said property, it shall be the duty of each of said Commissioners to present an inventory of said property, received by him as aforesaid, or if sold, an account of sales to the Treasurer of this State, and to make oath, that the same is the whole property which has come to his possession, duties paid to the Custom House excepted, if said duties are paid; and shall pay over to the Treasurer aforesaid the whole balance remaining in his hands for the use of the State: and the Treasurer aforesaid is hereby authorized to make said Commissioner such reasonable compensation for his services and expenses, as shall be just and equitable, to be ascertained in case of disagreement by said Commissioners and Treasurer, in the same way and manner, as is provided for in this act, when said Commissioners and owners, or agents, shall not agree respecting such services and expenses: and when any Commissioner, appointed in pursuance of this Act, shall neglect to inform the Treasurer of this State, of property, taken by him as aforesaid, for sixty days, after the expiration of the year, he may have held the same; or if so informing said Treasurer, he or they shall neglect to pay over the property aforesaid, to the Treasurer aforesaid, the Attorney General of this State is hereby authorized and directed to commence a proper legal process for the same, at the next term of the Supreme Judicial Court in the County where said Commissioner dwells, and shall pursue the same to final Judgment and execution, and pay the sums, recovered as aforesaid, to the Treasurer of said State: and whereas it is of the greatest consequence to this State, and to the United States, to promote the increase

and in certain cases may sell the whole property.

If no owner appear, within one year, the Commissioner to present an inventory, or account of sales, to State Treasurer on oath.

Commissioner to receive reasonable compensation from Treasurer.

Attorney General to prosecute Commissioner for delinquency.

of the number of ships and vessels, and to prevent any discouragement to merchants and others from being interested and concerned therein : and whereas it has been held that owners of ships or vessels, are answerable for goods, wares, and merchandize, shipped on board the same, although the said goods, wares, and merchandize should be embezzled, lost or destroyed, by the masters or mariners of said ships and vessels, without the knowledge or privity of the owner or owners; by means whereof merchants and others may be discouraged from adventuring their fortunes, as owners of ships or vessels, which will necessarily tend to the prejudice of the trade and navigation of this State : Therefore,

Extent to which owners of vessels are liable for embezzlement by master or mariners.

SEC. 8. *Be it further enacted,* That no person or persons who is, are, or shall be owner or owners, in part or in whole, of any ship or vessel shall be subject, or liable to answer for, or make good to any one or more person, or persons, any loss or damage, by reason of any embezzlement, secreting or making way with, by the master or mariners, or any of them, of any goods, wares, or merchandize, or any property whatsoever, which shall be shipped, taken in, or put on board any ship or vessel, or for any act, matter, or thing, damage, or forfeiture done, occasioned, or incurred by the said master or mariners, or any of them, without the privity or knowledge of such owner or owners, further than the value of the interest which such owner, or owners have, or had, at the time of such shipment in the ship or vessel, with all her appurtenances, and the full amount of his interest in the freight due, or to grow due, for and during the voyage wherein such embezzlement, secreting, or making way with, as aforesaid, or other malversation of the master or mariners, shall be made, committed, or done, any law, usage or custom to the contrary notwithstanding.

Where vessel, cargo and freight are insufficient to make compensation, in case of several freighters, or proprietors, what proceedings are to be had.

SEC. 9. *Be it further enacted,* That if several freighters or proprietors of any such goods, wares, or merchandize, or any property whatever, shall suffer loss or damage, by any of the means aforesaid, in the same voyage, and the value of the ship or vessel and all her appurtenances, and the amount of the freight due, or to grow due, during such voyage, shall not be sufficient to make compensation to all and every of them, then such freighter, or proprietor shall receive satis-

faction thereof in average, in proportion to their respective losses and damages: and in every such case, it shall, and may be lawful to and for such freighters, or proprietors, or any of them, in behalf of himself and all other such freighters and proprietors, or to, or for the owners of such ship or vessel, in behalf of himself and all the other part owners of such ship; or vessel, to exhibit a bill in the Supreme Judicial Court for a discovery of the total amount of such losses and damages, and also of the value of such ship or vessel appurtenances and freight, and for an equal distribution and payment thereof, amongst such freighters and proprietors in proportion to their losses and damages, according to the rules of equity: and the said Supreme Judicial Court is hereby vested with full power and authority to entertain, hear, determine, and decree, in such cases, in the same manner as Courts of equity would have authority to do.

Bill for discovery may be filed in Sup. Jud. Court.

SEC. 10. *Be it further enacted*, That the charterer of any vessel (in case he shall navigate such vessel at his own expense) shall be considered the owner; within the meaning of this act; and, in case any loss or damage shall happen to any person or persons, by any of the causes or circumstances, mentioned in the eighth Section of this Act, and such loss or damage shall be compensated from the freight, or the proceeds of the sale of such vessel, or both, in manner as herein before provided; then the owner or owners of such vessel or vessels shall have a right to recover the value of such vessel or vessels, of the person, or persons, to whom such vessel or vessels shall have been chartered, as aforesaid.

Charterer to be considered as owner within the meaning of this Act, in case:

[Approved Feb. 27, 1821.]

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CHAPTER XV.

An Act to protect the Sepulchres of the Dead.

SEC. 1. **BE** it enacted by the Senate and House of Representatives in Legislature assembled, That if any person, not being authorized by the Board of health, or the Selectmen of any town in this State, shall knowingly and wilfully dig up, remove or carry away, or aid or assist in digging up, remov-

Punishment for digging up or removing dead bodies;