

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)

REVISED STATUTES

OF THE

STATE OF MAINE

1954

1961 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 4

Discard Previous Pocket Part Supplement

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1961

Effect of amendment.—The 1961 amendment divided this section into two sentences, substituted “a civil action” for “an action of debt” at the end of the present

first sentence and substituted “sections 3 to 8” for “the 6 preceding sections” at the end of the present second sentence.

Chapter 144.

Prevention of Crime. Private Detectives.

Sections 12-A to 12-C. Possession of Firearms by Felons.

Proceedings for Prevention of Crime.

Sec. 9. Recognizance returned to court, which may remit penalty.—All recognizances taken under this chapter shall be returned to the Superior Court on or before the first day of the next term, and be there filed by the clerk as of record. In any action thereon, if the forfeiture is found or confessed, the court may remit so much of the penalty, and on such terms, as it thinks proper. (R. S. c. 131, § 9. 1961, c. 317, § 483.)

Effect of amendment.—The 1961 amendment divided this section into two sentences, deleted “the provisions of” preceding “this chapter” in the present first sen-

tence and substituted “action” for “suit” near the beginning of the present second sentence.

Possession of Firearms by Felons.

Sec. 12-A. Possession of firearms by felons prohibited.—It shall be unlawful for any person who has been convicted of a felony under the laws of the United States or of the state of Maine, or of any other state, to have in his possession any pistol, revolver or any other firearm capable of being concealed upon the person. Anyone violating any of the provisions of sections 12-A to 12-C, inclusive, shall be guilty of a felony, and upon conviction thereof, shall be punished by imprisonment for not less than one nor more than 5 years. (1955, c. 310.)

Sec. 12-B. Definitions.—The following words and phrases when used in sections 12-A to 12-C, inclusive, are defined as follows:

“Pistol,” “revolver” and “firearm” mean a weapon capable of being concealed upon the person and shall include all firearms having a barrel of less than 12 inches in length. (1955, c. 310.)

Sec. 12-C. Application.—The penal provisions of section 12-A shall not apply to any person commissioned as a peace officer, employed as a guard or watchman nor to any person who has not been convicted of a penal offense during the 5-year period next immediately following his discharge or release from prison. (1955, c. 310.)

Chapter 145.

General Provisions Relating to Crimes.

Attempts to Commit Crime.

Sec. 4. Attempt with overt act to commit offense.

Cited in *State v. Michaud*, 150 Me. 479.
114 A. (2d) 352.

Jurisdiction of Crimes.

Sec. 5. Jurisdiction.—The superior court shall have original jurisdiction,

exclusive or concurrent, of all offenses except those of which the original exclusive jurisdiction is conferred by law on municipal courts, municipal courts acting as juvenile courts, and trial justices, and appellate jurisdiction of these, except that the appellate jurisdiction of the superior court regarding offenses of which the original exclusive jurisdiction is conferred upon municipal courts acting as juvenile courts shall be as provided in chapter 152-A. (R. S. c. 132, § 5. 1959, c. 342, § 15.)

Effect of amendment.—The 1959 amendment added the words “municipal courts acting as juvenile courts” following “on municipal courts,” and added the exception at the end of the section.

Sec. 7. Offenses committed on or near boundary of 2 counties; offenses committed in one and death ensues in another county.

Cited in *State v. Dipietrantonio*, 152 Me. 41, 122 A. (2d) 414.

Sec. 10. Acquittal of part of an indictment and conviction of residue.

Counts for felony and misdemeanor may be joined.—It has been generally held under statutes such as this section, that counts for felony and misdemeanor, growing out of the same transaction and of the general nature and course of trial, may be joined. *State v. London*, 156 Me. 123, 162 A. (2d) 150.

Sufficiency of Complaints and Warrants.

Sec. 11. Sufficient indictment for murder or manslaughter.

Applied in *State v. Arsenaault*, 152 Me. 121, 124 A. (2d) 741.

Sec. 12. Owner of property, as used in indictment.

Section in no way eliminates necessity of alleging ownership in person other than defendant. *State v. Small*, 156 Me. 10, 157 A. (2d) 874.

Alleging ownership of property taken from corporation.—It is sufficient to allege ownership of property taken from a corporation as being in the corporation. *State v. Small*, 156 Me. 10, 157 A. (2d) 874.

Under some circumstances the fact of incorporation need not be alleged. — See *State v. Hume*, 145 Me. 5, 70 A. (2d) 543.

Or from unincorporated association. — An indictment charging the larceny of property belonging to a partnership or an unincorporated association, in the absence of a statute permitting the property to be laid in the association by name, or in one or more of its officials or members, should allege the property to be in certain named persons who are the individuals composing the partnership or association. *State v. Small*, 156 Me. 10, 157 A. (2d) 874.

Sec. 14. Unimportant variance between written or printed matter in evidence and indictment not material; process, except for felony, amended.

The amendment of a complaint and warrant as to a material matter must be supported by oath or affirmation under article I, § 5, of the Constitution of Maine and this section. *State v. Chapman*, 154 Me. 53, 141 A. (2d) 630.

Proof of bailment is evidence of ownership under this section. *State v. Jutras*, 154 Me. 198, 144 A. (2d) 865.

Allegation of time is ordinarily a matter of form but under some circumstances it becomes substance. *State v. Mottram*, 155 Me. 394, 156 A. (2d) 383.

Hence, if the averment of date is not essential to the identification of a record of prior conviction, then it is not one of substance but one of form. *State v. Mottram*, 155 Me. 394, 156 A. (2d) 383.