

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)

NINTH REVISION

REVISED STATUTES

OF THE

STATE OF MAINE

1954

FIRST ANNOTATED REVISION

IN FIVE VOLUMES

VOLUME 4



THE MICHIE COMPANY
CHARLOTTESVILLE VIRGINIA

Chapter 139.

Gambling. Bucket Shops. Lotteries. Beano.

Sections 1-11. Gambling.
 Sections 12-13. Search for Implements of Gambling.
 Sections 14-17. Bucket shops.
 Sections 18-20. Lotteries.
 Sections 21-27. Beano.

Gambling.

Cross Reference.—See c. 144, § 15, re authority of private detectives to arrest.

Sec. 1. Pool selling, bookmaking and numbers game.—Whoever engages or participates in pool selling, bookmaking and numbers game, or aids or abets the same by his presence unless the same is authorized by law, or whoever, owning or controlling any place of business wherein such activities or any part thereof are taking place, knowingly permits the same, shall be punished by a fine of not more than \$2,000 and by imprisonment for not more than 2 years. (R. S. c. 126, § 1. 1951, c. 207.)

Cross reference.—See c. 86, re pari mutuel pool selling. therein for that purpose is adequate to protect, equally well, corresponding sales conducted in connection with running horse races under c. 87, § 13. It does not extend beyond those two fields. *Maine State Raceways v. LaFleur*, 147 Me. 367, 87 A. (2d) 674.

Original terms of section qualified to make pari mutuel pools and horse races lawful.—The original terms of this section have been qualified to safeguard the selling of pari mutuel pools as was authorized by c. 86, § 14. The qualification written

therein for that purpose is adequate to protect, equally well, corresponding sales conducted in connection with running horse races under c. 87, § 13. It does not extend beyond those two fields. *Maine State Raceways v. LaFleur*, 147 Me. 367, 87 A. (2d) 674.

Sec. 2. Keeping a gambling house or permitting gambling in house or shop.—Whoever keeps or assists in keeping a gambling house or tenement or other place occupied, used, kept or resorted to for the purposes described in section 12, or is found gambling or present as described in said section 12, or permits any person to gamble in any way in any tenement or other place under his care or control, shall be punished by a fine of not more than \$100 or by imprisonment for not more than 4 months; and the municipal officers, constables and police officers of towns and cities and the assessors of plantations are required promptly to enforce the laws against gambling rooms and to make complaint against any person in their respective municipalities when there is probable cause to believe such person to be guilty of a violation of the provisions of this section. Trial justices shall have original jurisdiction, concurrent with municipal courts and the superior court, in all prosecutions for violations of this section. (R. S. c. 126, § 2.)

Section comprehends two distinct offenses.—This section provides for the punishment of two distinct offenses: one for keeping a house, shop, or other place, resorted to for the purpose of gaming; and the other for permitting a person to gamble in any place under his control or care. A person may permit one to play at games for money in a place under his control, and yet not keep a house or place resorted to for that purpose. So one may own and control a house or place resorted to for the purpose of gaming without being the keeper of the house or place in the sense of the law. *State v. Currier*, 23 Me. 43.

Meaning of "keeping a house resorted to."—The owner of a house could not be considered as losing the control of it, if he should be absent from it for a few days, and another person without his consent should go into it, and occupy an apartment and allow others to resort to it with him for the purpose of gaming; and yet he could not be considered as the keeper of a house or place resorted to for the purpose of gaming. *State v. Currier*, 23 Me. 43.

Gambling need not be the principal purpose for which the place is kept.—In order to support a conviction under this section

for keeping a place resorted to for gambling, it is not necessary that this be the sole or principal purpose for which the place is kept. *State v. Eaton*, 85 Me. 237, 27 A. 126.

Section prohibits gambling in its broadest sense.—It would seem from the provisions of this section and § 18 to have been the intention of the legislature to prohibit every pecuniary transaction in which pure chance has any place. There are no words of limitation or exception. To give effect to this intention it would seem necessary to hold that the legislature has used the term “gambling” in its broadest, most generic sense, as comprehending every species of game or device of chance. *Lang v. Merwin*, 99 Me. 486, 59 A. 1021.

Sec. 3. Gambling.—Whoever gambles, or bets on any person gambling, shall be punished by a fine of not less than \$1 nor more than \$20, to be recovered by complaint or indictment to the use of the prosecutor. (R. S. c. 126, § 3.)

Cited in *Berger v. State*, 147 Me. 111, 83 A. (2d) 571.

Sec. 4. Winning more than \$3 at one time by gambling.—Whoever is convicted, by indictment found within 6 months, of winning at one time or sitting by gambling or by betting on persons gambling, money or goods of the value of \$3 or more and of receiving or taking security therefor, forfeits to the town where the offense is committed double the value of the property so won and received. (R. S. c. 126, § 4.)

Cited in *Beals v. Thurlow*, 63 Me. 9.

Sec. 5. Gambling on railroads or steamboats.—Whoever, upon any railroad train or in any railroad car or upon any steamboat, gambles or bets upon any person gambling shall be punished by a fine of not less than \$100 or by imprisonment for not less than 3 months. (R. S. c. 126, § 5.)

Sec. 6. Gamblers on railroads arrested by conductor.—Every conductor or other person having charge of a railroad train is required to arrest or cause to be arrested all persons gambling on his train and to detain them in his custody until a warrant can be procured from the proper authorities, and he may employ all necessary aids for such purpose. (R. S. c. 126, § 6.)

Sec. 7. Copy of §§ 5 and 6 posted in cars and on steamboats; refusal or neglect.—A copy of the 2 preceding sections shall be conspicuously posted in every car in which passengers are usually carried on any steam railroad and in every steamboat. Any railroad or steamboat company or the proprietors of any steamboat refusing or neglecting to comply with this requirement shall forfeit for each offense \$100, to be recovered by indictment in any county in which said railroad company runs trains or the steamboat company does business. (R. S. c. 126, § 7.)

Sec. 8. Loser by gambling or betting may recover loss; form of execution.—Whoever, by gambling or betting on persons gambling, loses to any person so gambling or betting any money or goods, and pays or delivers any part thereof, may sue for and recover the same of the winner in an action on the case brought within 3 months thereafter; and if the loser does not, without covin or collusion, within said time prosecute therefor with effect, any other person may sue for and recover of the winner treble the value of the same in

such action, $\frac{1}{2}$ to his own use and $\frac{1}{2}$ to the town; and all executions issued on judgments in favor of the loser or in favor of a 3rd person, as above-mentioned, shall show that the judgment was rendered against the defendant for or on account of money won at gambling, and shall order the defendant to be committed to jail for 3 months from the date of arrest, at the county's expense, unless the judgment, costs and board while in jail are sooner paid; after which time he may be released, on giving bond or disclosing, as in case of poor debtors. (R. S. c. 126, § 8.)

Cross references.—See note to c. 166, § 39, re disability of married woman to bring suit under this section as third party, not removed by above cited section; c. 120, re relief of poor debtors.

Time limitation on bringing action exclusive of time defendant absent.—The time of the defendant's absence from the state shall not be counted, under c. 112, § 111, as a part of the time limited for the commencement of the action authorized by this section to recover property lost in gambling. *Peyret v. Coffee*, 48 Me. 319.

And previous demand not necessary.—Under the provisions of this section an action on the case for recovery of property lost by gambling may be maintained without a previous demand. *Peyret v. Coffee*, 48 Me. 319.

This section does not authorize an action in assumpsit to recover goods lost in gambling. *Marean v. Longley*, 21 Me. 26.

Section in part remedial and in part penal.—It is true that the part of this section which gives the loser an action to recover his money or goods is remedial, but the remaining portion which authorizes any person to recover treble the amount of the loss, in case the loser does not, within three months, avail himself of his right to retrieve his loss, is purely and distinctly penal, and such an action comes directly within the purview of c. 112, § 102 and

must be instituted within one year. *Beals v. Thurlow*, 63 Me. 9.

This section, with respect to the party losing, is remedial not penal. *Ellis v. Beale*, 18 Me. 337.

"Any other person" means those legally competent.—The phrase "any other person" in this section must be interpreted to signify any other person who is legally competent to institute such an action. It was not the intention of the legislature to use the word in such a literal and unrestricted sense as to include minors and persons of unsound mind. *Spiller v. Close*, 110 Me. 302, 86 A. 173.

And disabilities of married women are not removed.—This section, authorizing "any other person" to bring the action, was not enacted for the purpose of removing the disabilities of married women. Thus, the section does not confer upon the loser's wife the right to prosecute the suit for treble the amount. *Spiller v. Close*, 110 Me. 302, 86 A. 173.

Betting in margins held gambling.—Betting in margins on the future price of corn has been held to be gambling, and the money so lost recoverable by the loser under the provisions of this section. *Nolan v. Clark*, 91 Me. 38, 39 A. 344.

For a case dealing with common-law rights against stakeholder, see *Stacy v. Foss*, 19 Me. 335.

Sec. 9. Special rule of evidence, when loser is plaintiff.—In any action, as provided in section 8, brought by the loser against the winner, the plaintiff may offer to make oath that such money or goods were lost by gambling with the defendant, and the court shall thereupon render judgment for the plaintiff for the amount thereof, unless the defendant will make oath that he did not obtain any part thereof by gambling and, if he so discharges himself, he shall recover costs; or the plaintiff may prove his case in any other legal mode. (R. S. c. 126, § 9.)

Sec. 10. Securities given for gambling debts void.—All notes, bills, bonds, mortgages, securities or conveyances given in whole or in part for money or goods won by gambling or betting on persons gambling, or given to repay money lent or advanced for gambling or betting, or lent or advanced at the time and place thereof, are utterly void against all persons, except bona fide subsequent purchasers of real estate and holders of negotiable paper for a valuable consideration without notice. (R. S. c. 126, § 10.)

Sec. 11. Sale of, offering for sale or soliciting orders for punch boards, seal cards, slot gambling machines, etc.—No person shall have in his actual or constructive possession any punch board, seal card, slot gambling machine or other implements, apparatus or materials of any form of gambling, and no person shall solicit, obtain or offer to obtain orders for the sale or delivery of any punch board, seal card, slot gambling machine or other implements, apparatus or material of gambling. Any person violating the provisions of this section shall be punished by a fine of not more than \$100 or by imprisonment for not more than 4 months; and the municipal officers, constables and police officers of towns and cities, the assessors of plantations and licensed private detectives are required promptly to enforce the provisions of this section and to make complaint against any person in their respective municipalities where there is probable cause to believe such person to be guilty of a violation of this section. Trial justices shall have original jurisdiction, concurrent with municipal courts and the superior court, in all prosecutions for violation of this section. (R. S. c. 126, § 11.)

Search for Implements of Gambling.

Cross Reference.—See c. 144, § 15, re authority of private detectives to arrest.

Sec. 12. Search warrants for implements of gambling, etc.—When a person makes oath before a trial justice or judge of a municipal court that he has reason to suspect and does suspect that any tenement or other place is unlawfully used as and for a common gambling house, for the purpose of gambling for money or other property, or is kept, used or occupied for promoting a lottery or for the sale of lottery tickets, or for promoting the game known as policy lottery or policy, or for buying or selling of pools or registering of bets upon any race, game, contest, act or event, and that persons resort to the same for any such purpose, or that implements, apparatus or materials intended to be used in any form of gambling are there kept or deposited, such magistrate, whether the names of the persons last mentioned are known to the complainant or not, shall issue a warrant commanding the sheriff or any of his deputies or any constable or police officer to enter such tenement or other place and to arrest the keepers thereof, all persons in any way assisting in keeping the same, whether as janitor, doorkeeper, watchman or otherwise, all persons who are there found participating in any form of gambling and all persons present whether so participating or not, if any lottery, policy or pool tickets, slips, checks, manifold books or sheets, memoranda of any bet or other implements, apparatus or materials of any form of gambling are found in said place, and to take into their custody all the implements, apparatus or materials of gambling, as aforesaid, and all the personal property, prizes, furniture and fixtures, so that they may be forthcoming before some court or magistrate, to be dealt with according to law. All articles and property seized under the provisions of this section, or found in the possession or under the control of any person arrested for keeping or assisting in keeping a gambling house or for gambling, shall be disposed of in the manner provided in the following section for the disposal of counterfeiting and burglars' tools, except prizes, furniture and fixtures, which shall be turned over to an officer to be sold as provided in section 18, and the finding in any tenement or other place of any lottery, policy or pool tickets, slips, checks, manifold books or sheets, memoranda of any bet, or other implements, apparatus or materials of any form of gambling shall be prima facie evidence that said tenement or other place is occupied, used, kept and resorted to for the purpose of gambling. (R. S. c. 126, § 12.)

See c. 86, re pari mutuel pool selling.

Sec. 13. Tools and implements for gambling, counterfeiting and burglars' tools forfeited. — All tools, machines, dies, plates or materials

provided for making counterfeit or spurious coin, or for forging bank notes or other instruments; all burglars' tools or implements prepared or designed for burglary; all lottery tickets or materials for a lottery or procured for the purpose of a lottery; all gambling apparatus or implements for gambling and all moneys therein contained, and prizes, furniture and fixtures shall, when the same are found and taken by virtue of a search warrant or are found in the possession or under the control of any person arrested for forgery, counterfeiting, burglary, selling lottery tickets or gambling, be safely kept by the direction of the court or magistrate having cognizance of the case so long as may be necessary for their being used as evidence on any trial. All such articles, devices, tools and materials, except prizes, furniture and fixtures, shall thereupon be declared forfeited by said court and ordered destroyed, and shall by order of the court rendering final judgment be turned over to the sheriff of the county where the seizure was made or to such of his deputies as the court shall order, by any officer competent to serve the process on which they were seized, who shall forthwith make return accordingly to said court; and said sheriff or his said deputy shall receipt to said officer therefor. As soon thereafter as may be, said sheriff or his said deputy receiving said forfeited articles shall burn or otherwise destroy them and make return to said court as to how he executed its order; provided, however, that all moneys, prizes, furniture and fixtures so seized shall be declared forfeited to the county in which they were seized and turned over to an officer to be sold as provided in section 18, and in all cases where an officer may seize tools, machines, dies, plates or materials provided for making counterfeit or spurious coin or for forging bank notes or other instruments; burglars' tools or implements prepared or designed for burglary; lottery tickets or materials for a lottery or procured for the purpose of a lottery; gambling apparatus or implements for gambling and all moneys therein contained, prizes, furniture and fixtures, upon a warrant, he may seize the same without a warrant and keep them in some safe place for a reasonable time until he can procure such warrant. (R. S. c. 126, § 13.)

Cross references.—See c. 131, § 8, re definition of "burglary"; c. 133, § 8, re manufacture or possession of implements and materials for counterfeiting.

Gambling apparatus used without knowledge of owner may be destroyed.—The use in gambling of a gambling apparatus or implement by a bailee, without the consent or knowledge of the owner, the bailor, subjects it to destruction under this section. *State v. Soucie's Hotel*, 95 Me. 518, 50 A. 709.

And burden is on owner to prevent their use in gambling.—The effect of this section is to impose upon the owner of gambling apparatus or implements the burden of effectually keeping them from being used in gambling. All such apparatus and implements are presumably made, owned and kept for use in gambling, and their destruction is authorized, not to punish the owner for some unlawful act

or intent of his, but to protect society from the things themselves. *State v. Soucie's Hotel*, 95 Me. 518, 50 A. 709.

Section is aimed at gambling implements themselves, and not their owners.—Gambling apparatus and implements are treated by this section as noxious per se, and they are ordered destroyed to remove a danger imminent from their very existence, not merely to punish the owner for an unlawful use. This section by its terms strikes at the thing itself, and not at any act or intent of its owner. It is incumbent upon the owner of gambling apparatus effectually to keep it harmless. If it escapes from him to the hurt of society, it can be lawfully destroyed in the manner provided by this section. *State v. Soucie's Hotel*, 95 Me. 518, 50 A. 709.

Stated in part in *Thatcher v. Weeks*, 79 Me. 547, 11 A. 599.

Bucket Shops.

Sec. 14. "Bucket shop" defined.—A "bucket shop" within the meaning of this section and the 3 following sections is defined to be an office, store or other place wherein the proprietor or keeper thereof, either in his or its

own behalf or as the agent or correspondent of any other person, corporation, association or copartnership, within or without the state, conducts the business of making or offering to make contracts, agreements, trades or transactions respecting the purchase or sale of any stocks, grain, provisions or other commodity, or personal property, wherein both parties thereto or said proprietor or keeper contemplate or intend that such contracts, agreements, trades or transactions shall be or may be closed, adjusted or settled according to or upon the basis of the public market quotations of prices made on any board of trade or exchange, upon which the commodities or securities referred to in such contracts, agreements, trades or transactions are dealt in, and without a bona fide transaction on such board of trade or exchange; or wherein both parties or such keeper or proprietor shall contemplate or intend that such contracts, agreements, trades or transactions shall be or may be deemed closed or terminated when the public market quotations of prices made on such board of trade or exchange for the articles or securities named in such contracts, agreements, trades or transactions shall reach a certain figure; and also any office, store or other place where the keeper or proprietor thereof either in his or its own behalf, or as agent as aforesaid, therein makes or offers to make with others, contracts, trades or transactions for the purchase or sale of any such securities or commodities wherein the parties thereto do not contemplate the actual or bona fide receipt or delivery of such securities or commodities but do contemplate a settlement thereof based upon differences in the prices at which said securities or commodities are or are claimed to be bought and sold. (R. S. c. 126, § 14.)

Sec. 15. Keeping a bucket shop.—No corporation, association, copartnership or person shall keep or cause to be kept within the state any bucket shop as defined in the preceding section, or shall make or offer to make any such contract, agreement, trade or transaction as is defined in said section; and any person, whether acting individually or as a member, officer, agent or employee of any corporation, association or copartnership, who shall keep or assist in the keeping of any bucket shop within this state, or who shall make or offer to make any such prohibited contract, agreement, trade or transaction, whether the offer is accepted or not, shall upon conviction thereof be punished for a 1st offense by a fine of not more than \$3,000 or by imprisonment until such fine is paid, but not for more than 11 months; and whoever shall be guilty of a 2nd offense under this section shall upon conviction thereof be punished by imprisonment for not less than 2 years nor more than 5 years; if the offender is a corporation, it shall forfeit its charter. The continuing of the keeping of a bucket shop by any person, corporation, association or copartnership, after a 1st conviction therefor, shall be deemed a 2nd offense under this section. (R. S. c. 126, § 15.)

Sec. 16. Persons communicating statement of quotations with view to transaction deemed accessories. — Any corporation, association, copartnership or person who shall communicate, receive, exhibit or display, in any manner, any statements of quotations of the prices of any property mentioned in section 14, with a view to any transaction prohibited in the 2 preceding sections, shall be deemed an accessory, and upon conviction thereof shall be subject to the same penalty as the principal and as provided in the preceding section. (R. S. c. 126, § 16.)

Sec. 17. Statement of transaction furnished, failure prima facie evidence of illegality. — Every commission merchant, copartnership, association, corporation or broker shall furnish, upon demand, to any customer or principal for whom such commission merchant, broker, copartnership, corporation or association has executed any order for the actual purchase or sale of any of the securities or commodities hereinbefore mentioned, either for immediate or future delivery, a written statement containing the names of the parties

from whom such property was bought or to whom it was sold, as the case may be, the time when, the place where and the price at which the same was either bought or sold; and in case such commission merchant, broker, copartnership, corporation or association shall fail to furnish such statement within 24 hours after such demand, the fact of such failure shall be prima facie evidence that the property was not sold or bought in a legitimate manner. (R. S. c. 126, § 17.)

Lotteries.

Sec. 18. Lotteries and schemes of chance; printing of tickets prima facie evidence.—Every lottery, policy, policy lottery, policy shop, scheme or device of chance, of whatever name or description, whether at fairs or public gatherings or elsewhere, and whether in the interests of churches, benevolent objects or otherwise, is prohibited; and whoever is concerned therein, directly or indirectly, by making, writing, printing, advertising, purchasing, receiving, selling, offering for sale, giving away, disposing of or having in possession with intent to sell or dispose of, any ticket, certificate, share or interest therein, slip, bill, token or other device purporting or designed to guarantee or assure to any person or to entitle any person to a chance of drawing or obtaining any prize or thing of value to be drawn in any lottery, policy, policy lottery, policy shop, scheme or device of chance of whatever name or description; by printing, publishing or circulating the same, or any handbill, advertisement or notice thereof, or by knowingly suffering the same to be published in any newspaper or periodical under his charge or on any cover or paper attached thereto; or who in any manner aids therein or is connected therewith, shall be punished by a fine of not less than \$10 nor more than \$1,000, to be recovered by complaint or indictment to the use of the county, and he may further be punished by imprisonment for 30 days on the 1st conviction, 60 days on the 2nd conviction and 90 days on the 3rd conviction. All lottery tickets or materials for a lottery, procured for that purpose, shall be disposed of as provided in section 13, excepting that all personal property used for prizes in any such lottery or device of chance shall be ordered forfeited and turned over to an officer to be sold by him and the proceeds paid into the treasury of the county where seized. The printing, advertising, issuing or delivery of any ticket, paper, document or material representing or purporting to represent the existence of, or an interest in a lottery, policy lottery, game or hazard shall be prima facie evidence of the existence, location and drawing of such lottery, policy lottery, game or hazard, and the issuing or delivery of any such paper, ticket, document or material shall be prima facie evidence of value received therefor by the person or persons, company or corporation who issues or delivers or knowingly aids or abets in the issuing or delivering of such paper, ticket, document or material. (R. S. c. 126, § 18.)

Section prohibits every pecuniary transaction involving the element of chance.—It was the intention of the legislature to prohibit every pecuniary transaction in which pure chance has any place. There are no words of limitation or exception. To give effect to this intention it is necessary to hold that the legislature has used the term "gambling" in its broadest, most generic sense, as comprehending every species of game or device of chance. The language of this section shows that the legislature intended to place an inhibition upon every possible conception or device, the use of which involved the possibility of chance. *State v. Googin*, 117 Me. 102, 102 A. 970.

This section is broad and comprehensive and if there is any element of chance it is "gambling." It was the intention of the legislature to prohibit every pecuniary transaction in which chance has any place, "affording a chance to get something for nothing." If the "element of lot or chance is in it, it is enough." *Jolovitz v. Redington & Co.*, 148 Me. 23, 88 A. (2d) 589.

And is constitutional exercise of police power.—Experience has demonstrated the evil tendency and effect of lotteries and the need for public control and regulation. It is generally recognized that laws, such as this section, for the suppression of lotteries are in the interest of the morals and

welfare of the people of the state, and are therefore a legitimate exercise of its police powers. *State v. Pooler*, 141 Me. 274, 43 A. (2d) 353.

The player's propensity to gamble is the vice at which this section is directed. *State v. Googin*, 117 Me. 102, 102 A. 970.

Charitable device distinguished from gambling.—Where a charitable association offers an article for presentation to the person, in some profession, office or occupation, in whose name the most money is contributed to charity for the article, the article not being drawn by any ticket nor by any person, and the only possible chance, if it can be called such, connected with the affair, being whether one person's admirers or another's will give the most money to charity in order to obtain the prize for their favorite or friend, is not gambling under the provisions of this chapter and money thus paid to such charity may not be recovered. *Dion v. St. John Baptiste Society*, 82 Me. 319, 19 A. 825.

Lottery, scheme, and device of chance are not contradictory terms.—An indictment is not bad for duplicity where the allegation is that the defendant was engaged in "a lottery, scheme or device of chance." There is no contradiction in the terms. The word lottery has no technical meaning. A lottery is nothing more or less than a scheme or device of chance. *State v. Willis*, 78 Me. 70, 2 A. 848.

Meaning of "thing of value."—A "thing of value" to be the subject of gaming may be anything affording the necessary lure to indulge the gambling instinct. *State v. Baitler*, 131 Me. 285, 161 A. 671.

Punchboard held gambling device with-

Sec. 19. Attorney general may have injunction to restrain any lottery.—When it appears to the attorney general that any person has formed or published such a lottery, or taken any measures for that purpose, or is engaged in selling or otherwise distributing tickets, certificates, shares or interests therein, whether such lottery originated in this state or not, he shall immediately make complaint in the name of the state to some justice of the supreme judicial court or of the superior court for an injunction to restrain such person from further proceedings therein; and if satisfied that there is sufficient ground therefor, such justice shall forthwith issue such injunction and thereupon he shall order notice to be served on the adverse party to appear and answer to said complaint. Such justice, after a full hearing, may dissolve, modify or make perpetual such injunction, make all orders and decrees necessary to restrain and suppress such unlawful proceedings and, if the adverse party neglects to appear, or the final decree of the court is against him, judgment shall be rendered against him for all costs, fees and expenses incurred in the case and for such compensation to the attorney general for his expenses, as the court deems reasonable. (R. S. c. 126, § 19.)

Sec. 20. Payments and securities for lotteries void and may be recovered.—Payments, compensations and securities of every description, made

in meaning of this section.—See *Grove Mfg. Co. v. Jacobs*, 117 Me. 163, 103 A. 14.

Candy vending machine held gambling device.—See *State v. Baitler*, 131 Me. 285, 161 A. 671.

But stamp issuing plan is lawful where no chance element present.—Stamps issued by merchants may be valid transactions and not within the prohibition of this section, where the stamps act only as the amount of a discount, and a credit or value in other merchandise may be given when a stampbook or "album" is filled, or partially filled. Such a plan is lawful to encourage business, if it does not contain the chance or "gaming" element. The same is true of so-called "popularity contests." *Jolovitz v. Redington & Co.*, 148 Me. 23, 88 A. (2d) 539.

Lottery ticket may be proved to be such.—A ticket for use in a lottery under this section may not on its face appear to be a ticket. Still, it may be alleged and proved to be such. *State v. Willis*, 78 Me. 70, 2 A. 848.

Section is directed against persons acting individually, and does not preclude prosecution for conspiracy under c. 130, § 25. *State v. Pooler*, 141 Me. 274, 43 A. (2d) 353.

For former provisions of the law of Maine relative to lotteries, see Opinion of the Justices, 7 Me. 502.

Applied in *State v. Bishop*, 15 Me. 122.

Quoted in part in *State v. Eaton*, 85 Me. 237, 27 A. 126; *Lang v. Merwin*, 99 Me. 486, 59 A. 1021.

Cited in *State v. Colburn*, 134 Me. 494, 182 A. 210.

directly or indirectly, in whole or in part, for any such lottery or ticket, certificate, share or interest therein, are received without consideration and against law and equity, and may be recovered. (R. S. c. 126, § 20.)

Cross reference.—See note to § 18, re **Applied** in *Dion v. St. John Baptiste Society*, 82 Me. 319, 19 A. 825.
what constitutes lottery.

Beano.

Sec. 21. Beano. — No person, firm, association or corporation shall hold, conduct or operate the amusement commonly known as “Beano” for the entertainment of the public within the state unless a license therefor is obtained from the chief of the state police. Sections 21 to 27, inclusive, shall not be construed to apply to any other amusement or game. (R. S. c. 126, § 21.)

The legislature has seen fit to legalize gambling in a limited and regulated manner to terminate the privileges granted or to modify them in any manner it might see fit. *Maine State Raceways v. LaFleur*, 147 Me. 367, 87 A. (2d) 674.
under cc. 86 and 87, and under §§ 21-27 of this chapter. The enactment of these laws constitutes no surrender of its right

Sec. 22. License.—Any person, firm, association or corporation desiring to conduct such an amusement shall apply to the chief of the state police for a license subject to the provisions hereinafter set forth. The application shall be signed by the person, or a member of the firm, or an executive officer of the association or corporation to be licensed, and shall contain the full name and address of the person, firm, association or corporation and the location where it is desired to conduct the amusement, and shall bear the consent of the municipal officers of the town or city in which it is proposed to operate such amusement. (R. S. c. 126, § 22.)

Sec. 23. Issuance of licenses; fees.—The chief of the state police may issue licenses to operate such amusement for a period of 6 days to any fair association or bona fide charitable, educational, fraternal, patriotic, religious or veterans organization which was in existence at least 2 years prior to its application for a license, when sponsored, operated and conducted for the exclusive benefit of such organization by duly authorized members thereof; provided that said 2 years limitation shall not apply to any chartered posts of veterans organizations, nationally established, even though such posts have not been in existence for 2 years prior to their application for a license. No such license shall be issued to any person, firm or corporation other than a fair association or bona fide charitable, educational, fraternal, patriotic, religious or veterans organization. The fee for such license shall be \$2 and shall be paid to the treasurer of state to be credited to the general fund. No such licenses shall be assignable or transferable. Nothing contained herein is to be construed to prohibit any fair association or bona fide charitable, educational, fraternal, patriotic, religious or veterans organization from obtaining more than one 6-day license. (R. S. c. 126, § 23. 1947, c. 172.)

Sec. 24. Supervision.—The chief of the state police shall make such rules and regulations for the holding, conducting and operating of such amusements as he may deem advisable for the purpose of sections 21 to 27, inclusive; and shall have the power and authority to regulate, supervise and exercise general control over the operation of such amusements; and to investigate as to the direct or indirect ownership and control of any licensee; and to revoke or suspend any license because of licensee permitting nuisances, improper conduct, abuse of privileges or for other cause shown upon reasonable notice or hearing. (R. S. c. 126, § 24.)

Sec. 25. Expenses of administration.—The necessary expenses of ad-

ministering the provisions of sections 21 to 27, inclusive, shall be paid out of the fees received under the provisions of said sections. (R. S. c. 126, § 25.)

Sec. 26. Effect of other laws.—All acts and parts of acts inconsistent herewith shall be inoperative as to sections 21 to 27, inclusive, and the share of the state stipend for aid and encouragement to agricultural societies shall not be withheld from any such society because of the conducting on the fair grounds of the game of “Beano”. (R. S. c. 126, § 26.)

Sec c. 32, §§ 16-29, re county and local agricultural societies.

Sec. 27. Penalties.—Any person, firm, association or corporation holding or conducting, or aiding or abetting in the holding or conducting of such amusement within the state without a license therefor duly issued by the chief of the state police, or any person, firm, association or corporation who violates any of the provisions of sections 21 to 27, inclusive, or any of the rules or regulations of the chief of the state police prescribed by authority of said sections shall be punished by a fine of not more more than \$1,000. (R. S. c. 126, § 27.)