

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

Eighty-fourth Legislature

OF THE

STATE OF MAINE

1929

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PUBLIC LAWS
OF THE
STATE OF MAINE

As Passed by the Eighty-fourth Legislature

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[supplied from page 1 of volume]

Chapter 244.

An Act Defining the Crime of Burglary with Explosives and Providing the Punishment Therefor.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. Burglary with explosives, defined. Any person who, with intent to commit crime, breaks, and enters, either by day or by night, any building, whether inhabited or not, and opens or attempts to open any vault, safe or other secure place by the use of nitroglycerine, dynamite, gunpowder or any other explosive, shall be deemed guilty of burglary with explosives.

Sec. 2. Penalty. Any person duly convicted of burglary with explosives shall be punished by imprisonment for a term of not less than twenty nor more than forty years.

Approved April 6, 1929.

Chapter 245.

An Act Relative to Interest and Mortgages on Loans on Personal Property.

Be it enacted by the People of the State of Maine, as follows:

R. S., c. 40, secs. 43, 44, 45 and 46; relating to mortgages on personal property, repealed. Sections forty-three, forty-four, forty-five and forty-six of chapter forty of the revised statutes are hereby repealed.

Approved April 6, 1929.

Chapter 246.

An Act Relative to Attachment of Property Mortgaged or Pledged.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., c. 86, sec. 44; as amended; relating to attachment of personal property mortgaged, amended. Section forty-four of chapter eighty-six of the revised statutes as amended is hereby amended by striking out the words "if the attaching creditor first tenders or pays to the mortgagee, pledgee or holder, the full amount unpaid on the demand so secured thereon" in the fourth and fifth lines thereof and by inserting in place thereof the following words 'subject to the provisions of the following six sections,' so that said section as amended shall read as follows:

'**Sec. 44. Personal property may be attached.** Personal property not exempt from attachment, mortgaged, pledged or subject to any lien created by law, and of which the debtor has the right of redemption, may be

attached, held and sold as if unencumbered, subject to the provisions of the following six sections.'

Sec. 2. R. S., c. 86, sec. 45; P. L., 1917, c. 162, sec. 1; relating to summoning of mortgages, amended. Section forty-five of chapter eighty-six of the revised statutes, as amended by section one of chapter one hundred and sixty-two of the public laws of nineteen hundred and seventeen is hereby amended by striking out all of said section and by substituting in place thereof the following:

'Sec. 45. When personal property is attached on writ is claimed by virtue of mortgage. When personal property, attached on a writ, or seized on execution, is claimed by virtue of such mortgage, pledge, or lien, the claimant shall not bring an action against the attaching officer therefor; (a) until he has given him at least forty-eight hours' written notice of his claim and the true amount thereof; (b) if the officer or creditor within that time discharges the claim by paying same or tendering the amount due thereon; (c) within that time restores the property; (d) or where the property was attached on a writ or seized on execution while in the hands or possession of the mortgagor, the attaching creditor within that time summons the claimant to answer in the same action such questions as may be put to him relative to the consideration, validity, and amount due secured by such mortgage. Such summons may be in substantially the following form:

STATE OF MAINE.

.....,ss. To Greeting: WE COMMAND YOU, that you appear at our..... Court, to be held at....., within and for the county ofaforesaid, on the.....day of....., A. D. 19 , then and there to answer unto..... in a plea of the case.....as in our writ of attachment, dated the.....day of....., A. D. 19 , and made returnable to said court on the.....day of....., A. D. 19 , is fully set forth, in which.....ofis named defendant and on which writ the following described property, claimed by you as mortgagee, was attached as the property of said defendant; viz.,..... then and there to answer in such action, such questions as may be put to you relative to the consideration, validity, and amount justly due secured by such mortgage, and abide the judgment of court thereon.

FAIL NOT OF APPEARANCE AT YOUR PERIL.

Witness, the HONORABLE.....
Justice of the Supreme Judicial Court (Superior Court) (Judge of said
Court) at....., the.....day of
.....in the year of our Lord one thousand
nine hundred and.....

.....
Clerk.

From the office of
.....
.....

Such summons shall be made returnable on any day, after ten days and within ninety days, of its date and served by copy, attested by the officer making such service. If said mortgagee fails to appear and answer, as therein directed, the court may estop him from claiming any interest in such attached goods by virtue of such mortgage.'

Sec. 3. R. S., c. 86, sec. 47; P. L., 1917, c. 162, sec. 2; relating to validity of mortgage established, further amended. Section forty-seven of chapter eighty-six of the revised statutes as amended by section two of chapter one hundred and sixty-two of the public laws of nineteen hundred seventeen is hereby further amended by striking out the word "such" in the first line of said section, as amended, and by inserting after the word "examination" in the second line of said section, as amended, the words 'held under the provisions of section forty-five' and by striking out the word "void" in the sixth line of said section, as amended, and by inserting in place thereof the word 'vacated' and by adding at the end of said section, as amended, the following sentence 'If the attaching creditor pays or tenders the amount directed to be paid within such time and the mortgagee fails to immediately assign such mortgage to the attaching creditor, the mortgagee shall be estopped from claiming any interest in such attached goods by virtue of his mortgage,' so that said section, as amended, shall read as follows:

'Sec. 47. When mortgage is valid attaching creditor to pay amount justly due. If upon examination held under the provisions of section forty-five, or upon the verdict of a jury as hereinafter provided, it appears that the mortgage is valid, the court, having first ascertained the amount justly due upon it, may direct the attaching creditor to pay the same to the mortgagee or his assigns within such time as it orders; and if he does not pay or tender the amount within the time prescribed, the attachment shall be vacated and the property shall be restored. If the attaching creditor pays or tenders the amount directed to be paid within such time

and the mortgagee fails to immediately assign such mortgage to the attaching creditor, the mortgagee shall be estopped from claiming any interest in such attached goods by virtue of his mortgage.'

Sec. 4. P. L., 1917, c. 162, sec. 4; relating to balance after satisfying mortgagee, amended. Section four of chapter one hundred and sixty-two of the public laws of nineteen hundred and seventeen is hereby amended by inserting after the word "the" in the first line of said section as amended the word 'attaching' so that said section, as amended, shall read as follows:

'Sec. 4. When attaching creditor has paid amount ordered by the court. When the attaching creditor has paid to the mortgagee or his assigns the amount ordered by the court, he may retain out of the proceeds of the property attached, when sold, the amount so paid with interest, and the balance shall be applied to the payment of his debt.'

Approved April 6, 1929.

Chapter 247.

An Act Making It Unlawful to Deposit Sawdust in the Limits of the Highway.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. Sawmill not to locate where sawdust shall blow into 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.

Sec. 2. Penalty for violation. Whoever violates the provisions of this act shall be subject to a penalty of not less than ten dollars nor more than fifty dollars for each offense.

Approved April 6, 1929.

Chapter 248.

An Act Relating to the Salary and Clerk Hire of the Register of Probate in Aroostook County.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., c. 117, sec. 39; as amended; relating to compensation of registers of probate, further amended. Section thirty-nine of chapter one hundred and seventeen of the revised statutes, as amended, is hereby further amended, by striking out in line six after the word "Aroostook" the words, "fifteen hundred dollars" and inserting in place the words