

MAINE STATE LEGISLATURE

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having entered with such intent, breaks, in the night time, a dwelling-house, any person being then lawfully therein, is guilty of burglary; and whether he is, before or after entering, armed with a dangerous weapon, or whether he assaults any person lawfully therein, or has any confederate present aiding or abetting, or not, in either case, he shall be punished by imprisonment for any term of years; and all burglars' tools or implements prepared or designed for committing burglary, shall be dealt with as provided in section twelve of chapter one hundred and twenty-seven.

Sec. 7. Breaking and entering with intent to commit a felony. R. S. c. 120, § 8. Whoever, with intent to commit a felony, breaks and enters in the day time, or enters without breaking in the night time, any dwelling-house, or breaks and enters any office, bank, shop, store, warehouse, vessel, railroad-car of any kind, or building in which valuable things are kept, any person being lawfully therein and put in fear, shall be punished by imprisonment for not less than one, nor more than ten years, but if no person was lawfully therein and put in fear, by imprisonment for not more than five years, or by fine not exceeding five hundred dollars.

25 Me. 502; 32 Me. 584; 36 Me. 227; 92 Me. 72; 99 Me. 331.

Sec. 8. Dwelling-house, defined. R. S. c. 120, § 9. Any permanent building or edifice, usually occupied by any person by lodging therein at night, is a dwelling-house, although such occupant is absent for a time, leaving furniture or goods therein, with an intention to return; but no building shall be deemed a dwelling-house or part of it, unless connected with, or occupied as part of the dwelling-house.

CHAPTER 122.

Larceny, and Receiving Stolen Goods.

Sec. 1. Larceny, defined and punished. R. S. c. 121, § 1. Whoever steals, takes and carries away, of the property of another, money, goods or chattels, or any writ, process, public record, bond, bank-bill or note, promissory note, bill of exchange, order, certificate, book of accounts, conveyance of real estate, valuable contract, receipt, release, defeasance or instrument in writing whereby any demand, right or obligation, is created, increased, diminished or extinguished, is guilty of larceny; and shall be punished, when the value of the property exceeds one hundred dollars, by imprisonment for not less than one, nor more than five years; otherwise, by imprisonment for not more than two years or by fine not exceeding one hundred dollars.

See c. 47, § 2; 17 Me. 195; 19 Me. 228, 400; 21 Me. 18; 62 Me. 285; 66 Me. 441; 72 Me. 468; 86 Me. 432; 99 Me. 334.

Sec. 2. Larceny by night in a dwelling-house, or at any time breaking and entering certain other buildings, vessel or railroad-car. R. S. c. 121, § 2. Whoever, without breaking, commits larceny in the night time, in a dwelling-house or building adjoining and occupied therewith, or breaks

and enters any office, bank, shop, store, warehouse, barn, stable, vessel, railroad-car of any kind, court-house, jail, meeting-house, college, academy or other building for public use or in which valuable things are kept, and commits larceny therein, shall be punished by imprisonment for not less than one, nor more than fifteen years; and when the offense is committed in the day time, by imprisonment for not more than six years, or by fine not exceeding one thousand dollars.

Sec. 3. Larceny at a fire. R. S. c. 121, § 3. Whoever commits larceny in a building on fire, or steals property removed on account of an alarm of fire, shall be punished by imprisonment for not more than five years, or by fine not exceeding five hundred dollars.

See c. 30, § 11.

Sec. 4. Larceny from the person. R. S. c. 121, § 4. Whoever commits larceny from the person of another, shall be punished by imprisonment for not more than six years, or by fine not exceeding five hundred dollars.

86 Me. 433.

Sec. 5. Common thief, described and punished. R. S. c. 121, § 5. Whoever, after being convicted of larceny as principal or as accessory before the fact, is again convicted thereof, or is convicted of three distinct larcenies at the same term of court, shall be deemed a common thief, and be punished by imprisonment for not less than four, nor more than fifteen years.

91 Me. 80, 85.

Sec. 6. Larceny, by falsely personating another. R. S. c. 121, § 6. Whoever falsely personates or represents another, and thereby receives anything intended to be delivered to the party personated, with intent to convert the same to his own use, is guilty of larceny and shall be punished accordingly.

Sec. 7. Taking of any beasts or birds kept in confinement, larceny. R. S. c. 121, § 7. Whoever without the consent of the owner and with a felonious intent, takes any beast or bird ordinarily kept in a state of confinement, and not the subject of larceny at common law, shall be deemed guilty of larceny.

Sec. 8. Larceny by embezzlement or fraudulent conversion of property; receiver liable. R. S. c. 121, § 8. If an officer, agent, clerk or servant of a person, copartnership or corporation, not an apprentice nor less than sixteen years of age, embezzles or fraudulently converts to his own use, or takes and secretes with intent to do so, without the consent of his employer or master, any property of another in his possession or under his care, by virtue of his employment; or, if a public officer, collector of taxes, or an agent, clerk or servant of a public officer or tax collector, embezzles or fraudulently converts to his own use, or loans or permits any person to have or use for his own benefit without authority of law, any money in his possession or under his control by virtue of his office or employment by such officer, he is guilty of larceny and shall be punished accordingly; and whoever knowingly receives from a public officer, collector of taxes or his clerk, servant or agent, with intent to convert the same to his own use without authority of law, any money in the possession or under the control of such officer by virtue of his office, is guilty of larceny and shall

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be punished accordingly. But the foregoing provisions in relation to public officers, collectors of taxes, their clerks, servants or agents, shall not apply to deposits by such officer in any bank, nor to any advances made towards the salary of such officer, nor to any person in the employment of the state or to whom the state is indebted, if the sums advanced do not exceed the sum due him.

See c. 34, § 27; c. 47, § 2; 62 Me. 108; 69 Me. 28, 364; 70 Me. 265; 90 Me. 144; 95 Me. 183; 101 Me. 159.

Sec. 9. Prosecutions for embezzling, or fraudulently converting money, etc., by cashier or other officer; allegations in the indictment; evidence at the trial; evidence sufficient to maintain the charge in the indictment. R. S. c. 121, § 9. In prosecutions for embezzling, fraudulently converting to one's own use, or taking and secreting with intent so to embezzle or fraudulently convert, the bullion, money, notes, bank-notes, checks, drafts, bills of exchange, obligations or other securities for money, of any person, bank, incorporated company, or copartnership, by a cashier or other officer, clerk, agent or servant of such person, bank, incorporated company or copartnership, it is sufficient to allege generally in the indictment an embezzlement, fraudulent conversion, or taking with such intent, of money to a certain amount, without specifying any particulars of such embezzlement; and at the trial, evidence may be given of such embezzlement, fraudulent conversion, or taking with such intent, committed within six months before the time stated in the indictment; and it is sufficient to maintain the charge in the indictment, and is not a variance, if it is proved that any bullion, money, note, bank-note, check, draft, bill of exchange or other security for money, of such person, bank, incorporated company or copartnership, of whatever amount, was fraudulently embezzled, converted or taken with such intent, by such cashier or other officer, clerk, servant, agent, within such period of six months.

Sec. 10. Larceny by one entrusted with property; insurance, or other agent, appropriating money to his own use. R. S. c. 121, § 10. 1913, c. 29. Whoever embezzles, or fraudulently converts to his own use, or secretes with intent to embezzle or fraudulently convert to his own use, money, goods or property delivered to him, or any part thereof, which may be the subject of larceny, shall be deemed guilty of larceny, and shall be punished accordingly. And any insurance agent, or agent of any corporation doing business in the state, who fraudulently appropriates to his own use any money, or substitutes for money, received by him as such agent, or refuses or neglects to pay over and deliver the same to the party entitled to receive it, for thirty days after written demand upon him therefor, is guilty of larceny, and shall be punished accordingly.

33 Me. 131; 91 Me. 111; 95 Me. 182; 99 Me. 70.

Sec. 11. Public officers forbidden to have pecuniary interest in public contracts; contracts are void. R. S. c. 121, § 11. No trustee, superintendent, treasurer or other person holding a place of trust in any state office or public institution of the state, shall be pecuniarily interested directly or indirectly in any contracts made in behalf of the state or of the institution in which he holds such place of trust, and any contract made in violation hereof is void; and if such officer or person receives any drawbacks, pres-

ents, gratuities or secret discounts to his own use on account of such contracts, or from the profits in any materials, supplies or labor, furnished or done for the state or such institution, he shall be punished by imprisonment for not more than a year, or by fine not exceeding five hundred dollars.

108 Me. 548; 113 Me. 322.

Sec. 12. Buying, receiving, or aiding to conceal stolen property; restoration of the stolen property; subsequent conviction. R. S. c. 121, § 12. Whoever buys, receives or aids in concealing stolen property, knowing it to be stolen, shall be punished by imprisonment for not more than five years, or by fine not exceeding five hundred dollars. And the conviction of the person, who stole the property, need not be averred or proved. If the stealing was simple larceny, and the person restores or makes satisfaction to the party injured for the full value of such property, he shall not be sentenced to the state prison. If, after conviction, he is again convicted of a like offense, or if he is convicted of three such distinct offenses at the same term of court, the imprisonment shall not be for less than one, nor more than ten years.

29 Me. 334.

Sec. 13. Officer to secure and keep stolen property for the owner. R. S. c. 121, § 13. The officer, who arrests a person charged with an offense under this chapter, shall secure the property alleged to have been stolen, be answerable for it, and annex a schedule of it to his return; and, upon conviction of the offender, the property stolen shall be restored to the owner.

Sec. 14. Court may make compensation to the prosecutor and officer. R. S. c. 121, § 14. The court, other than a municipal or police court or trial justice, upon conviction before it of burglary, robbery or larceny, and when there is no conviction by reason of the death of the offender, or of his escape without their fault, may allow to the prosecutor, and to the officer who has secured or kept the property, a fair compensation for their actual expenses, time and trouble in arresting the offender, and securing the property stolen.

Sec. 15. Action for stolen property. R. S. c. 121, § 15. An action, for the recovery of property stolen, may be maintained by the owner against the person liable therefor, although the thief is not convicted.

53 Me. 132; 67 Me. 77; 68 Me. 236.