

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

ACTS AND RESOLVES

PASSED BY THE

THIRTY-FOURTH LEGISLATURE

OF THE

STATE OF MAINE,

1855.

Published by the Secretary of State, agreeably to Resolves of June 28, 1820, February 26, 1840, and March 16, 1842.

AUGUSTA:
STEVENS & BLAINE, PRINTERS TO THE STATE.

1855.

PUBLIC LAWS

OF THE

STATE OF MAINE.

1855.

CHAP. 132.

Chapter 132.

An act to protect forests and timber lands from fires, and to punish the unlawful and careless kindling of fires.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

Penalty for unlawful and careless kindling of fires.

SECT. 1. No person shall kindle a fire on land not his own, without the consent of the owner, under penalty of a fine of ten dollars and costs, and to stand committed until the fine and costs are paid.

—for damage to any building, &c.

SECT. 2. If any person shall kindle a fire in any field, pasture or enclosure, forest or timber land, not his own, without the consent of the owner, and the same shall spread and do damage to any buildings, fences, crops, cord-wood, bark or other personal property, or to any wood or timber land, he shall, on conviction, be punished by a fine of not less than ten nor more than five hundred dollars, and costs, according to the aggravation of the offense, and shall stand committed till the fine and costs are paid.

—for maliciously kindling fire, &c.

SECT. 3. If any person shall maliciously, with intent to injure any other person, by himself or any other person, kindle a fire on his own land, or on the land of another person, and by means of such fire, the buildings, fences, crops or other personal property, or wood or timber lands, of any other person shall be destroyed or injured, he shall on conviction, be punished by a fine not less than twenty dollars, nor more than one thousand dollars, or by imprisonment in the common jail or house of correction, not less than three months, nor more than twelve months, or in the state prison not less than one nor more than three years, according to the aggravation of the offense.

—for kindling fire for lawful purpose.

SECT. 4. If any person shall for any lawful purpose, kindle a fire upon his own land, he shall do it at such time and in such manner, and shall take such care of it to prevent it from spreading and doing damage to other person's property, as a prudent and careful man would do, and if he fail so to do, he shall be liable in an action on the case, to any person suffering damage thereby, to the full amount of such damage.

—for kindling fire on lands of another, in any way.

SECT. 5. Any person who shall enter upon the lands of another person, for the purposes of hunting or fishing, and shall, by the use of fire arms, or other means, kindle any fire thereon, shall be liable to the penalties of the first, second, or third section of this act, as the case may be.

Lumbermen may kindle fires in certain cases.

SECT. 6. Persons engaged in driving lumber, upon any waters or streams, may kindle fires when necessary for the purposes in which they are engaged, but shall be bound to use the utmost

caution to prevent the same from spreading and doing damage; and if they fail so to do, they shall be subject to all the liabilities and penalties of this act, in the same manner as if the privilege granted by this section had not been allowed.

CHAP. 133.

Liabie for damage.

SECT. 7. The common law right to an action for damages done by fires, is not taken away or diminished by this act, but it may be pursued, notwithstanding the fines or penalties set forth in the first, second and third sections of this act; but any person availing himself of the provisions of the fourth section, shall be barred of his action at common law for the damage so sued for. And no action shall be brought at common law for kindling fires in the manner described in the sixth section; but if any such fire shall spread and do damage, the person who kindled the same, and any person present and concerned in driving such lumber, by whose act or neglect such fire is suffered to spread and do damage, shall be liable in an action on the case, for the amount of the damage thereby sustained.

Common law right of action for damages, by fire, not affected by this act.

Exceptions, liabilities, &c.

SECT. 8. This act shall take effect and be in force from and after its approval by the governor.

[Approved February 28, 1855.]

Chapter 133.

An act additional to chapter one hundred and twenty-six of the revised statutes.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

SECT. 1. For the purpose of propelling mills or machinery, any person may cut a canal not exceeding one mile in length, through his own land, or erect any walls or embankments on the same, thereby diverting the water of any stream, that is not navigable from its natural channel, or changing its natural current, subject to the same terms, conditions, regulations and restrictions as are provided in chapter one hundred and twenty-six of the revised statutes, in cases of water mills and flowage; and all persons injured by any such diversions or erections, shall have the same remedies provided in said chapter.

Right to cut canals, &c.

Regulations, restrictions, &c.

SECT. 2. No such canal shall be made to the injury of any mill or canal, lawfully existing above or below on either side, or opposite on the same stream, nor to the injury of any mill site on which a mill or mill dam shall have been lawfully made and used, unless the right to maintain a mill on such site shall have been lost or defeated by abandonment or otherwise.

Canals not to be made to the injury of mills, &c.