

REVISED STATUTES

OF THE

State of Maine,

Passed October 22, 1840.

Entered according to act of Congress, in the year 1841, by PHILIP C. JOHNSON, Secretary of the State of Maine, in trust for said State, in the clerk's office of the district court of Maine.

THE
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED OCTOBER 22, 1840;

TO WHICH ARE PREFIXED

THE CONSTITUTIONS

OF THE

United States and of the State of Maine,

AND TO WHICH ARE SUBJOINED THE OTHER

PUBLIC LAWS OF 1840 AND 1841,

WITH AN

APPENDIX.

PRINTED AND PUBLISHED IN COMPLIANCE WITH A RESOLVE OF OCTOBER 22, 1840.

Augusta:

PUBLISHED BY WILLIAM R. SMITH & Co., PRINTERS TO THE STATE.

.....
1841.

CHAP. 163. to be recovered on complaint before a justice of the peace, to the use of the town or city in which the offence shall be committed.

Lotteries.
1826, 327, § 1, 2,
3, 4.
5 Pick. 42.

SECT. 4. If any person shall make, or aid in making, any lottery, or shall hereafter advertise, or make public, any scheme for any lottery, or shall advertise or offer for sale any ticket or part of a ticket in any lottery, or shall sell or give away, negotiate or dispose of, or shall purchase or receive the same, or shall have in his possession any ticket or paper, purporting to be the number of any ticket, or part of a ticket of any lottery, with intent to sell or dispose of the same, on his own account, or as agent for another, he shall be punished by a fine, not less than one hundred dollars, and not exceeding one thousand dollars; one half of which fine shall be for the use of the person, who shall inform and prosecute for the same, and the other half to the use of the state.

CHAPTER 164.

OF NUISANCES.

SECT. 1. Certain nuisances described.

2. Places to be assigned for unwholesome employments.
3. Proceedings when places, so assigned, become offensive.
4. When buildings for the manufacture of gunpowder, shall be deemed nuisances.
5. Burning bricks in parts of a town, prohibited by vote, nuisances.
6. Water mills and dams on streams, and fences and buildings fronting on public ways, in certain cases, not nuisances.
7. Punishment for nuisances, on conviction. Abatement thereof.

SECT. 8. Action for damages, whether nuisance be public or private.

9. Process for abatement of a nuisance.
10. Warrant to be stayed, if defendant give security to discontinue the nuisance.
11. Expenses of abatement to be defrayed from the materials, if sufficient; otherwise, as in cases of execution.
12. Equity jurisdiction of supreme judicial court. Injunction may issue from any court, where a suit for nuisance is pending.

Certain nuisances described.
1821, 24, § 5.

SECTION 1. The erecting, continuing or using any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, offensive smells, or other annoyances, become[s] injurious and dangerous to the health, comfort, or property of individuals, or the public, the causing or suffering any offal, filth, or noisome substance to be collected, or to remain in any place to the prejudice of others, the obstructing or impeding, without legal authority, the passage of any navigable river, harbor, or collection of water, or the corrupting, or rendering unwholesome or impure, the water of any river, stream or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others, and the obstructing or encumbering by fences, buildings or otherwise, the public highways, private ways, streets, alleys, commons, common landing places, or burying grounds, shall be deemed nuisances, within the limitations and exceptions hereafter mentioned.

SECT. 2. The selectmen of any town, or the mayor and aldermen of any city, may, when they judge it necessary, assign some certain place or places in such town or city, for the exercise of any trade, employment or manufacture, injurious as aforesaid, to the health, comfort, or property of individuals or the public, and forbid the exercise of them in places not so assigned, under penalty of their being deemed public or common nuisances, and liable to be prosecuted and abated as such. All such assignments shall be entered in the records of such town or city, and may be revoked, when said town or city officers shall judge proper.

SECT. 3. When any place or building, so assigned, shall become a nuisance, offensive to the neighborhood, or injurious to the public health, any person may make complaint thereof to the district court, and if, after notice to the party complained of, the truth of said complaint shall be admitted by the defendant by default, or otherwise made to appear to a jury on trial, the court may revoke such assignment, and prohibit the further use of such place or building for the offensive purposes aforesaid, under a fine, not exceeding one hundred dollars, for each month the same shall be so continued after such prohibition, to be recovered on indictment, to the use of said town or city; and may order the same to be abated, and issue a warrant therefor, or stay the same, as hereafter provided: and, if the jury on said trial shall acquit the defendant, he shall recover his costs of the complainant.

SECT. 4. If any person shall carry on the business of manufacturing gun powder, or of mixing or grinding the composition therefor, in any building within eighty rods from any valuable building, erected at the time when such business may be commenced, the building, in which such business may be carried on as aforesaid, shall be deemed a public nuisance; and such person shall be liable to be prosecuted and indicted accordingly.

SECT. 5. Any city or town, at their annual meeting, may prohibit, by a vote, the burning of any bricks, or the erecting of any brick kiln for the purpose of burning the same, within such parts of said city or town, as they may deem for the safety of the citizens or their property. And, if any person, by himself or others, shall burn any bricks or erect any brick kiln for that purpose, in any place prohibited as aforesaid, it shall be the duty of the mayor and aldermen of such city, or of the selectmen of such town, to cause said bricks or brick kiln to be forthwith removed, at the expense of the owners thereof; and the offender shall also be further liable on indictment to be punished by a fine, not exceeding two hundred dollars, to the use of said city or town; and, if said bricks or brick kiln shall not have been, before a conviction on such indictment, removed, the court may issue a warrant for the removal of the same, or stay such warrant as hereafter provided.

SECT. 6. The erecting and maintaining of water mills, and dams to raise water for working the same, upon or across streams not navigable, as provided in the one hundred and twenty sixth chapter, shall not be deemed nuisances, unless the same shall become offensive to the neighborhood or injurious to the public health, as mentioned in the preceding first section, or unless the

CHAP. 164.

Places to be assigned for unwholesome employments.
1821, 24, § 1, 2.

Proceedings, when places, so assigned, become offensive.
1821, 24, § 3.

When buildings for the manufacture of gun powder shall be deemed nuisances.
1831, 96.

Burning bricks in parts of a town prohibited by vote, nuisances.
1827, 353.

Water mills, and dams on streams, and fences and buildings fronting on public ways, in certain cases, not nuisances.
1836, 238, § 1.