

MAINE STATE LEGISLATURE

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ONE - HUNDRETH LEGISLATURE

Legislative Document

No. 1465

S. P. 455

In Senate, February 8, 1961

Referred to Committee on Judiciary. Sent down for concurrence and 1,000 copies ordered printed.

CHESTER T. WINSLOW, Secretary

Presented by Senator Erwin of York.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-ONE

AN ACT Amending Certain Statutes to Conform to Rules of Civil Procedure.

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

Sec. 1. R. S., c. 12, § 4-A, amended. Section 4-A of chapter 12 of the Revised Statutes, as enacted by section 1-A of chapter 435 of the public laws of 1955, is amended to read as follows:

'Sec. 4-A. Rules and regulations. The director shall make, amend or rescind, after public hearing thereon, notice of which has been duly advertised in the State paper, reasonable rules and regulations to carry out ~~the provisions of~~ this chapter.

Such rules and regulations shall become effective when approved in writing by the Governor and Council and when a certified copy thereof has been filed with the Secretary of State. Any person aggrieved by any such rule or regulation ~~or the reasonableness of same~~, or any act or order of the director in enforcing any such rule or regulation, may appeal ~~to a Justice of~~ by filing in the Superior Court ~~by presenting to him a petition therefor in term time or vacation~~ **complaint within 3 days, and he the court shall fix a time and place of hearing which may be in the chambers or in vacation and cause notice thereof to be given to the director and, after the hearing, the justice court may affirm or reverse the rule, regulation, act or order of the director and the decision of such justice the court shall be final.'**

Sec. 2. R. S., c. 12, § 7, amended. The last 2 paragraphs of section 7 of chapter 12 of the Revised Statutes are amended to read as follows:

'Any owner of property of which possession has been taken under ~~the provisions of~~ this section to whom no award has been made or who is dissatisfied with the amount awarded him as compensation may ~~file a petition~~ **bring an action** in the Superior Court in the county in which he lives or has a usual place of business or in the County of Kennebec to have the amount to which he is entitled by way of damages determined. ~~The petitioner plaintiff may make such claim in such a manner as may be provided,~~ **bring such action** within 6 years after the date when possession of the property was taken under ~~the provisions of~~ this section, except that if the owner of the property is in the military service of the United States at any time during which he should otherwise have ~~filed his petition~~ **brought his action**, he may ~~file~~ **bring** the same within 6 years after his discharge from the said military service. ~~The petitioner plaintiff~~ and the State shall severally have the right to have such damages assessed by a jury.

In the event, by reason of the death of the owner of property seized under ~~the provisions of~~ this section, he is unable ~~to file his petition or to bring or~~ to continue the action provided for ~~herein, such petition may be filed or~~ the action **may be brought or** continued by his executor or administrator, as the case may be.'

Sec. 3. R. S., c. 16 § 68, amended. The last sentence of section 68 of chapter 16 of the Revised Statutes is amended to read as follows:

'Such expenses shall be reported to the Legislature by the State Tax Assessor and shall be added to the amount of the next state tax levied against such town, or may be recovered in ~~an a civil action of debt~~ against such town in the name of the Treasurer of State.'

Sec. 4. R. S., c. 16, § 93, amended. Section 93 of chapter 16 of the Revised Statutes, as amended by section 8 of chapter 397 and by section 20 of chapter 429, both of the public laws of 1957, is further amended to read as follows:

'**Sec. 93. State Tax Assessor may bring action to recover taxes.** The State Tax Assessor may bring ~~an a civil action of debt~~ in his own name to enforce the lien on real estate created by ~~section 5 of~~ chapter 91-A, **section 5**, to secure the payment of state, county and forestry district taxes assessed under sections 78 and 81 upon lands not liable to be assessed in any town. Such action shall be begun after the expiration of 8 months and within one year after the publication of the advertisement named in section 82. The proceedings shall be in accordance with ~~section 87 of~~ chapter 91-A, **section 87**, except that the preliminary notice and demand for payment of said tax as provided in said section shall not be required.'

Sec. 5. R. S., c. 16, § 94, amended. The 2nd sentence of section 94 of chapter 16 of the Revised Statutes is amended to read as follows:

'If such taxes shall not be paid within 30 days after such demand, the State Tax Assessor may collect the same, with interest as provided by law, by ~~an a~~ **civil action of debt** in the name of the State.'

Sec. 6. R. S., c. 16, § 97, amended. The last sentence of section 97 of chapter 16 of the Revised Statutes is amended to read as follows:

'When the time for the payment of the tax to the State Tax Assessor has expired, and it is unpaid, the State Tax Assessor shall give notice thereof to the delinquent property owner, and unless such tax shall be paid within 60 days, the State Tax Assessor may issue his warrant to the sheriff of the county, requiring him to levy by distress and sale upon the personal property of said property owner, and the sheriff or his deputy shall execute such warrants ~~but any~~. **Any** balance remaining after deducting taxes and necessary additions made in accordance with ~~the provisions of~~ sections 95 to 97 shall be returned to the owner or person in possession of such property or the State Tax Assessor may certify such unpaid taxes to the Attorney General, who shall bring ~~an a~~ **a civil action of debt** in the name of the State.'

Sec. 7. R. S., c. 16, § 108, amended. Section 108 of chapter 16 of the Revised Statutes is amended to read as follows:

'**Sec. 108. Tax to be a debt due from corporation.** The tax assessed under ~~the provisions of~~ section 107 shall be a debt due from such corporation to the State, for which ~~an a~~ **a civil action of debt** may be maintained after the same shall have been in arrears for the period of one month; ~~such~~. **Such** tax shall ~~also~~ be a preferred debt in case of insolvency under the laws of this State or in any process of liquidation in its courts.'

Sec. 8. R. S., c. 16, § 110, amended. Section 110 of chapter 16 of the Revised Statutes is amended to read as follows:

'**Sec. 110. Company in arrears 6 months.** The State Tax Assessor, whenever any tax due under ~~the provisions of the 4 preceding~~ sections 106 to 109 from any company shall have remained in arrears for a period of 6 months after the same shall have become payable, shall report the same to the Attorney General, who shall, if he deems it advisable, apply to the ~~Supreme Judicial Court or the Superior Court in equity for equitable relief~~ in the name of the State for the forfeiture of the charter of such delinquent corporation, and said court shall order such notice to all parties interested as it may deem proper and shall have jurisdiction in said cause to appoint receivers, issue injunctions and pass interlocutory decrees and orders according to the usual ~~course of proceedings in equity~~ procedure in civil actions **in which equitable relief is sought**, and to make such final orders and decrees as the nature of the case may require.'

Sec. 9. R. S., c. 16, § 114, amended. Section 114 of chapter 16 of the Revised Statutes is amended to read as follows:

'**Sec. 114. Penalty.** Any corporation, company or person willfully neglecting to make returns as provided in section 113 forfeits \$5 for every day's neglect, to be recovered by ~~an a~~ **a civil action of debt** in the name of the State. Any officer, agent or employee of such railroad company who willfully violates any provision of section 113 shall be punished by a fine of not less than \$100 nor more than \$500 for each offense, to be recovered by indictment to the use of the State.'

Sec. 10. R. S., c. 16, § 120, amended. The last sentence of section 120 of chapter 16 of the Revised Statutes is amended to read as follows:

'The Public Utilities Commission shall have access to the books of railroad companies to ascertain if the required returns are correctly made; ~~and any.~~ **Any** railroad corporation, association or person operating any railroad in the State, which refuses or neglects to make returns required by law or to exhibit to the Public Utilities Commission its books for the purposes aforesaid, or makes returns which the president, clerk, treasurer or other person certifying to such returns knows to be false forfeits not less than \$1,000 nor more than \$10,000, to be recovered by indictment or by ~~an a civil action of debt~~ in any county into which the railroad operated extends.'

Sec. 11. R. S., c. 16, § 124, amended. The first sentence of section 124 of chapter 16 of the Revised Statutes is amended to read as follows:

'Any corporation or person willfully neglecting to make returns according to ~~the provisions of the preceding~~ section 123 forfeits \$5 for every day's neglect, to be recovered by ~~an a civil action of debt~~ in the name of the State.'

Sec. 12. R. S., c. 16, § 126, amended. The first sentence of section 126 of chapter 16 of the Revised Statutes is amended to read as follows:

'Any corporation, association or person willfully neglecting to make returns as provided in section 125 forfeits \$5 for every day's neglect, to be recovered by ~~an a civil action of debt~~ in the name of the State.'

Sec. 13. R. S., c. 16, § 131, amended. Section 131 of chapter 16 of the Revised Statutes is amended to read as follows:

'**Sec. 131. Books of corporations to be open to assessors.** The State Tax Assessor or his duly authorized agent shall have access to the books of any corporation, association or person operating telephone or telegraph lines in this State, to ascertain if the required returns are correctly made; ~~and any.~~ **Any** corporation, association or person refusing or neglecting to make the returns required by law or to exhibit to the said assessor or to his duly authorized agent, its or his books for the purpose aforesaid, or making returns which the president, clerk, treasurer or other person certifying such returns knows to be false shall forfeit not less than \$1,000 nor more than \$10,000, to be recovered by indictment or by ~~an a civil action of debt~~ in any county into which the said telegraph or telephone lines extend.'

Sec. 14. R. S., c. 16, § 136, amended. The first sentence of section 136 of chapter 16 of the Revised Statutes is amended to read as follows:

'Any corporation, company or person willfully neglecting to make returns according to section 134 forfeits \$5 for every day's neglect, to be recovered by ~~an a civil action of debt~~ in the name of the State.'

Sec. 15. R. S., c. 16, § 153, amended. The last 2 sentences of section 153 of chapter 16 of the Revised Statutes are amended to read as follows:

'If any corporation, company, association or person fails to pay the taxes required or imposed by sections 115, 122, 127, 133 and 155, the State Tax Assessor shall forthwith commence ~~an a civil action of debt~~, in the name of the State, for the recovery of the same with interest at the rate of 10% a year. In addition to other remedies for the collection of state taxes upon any corporation, such taxes with interest at the rate of 10% a year may be recovered by ~~an a civil action of debt~~ in the name of the State.'

Sec. 16. R. S., c. 16, § 155, amended. The first sentence of the last paragraph of section 155 of chapter 16 of the Revised Statutes is amended to read as follows:

'Any party in interest aggrieved by the valuation of the shares of any trust company or national banking institution made by the said State Tax Assessor may ~~claim an~~ appeal to the Superior Court at any time before said first day of July.'

Sec. 17. R. S., c. 16, § 157, amended. The first sentence of section 157 of chapter 16 of the Revised Statutes is amended to read as follows:

'Any trust company or national banking institution willfully neglecting to make returns according to section 154 forfeits \$5 for every day's neglect, to be recovered by ~~an a civil action of debt~~ in the name of the State.'

Sec. 18. R. S., c. 16, § 163, amended. The 4th sentence of section 163 of chapter 16 of the Revised Statutes is amended to read as follows:

'If such report is not filed by the last day of the month such distributor shall be liable to a penalty of \$5 a day for each day in arrears, due on demand by the State Tax Assessor and recoverable in ~~an a civil action of debt~~.'

Sec. 19. R. S., c. 16, § 182, amended. The 3rd paragraph of section 182 of chapter 16 of the Revised Statutes, as amended, is further amended to read as follows:

'At the time of the filing of said report each use fuel dealer shall pay to the State Tax Assessor a tax of 7c upon each gallon so reported as sold or used, and the State Tax Assessor shall pay over all receipts from such tax to the Treasurer of State daily. If such report is not filed by the last day of the month such dealer shall be liable to a penalty of \$1 a day for each day in arrears, due on demand by the State Tax Assessor and recoverable in ~~an a civil action of debt~~.'

Sec. 20. R. S., c. 16, § 193, amended. The 2nd sentence of section 193 of chapter 16 of the Revised Statutes is amended to read as follows:

'If any motor carried fails to pay such tax, the State Tax Assessor may forthwith commence ~~an a civil action of debt~~ in the name of the State for recovery of the tax with interest at the rate of 10% per year.'

Sec. 21. R. S., c. 16, § 258, amended. Section 258 of chapter 16 of the Revised Statutes is amended to read as follows:

Sec. 258. Action to recover tax. If said tax is not paid within the times ~~herein~~ prescribed, it shall be recoverable from the contractor by the State Tax Assessor in ~~an a civil action of assumpsit~~ in the name of the State.'

Sec. 22. R. S., c. 17, §16, amended. Section 16 of chapter 17 of the Revised Statutes is amended to read as follows:

Sec. 16. Tax a debt; proceedings to recover; preference. The taxes, interest and penalties imposed by this chapter, from the time the same shall be due, shall be a personal debt of the retailer or user to the State of Maine, recoverable in any court of competent jurisdiction in ~~an a civil action at law~~ in the name of the State of Maine, and shall have preference in any distribution of the assets of the taxpayer, whether in bankruptcy, insolvency or otherwise. The proceeds of any judgment obtained ~~hereunder~~ shall be paid to the Tax Assessor.'

Sec. 23. R. S., c. 22, § 7, amended. Section 7 of chapter 22 of the Revised Statutes, as amended by section 2 of chapter 10 of the public laws of 1955, is further amended to read as follows:

Sec. 7. Appeal. If any person is aggrieved by the decision of the Secretary of State or the deputy secretary of state in revoking or suspending a license or certificate of registration or by the refusal of the Secretary of State or the deputy secretary of state to issue a license or certificate of registration, he may within ~~to 30~~ days thereafter appeal to ~~any Justice of~~ the Superior Court by ~~presenting to him~~ filing a petition therefor, ~~in term time or vacation~~ **complaint.** ~~Such justice~~ **The court** shall fix a time and place for hearing ~~which may be in vacation~~ and cause notice thereof to be given to the Secretary of State; ~~and after.~~ **After** hearing ~~such justice the court~~ may affirm or reverse the decision of the Secretary of State or the deputy secretary of state and the decision of ~~such justice the court~~ shall be final. Pending judgment of the court, the decision of the Secretary of State or the deputy secretary of state in revoking or suspending any license or certificate of registration shall remain in full force and effect.'

Sec. 24. R. S., c. 22, § 28, amended. Section 28 of chapter 22 of the Revised Statutes, as amended by section 7 of chapter 200 of the public laws of 1955, is further amended to read as follows:

Sec. 28. Appeal from board's decision to deny, suspend or revoke dealer or transit registration plates. Any dealer or holder of a transit registration certificate whose application for motor vehicle dealer or transit registration plates has been denied by the Secretary of State by order of the board, or whose dealer or transit registration plates have been suspended or revoked by the Secretary of State by order of the board, may, within 30 days thereafter, ~~secure judicial review- appeal by presenting~~ filing a ~~petition- complaint~~ addressed to any ~~Justice of~~ in the Superior Court, ~~in term time or vacation~~ stating therein the grounds upon which ~~a review an appeal~~ is sought. ~~Such justice~~ **The court** shall fix a time and place for hearing ~~which may be in vacation~~ and cause notice thereof to be given to the board; ~~and after.~~ **After** hearing, ~~such justice the court~~ may affirm, modify or reverse the decision of the board and the decision of ~~such justice the court~~ shall be final. Pending judgment of the court, such

motor vehicle dealer or transit registration plates shall remain in full force and effect.'

Sec. 25. R. S., c. 22, § 46, amended. The 2nd paragraph of section 46 of chapter 22 of the Revised Statutes is amended to read as follows:

'Before a license as an official inspection station is granted, the premises shall be examined by a member of the State Police and the operator investigated as to his reliability and fitness for such appointment. If any person is aggrieved by the decision of a member of the State Police in refusing approval, he may within ~~to~~ 30 days thereafter appeal to ~~any Justice of the Superior Court by presenting to him filing a petition therefor, in term time or vacation complaint.~~ ~~Such Justice~~ ~~The Court~~ shall fix a time and place for hearing ~~which may be in vacation~~ and cause notice thereof to be given to the Chief of the State Police; ~~and after.~~ ~~After hearing such justice the court~~ may affirm or reverse the decision of the member of the State Police and the decision of ~~such justice the court~~ shall be final. Pending judgment of the court, the decision of the member of the State Police shall remain in full force and effect.'

Sec. 26. R. S., c. 22, § 75, sub-§ II, amended. Subsection II of section 75 of chapter 22 of the Revised Statutes is amended to read as follows:

'II. Secretary of State to administer sections 75 to 82; appeal. The Secretary of State shall administer and enforce ~~the provisions of~~ sections 75 to 82 and he is authorized to adopt and enforce such regulations as may be necessary for their administration. He is authorized to remove and destroy all records and papers in his office pertaining to the Financial Responsibility Law which are more than 3 years old, are not in use and which in his judgment are no longer of value. Any person aggrieved by an order or act of the Secretary of State under ~~the provisions of~~ said sections may, within ~~to~~ 30 days after notice thereof, ~~file a petition for a review thereof~~ ~~appeal by filing a complaint~~ in the Superior Court of the county in which one of the parties resides, and if both plaintiff and defendant are nonresidents, then in the county where the accident occurred; ~~but the.~~ ~~The filing of such petition~~ ~~filing of such complaint~~ shall not suspend the order or act unless a stay thereof shall be allowed by ~~a judge of~~ said court pending final determination of the ~~review~~ ~~appeal~~. The court shall summarily hear the ~~petition~~ ~~complaint~~ and may make any appropriate order or decree.'

Sec. 27. R. S., c. 22, § 80, sub-§ II, ¶ E, amended. The first sentence of paragraph E of subsection II of section 80 of chapter 22 of the Revised Statutes is amended to read as follows:

'Damages shall not be assessed except by special order of the court in ~~an~~ a civil action of ~~tort~~, payment of the judgment wherein is secured by a motor vehicle liability policy or a motor vehicle liability bond, as defined in section 75, and wherein the defendant has been defaulted for failure to enter an appearance until the expiration of 30 days after the plaintiff has given notice of such default to the company issuing or executing such policy or bond and has filed an affidavit thereof.'

Sec. 28. R. S., c. 22, § 102, amended. The first sentence of section 102 of chapter 22 of the Revised Statutes is amended to read as follows:

'Whoever as owner, driver, operator or mover of any engine, team, vehicle or contrivance mentioned in ~~the 5 preceding~~ sections **97 to 101** violates any provision of said sections or the regulations made or permits granted under authority thereof shall be liable to a fine of not less than \$10 nor more than \$500, for each offense; ~~and he. He shall also~~ be responsible for all damage which said way or bridge may sustain as a result thereof, and the amount may be recovered in ~~an a~~ **a civil** action ~~on the case~~ brought by the municipality or other corporation, when any way or bridge is injured which is under the care of said municipality or other corporation; by the county commissioners in behalf of any unincorporated township injured and by the State when any state or state aid way or bridge is injured; and shall be used for the repair of the ways and bridges so injured.'

Sec. 29. R. S., c. 23, § 23-A, amended. The 4th sentence of the 2nd paragraph of section 23-A of chapter 23 of the Revised Statutes, as enacted by section 1 of chapter 378 of the public laws of 1957, is amended to read as follows:

'If the commission and the utility shall not agree as to the liability of the utility for such damages, either party may ~~petition appeal to any Justice of~~ the Superior Court for a determination thereof.'

Sec. 30. R. S., c. 23, § 25, amended. The last 2 sentences of section 25 of chapter 23 of the Revised Statutes are amended to read as follows:

'Any person aggrieved by the reestablishment of such boundary lines, limits and location may ~~petition file a complaint~~ for the assessment of damages to the Superior Court in the county where the reestablished highway is located within 60 days from the filing of such maps with the registry of deeds, and not thereafter, and the court shall assess the damages, if any, by jury, provided such reestablished boundary lines, limits or location are not the same as originally established. The commission shall pay from the funds of its department all expenses incurred ~~hereunder~~ and the amount of final judgment and costs, except that the amount of the final judgment costs shall be paid by the ~~petitioner~~ **plaintiff** if such ~~petitioner~~ **plaintiff** fails to recover any damages.'

Sec. 31. R. S., c. 23, § 82, amended. The next to the last paragraph of section 82 of chapter 23 of the Revised Statutes is amended to read as follows:

'In case the owner of such property is aggrieved with the award of damages so made, or with any part of such decrees, within ~~20~~ **30** days after the filing of said return, he may take an appeal therefrom by filing in the Superior Court in the county where such guard or fence is located a ~~petition~~ **complaint** requesting a new award or assessment of damages, and the court, after ordering such notice as it sees fit, shall thereupon determine the amount of damages sustained by said owners. The court may make any other change in the decree deemed proper. An appeal to the Superior Court vacates the original award.'

Sec. 32. R. S., c. 23, § 111, amended. The last sentence of the last paragraph of section 111 of chapter 23 of the Revised Statutes is amended to read as follows:

'In case such funds due or to become due any town or county from the State Treasury in any one year do not equal or exceed the town's or county's share of either the estimated cost or the actual cost of a bridge, the construction of which is provided for under the terms of the said sections, then ~~an~~ a civil action ~~of debt~~ in the name of the Treasurer of State may be maintained against such delinquent county or town to recover any sum so due the State, but these remedies shall be in addition to, and not exclusive of, other remedies afforded by law for the proper enforcement of ~~the provisions of~~ said sections.'

Sec. 33. R. S., c. 23, § 143, amended. The last 2 sentences of section 143 of chapter 23 of the Revised Statutes, as enacted by section 3 of chapter 267 of the public laws of 1957, are amended to read as follows:

'The commission may ~~petition the court of equity for file in the Superior Court~~ a complaint seeking a mandatory decree ordering the removal of any outdoor advertising structure, device or display erected or maintained in violation of any of the provisions of sections 137 to 148. The ~~court of equity Superior Court~~ shall have jurisdiction of any such proceeding.'

Sec. 34. R. S., c. 25, § 19, amended. The first paragraph of section 19 of chapter 25 of the Revised Statutes is amended to read as follows:

'The spouse, parents and adult children of a person receiving hospital care shall, if of sufficient ability, be responsible for the hospital bill of such person. The hospital furnishing care to a person may recover the amount due for such care from a responsible relative in ~~an~~ a civil action ~~on the case~~.'

Sec. 35. R. S., c. 25, § 69, amended. The last paragraph of section 69 of chapter 25 of the Revised Statutes is amended to read as follows:

'If the person to whom notice is given fails to comply ~~therewith~~ he shall be punished by a fine of not less than \$5 nor more than \$10, for every day during which he continues to make default; ~~and the~~. The local health officer shall cause such house, building, car, vessel or vehicle, or any part thereof, and articles to be cleansed and disinfected at the expense of the town, and the town may recover the expenses so incurred from the owner, agent or occupier in default, by ~~an~~ a civil action ~~of special assumpsit~~.'

Sec. 36. R. S., c. 25, § 165, amended. The last paragraph of section 165 of chapter 25 of the Revised Statutes is amended to read as follows:

'Any person aggrieved by the decision of the Bureau of Health in revoking or suspending a license or by the refusal of said Bureau of Health to issue a license may within ~~to~~ 30 days thereafter appeal to ~~any justice of the Superior Court~~ by filing a ~~presenting to him a petition therefor, in term time or vacation~~ complaint. ~~Such justice~~ The court shall fix a time and place for hearing ~~which may be in vacation~~, and cause notice thereof to be given to the Bureau of Health, ~~and after~~. After hearing, ~~such justice the court~~ may affirm or reverse the decision of the Bureau of Health, and the decision of such ~~justice court~~ shall be final. Pending judgment of the court, the decision of the Bureau of Health in revoking or suspending any license shall remain in full force and

effect. The bureau shall, within 3 days after notice of such appeal, forward to the said court a certified copy of the proceedings.'

Sec. 37. R. S., c. 25, § 205, amended. The last 2 sentences of the 3rd paragraph of section 205 of chapter 25 of the Revised Statutes are repealed and the following enacted in place thereof:

'An appeal may be taken from the decision of the Superior Court to the Supreme Judicial Court in the same manner as is provided in civil actions.'

'Sec. 38. R. S., c. 25, § 257, amended. Section 257 of chapter 25 of the Revised Statutes is amended to read as follows:

'Sec. 257. State or town may recover from parents. The State or any town or county incurring expenses under sections 248 ~~249, 250,~~ to 251 and section 256, through the fault of parents who are able to support and educate their children but wrongfully neglect and refuse to do so, may recover of them or either of them, in ~~an~~ a civil action ~~of debt,~~ the amount so expended.'

Sec. 39. R. S., c. 25, § 290, amended. Section 290 of chapter 25 of the Revised Statutes is amended to read as follows:

'Sec. 290. Illegal payments recovered. The department may recover from any child, children or spouse of any beneficiary under ~~the provisions of~~ sections 276 to 297, who is able to support the said beneficiary but who fails to provide such support, in ~~an~~ a civil action ~~on the case~~ for the amount expended by the department for the said support. The department may ~~also~~ recover the amount expended for aid in ~~an~~ a civil action ~~on the case~~ from a recipient or a former recipient who has failed to disclose assets which would have rendered him ineligible had he disclosed the assets. Such actions shall be prosecuted by the Attorney General in the name of the State and the amount recovered shall be credited to the Old Age Assistance Fund.'

Sec. 40. R. S., c. 25, § 308, amended. Section 308 of chapter 25 of the Revised Statutes is amended to read as follows:

'Sec. 308. Illegal payments recovered. The department may recover from any adult child or children, spouse or parents of any beneficiary under ~~the provisions of~~ sections 298 to 318, who is able to support the said beneficiary, but who fails to provide such support, in ~~an~~ a civil action ~~on the case~~ for the amount expended by the department for the said support. The department may ~~also~~ recover the amount expended for aid in ~~an~~ a civil action ~~on the case~~ from a recipient or a former recipient who has failed to disclose assets which would have rendered him ineligible had he disclosed the assets. Such actions shall be prosecuted by the Attorney General in the name of the State and the amount recovered shall be credited to the Aid to the Blind Fund.'

Sec. 41. R. S., c. 25, § 319-M, amended. Section 319-M of chapter 25 of the Revised Statutes, as enacted by section 30 of chapter 405 of the public laws of 1955, is amended to read as follows:

Sec. 319-M. Payments illegally received may be recovered. The department may recover from any adult child or children, spouse or parents of any beneficiary under ~~the provisions of~~ sections 319-A to 319-T, who is able to support the said beneficiary, but who fails to provide such support, in ~~an a civil action on the case~~ for the amount expended by the department for the said support. The department may ~~also~~ recover the amount expended for aid in ~~an a civil action on the case~~ from a recipient or a former recipient who has failed to disclose assets which would have rendered him ineligible had he disclosed the assets. Such actions shall be prosecuted by the Attorney General in the name of the State, and the amount recovered shall be credited to the Aid to the Disabled Fund.'

Sec. 42. R. S., c. 25, § 374, amended. Section 374 of chapter 25 of the Revised Statutes is amended to read as follows:

Sec. 374. No sale or permit to a foreigner. No citizen or subject of a foreign government shall purchase, cut or carry off trees, timber or grass from the township reserved for the benefit of the Passamaquoddy tribe ~~and if~~. If the commissioner gives to such citizen or subject a permit for such unlawful purpose, he forfeits not more than \$500 nor less than \$100, to be recovered by ~~an a civil action of debt~~, $\frac{1}{2}$ to the State and $\frac{1}{2}$ to the prosecutor.'

Sec. 43. R. S., c. 25, § 397-A, amended. The first paragraph of section 397-A of chapter 25 of the Revised Statutes, as enacted by section 7 of chapter 298 of the public laws of 1957, is amended to read as follows:

'Custodians of certificates and records of birth, marriage and death may permit inspection of records, or issue certified copies of certificates or records, or any parts thereof, when satisfied that the applicant therefor has a direct and legitimate interest in the matter recorded, the decision of the state registrar or the clerk of a municipality being subject to review by the Superior Court ~~or any justice thereof in vacation~~, under the limitations of this section.'

Sec. 44. R. S., c. 27, § 96, amended. The last sentence of section 96 of chapter 27 of the Revised Statutes is amended to read as follows:

'Within 20 days after such hearing the superintendent may ~~bring a petition appeal by filing a complaint~~ in the Superior Court within and for the county where the institution is located, praying that the action of the commissioner and the Governor and Council may be reviewed by the court, and, after such notice to the commissioner and the Governor and Council as the court deems necessary, it shall review such action, hear the witnesses and shall affirm the decision of the commissioner and the Governor and Council unless it shall appear that such decision was made without proper cause or in bad faith, in which case such decision shall be reversed and the ~~petitioner plaintiff~~ be reinstated in his office without loss of compensation.'

Sec. 45. R. S., c. 27, § 140, amended. The next to the last sentence of section 140 of chapter 27 of the Revised Statutes is amended to read as follows:

'If said municipal officers to whom such certification is made ~~as aforesaid~~ fail to remove such person from said hospital within one week after receipt of such certification, the city or town from which such person was committed shall be liable to the State for the entire cost of maintaining such person in said hospital, at a rate determined by the commissioner, from the date of the certification ~~as aforesaid~~ until finally removed therefrom, the same to be recovered in ~~an~~ a civil action ~~on the case.~~'

Sec. 46. R. S., c. 27, § 153, amended. The first paragraph of section 153 of chapter 27 of the Revised Statutes is amended to read as follows:

'Within 30 days of the issuance of any order of sterilization an appeal may be taken therefrom to the Superior Court by the inmate or his or her representative. Such appeal shall be ~~entered filed~~ and heard ~~at the next term of said court held at least 14 days after the date of such appeal~~ in the county where inmate was domiciled when committed. The proceedings in such appeals shall be governed by the rules provided for probate appeals.'

Sec. 47. R. S., c. 29, § 5, sub-§ XIV, amended. Subsection XIV of section 5 of chapter 29 of the Revised Statutes is amended to read as follows:

'XIV. Determination of employer or employment; appeal. Upon the motion of the Director of Unemployment Compensation or if a member of the commission is ~~also~~ acting in that capacity upon the motion of a representative of the commission duly authorized by the commission to do so or upon application of an employing unit and after giving notice, the commission may hold a hearing, make findings of fact and on the basis thereof, determine whether an employing unit constitutes an employer and whether services performed for or in connection with the business of an employing unit constitute employment. In the absence of appeal therefrom, the determination of the commission, together with the record of the proceeding under this subsection, shall be admissible in any subsequent material proceeding under this chapter, and if supported by evidence, and in the absence of fraud, shall be conclusive, except as to errors of law, upon any employing unit which was a party to the proceeding under this subsection. Any such determination of the commission shall become final 10 days after the date of notification. If such notification is given by mail, it shall be registered and the date of receipt thereof by the employing unit shall control. Any employing unit aggrieved thereby shall have 15 days after the determination of the commission became final in which to perfect his appeal ~~for judicial review~~ thereof and on such appeal the commission shall be deemed to be a party and may be represented by counsel. Such appeal shall be commenced by filing a ~~petition for review~~ **complaint** in the Superior Court of the county in which the employing unit has its principal place of business, a copy of which ~~petition~~ **complaint** shall be served upon the commission or upon such person as the commission may designate. With its answer, the commission shall certify and file with said court the original or certified copies of all documents and papers and a transcript of all testimony in the matter together with its findings of fact and decision therein. Upon the motion of any party to the ~~review~~ **appeal**, the court may order additional testimony or evidence to be

offered and upon the basis of all the evidence before him shall determine the issues. An appeal may be taken from the decision of the Superior Court to the Supreme Judicial Court in the same manner as is provided in civil ~~cases~~ **actions**.

Sec. 48. R. S., c. 29, § 16, sub-§ IX, amended. Subsection IX of section 16 of chapter 29 of the Revised Statutes is amended to read as follows:

'IX. Appeal. Within 15 days after the decision of the commission has become final, any party aggrieved thereby may ~~secure judicial review thereof~~ **appeal** by commencing an action in the Superior Court of Kennebec County against the commission for the ~~review~~ **appeal** of its decision, in which action any other party to the proceedings before the commission shall be made a defendant. In such action, a ~~petition~~ **complaint** which need not be verified, but which shall state the grounds upon which ~~a review~~ **an appeal** is sought, shall be served upon the commission or upon such person as the commission may designate and such service shall be deemed completed service on all parties, but there shall be left with the party so served as many copies of the ~~petition~~ **complaint** as there are defendants and the commission shall forthwith mail one such copy to each such defendant. With its answer, the commission shall certify and file with said court the original or certified copies of all documents and papers and a transcript of all testimony taken in the matter, together with its findings of fact and decision therein. The commission may ~~also~~, in its discretion, certify to such court questions of law involved in any decision by it. In any judicial proceeding under ~~the provisions of~~ this chapter, the findings of the commission as to the facts, if supported by evidence and in the absence of fraud, shall be conclusive, and the jurisdiction of said court shall be confined to questions of law. Such actions, and the questions so certified, shall be heard in a summary manner and shall be given precedence over all other civil ~~cases~~ **actions** except ~~cases~~ **actions** arising under the Workmen's Compensation Law of this State. An appeal may be taken from the decision of the Superior Court of Kennebec County to the Supreme Judicial Court of the State, in the same manner, but not inconsistent with ~~the provisions of~~ this chapter, as is provided in civil ~~cases~~ **actions**. It shall not be necessary, in any judicial proceeding under ~~the provisions of~~ this section, to enter ~~exceptions~~ **objections** to the rulings of the commission and no bond shall be required for entering such appeal. Upon the final determination of such judicial proceeding, the commission shall enter an order in accordance with such determination. ~~A petition for judicial review~~ **An appeal** shall not act as a supersedeas or stay unless the commission shall so order.'

Sec. 49. R. S., c. 29, § 16, sub-§ X, amended. The next to the last sentence of the first paragraph of subsection X of section 16 of chapter 29 of the Revised Statutes, as repealed and replaced by section 7 of chapter 421 of the public laws of 1955, is amended to read as follows:

'If the amount of benefits is decreased upon such redetermination, the matters involved in such decrease shall be subject to ~~review in connection with~~ an appeal by claimant with respect to subsequent benefits which may be affected by the redetermination.'

Sec. 50. R. S., c. 29, § 17, sub-§ IV, ¶ F, sub-¶ 1, amended. Subparagraph 1 of paragraph F of subsection IV of section 17 of chapter 29 of the Revised Statutes is amended to read as follows:

'1. Shall promptly notify each employer of his rate of contributions as determined for the 12-month period commencing July 1st of each year pursuant to ~~the provisions of~~ this section. Such determination shall become conclusive and binding upon the employer unless, within 15 days after the mailing of notice thereof to his last known address or in the absence of mailing, within 15 days after the delivery of such notice, the employer files an application for review and redetermination, setting forth his reasons therefor. If the commission grants such review, the employer shall be promptly notified thereof and shall be granted an opportunity for a hearing, but no employer shall have standing, in any proceedings involving his rate of contributions or contribution liability, to contest the chargeability to his "experience rating record" of any benefits paid in accordance with a determination, redetermination or decision pursuant to section 16 except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute services performed in employment for him and only in the event that he was not a party to such determination, redetermination or decision or to any other proceedings under ~~the provisions of~~ this chapter in which the character of such services was determined. The employer shall be promptly notified of the commission's denial of his application, or of the commission's redetermination, both of which shall become final unless within 15 days after the mailing of notice thereof to his last known address or in the absence of mailing, within 15 days after the delivery of such notice, ~~a petition for judicial review~~ **an appeal is filed taken by filing a complaint** in the Superior Court of Kennebec County, State of Maine. In any proceedings under this section the findings of the commission as to the facts, if supported by evidence and in the absence of fraud, shall be conclusive and the jurisdiction of said court shall be confined to questions of law. No additional evidence shall be received by the court but the court may order additional evidence to be taken before the commission and the commission may, after hearing such additional evidence, modify its determination, and file such modified determination, together with a transcript of the additional record, with the court. Such proceedings shall be heard in a summary manner and shall be given precedence over all other civil ~~cases actions~~ **except cases actions** arising under section 16 and the Workmen's Compensation Law of this State. An appeal may be taken from the decision of the Superior Court of Kennebec County to the Supreme Judicial Court of Maine in the same manner, but not inconsistent with ~~the provisions of~~ this chapter, as is provided in civil ~~cases actions~~;

Sec. 51. R. S., c. 29, § 19, sub-§ V, ¶ C, amended. Paragraph C of subsection V of section 19 of chapter 29 of the Revised Statutes is amended to read as follows:

'C. Upon the failure of an employer to pay the amount assessed pursuant to this section, the commission may file with the register of deeds in any

county where the employer has real property or with the town or city clerk where the employer has his principal place of business, a certificate under its official seal, stating: (a) the name of the employer; (b) his address; (c) the amount of the contributions and interest assessed and in default; and (d) that the time in which ~~a judicial review an appeal~~ is permitted pursuant to subsection VII ~~of this section~~ has expired without such appeal having been taken, or that delay will jeopardize collection, and when such certificate is duly filed and recorded, the amount of the assessment shall be a lien upon the entire interest of the employer, legal or equitable, in any real or tangible personal property, situated within the jurisdiction of the office in which such certificate was filed. The priority of said liens shall be governed by the same rules as apply to that of a lien for taxes under the laws of this State; ~~provided, however, that said.~~ Said liens shall be subordinate to any real estate mortgage previously recorded as required by law. No lien for contributions or interest shall be valid against one who purchases personal property from the employer in the usual course of his business in good faith and without actual notice of such lien. Such lien may be enforced against any real or personal property by ~~an~~ a civil action ~~of debt~~ in the name of the commission. Such action shall be begun by writ of attachment commanding the officer serving it to specially attach the property upon which the lien is claimed. The commission shall discharge any such lien upon receiving from any such employer against whose property a lien certificate has been filed a good and sufficient bond with sureties conditioned upon the payment of the amount of contributions and interest as finally determined, together with any additional amount which may have become due or may have accrued under this chapter and costs of court, if any. The foregoing remedies shall be in addition to all other remedies.'

Sec. 52. R. S., c. 29, § 19, sub-§ VI, amended. The last sentence of subsection VI of section 19 of chapter 29 of the Revised Statutes is amended to read as follows:

'The commission shall promptly notify the parties to the proceeding of its finding of facts and decision and such decision shall be final unless within 15 days after the mailing of notice thereof to a party's last known address or, in the absence of such mailing, within 15 days after the delivery of such notice, ~~a proceeding for judicial review an appeal~~ is initiated by such party pursuant to subsection VII ~~of this section.~~'

Sec. 53. R. S., c. 29, § 19, sub-§ VII, amended. Subsection VII of section 19 of chapter 29 of the Revised Statutes is amended to read as follows:

'VII. Appeal. Within the time provided in subsection VI ~~of this section~~, any party to the proceedings before the commission may ~~secure judicial review thereof appeal~~ by filing in the Superior Court of the county in which the employer has his principal place of business in this State, a ~~petition for review of such decision complaint~~ and in such proceeding, any party to the proceeding before the commission shall be made a party thereto. The ~~petition for review complaint~~ need not be verified, but shall state the ground upon which such ~~review appeal~~ is sought. A copy of the ~~petition complaint~~ shall be served

upon the commission or upon such person as it may designate. Thereupon the commission shall cause to be certified and filed with the court, a copy of the record of the ~~case action~~, including all documents and papers and a transcript of all testimony taken in the matter, together with the commission's findings, and decision therein. Upon the motion of any party, the court may order additional testimony or evidence to be offered and upon the basis of all the evidence before it shall determine the assessment. An appeal may be taken from the decision of said court to the Supreme Judicial Court in the same manner, but not inconsistent with ~~the provisions of~~ this chapter, as is provided in civil ~~cases actions~~. It shall not be necessary as a condition precedent to ~~judicial review an appeal of~~ from any decision of the commission to enter exceptions to the rulings of the commission. As a condition of initiating a proceeding for ~~judicial review appeal from the proceedings before the commission~~, or of entering an appeal from the decision of the Superior Court ~~upon such review~~, the court may require that an employing unit make payment of the amount of contributions or interest adjudged to be due by the commission or by such court, respectively, together with the cost assessed, if any, or file an approved bond or other appropriate security, in a sum fixed by such court, conditioned upon the payment of the amount of contributions and interest as finally determined, together with any additional amounts which may have become due or may have accrued under this chapter and costs assessed by such court. Upon the final termination of judicial proceedings, ~~hereunder~~, the commission shall enter an order in accordance with the mandate of the court.'

Sec. 54. R. S., c. 29, § 28, sub-§ V, amended. Subsection V of section 28 of chapter 29 of the Revised Statutes is amended to read as follows:

'V. Refusal to repay erroneous payments. If, after due notice, any person refuses to repay amounts erroneously paid to him as unemployment benefits, the amount due from such person may be collected by ~~as a civil action in~~ ~~assumpsit~~ with account annexed brought in the name of the commission or in the discretion of the commission the amount erroneously paid to such person may be deducted from any future benefits payable to him under ~~the provisions of~~ this chapter.'

Sec. 55. R. S., c. 30, § 21-C, amended. Section 21-C of chapter 30 of the Revised Statutes, as enacted by chapter 409 of the public laws of 1957, is amended to read as follows:

'Sec. 21-C. Failure to arbitrate under agreement. A party aggrieved by the alleged failure, neglect or refusal of another to arbitrate in accordance with any agreement embraced within ~~the provisions of~~ section 21-A may institute proceedings in ~~any court having jurisdiction in equity~~ **the Superior Court**. Such proceedings shall be for an order directing that such arbitration proceed in the manner provided in the collective bargaining agreement or written submission agreement.

Five days' notice in writing of such application shall be served upon the party in default. Service thereof shall be made in the manner provided by law

for the service of process in ~~equity cases~~ **civil actions**. The court shall hear the parties, and upon being satisfied that the making of the collective bargaining contract or the written submission agreement for arbitration or the failure to comply therewith is not in issue, the court shall make an order directing the parties to proceed to arbitration in accordance with the terms of the collective bargaining contract or the written submission agreement. If the making of the collective bargaining contract or of the written submission agreement for arbitration or the failure, neglect or refusal to perform the same be in issue, the court shall proceed summarily to the trial thereof. If no jury trial be demanded by the party alleged to be in default, the court shall hear and determine such issue. Where such an issue is raised, the party alleged to be in default may, on or before the return day of the notice of application, demand a jury trial of such issue, and upon such demand the court shall make an order referring the issue or issues to a jury in the manner provided by law for referring to a jury issues ~~in an equity action~~ **in actions not triable of right by a jury** or may specially call a jury for that purpose. If the jury find that no collective bargaining contract or written submission agreement for arbitration was made or that there is no default in proceeding thereunder, the proceeding shall be dismissed. If the jury find that a collective bargaining contract or written submission agreement for arbitration was made and that there is a default in proceeding thereunder, the court shall make an order summarily directing the parties to proceed with the arbitration in accordance with the terms thereof.'

Sec. 56. R. S., c. 30, § 21-F, amended. The last sentence of section 21-F of chapter 30 of the Revised Statutes, as enacted by chapter 409 of the public laws of 1957, is amended to read as follows :

'If any person or persons so summoned to testify shall refuse or neglect to obey said summons, upon ~~petition~~ **complaint**, any Justice of the Superior Court may compel the attendance of such person or persons before said arbitrator or arbitrators, or punish said person or persons for contempt in the same manner provided by law for securing the attendance of witnesses or their punishment for neglect or refusal to attend in the courts of the State of Maine.'

Sec. 57. R. S., c. 30, § 21-G, amended. Section 21-G of chapter 30 of the Revised Statutes, as enacted by chapter 409 of the public laws of 1957, is amended to read as follows :

'**Sec. 21-G. Award of arbitrators; confirmation; jurisdiction; procedure.** If the parties in their collective bargaining contract or written submission agreement have agreed that a judgment of the court shall be entered upon the award made pursuant to the arbitration, and shall specify the court, then at any time within one year after the award is made any party to the arbitration may apply to the court so specified for an order confirming the award, and thereupon the court must grant such an order unless the award is vacated, modified or corrected as prescribed in sections 21-H and 21-I. In the absence of such provision in the collective bargaining contract or written submission agreement of the parties, such application to have judgment entered upon the award may be made to the Superior Court ~~or Supreme Judicial Court sitting in equity~~ in the county within which such award was made. Notice of application shall be served upon the

adverse party. If the adverse party is a resident of the State, such service shall be made upon the adverse party or his attorney as prescribed by law for service of motion in an action in the same court. If the adverse party shall be a non-resident, then the notice of the application shall be served in like manner as other process of the court is served upon nonresidents.'

Sec. 58. R. S., c. 30, § 21-H, amended. Section 21-H of chapter 30 of the Revised Statutes, as enacted by chapter 409 of the public laws of 1957, is amended to read as follows:

'Sec. 21-H. Vacation; grounds; rehearing. In any of the following cases the Superior Court ~~or Supreme Judicial Court, sitting in equity~~ in and for the county wherein the award was made may make an order vacating the award upon the application of any party to the arbitration:

I. Corruption, fraud or undue means. Where the award was procured by corruption, fraud or undue means;

II. Partiality or corruption in arbitrators. Where there was obvious partiality or corruption in the arbitrators, or any of them;

III. Abuse of discretion by arbitrators. Where the arbitrators were guilty of abuse of discretion by which the rights of any party have been prejudiced;

IV. Arbitrators exceeded powers. Where the arbitrators exceeded their powers, or so imperfectly executed them that a mutual, final and definite award upon the subject matter submitted was not made.

Where an award is vacated and the time within which the agreement required the award to be made has not expired, the court may, in its discretion, direct a rehearing by the arbitrators.'

Sec. 59. R. S., c. 30, § 21-I, amended. Section 21-I of chapter 30 of the Revised Statutes, as enacted by chapter 409 of the public laws of 1957, is amended to read as follows:

'Sec. 21-I. Modification or correction; grounds; order. The Superior Court ~~or Supreme Judicial Court, sitting in equity~~ in and for the county wherein the award was made, may make an order modifying or correcting the award upon the application of any party to the arbitration where there was an evident material miscalculation of figures or an evident material mistake in the description of any person, thing or property referred to in the award.'

Sec. 60. R. S., c. 30, § 56-A, amended. The last paragraph of section 56-A of chapter 30 of the Revised Statutes, as enacted in chapter 205 of the public laws of 1957, is amended to read as follows:

'If any employer fails to comply with any of the provisions of this section, the employee may, at his election, bring ~~an a civil action at law~~ for damages for such noncompliance or apply to the courts for such equitable relief as may be just and proper under the circumstances.'

Sec. 61. R. S., c. 30, § 88-D, amended. The 2nd paragraph of section 88-D of chapter 30 of the Revised Statutes, as enacted by section 5 of chapter 466 of the public laws of 1955, is amended to read as follows:

Any such order of said board or any rule or regulation formulated by said board shall be subject to review by ~~a Justice of the Superior Court in term time or vacation~~ by an appeal taken within 30 days after the date of such order to the Superior Court held in and for the county in which the operation is located at the instance of any party in interest and aggrieved by said order or decision. Such appeal shall be prosecuted by ~~petition~~ **complaint** to which such party shall annex the order of the board and in which the appellant shall set out the substance of and the reasons for the appeal. Upon the filing thereof the court ~~in term time or a justice thereof in vacation~~ shall order notice thereof. Upon the evidence and after hearing which shall be held not less than 7 days after notice thereof, the court ~~or a justice thereof~~ may modify, affirm or reverse the order of the board and the rule or regulation on which it is based in whole or in part in accordance with law and the weight of the evidence. The court ~~or a justice thereof~~ shall, upon hearing, determine whether the filing of the appeal shall operate as a stay of any order pending the final determination of the appeal, and may impose such terms and conditions as may be deemed proper.'

Sev. 62. R. S., c. 30, § 127, amended. The 2nd paragraph of section 127 of chapter 30 of the Revised Statutes is amended to read as follows:

'Any such order of said board or any rule or regulation formulated by said board shall be subject to review by ~~a justice of the Superior Court in term time or vacation~~ by an appeal taken within 60 days after the date of such order to the Superior Court held in and for the county in which the equipment is located at the instance of any party in interest and aggrieved by said order or decision. Such appeal shall be prosecuted by ~~petition~~ **complaint** to which such party shall annex the order of the board and in which the appellant shall set out the substance of and the reasons for the appeal. Upon the filing thereof the court ~~in term time or a justice thereof in vacation~~ shall order notice thereof. Upon the evidence and after hearing which shall be held not less than 7 days after notice thereof, the court ~~or a justice thereof~~ may modify, affirm or reverse the order of the board and the rule or regulation on which it is based in whole or in part in accordance with law and the weight of the evidence. The court ~~or a justice thereof~~ shall, upon hearing, determine whether the filing of the appeal shall operate as a stay of any such order pending the final determination of the appeal, and may impose such terms and conditions as may be deemed proper.'

Sec. 63. R. S., c. 30, § 164, amended. Section 164 of chapter 30 of the Revised Statutes, as enacted by chapter 28 of the public laws of 1957, is amended to read as follows:

'**Sec. 164. Appeals.** Any order by a board created and established under this chapter, or any rule, regulation, determination or declaration formulated by such board or by the commissioner, shall be subject to review by ~~a Justice of the Superior Court in term time or vacation~~, by an appeal taken within 30 days after the effective date of such rule, regulation, determination or declaration to

the Superior Court, held in or for the county in which the operation is located, at the instance of any party in interest and aggrieved by said rule, regulation, determination or declaration. Such appeal shall be prosecuted by ~~petition~~ **complaint**. Upon the filing thereof the court ~~in term time or a justice thereof in vacation~~ shall order notice thereof. Upon the evidence and after hearing, which shall be held not less than 7 days after notice thereof, the court ~~or a justice thereof~~ may modify, affirm or reverse the rule, regulation, determination or declaration in whole or in part in accordance with law and the weight of the evidence. The court ~~or a justice thereof~~ shall, upon hearing, determine whether the filing of the appeal shall operate as a stay of any rule, regulation, determination or declaration pending the final determination of the appeal, and may impose such terms and conditions as may be deemed proper.'

Sec. 64. R. S., c. 31, § 6, sub-§ VI, amended. The last sentence of subsection VI of section 6 of chapter 31 of the Revised Statutes is amended to read as follows:

'For willful failure to post such notices, the employer shall be liable to a forfeiture of \$10 for each day of such willful neglect, to be enforced by the commission in ~~an~~ a civil action ~~of debt~~ in the name of the State.'

Sec. 65. R. S., c. 31, § 41, amended. The last sentence of the first paragraph of section 41 of chapter 31 of the Revised Statutes is amended to read as follows:

'Such decree shall have the same effect and all proceedings in relation thereto shall thereafter be the same as though rendered in ~~a suit in equity~~ **an action in which equitable relief is sought**, duly heard and determined by said court, except that there shall be no appeal therefrom upon questions of fact found by said commission or by any commissioner, or where the decree is based upon a memorandum of agreement approved by the Commissioner of Labor and Industry.'

Sec. 66. R. S., c. 31, § 41, amended. The first sentence of the 2nd paragraph of section 41 of chapter 31 of the Revised Statutes is amended to read as follows:

'Upon any appeal therefrom the proceedings shall be the same as in appeals in ~~equity procedure~~ **actions in which equitable relief is sought** and the law court may, after consideration, reverse or modify any decree so made by a justice based upon an erroneous ruling or finding of law.'

Sec. 67. R. S., c. 31, § 42, amended. The first sentence of section 42 of chapter 31 of the Revised Statutes is amended to read as follows:

'Any pro forma decree rendered under ~~the provisions of the preceding~~ section 41 shall be enforceable by the Superior Court by any suitable process including execution against the goods, chattels and real estate, and including proceedings for contempt for willful failure or neglect to obey the orders or decrees of the court, or in any other manner that decrees ~~in equity~~ **for equitable relief** may be enforced.'

Sec. 68. R. S., c. 31, § 44, amended. The 2nd sentence of section 44 of chapter 31 of the Revised Statutes is amended to read as follows:

'Any employer who willfully neglects or refuses to make any report required by this section shall be subject to a penalty of not more than \$100 for each such neglect or refusal, to be enforced by the commission in ~~an~~ a civil action ~~of debt~~ in the name of the State.'

Sec. 69. R. S., c. 31, § 45, amended. The 2nd sentence of section 45 of chapter 31 of the Revised Statutes is amended to read as follows:

'Any insurance company which shall refuse to fill out such blanks or answer such questions shall be liable to a forfeiture of \$10 for each day of such refusal, to be enforced by the commission in ~~an~~ a civil action ~~of debt~~ in the name of the State.'

Sec. 70. R. S., c. 32, § 5, amended. Section 5 of chapter 32 of the Revised Statutes is amended to read as follows:

Sec. 5. Enforcement of laws. The commissioner shall diligently enforce all provisions of this chapter and shall be entitled to and shall receive the assistance of the Attorney General and of the several county attorneys. He may recover the penalties imposed for violations ~~of the provisions~~ of this chapter in ~~an~~ a civil action ~~of debt~~ brought in his own name, the venue to be as in other civil ~~cases~~ actions, and if he prevails in any such action, shall recover full costs; or he may prosecute for violations hereof by complaint or indictment, and such prosecution shall be commenced in the county in which the offense was committed.'

Sec. 71. R. S., c. 32, § 26, amended. Section 26 of chapter 32 of the Revised Statutes is amended to read as follows:

Sec. 26. Competitors for premiums to pay entry fee; lien on animals. Whoever makes entries of animals or articles as competitors for premiums or purses offered by any society or by any person or association in the State shall be holden to pay the entry fee in accordance with the advertised rules and regulations of any such society, person or association not in conflict with the laws of the State; ~~and a~~. A lien is created upon such animals and articles for such entry fee to secure payment thereof with costs, to be enforced by ~~an~~ a civil action ~~of debt~~ against the person owning such animals or articles, or the person entering the same; or the same may be enforced in the same manner as liens on goods in possession and choses in action, but such lien shall not affect the title of any innocent purchaser of said animals or articles without actual notice of such lien.'

Sec. 72. R. S., c. 32, § 45, amended. Section 45 of chapter 32 of the Revised Statutes is amended to read as follows:

Sec. 45. Enforcement. The commissioner shall have authority to administer ~~the provisions of~~ sections 39 to 47 and to make uniform rules and regulations for such administration. The commissioner may recover the penalties imposed for violations ~~of the provisions~~ of sections 39 to 47 in ~~an~~ a civil action ~~of debt~~ brought in his own name, the venue to be as in other civil ~~cases~~ actions, and if he prevails in any such action, shall recover full costs; or he may prosecute

for violation of the provisions of said sections by complaint or indictment and such prosecution shall be commenced in the county in which the offense is committed.'

Sec. 73. R. S., c. 32, § 249, amended. The 6th and 7th sentences of section 249 of chapter 32 of the Revised Statutes are amended to read as follows:

'Any licensee who is aggrieved by the decision of the commissioner may within 10 days thereafter appeal to ~~any Justice of the Superior Court by presenting to him filing a petition therefor, in term time or vacation~~ **complaint. Such justice** ~~The court shall fix a time and place for hearing which may be in term time or vacation, and cause notice thereof to be given to the said commissioner; and after. After hearing, such justice the court may affirm or reverse the decision of said commissioner and the decision of such justice the court shall be final.'~~

Sec. 74. R. S., c. 32, § 291, amended. The 3rd paragraph of section 291 of chapter 32 of the Revised Statutes is amended to read as follows:

'At the hearing the licensee may present such evidence to the commissioner as he deems fit, and after hearing all the testimony, the said commissioner shall decide whether the license shall be revoked or suspended or not. Any licensee who is aggrieved by the decision of the commissioner may, within ~~to 30~~ days thereafter, appeal to ~~any Justice of the Superior Court by presenting to him filing a petition therefor, in term time or vacation~~ **complaint. Such justice** ~~The court shall fix a time and place for hearing which may be in term time or vacation and cause notice thereof to be given to the said commissioner; and after. After hearing, such justice the court may affirm or reverse the decision of the commissioner and the decision of such justice the court shall be final. Pending judgment of such justice the court, the decision of the commissioner shall remain in full force and effect. The commissioner shall, within 3 days after notice of such appeal, forward to the justice court a certified copy of the proceedings.'~~

Sec. 75. R. S., c. 32, § 299, amended. The last sentence of the first paragraph of section 299 of chapter 32 of the Revised Statutes is amended to read as follows:

'He may recover penalties imposed for violation of the provisions of said sections in ~~an a civil action of debt~~ brought in his own name and if he prevails in such action shall recover full costs; or he may prosecute for violations thereof by complaint or indictment.'

Sec. 76. R. S., c. 36, § 67-E, amended. The next to the last paragraph of section 67-E of chapter 36 of the Revised Statutes, as enacted by chapter 283 of the public laws of 1959, is amended to read as follows:

'Any person, firm, corporation or partnership aggrieved by a decision of the ~~Forest~~ commissioner suspending or revoking a registration may, within 30 days after notice thereof from the ~~Forest~~ commissioner, appeal therefrom to ~~the next term of the Superior Court to be begun and held more than 30 days after~~

~~such notice of said decision~~ in any county where the appellant has a regular place of business or if the appellant has no such place of business within the State, to ~~such term of~~ the Superior Court in Kennebec County. The appellant shall ~~on or before the 3rd day of the term to which such appeal is taken,~~ **when such appeal is taken** file an affidavit stating his reasons of appeal and serve a copy thereof on the ~~Forest~~ commissioner, and in the hearing of the appeal shall be confined to the reasons of appeal set forth in such affidavit. Jurisdiction is granted to the Superior Court to hear and determine such appeals and to enter such order and decrees as the nature of the case may require. ~~Hearings may be had before the court in term time, or any justice thereof in vacation,~~ **The decision of said court or justice upon all questions of fact shall be final. Decisions shall be certified to the ~~Forest~~ commissioner.'**

Sec. 77. R. S., c. 37, § 13, amended. The last 2 paragraphs of section 13 of chapter 37 of the Revised Statutes, as revised, are amended to read as follows:

'If any owner or occupant neglects or refuses to join in proportion to his interest therein in erecting, maintaining, repairing or altering such fishway so ordered and required, the other owners or occupants shall do so and shall have ~~an a civil action on the case~~ against such delinquents for their proportion of the expense thereof; ~~and if.~~ If all owners and occupants refuse or neglect to do so, the commissioner may do so and shall have ~~an a civil action on the case~~ against all delinquents for their proportion of the expense thereof or the commissioner may petition the Superior Court ~~in equity, in term time or vacation,~~ in the county where said dam or other artificial obstruction exists, to enforce any such order or to restrain any violation thereof. Whenever delinquent owners or occupants ~~as aforesaid~~ reside out of the State, said amounts may be recovered as penalties by libel against said dam or obstruction and the land on which it stands, filed in the Superior Court in the county where said land is located, in the name of the commissioner, such notice to be given of the pendency thereof as the court ~~in term time or vacation orders; and the.~~ **The court may render judgment therein against said dam, obstruction and lands for said penalties and costs and order a sale thereof to satisfy such judgment and costs, including costs of sale, subject, however,** to all said requirements for the erection, maintenance and repair of said fishway.

Any owner or occupant may, **within 14 days after any order of the commissioner,** appeal to ~~any justice of~~ the Superior Court from any such order ~~of the commissioner by filing, in the office of the clerk of the Superior Court in the county where said dam or other obstruction is located, his notice in writing of such appeal, containing the reasons therefor, within 14 days after the mailing of the copy of said order to any owner or occupant of the premises as above provided.~~ **The appellant shall when the appeal is taken include in the complaint a statement setting forth substantially the facts of the case. If any such appeal is denied, full costs may be taxed against the appellant.'**

Sec. 78. R. S., c. 37-A, § 48, sub-§ I, ¶ A, amended. Paragraph A of subsection I of section 48 of chapter 37-A of the Revised Statutes, as enacted by section 1 of chapter 331 of the public laws of 1959, is amended to read as follows:

'A. The licensee, his heirs or assignees may in ~~an~~ a civil action ~~of tort~~ recover treble damages and costs of any person who, without his or their consent, digs or takes any clams, quahogs, mussels or other shellfish from the area covered by the license.'

Sec. 79. R. S., c. 37-A, § 48, sub-§ III, amended. The first paragraph of subsection III of section 48 of chapter 37-A of the Revised Statutes, as enacted by section 1 of chapter 331 of the public laws of 1959, is amended to read as follows:

'It is unlawful for any person to willfully do any of the following acts, and whoever does so shall be punished by a fine of not more than \$20, or by imprisonment for not more than 30 days, and in addition shall be liable in ~~and~~ a civil action ~~of tort~~ to the licensee, his heirs or assigns in treble damages and costs.'

Sec. 80. R. S., c. 37-A, § 57, sub-§ II, ¶ A, amended. Paragraph A of subsection II of section 57 of chapter 37-A of the Revised Statutes, as enacted by section 1 of chapter 331 of the public laws of 1959, is amended to read as follows:

'A. It is unlawful for any person, without the consent of the permittee, to trespass within the area or to injure the area where the oysters have been planted, and whoever does so shall be liable to the permittee in ~~an~~ a civil action ~~of trespass~~ for any damages.'

Sec. 81. R. S., c. 37-A, § 94, sub-§ I, amended. Subsection I of section 94 of chapter 37-A of the Revised Statutes, as enacted by section 1 of chapter 331 of the public laws of 1959, is amended to read as follows:

'I. **Methods of recovery.** Any of them may be recovered by complaint, indictment or civil action ~~of debt~~ brought in the county where the offense was committed. The civil action ~~of debt~~ must be brought in the name of the State.'

Sec. 81-A. R. S., c. 39-B, § 4, sub-§ VIII, amended. The 2nd paragraph of subsection VIII of section 4 of chapter 39-B of the Revised Statutes, as last repealed and replaced by section 3 of chapter 135 of the public laws of 1959, is amended to read as follows:

'If any claimant is aggrieved by the decision of the bureau resulting from the hearing, he may within 30 days thereafter appeal to ~~any justice~~ of the Superior Court, by ~~presenting to him~~ filing a ~~petition~~ complaint therefor ~~in term time or vacation~~. ~~Such justice~~ The court shall fix a time and place for hearing ~~which may be in vacation~~ and cause notice thereof to be given to the Maine Mining Bureau; and after hearing, ~~such justice~~ the court may affirm or reverse the decision of the bureau and the decision of ~~such justice~~ the court shall be final. During the pendency of all proceedings under this section no person or corporation shall lay claim to the area in dispute.'

Sec. 82. R. S., c. 39-B, § 11, amended. The last sentence of the first paragraph of section 11 of chapter 39-B of the Revised Statutes, as enacted by section 2 of chapter 293 of the public laws of 1957, is amended to read as follows:

'If the forfeiture relates to a claim or mining lease, an appropriate entry shall be made on the records of the State Land Agent, after the time for ~~appellate review~~ **appeal** has expired or the appeal finally determined.'

Sec. 83. R. S., c. 39-B, § 11, amended. The last paragraph of section 11 of chapter 39-B of the Revised Statutes, as enacted by section 2 of chapter 293 of the public laws of 1957, is amended to read as follows:

'If any person is aggrieved by the decision of the bureau, he may within 30 days thereafter appeal on matters of law, to ~~any Justice of the Superior Court, by presenting to him filing a petition complaint~~ **therefor in term time or vacation.** ~~Such justice The court shall forthwith fix a time and place for hearing which may be in vacation and cause notice thereof to be given to the bureau; and after hearing, such justice the court may affirm, modify or reverse the decision of the bureau. Appeal by such aggrieved person or the Mining Bureau to the Law Court from such decision of such Superior Court Justice may be taken as in equity cases. An appeal by such aggrieved person or the Mining Bureau may be taken to the law court as in other civil actions. Upon such appeal the proceedings shall be the same as in appeals in equity procedure, and the law court may, after consideration, reverse or modify any decree so made by a justice of the Superior Court based upon an erroneous ruling or finding of law.'~~

Sec. 84. R. S., c. 41, § 34, amended. The first paragraph of section 34 of chapter 41 of the Revised Statutes, as amended by section 14 of chapter 364 and by section 7 of chapter 443, both of the public laws of 1957, is further amended to read as follows:

'Administrative units shall provide schoolbooks, apparatus and appliances for the use of pupils in the public schools, including all free high schools, at the expense of said administrative unit as provided in section 237-C, subsection II. Any parent or guardian of any pupil in the public schools may at his own expense procure for the separate and exclusive use of such pupil the textbooks required to be used in such schools. No secondhand books shall be purchased for the use of any school, and whoever violates this provision shall forfeit not exceeding \$500, to be recovered in ~~as a civil action of debt~~ **by any school officer or person aggrieved.'**

Sec. 85. R. S., c. 41, § 88, amended. Section 88 of chapter 41 of the Revised Statutes, as amended by section 46 of chapter 364 of the public laws of 1957, is further amended to read as follows:

'Sec. 88. Appropriation of amount required for public school purposes; forfeiture for violation. If any part of the money raised by the administrative unit or union of towns, or paid to them by the State for superintendence, is expended for any other purposes than those provided for in sections 80 and 81, then each person so misappropriating said money shall forfeit double the sum so misapplied, to be recovered in ~~as a civil action of debt~~ **in the name and to the use of the town by any inhabitant thereof. No administrative unit or union of towns shall receive further aid under said sections until the amount so mis-**

applied has been raised and expended for superintendence by such administrative unit or union of towns.'

Sec. 86. R. S., c. 41, § 101, amended. The next to the last sentence of section 101 of chapter 41 of the Revised Statutes, as amended by section 55 of chapter 364 of the public laws of 1957, is further amended to read as follows:

'Any administrative unit shall receive such state aid on any expenditure for a free high school or schools, made from the funds or proceeds of the real estate of an academy or incorporated institution of learning, surrendered or transferred to such administrative unit for educational purposes; but if any part of the money so paid by the State is expended for any other purpose than the support of such free high schools, then each person so misapplying said money forfeits double the sum so misapplied, to be recovered in ~~an~~ a civil action ~~of debt~~, in the name and to the use of the administrative unit by any inhabitant thereof.'

Sec. 87. R. S., c. 41, § 231, amended. Section 231 of chapter 41 of the Revised Statutes, as amended by section 93 of chapter 364 of the public laws of 1957, is further amended to read as follows:

'**Sec. 231. Forfeitures; expenditure.** Forfeitures under ~~the provisions of~~ this chapter, not otherwise provided for, may be recovered by indictment and shall be paid into the treasury of the administrative unit where they occurred for the support of schools therein, in addition to the amount required by law to be raised; but the cost of prosecution shall be paid into the county treasury. Any administrative unit neglecting for one year so to expend such money forfeits an equal sum to any person suing therefor in ~~an~~ a civil action ~~of debt~~.'

Sec. 88. R. S., c. 41, § 248, sub-§ IV, amended. Subsection IV of section 248 of chapter 41 of the Revised Statutes is amended to read as follows:

IV. Sue and be sued. To sue and be sued in its own name, plead and be impleaded; ~~provided, however, that~~ any and all civil actions ~~at law or in equity~~ against the authority shall be brought only in the county in which the principal office of the authority shall be located;'

Sec. 89. R. S., c. 41, § 252, amended. Section 252 of chapter 41 of the Revised Statutes is amended to read as follows:

'**Sec. 252. Remedies.** Any holder of bonds issued under ~~the provisions of~~ sections 243 to 259, or any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by such trust agreement, may ~~either at law or in equity~~ by ~~suit~~ civil action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the State or granted hereunder or under such trust agreement or the resolution authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by sections 243 to 259, or by such trust agreement or resolution to be performed by the authority or by any officer thereof.'

Sec. 90. R. S., c. 42, § 6, amended. The 2nd sentence of section 6 of chapter 42 of the Revised Statutes is amended to read as follows:

'If any person or organization shall neglect or fail to return any books, documents or other material lent to them, or shall return the same in an injured or mutilated condition, after due demand and notice, the librarian may maintain ~~an~~ a civil action ~~at law~~ against such person or organization for the full value thereof.'

Sec. 91. R. S., c. 44, § 7, amended. The last sentence of section 7 of chapter 44 of the Revised Statutes is amended to read as follows:

'Any public utility or any officer, agent or attorney thereof failing or refusing to comply with any such order or subpoena shall, for each day it shall so fail or refuse, forfeit and pay into the State Treasury a sum of not less than \$50 nor more than \$500, to be recovered by the State in ~~an~~ a civil action ~~on the case~~, which may be instituted by the commission in the name of the State.'

Sec. 92. R. S., c. 44, § 67, amended. Section 67 of chapter 44 of the Revised Statutes is amended to read as follows:

'**Sec. 67. Questions of law raised on appeal to law court; decision certified to clerk of commission.** ~~Questions of law may be raised by alleging exceptions to the ruling of the commission on an agreed statement of facts or on facts found by the commission, and such exceptions shall be allowed by the chairman of the commission and certified by the clerk thereof to the next term of the law court to be entered on the docket thereof and argued and determined according to the rules of procedure in said court. An appeal from a final decision of the commission may be taken to the law court on questions of law in the same manner as an appeal from a judgment of the Superior Court in a civil action. Wherever a statute or rule regulating the taking of an appeal from the Superior Court in a civil action uses the term "the court," the "clerk," the "clerk of courts," or a similar term, they shall for purposes of an appeal from the commission be read, respectively, as "the commission," "the clerk of the commission," or other appropriate term. The result shall be certified by the clerk of the law court to the clerk of the commission and to the clerk of the Superior Court for Kennebec County, the prevailing party to recover costs to be taxed by said Superior Court in accordance with the provisions of law for the taxation of costs in appealed cases; execution on appeal in civil actions. Execution for such costs shall be issued from the Superior Court of Kennebec County in the same manner as in ~~cases~~ actions originating therein.'~~

Sec. 93. R. S., c. 44, § 68, amended. Section 68 of chapter 44 of the Revised Statutes is amended to read as follows:

'**Sec. 68. Appeal does not stay order of the commission.** While ~~questions of law are pending on exceptions to a ruling of the commission an appeal, as provided in the preceding section 67 is pending,~~ no injunction shall issue suspending or staying any order of the commission and said ~~exceptions appeal~~ shall not excuse any person or corporation from complying with and obeying any order or decision or any requirement of any order or decision of the commission or operate in any manner to stay or postpone the enforcement thereof, except in such cases and upon such terms as the commission may order and direct.'

Sec. 94. R. S., c. 44, § 69, amended. Section 69 of chapter 44 of the Revised Statutes is amended to read as follows:

'Sec. 69. Additional court review. Notwithstanding ~~the provisions of~~ sections 67 and 68, in all cases in which the justness or reasonableness of a rate, toll or charge by any public utility or the constitutionality of any ruling or order of the commission is in issue, the ~~Supreme Judicial Court sitting as a law court~~ shall ~~also~~ have jurisdiction upon a ~~petition in equity~~ **complaint** to review, modify, amend or annul any ruling or order of the commission, but only to the extent of the unlawfulness of such ruling or order. If in such ~~petition~~ **complaint** it is alleged that confiscation of property or other violation of constitutional right results from such ruling or order, the law court shall exercise its own independent judgment as to both law and facts. The procedure before said court shall be that prescribed by it in the particular proceeding or by its rules, if any, applicable thereto and pending final determination by the court, the Chief Justice thereof, or in his absence any other justice, may enjoin or stay the effect of such ruling or order upon such terms and conditions as he may deem proper. Such ~~petition~~ **complaint** shall be filed with the clerk of the law court ~~in the County of Kennebec~~ and a copy thereof with the clerk of the commission, both within 30 days after the date of the said ruling or order or within such further time as the court may allow, together with a certificate that the attorney for the ~~petitioner~~ **plaintiff** is of the opinion that there is such probable ground for the appeal as to make it a fit subject for judicial inquiry and that it is not intended for delay; ~~and double.~~ **Double** costs shall be assessed by the court upon any such party whose ~~petition~~ **complaint** shall appear to the court not to be a fit subject for judicial inquiry or shall appear to be intended for delay.'

Sec. 95. R. S., c. 44, § 84, amended. The first sentence of section 84 of chapter 44 of the Revised Statutes is amended to read as follows:

'If any public utility shall willfully violate any provision of this chapter or shall do any act herein prohibited or shall fail or refuse to perform any duty enjoined upon it for which a penalty has not been provided or shall fail or refuse to obey any lawful requirement or order made by the commission, for any such violation, failure or refusal such public utility shall forfeit and pay into the State Treasury not more than \$1,000 for each offense, to be recovered in ~~an~~ **a** civil action ~~on the case~~ in the name of the State.'

Sec. 96. R. S., c. 45, § 32, amended. The first sentence of section 32 of chapter 45 of the Revised Statutes is amended to read as follows:

'For real estate so taken, the owners are entitled to damages, to be paid by the corporation and estimated by the county commissioners, on written application of either party, made within 3 years after the location is filed, or if proceedings thus commenced fail for causes not affecting the merits, new ones may be commenced within one year thereafter, ~~and when.~~ **When** no estimate is made within such time, the owner may maintain ~~an~~ **a** civil action ~~of trespass~~ or have any remedy ~~herein~~ provided.'

Sec. 97. R. S., c. 45, § 34, amended. Section 34 of chapter 45 of the Revised Statutes is amended to read as follows:

'Sec. 34. Cattle guards and passes made and maintained; double damages. The county commissioners shall order the corporation to make and maintain such cattle guards, cattle passes and farm crossings as they think reasonable, and prescribe the time and manner of making them and consider this work in awarding pecuniary damages; ~~and if.~~ If the corporation after 48 hours' notice in writing to its president or superintendent neglects to commence the work or complete it within a reasonable time, the owner may apply to ~~the Supreme Judicial Court~~ or to the Superior Court, and ~~either of said courts~~ the court, after due notice to said corporation, shall issue all necessary processes to enforce the specific performance of such orders or restrain it by injunction; or the party interested may recover, in ~~an~~ a civil action ~~on the case~~, double the damage that he has sustained by such neglect.'

Sec. 98. R. S., c. 45, § 39, amended. Section 39 of chapter 45 of the Revised Statutes is amended to read as follows:

'Sec. 39. When damages not paid. When the damages remain unpaid for more than 30 days after they are due and demanded, ~~a bill in equity may be filed in court, in term time or vacation equitable relief may be requested,~~ by the person entitled to them, praying for an injunction against the use or occupation of his land taken. If proceedings for an estimation of damages are not commenced within 3 years and the owner of the land ~~files a bill praying requests equitable relief~~ therefor, the court may estimate the damages, decree their payment and issue an execution therefor; ~~and the plaintiffs shall be entitled to a bill for an injunction; and in either case. any justice of the~~ The court, after summary notice to the corporation and upon proof of the facts may, without any bond filed, issue an injunction prohibiting such use and occupation until all damages and costs are paid. ~~The bill shall be entered, service of it made and continued at the next term after the injunction is issued. At the second term, if~~ If payment has not been made ~~within 90 days, the a permanent~~ injunction may be ~~made absolute~~ issued; and all rights acquired by taking the land and all rights of property in and to whatever has been placed upon it cease, and the owner may maintain an action for its recovery and protection.'

Sec. 99. R. S., c. 45, § 41, amended. The last sentence of section 41 of chapter 45 of the Revised Statutes is amended to read as follows:

'Upon service and return of such order, the court may enter such decree as is just and equitable against such persons and issue execution accordingly; or may proceed against them as for breach of injunction in other ~~chancery cases~~ civil actions.'

Sec. 100. R. S., c. 45, § 50, amended. The last sentence of section 50 of chapter 45 of the Revised Statutes is amended to read as follows:

'Any person or corporation violating ~~the provisions of~~ this section forfeits to the State \$100 for each offense, to be recovered in ~~an~~ a civil action ~~on the case~~ or by complaint and indictment; and the Attorney General shall institute proceedings to recover the same.'

Sec. 101. R. S., c. 45, § 53, amended. The first sentence of section 53 of chapter 45 of the Revised Statutes is amended to read as follows:

'If said managers do not comply with such requirements, the commission shall ~~petition~~ **file a complaint to the Supreme Judicial Court or** the Superior Court in any county where the railroad extends, setting forth their examination, the condition of the road, the notice and requirement and refusal to comply; and shall notify the Attorney General or the attorney of such county of the filing of said ~~petition~~ **complaint**, one of whom shall appear and take charge of the proceedings in court.'

Sec. 102. R. S., c. 45, § 66, amended. Section 66 of chapter 45 of the Revised Statutes is amended to read as follows:

'**Sec. 66. Damages for neglect.** When the corporation unnecessarily neglects to perform the acts so required, those injured may recover damages in ~~an~~ **a civil** action ~~on the case~~, commenced within one year after performance is required.'

Sec. 103. R. S., c. 45, § 67, amended. Section 67 of chapter 45 of the Revised Statutes is amended to read as follows:

'**Sec. 67. Railroad may be carried over or under a canal or railroad; bridges and abutments kept in repair; proceedings when bridge or crossing is unsafe.** A railroad may be carried over or under a canal or railroad in such manner as not unnecessarily to impede the travel or transportation on them. The corporation making such crossing is liable for damages occasioned thereby in ~~an~~ **a civil** action ~~on the case~~. Bridges and their abutments, constructed for a crossing of any way, shall be kept in repair by the corporation, or by persons or parties running trains on any railroad crossing a highway or town way. The municipal officers of any city or town may give notice in writing to such persons, parties or corporations that a bridge required at such crossing has not been erected, or is out of repair and not safe and convenient, within the requirements of ~~section 63 of chapter 96, section 63,~~ **section 63**, or that the crossing of any such highway or town way passing such railroad at grade, within their respective cities or towns, is not made or maintained safe and convenient as required by said section; ~~and such.~~ **Such** persons, parties or corporations shall erect or repair such bridge or make such crossing safe and convenient ~~as aforesaid~~ within 10 days from the service of said notice; ~~and if.~~ **If** they neglect to do so, any one of said municipal officers may apply to ~~any Justice of the Supreme Judicial Court or of the Superior Court in term time or vacation,~~ to compel such delinquents to erect or repair such bridge or make such crossing ~~as aforesaid and after.~~ **After** hearing, ~~such justice of the court~~ may make any order thereon which the public convenience and safety require and may by injunctions compel the respondents to comply therewith, ~~or said.~~ **Said** officers may, after 10 days from the service of such notice, cause necessary repairs to be made and the expense thereof shall be paid by the persons, parties or corporations whose duty it is to keep such crossing safe and convenient.'

Sec. 104. R. S., c. 45, § 74, amended. The last sentence of section 74 of chapter 45 of the Revised Statutes is amended to read as follows:

'The corporation is liable for damages for its neglect to comply with these provisions, or for the neglect of any agent or for the mismanagement of an engine, to be recovered in ~~an~~ a civil action ~~on the case~~ by the person damaged thereby.'

Sec. 105. R. S., c. 46, § 13, amended. Section 13 of chapter 46 of the Revised Statutes is amended to read as follows:

'**Sec. 13. Equal facilities to all expresses.** Every railroad operating in the State shall furnish reasonable and equal facilities and accommodations to all persons engaged in express business for transportation of themselves, agents, servants, merchandise and other property; for the use of their stations, buildings and grounds, and for exchanges at points of junction with other roads, under a penalty of not more than \$500, to be recovered by indictment and are liable to the aggrieved party in ~~an~~ a civil action ~~on the case~~ for damages.'

Sec. 106. R. S., c. 46, § 15, amended. Section 15 of chapter 46 of the Revised Statutes is amended to read as follows:

'**Sec. 15. Railroad corporation neglecting to run trains; order or notice; hearing; receivers.** Whenever any railroad corporation, after commencing to receive tolls, neglects or refuses regularly to run trains upon and to operate its road for the transportation of passengers and freight for 60 days at any one time, the Public Utilities Commission, or any 10 citizens residing in any county through which said railroad extends, may ~~petition~~ file a complaint with the Superior Court in any county through which such railroad extends, setting forth therein such neglect and refusal so to run trains and operate its road; which ~~petition~~ complaint, before ~~entry~~ filing in court, may be presented to any justice thereof ~~in term time or vacation~~ who shall order not less than 14 days' notice thereon to be served on such corporation. The ~~petitioners~~ plaintiffs shall give written notice to the Attorney General or the county attorney of the county in which said ~~petition~~ complaint is filed, or the filing thereof, one of whom shall appear and take charge of proceedings in court. The court shall appoint a hearing, and at or after said hearing, if the allegations in such ~~petition~~ complaint are found to be true, and if in its opinion public necessity and convenience require it, the court shall appoint some suitable person or persons or some other railroad corporation, a receiver or receivers, to take possession and control of said railroad, together with all corporation property belonging thereto, and shall require such receivers to give bond to said corporation in a reasonable sum, with sureties satisfactory to the court, for the faithful discharge of their trust and shall also determine their compensation.'

Sec. 107. R. S., c. 46, § 18, amended. Section 18 of chapter 46 of the Revised Statutes is amended to read as follows:

'**Sec. 18. Railroad restored to corporation.** Any Justice of the Superior Court sitting in the county where the original ~~petition~~ complaint was filed, on ~~petition~~ complaint of said railroad corporation or its owners, and after reasonable notice to such receivers, may revoke their authority and restore the possession and control of said railroad to said corporation or its owners, upon their paying the principal and interest of the ~~aforsaid~~ loan then existing, together with the sum

due said receivers for their personal services, with all the expenses incurred in operating and repairing said railroad and its appendages during their continuance in their said capacity, over and above the earnings thereof, provided ~~however, that~~ said railroad corporation or its owners give bond to the State in such sum as the court orders, with sureties satisfactory to the court, conditioned that said corporation or its owners thus seeking to receive possession shall operate and keep in repair said railroad, its rolling stock and other appendages to the satisfaction of the Public Utilities Commission for 5 years following said order.'

Sec. 108. R. S., c. 46, § 23, amended. The last sentence of section 23 of chapter 46 of the Revised Statutes is amended to read as follows:

'If said corporation neglects to build or repair such fence for 30 days after receiving such notice, it forfeits to such owner \$100, to be recovered in ~~an~~ **a civil action on the case.**'

Sec. 109. R. S., c. 46, § 26, amended. Section 26 of chapter 46 of the Revised Statutes is amended to read as follows:

'Sec. 26. Judgment for damages collected of foreign railroad company leasing railroad. When any foreign railroad company, which is or has been doing business in this State as the lessee of any railroad, refuses or neglects for 60 days after demand to pay and discharge any judgment recovered by any person against the company owning such leased road for damages to the property of such person by the doings, misdoings or neglects of such foreign company, its agents or servants, which judgment belongs ~~in equity~~ to such foreign company to pay and discharge, the Superior Court, on ~~petition~~ **complaint**, may compel payment thereof by such foreign corporation and make, pass and enforce all necessary orders, decrees and processes for the purpose.'

Sec. 110. R. S., c. 46, § 27, amended. Section 27 of chapter 46 of the Revised Statutes is amended to read as follows:

'Sec. 27. Judgment creditor may have remedy against lessors. When any such judgment is recovered and such foreign company neglects, for 60 days, to satisfy it, the judgment creditor may have ~~an~~ **a civil action on the case** against such foreign company for the recovery of the amount of such judgment, with interest and costs.'

Sec. 111. R. S., c. 46, § 29, amended. Section 29 of chapter 46 of the Revised Statutes is amended to read as follows:

'Sec. 29. Rights of holders of coupons. When coupons for interest issued with bonds are, for a valuable consideration, detached and assigned by delivery, the assignee may maintain ~~assumpsit~~ **a civil action** upon them in his own name against the corporation engaging to pay them.'

Sec. 112. R. S., c. 46, § 30, amended. The 2nd sentence of section 30 of chapter 46 of the Revised Statutes is amended to read as follows:

'Any party interested may present the proceedings of such meeting to the Superior Court ~~or to a justice thereof in vacation, who.~~ **The court** shall appoint a time of hearing and order such notice to parties interested as ~~he~~ **it** deems

proper, and may affirm such elections and make and enforce any decrees necessary for the transfer of the trust property to the new trustees.'

Sec. 113. R. S., c. 46, § 36, amended. Section 36 of chapter 46 of the Revised Statutes is amended to read as follows:

'Sec. 36. Railroad mortgages foreclosed. The trustees, on application of 1/3 of the bondholders in amount, to have such mortgage foreclosed, shall immediately give notice thereof, by publishing it 3 weeks successively in the state paper and in some paper, if any, in each county into which the road extends, therein stating the date and conditions of the mortgage, the claims of the applicants under it, that the conditions thereof have been broken, and that for that reason they claim a foreclosure; ~~and they.~~ **They** shall cause a copy of such notice and the name and date of each newspaper containing it to be recorded in the registry of deeds in every such county within 60 days from the first publication; ~~and unless.~~ **Unless**, within 3 years from the first publication, the mortgage is redeemed by the mortgagors or those claiming under them, or ~~a bill in equity~~ **equitable relief** as in cases of the redemption of mortgage lands is ~~commenced~~ **sought**, founded on payment or a legal tender of the amount of overdue bonds and coupons, or containing an averment that the complainants are ready and willing to redeem on the rendering of an account, the right of redemption shall be forever foreclosed.'

Sec. 114. R. S., c. 46, § 38, amended. The last sentence of section 38 of chapter 46 of the Revised Statutes is amended to read as follows:

'If they neglect or refuse so to convey, the court, on application ~~in equity for~~ **equitable relief**, may compel them to do so.'

Sec. 115. R. S., c. 46, § 39, amended. Section 39 of chapter 46 of the Revised Statutes is amended to read as follows:

'Sec. 39. First meeting of new corporation; may adopt new name; possession and use of mortgaged property. The new corporation may call its first meeting in the manner provided for calling the first meeting of the original corporation, and may use therefor the old name, or by a notice, signed by one or more of said bondholders, setting forth the time, place and purpose of the meeting, a copy of which is to be published in a newspaper, in the county, if any, otherwise in the state paper, 7 days before the meeting; but, at that meeting, it may adopt a new name by which it shall always thereafter be known; ~~and it.~~ **It** may take and hold the possession and have the use of the mortgaged property, although ~~a bill in equity~~ **an action for equitable relief** to redeem is pending, and it may become a party defendant to such ~~bill action.~~ This section applies to all corporations mentioned in section 54.'

Sec. 116. R. S., c. 46, § 53, amended. Section 53 of chapter 46 of the Revised Statutes is amended to read as follows:

'Sec. 53. Courts have jurisdiction of all disputes. The Supreme Judicial Court and the Superior Court in addition to the jurisdiction specifically conferred by this chapter, have jurisdiction ~~as in equity~~ of all other matters in dis-

pute, arising under ~~the preceding section~~ **this chapter** relating to trustees, mortgages and the redemption and foreclosure of mortgages; but not to take away any rights or remedies that any party has and may elect to enforce ~~at law; and in by any civil action.~~ **In all proceedings relating to trustees or to mortgages, their foreclosure and redemption, not otherwise specifically provided for herein,** the law relating to trusts and mortgages of real estate may be applied.'

Sec. 117. R. S., c. 46, § 55, amended. Section 55 of chapter 46 of the Revised Statutes is amended to read as follows:

'**Sec. 55. Holders of unpaid scrip and bonds may foreclose mortgages.** A corporation formed by the holders of such scrip or bonds, or if no such corporation has been formed, the holders of not less than a majority of such scrip or bonds, may commence a ~~suit in equity~~ **civil action** to foreclose such mortgage, and the court may decree a foreclosure thereof, unless the arrears are paid within such time as the court orders.'

Sec. 118. R. S., c. 46, § 59, amended. Section 59 of chapter 46 of the Revised Statutes is amended to read as follows:

'**Sec. 59. When franchise lost, action for dissolution.** Whenever any railroad corporation, by foreclosure of a mortgage or in any other method authorized by law, has finally parted with its franchise to construct, operate and maintain the railroad described in its charter, any stockholder may maintain a ~~suit in equity~~ **a civil action** in the ~~Supreme Judicial Court or in the~~ Superior Court for the winding up of the affairs and dissolution of such corporation. In such case the court shall order such notice to all parties interested as it may deem proper and proceed according to the usual course of ~~suits in equity~~ **such civil actions**; but no trustee shall be appointed, except upon motion of some party to the proceedings, and then only in the discretion of the court.'

Sec. 119. R. S., c. 46, § 62, amended. Section 62 of chapter 46 of the Revised Statutes is amended to read as follows:

'**Sec. 62. Violation of section 61.** A railroad corporation violating any provision of ~~the preceding section 61~~ forfeits for each offense, \$100 to the State, to be recovered in ~~an a~~ **a civil action** ~~on the case~~ or by complaint and indictment; and the Attorney General shall prosecute therefor. Said section does not apply to street railroads.'

Sec. 120. R. S., c. 48, § 6, amended. Section 6 of chapter 48 of the Revised Statutes is amended to read as follows:

'**Sec. 6. Operation without certificate.** Any person, firm or corporation operating a motor vehicle or motor vehicles as described in section 1 on any street or highway in this State, without having obtained from the commission a certificate permitting such operation, may be restrained and enjoined from such operation upon ~~bill of a complaint in equity~~ **the provisions of sections 1 to 18,** or by any carrier of passengers for hire under any other law of this State.'

Sec. 121. R. S., c. 48, § 14, amended. Section 14 of chapter 48 of the Revised Statutes is amended to read as follows:

Sec. 14. Limitation of action. ~~Actions of tort~~ **Civil actions** for injuries to the person or for death and for injuries to or destruction of property, caused by the ownership, operation, maintenance or use on the ways of the State of motor vehicles or trailers subject to the supervision and control of the ~~public utilities~~ commission, shall be commenced only with 2 years next after the cause of action occurs.'

Sec. 122. R. S., c. 48, § 25, sub-§ IV, amended. The last sentence of subsection IV of section 25 of chapter 48 of the Revised Statutes is amended to read as follows:

'If appeal be taken under ~~the provisions of~~ this section, no ~~exceptions appeal~~ shall be taken under ~~the provisions of section 67 of~~ chapter 44, **section 67.**'

Sec. 123. R. S., c. 49, § 14, amended. The first sentence of section 14 of chapter 49 of the Revised Statutes is amended to read as follows:

'Every vessel described in section 7 shall comply with all the terms and provisions of this chapter and with all orders, regulations and requirements of the commission; ~~and if.~~ If any such vessel is navigated without complying therewith or without the certificate of the commission, the owners and master, severally, shall forfeit to the State \$500 for each offense, half thereof to the informer, unless otherwise provided, for which sum the vessel so engaged is liable and may be proceeded against by attachment in ~~a qui tam~~ **a civil** action commenced within 60 days after the commission of the offense, or said penalty may be recovered by indictment.'

Sec. 124. R. S., c. 50, § 34, amended. Section 34 of chapter 50 of the Revised Statutes is amended to read as follows:

Sec. 34. Liability of owners of telegraphs for errors or delays in sending dispatches; falsifying or divulging contents of dispatch. A person or company owning or using a line of telegraph, wholly or partly in the State, for any error or unnecessary delay in writing out, transmitting or delivering a dispatch within its delivery limits, making it less valuable to the person interested therein, is liable for the whole amount paid on such dispatch; ~~and if.~~ **All** dispatches shall be transmitted in the order in which they are received, under a penalty of \$100 to be recovered by the person whose dispatch is willfully postponed; ~~and.~~ **An** operator or agent who designedly falsifies a dispatch forfeits not less than \$20 nor more than \$100, to be recovered in ~~on a civil~~ **a civil** action of ~~debt,~~ and in case of his avoidance or inability to pay such judgment, the person or company employing him forfeits a like sum; ~~and if.~~ If such operator or agent willfully divulges any part of the contents of a private dispatch entrusted to him for transmission or delivery, he shall be punished by a fine of not more than \$100 or by imprisonment for not more than 3 months.'

Sec. 125. R. S., c. 50, § 39, amended. The next to the last sentence of section 39 of chapter 50 of the Revised Statutes is amended to read as follows:

'The award and costs may be recovered in ~~an~~ a civil action ~~of debt~~, if not paid in 30 days after written demand therefor served upon the company or any of its agents; ~~the~~. The Superior Court for the county shall have jurisdiction thereof and full costs shall be allowed.'

Sec. 126. R. S., c. 50, § 42, amended. The last paragraph of section 42 of chapter 50 of the Revised Statutes is amended to read as follows:

'In case any way or bridge is damaged by reason of the moving of a building, the municipal officers shall determine what proportion of such damage shall be paid by the owner of said building, and the same may be recovered by the town in ~~an~~ a civil action ~~of debt against the owner of said building.~~'

Sec. 127. R. S., c. 50, § 44, amended. The 3rd sentence from the end of section 44 of chapter 50 of the Revised Statutes is amended to read as follows:

'The municipal officers may establish such regulations as they deem necessary for the joint use of such poles, and in case the several parties so using such poles cannot agree as to the proportionate share each shall bear of the original cost and of the expense of maintaining such poles, or a proper annual rental for the use of the same, the municipal officers may, after hearing the parties, determine the proportionate part of such expense each party shall justly bear or a proper rental therefor; ~~personal~~. **Personal** notice shall be given to each party 14 days before the hearing; ~~and the~~. The owner of such poles may recover, in ~~an~~ a civil action ~~of assumpsit~~ of each party so using such poles, his share of such cost and expense or the rental as determined by the municipal officers.'

Sec. 128. R. S., c. 50, § 45, amended. The last 2 sentences of section 45 of chapter 50 of the Revised Statutes are amended to read as follows:

'The presiding justice at the first term of said court shall appoint 3 disinterested persons, not residents of the city or town named in the complaint, who shall, within 30 days after their appointment, after due notice and hearing, affirm the orders and decisions of the municipal officers, or amend or modify the same, or make new and further orders, decisions and regulations governing such joint use of such poles by any of the parties to the proceedings, or in relation to the proportionate share of the expense to be borne by each party using such joint poles, or the just and fair rental therefor; ~~and their~~. **Their** report, which shall be filed with the clerk of said court, upon being accepted by any Justice of the Superior Court ~~in term time or in vacation~~, shall be final and binding on all parties to the proceedings, except that questions of law arising under such proceedings may be reserved for decision by the law court. Any person affected by any order or decision of the municipal officers, who is not joined in the original complaint, may, on ~~petition~~ **motion** to the Superior Court, be joined therein at any time before hearing by the committee appointed under ~~the provisions of~~ this section.'

Sec 129. R. S., c. 52, § 3, amended. Section 3 of chapter 52 of the Revised Statutes is amended to read as follows:

'**Sec. 3. Authority of directors; enforcement of assessments.** The directors shall choose one of their number president; and may make such assessments on the proprietors of the shares in such aqueduct or funds as they find necessary

~~and if.~~ If a proprietor fails to pay such assessment for 30 days after notice, they may maintain ~~an a civil action on the case~~ in their corporate name to recover the amount thereof or may sell, at auction, so many of his shares as are sufficient to pay the same, with necessary charges; ~~notice.~~ **Notice** of the sale of such shares shall be given by advertising in some newspaper printed in the county 3 weeks successively, or by posting notifications thereof, 20 days at least before the sale, in at least 2 public places in each town wherein such aqueduct is, or is proposed to be made; ~~and the.~~ **The** surplus money, if any, arising from such sale shall be paid to the owner of the share so sold.

Sec. 130. R. S., c. 52, § 13, amended. The first sentence of section 13 of chapter 52 of the Revised Statutes is amended to read as follows:

'For all property taken by the exercise of the right of eminent domain the owners are entitled to damages to be paid by the taker and estimated by the county commissioners, on written application of either party, made within 3 years after such taking; or, if proceedings thus commenced fail for causes not affecting the merits, new ones may be commenced within one year thereafter, and when no estimate is made within such time, the owner may maintain ~~an a civil action of trespass~~ or have any remedy ~~herein~~ provided.'

Sec. 131. R. S., c. 52, § 19, amended. Section 19 of chapter 52 of the Revised Statutes is amended to read as follows:

'**Sec. 19. Damages remaining unpaid; proceedings.** When the damages remain unpaid for more than 30 days after they are due and demanded or the security ~~hereinbefore provided for~~ is not deposited, ~~a bill in equity may be filed in court, in term time or vacation by~~ the person whose property is taken ~~may file in the Superior Court a complaint~~ praying for an injunction against the use or occupation of his property taken. If proceedings for an estimation of damages are not commenced within 3 years, and the owner of the property files a ~~bill praying~~ **complaint** therefor, the court may estimate the damages, decree their payment and issue an execution therefor; ~~and the plaintiff shall be entitled to a bill for an injunction. In either case, any justice of the~~ **The** court, after summary notice to the taker and upon proof of the facts, may, without any bond filed, issue an injunction prohibiting such use and occupation until all damages and costs are paid. ~~The bill shall be entered, service of it made, and continued at the next term after the injunction is issued. At the end term, if~~ **If** payment has not been made **within 90 days** ~~the a permanent~~ injunction may be ~~made absolute issued;~~ and all rights acquired by taking the property cease, and the owner may maintain an action for its recovery and protection.'

Sec. 132. R. S., c. 52, § 20, amended. The first and last sentences of section 20 of chapter 52 are amended to read as follows:

'Service of an injunction issued against any person, whether a party to the ~~bill~~ **action** or not, may be made upon him and he shall be liable to all the penalties and consequences provided for a breach of it.

Upon service and return of such order, the court may enter such decree as is just and equitable against such persons and issue execution accordingly or may proceed against them ~~as for breach of injunction in other chancery cases.'~~

Sec. 133. R. S., c. 52, § 22, amended. The last sentence of section 22 of chapter 52 of the Revised Statutes is amended to read as follows:

'Nothing herein contained shall preclude or stay any **civil action** ~~at law~~ for damages, and the owner of the land may maintain ~~an~~ **a civil action** for damages the same as if in possession.'

Sec. 134. R. S., c. 52, § 24, amended. The 2nd sentence of section 24 of chapter 52 of the Revised Statutes is amended to read as follows:

'A copy of the petition and order of notice thereon, attested by the clerk, shall be served upon the ~~respondent~~ **defendant.**'

Sec. 135. R. S., c. 53, § 33, amended. The first sentence of section 33 of chapter 53 of the Revised Statutes is amended to read as follows:

'If any corporation organized under the general laws of the State shall fail to elect directors within 6 months after the time provided in its by-laws for the annual meeting, the Supreme Judicial Court and the Superior Court shall have jurisdiction ~~in equity~~, upon application by any one or more of its stockholders holding at least 50% of the capital stock issued, to appoint a board of directors for such corporation not exceeding in membership the number authorized by the by-laws.'

Sec. 136. R. S., c. 53, § 35, amended. Section 35 of chapter 53 of the Revised Statutes is amended to read as follows:

'**Sec. 35. Preventing use of records and books.** Any officer or member of a corporation, who prevents access to and use of the records and books as provided in ~~the preceding~~ section 34, is liable for all damages occasioned thereby, in ~~an~~ **a civil action** ~~on the case.~~'

Sec. 137. R. S., c. 53, § 38, amended. Section 38 of chapter 53 of the Revised Statutes is amended to read as follows:

'**Sec. 38. Neglect to publish statement.** If any officer of a corporation, charged by law with the duty of making and causing to be published any statement in regard to such corporation, neglects to do so, such officer, in addition to penalties already provided, forfeits \$500 to the prosecutor, to be recovered ~~by~~ **in a civil action** ~~of debt or action on the case.~~'

Sec. 138. R. S., c. 53, § 39, amended. The last sentence of section 39 of chapter 53 of the Revised Statutes is amended to read as follows:

'Any officer or member, who votes or aids to make a dividend in violation hereof, shall be punished by a fine of not more than \$2,000 and by imprisonment for less than one year; ~~and all.~~ All sums received for such dividends may be recovered by any creditor of the corporation in ~~an~~ **a civil action** ~~on the case.~~'

Sec. 139. R. S., c. 53, § 42, amended. The last sentence of section 42 of chapter 53 of the Revised Statutes is amended to read as follows:

'For the neglect or refusal of its officer to make such return, the corporation

forfeits \$500, to be recovered in ~~an~~ a civil action ~~of debt~~, to be prosecuted in the name of the State by the Attorney General.'

Sec. 140. R. S., c. 53, § 43, amended. Section 43 of chapter 53 of the Revised Statutes is amended to read as follows:

'Sec. 43. Action to collect penalty. Whenever any corporation or its officers neglect to make to the Secretary of State any return required by law, the Secretary of State shall forthwith notify the Attorney General, who shall proceed at once, by action ~~of debt~~ in the name of the State, to enforce the penalties therefor and shall make itemized return thereof in his annual report. The Secretary of State, on or before the first day of July, annually, shall furnish the Attorney General with a statement showing which of said corporations, if any, have failed to comply with ~~the preceding~~ section 42, with such other memoranda from his office as will aid the Attorney General in obtaining service upon such delinquent corporation. In addition to said penalties, the following costs shall be recovered in behalf of the State against said corporation, to wit: for the Attorney General, for the ~~writ~~ summons, an attorney fee and travel and attendance at court not exceeding 2 terms; and for the State, such other costs as are legally taxable in civil actions ~~at law~~. Such action may be brought in any county.'

Sec. 141. R. S., c. 53, § 64, amended. Section 64 of chapter 53 of the Revised Statutes is amended to read as follows:

'Sec. 64. Creditor's remedies to each certificate. A creditor whose debtor is the owner of a certificate shall be entitled to such aid from courts of appropriate jurisdiction, by injunction and otherwise, in attaching such certificate or in satisfying the claim by means thereof as is allowed ~~at law or in equity~~ in regard to property which cannot readily be attached or levied upon by ordinary legal process.'

Sec. 142. R. S., c. 53, § 85, amended. Section 85 of chapter 53 of the Revised Statutes is amended to read as follows:

'Sec. 85. Remedy of dissenting stockholder. If any stockholder in any corporation which shall vote to sell, lease, consolidate or in any manner part with its franchises or its entire property, or any of its property, corporate rights or privileges essential to the conduct of its corporate business and purposes, otherwise than in the ordinary and usual course of its business, shall vote in the negative and shall file his written dissent therefrom with the president, clerk or treasurer of such corporation within one month from the day of such vote, the corporation in which he is a stockholder may, within one month after such dissent is so filed, ~~enter a petition with~~ file a complaint seeking equitable relief ~~the Supreme Judicial Court or in the Superior Court sitting in equity~~ in the county where it held its last annual meeting, ~~in term time or in vacation~~ setting forth in substance the material facts of the transaction, the action of the corporation thereon, the names and residences of all dissenting stockholders whose dissents were so filed, making such dissenting stockholders parties thereto, and praying that the value of the shares of such dissenting stockholder may be determined and for other appropriate relief.'

Sec. 143. R. S., c. 53, § 86, amended. Section 86 of chapter 53 of the Revised Statutes is amended to read as follows:

'Sec. 86. If corporation fails to seek equitable relief, dissenting stockholder may enter and prosecute the same. If any such corporation shall fail to ~~enter such petition as aforesaid~~ **file a complaint seeking such equitable relief**, any stockholder dissenting as ~~aforesaid~~ may within one month thereafter ~~enter such petition~~ **file a complaint seeking such relief** and prosecute the same, making such corporation party defendant. In either case the court shall fix the time of hearing and shall order notice thereof to all parties interested, by publication in some newspaper or newspapers at least 2 weeks successively and such personal service as is required ~~upon bills in equity in civil actions.~~'

Sec. 144. R. S., c. 53, § 87, amended. The first sentence of section 87 of chapter 53 of the Revised Statutes is amended to read as follows: 'The court or any justice thereof ~~in term time or in vacation~~ shall hear the parties and determine as soon as practicable the value of the stock of such dissenting stockholders; and shall make and enforce all such orders and decrees as may be necessary to secure to such stockholders all their rights.'

Sec. 145. R. S., c. 53, § 88, amended. The first sentence of section 88 of chapter 53 of the Revised Statutes is amended to read as follows:

'Within 30 days after filing the decree determining such values as aforesaid, either party may enter an appeal therefrom to the law court as in ~~the case of ordinary bills in equity~~ **civil actions in which equitable relief is sought.**'

Sec. 146. R. S., c. 53, § 104, amended. Section 104 of chapter 53 of the Revised Statutes is amended to read as follows:

'Sec. 104. Injunction against continuing business. Whenever any corporation shall become insolvent or be in imminent danger of insolvency, or whenever through fraud, neglect or gross mismanagement of its affairs or through attachment, litigation or otherwise its estate and effects are in danger of being wasted or lost, or whenever it has ceased to do business or its charter has expired or been forfeited, upon application of any creditor or stockholder by ~~bill in equity~~ **complaint seeking equitable relief** filed in ~~the Supreme Judicial Court or the Superior Court in the county in which it has an established place of business or in which it held its last stockholders' meeting, upon which bill request~~ **such notice shall be given as may be ordered by any justice of either of such courts, in term time or vacation, either of such courts court, the court** may, if it finds that sufficient cause exists, issue an injunction, both ~~temporary~~ **preliminary** and permanent, restraining said corporation, its officers and agents from receiving any moneys, paying any debts, selling or transferring any assets of the corporation or exercising any of its privileges or franchises until further order; and may at any time make a decree dissolving said corporation.'

Sec. 147. R. S., c. 53, § 105, amended. The 2nd sentence of section 105 of chapter 53 of the Revised Statutes is amended to read as follows:

'All attachments, made within 4 months before the filing of any such ~~bill in equity~~ **complaint seeking equitable relief** wherein a receiver is so appointed, shall thereupon be dissolved.'

Sec. 148. R. S., c. 53, § 106, amended. Section 106 of chapter 53 of the Revised Statutes is amended to read as follows:

'Sec. 106. Authority of receiver; to report to court. Such receiver shall have power to institute or defend ~~suits at law or in equity~~ actions in his own name as receiver, to demand, collect and receive all property and assets of said corporation, to sell, transfer or otherwise convert the same into cash and to conduct and carry on the business of said corporation, as ordered by the court, if it appears for the best interests of all concerned. He shall report to the court at least as often as every 6 months a statement of all the assets and liabilities of said corporation, and from time to time shall distribute the assets of said corporation as provided in section 110.'

Sec. 149. R. S., c. 53, § 109, amended. Section 109 of chapter 53 of the Revised Statutes is amended to read as follows:

'Sec. 109. Jurisdiction. The court shall have jurisdiction ~~in equity~~ of all proceedings hereunder and may make such orders and decrees as equity may require.'

Sec. 150. R. S., c. 53, § 111, amended. Section 111 of chapter 53 of the Revised Statutes is amended to read as follows:

'Sec. 111. Equitable relief against corporations for dissolution; if no liabilities, dissolution had without trustees. Except where otherwise provided by statute, whenever at any meeting of its stockholders, legally called therefor, such stockholders vote to dissolve such corporations, a ~~bill in equity~~ **complaint seeking equitable relief** against the same for dissolution thereof may be filed by any officer, stockholder or creditor in ~~the Supreme Judicial Court or the Superior Court~~ in the county in which it has an established place of business or in which it held its last stockholders' meeting; ~~upon~~. **Upon said bill action**, notice shall be given by the clerk of courts to the Attorney General and such notice shall be given to others as may be ordered by any justice of ~~either of said courts~~ **court**, ~~in term time or vacation~~ and upon proof thereof, such proceedings may be had according to the usual course of ~~suits in equity~~ **civil actions in which equitable relief is sought** that said corporation shall be dissolved and terminated. Upon proof that there are no existing liabilities against said corporation and no existing assets thereof requiring distribution among the stockholders, said court may dissolve said corporation without the appointment of trustees or receivers.'

Sec. 151. R. S., c. 53, § 112, amended. The first paragraph of section 112 of chapter 53 of the Revised Statutes is amended to read as follows:

'Said courts have jurisdiction in said cause to appoint receivers, issue injunctions and pass interlocutory decrees and orders according to the usual course of ~~proceedings civil actions in equity~~ **which equitable relief is sought**; and shall ~~moreover~~ upon dissolving said corporation or upon terminating its charter, appoint one or more trustees, who shall have all the powers conferred upon similar trustees by ~~the provisions of~~ sections 103, 110 and 124 or by any other law of the State, with such special powers as may be given them by said court; ~~but, notwithstanding~~. **Notwithstanding** the appointment of such trustees, said

court may superintend the collection and distribution of the assets of said corporation and may retain said ~~bill~~ **action** for that purpose.'

Sec. 152. R. S., c. 53, § 115, amended. Section 115 of chapter 53 of the Revised Statutes is amended to read as follows:

'Sec. 115. Judgment creditor may request for equitable relief. When such a corporation has unlawfully made a division of any of its property, or has property which cannot be attached or is not by law attachable, any judgment creditor may file a ~~bill in equity complaint seeking equitable relief in the Supreme Judicial Court or the Superior Court~~, setting forth the facts and the names of such persons as are alleged to have possession of any of such property or choses in action, either before or after division; ~~names.~~ **Names** of defendants may be struck out or added by leave of court; costs awarded at discretion and service made on the defendants named, as in other ~~equity suits~~ **civil actions in which equitable relief is sought**. They shall, in answer thereto, disclose on oath all facts within their knowledge relating to such property in their hands or received by a division among stockholders. When either of them has the custody of the records of the corporation, he shall produce them and make extracts therefrom and annex them to his answer, as the court directs.'

Sec. 153. R. S., c. 53, § 116, amended. Section 116 of chapter 53 of the Revised Statutes is amended to read as follows:

'Sec. 116. Proceedings, trial and decree in the action. The court shall determine, with or without a jury, whether the allegations in the ~~bill~~ **complaint** are sustained, and it may decree that any such property shall be paid to such creditor in satisfaction of his judgment and cause such decree to be enforced as in ~~other chancery~~ **civil actions in which equitable relief is sought**. Any question arising may, at the election of either party, be submitted to the decision of a jury under the direction of the court.'

Sec. 154. R. S., c. 53, § 124, amended. Section 124 of chapter 53 of the Revised Statutes is amended to read as follows:

'Sec. 124. Proceedings by action; stockholder not liable unless debt was contracted during ownership of stock, nor for mortgage debt. Any person having such judgment or any such trustees, receivers or other persons appointed to close up the affairs of an insolvent corporation may, within 2 years after their right of action herein given accrues, commence ~~on a civil action on the case or bill in equity~~, without demand or other previous formalities, against any persons, ~~if a bill in equity jointly or severally, otherwise severally~~ who have subscribed for or agreed to take stock in said corporation and have not paid for the same; of who have received dividends declared from the capital stock or in violation of law; or who have withdrawn any portion of the capital stock, or canceled and surrendered any of their stock and received any valuable consideration therefor from the corporation, except its own stock or obligation therefor; or who have transferred any of their stock to the corporation as collateral security or otherwise and received any valuable consideration therefor ~~as aforesaid; and in.~~ **In** such action they may recover

the amount of the capital stock so remaining unpaid or withdrawn, not exceeding the amounts of said judgments or the deficiency of the assets of such insolvent corporation. No stockholder is liable for the debts of the corporation not contracted during his ownership of such unpaid stock, nor for any mortgage debt of said corporation; ~~and no.~~ **No** action for the recovery of the amount ~~herein before~~ mentioned shall be maintained against a stockholder unless proceedings to obtain judgment against the corporation are commenced during the ownership of such stock or within one year after its transfer by such stockholder is recorded on the corporation books.'

Sec. 155. R. S., c. 53, § 125, amended. Section 125 of chapter 53 of the Revised Statutes is amended to read as follows:

'Sec. 125. Evidence in defense. A defendant in such ~~suit~~ **suit action** may prove that he has already in good faith paid, by himself or through another person who has assumed his stock or subscription, to any person holding a bona fide judgment, or to any such trustee or receiver, or other person authorized to receive it, or to the corporation itself, the whole or any part of any amounts for which he would be liable under ~~the provisions of~~ this chapter; or that he has already in good faith and without collusion been sued for and is still in peril of being compelled to pay such amounts in whole or in part to some other person, in which latter case the ~~suit~~ **suit action** may be continued to await, on payment of defendant's costs from term to term; or he may prove that the amounts illegally received by him from said corporation were received more than 2 years before the claim arose on which such judgment was obtained, or if the ~~suit~~ **suit action** is by trustees, receivers or other such person, more than 2 years before the commencement of the legal proceeding by virtue of which such corporation passed into the hands of trustees or receivers; or he may prove the invalidity of such judgment in any particular ~~by which could avail~~ the corporation ~~could have relief from the judgment on a writ of error~~ or that said judgment was not bona fide; or he may prove that he has bona fide claims in contract or tort, several or joint with other persons against said corporation, absolute or contingent, or which could be ~~availed of by setoff~~ **asserted by counterclaim** in court or on execution for the whole or any part of the amounts for which he would be liable under ~~the provisions of~~ this chapter; or in case his stock was transferred to such corporation as collateral security or as payment, he may either prove that the same was so transferred in good faith as security or payment for or of, an anterior liability incurred without any concurrent agreement for the transfer of such stock and for which the corporation was unable to obtain other sufficient security or payment, or in such case he may prove that whatever sum was received thereon, has been in whole or part repaid to such corporation; and proof of any of such matters is a full or partial defense for such defendant.'

Sec. 156. R. S., c. 53, § 126, amended. Section 126 of chapter 53 of the Revised Statutes is amended to read as follows:

'Sec. 126. Stockholders, paying for corporation, may recover contribution. When members of a corporation are liable for its debts, or for any acts of its officers or members, or to contribute for money paid on account of such debts or acts, the amount due may be recovered of such corporation ~~by an~~ **in a civil**

action ~~at law or a bill in equity; and the.~~ The court may make all necessary orders and decrees.'

Sec. 157. R. S., c. 57, § 33, amended. The first sentence of section 33 of chapter 57 of the Revised Statutes is amended to read as follows:

'Where any property in the State, dedicated and ordained for pious uses, has no proper or legal custodian, so that it is becoming wasted and the utility thereof is lost, upon the application of any person or patriotic or religious society interested in having such property preserved and applied to the uses for which it was originally intended, or for some public or patriotic purpose, the Attorney General shall file a ~~bill in equity~~ **complaint seeking equitable relief**, in the nature of an information, against such property and all persons interested therein, praying for the appointment of trustees to care for such property and for the proper application and disposal thereof, and the court may order such notice as seems proper, and may appoint receivers or trustees therefor, and upon final decree, may order the care, custody, sale, application or disposal of such property as will best serve the purposes for which it was originally intended, or some public or patriotic purpose.'

Sec. 158. R. S., c. 57, § 40, amended. Section 40 of chapter 57 of the Revised Statutes is amended to read as follows:

'**Sec. 40. Proprietors dissenting, entitled to appraised value of their interest; limitation and forfeiture.** When it is decided to repair, remodel or rebuild a meetinghouse, any owner or proprietor dissenting from the action of the majority and declining to take an interest in the house as altered may demand and receive of such majority the appraised value of his interest after deducting his proportion of debts against the property, to be recovered in ~~an a civil action for money had and received;~~ which shall not be commenced until 30 days after such demand, nor after the lapse of a year after notice is posted for 3 successive weeks on the meetinghouse door and some other conspicuous place in its precinct, stating the persons to whom the money is to be paid, the amount payable to each and the time limited for payment. If said sums are not demanded within said time, they are forfeited to the majority for parish uses. ~~The provisions of this~~ **This section does not apply to any case where the repairs decided upon are only such as are necessary to keep such meetinghouse in a tenable condition.**

Sec. 159. R. S., c. 57, § 64, amended. Section 64 of chapter 57 of the Revised Statutes is amended to read as follows:

'**Sec. 64. Return of doings of committee.** The members of the committee shall make return of said warrant and their doings thereon, to the ~~next~~ Superior Court in the county, after having completed the service; which, being accepted by the court and recorded in the registry of deeds in the county of registry district where the land is situated, within 6 months, shall be a legal assignment and location of such reserved proportions, for the uses designated; ~~and thereafter.~~ **Thereafter** the land so set off and located shall be under the care and oversight of the trustees of the ministerial and school funds of the town, with all the

powers and subject to the duties prescribed in this chapter, including the power to sell and convey the same.'

Sec. 160. R. S., c. 58, § 3, amended. The last sentence of section 3 of chapter 58 of the Revised Statutes is amended to read as follows:

'The penalties ~~above provided for~~ shall be recovered in ~~an a~~ **a civil action of debt** brought in the name and for the use of any chapter of the Daughters of the American Revolution or post of the American Legion against such negligent town, parish, religious society, individual, association or corporation.'

Sec. 161. R. S., c. 58, § 4, amended. Section 4 of chapter 58 of the Revised Statutes is amended to read as follows:

'**Sec. 4. Neglect of town or parish officers.** If such officers, treasurer or committee neglect so to apply such fines, they each forfeit the amount thereof, in ~~an~~ **a civil action of debt**, to any person suing therefor.'

Sec. 162. R. S., c. 59, § 2, amended. The last paragraph of section 2 of chapter 59 of the Revised Statutes is amended to read as follows:

'Any institution which shall fail to make such payments within the time specified shall be subject to a penalty of not less than \$50 nor more than \$200, which, together with the amount due under the foregoing provisions of this section, may be recovered in ~~an a~~ **a civil action of debt** in the name of the State. All institutions so delinquent on the 10th day of January of each year shall be reported to the Attorney General for the purpose of such action.'

Sec. 163. R. S., c. 59, § 6, amended. The last paragraph of section 6 of chapter 59 of the Revised Statutes is amended to read as follows:

'Any person, partnership, association or corporation violating any of the provisions of this section may be enjoined therefrom by ~~the Superior Court any court having general equity jurisdiction~~ on application of the ~~bank~~ commissioner or any person, corporation or association injured or affected by such use; ~~and any such.~~ **Such** court may further enjoin any attempt on the part of any person, firm or corporation to mislead or give a false impression to the public that such person, firm or corporation is authorized under the laws of this State to conduct the business of a trust company. Any person or persons violating any of the provisions of this section, either individually, as members of any association or copartnership, or as interested in any such corporation shall be punished by a fine of not more than \$1,000, or by imprisonment for not less than 60 days nor more than 11 months, or ~~by both such fine and imprisonment.~~

Sec. 164. R. S., c. 59, § 17, amended. Section 17 of chapter 59 of the Revised Statutes is amended to read as follows:

'**Sec. 17. Sections 7 to 17 enforceable.** Upon application of the ~~bank~~ commissioner, ~~any Justice of the Supreme Judicial or the Superior Courts~~ **Court** shall have jurisdiction ~~in equity~~ to enforce by appropriate decrees ~~the provisions~~

of sections 7 to 17, or any order, rule or regulation issued by the commissioner thereunder.'

Sec. 165. R. S., c. 59, § 19, amended. The 2nd sentence of the first paragraph of section 19 of chapter 59 of the Revised Statutes is amended to read as follows:

'Hereafter no action ~~at law or in equity~~ shall be maintained in any court in this State by any depositor or his heirs, successors or assigns for any deposit so paid, against any bank making such payments.'

Sec. 166. R. S., c. 59, § 71, amended. The last sentence of section 71 of chapter 59 of the Revised Statutes is amended to read as follows:

'Such justice may forthwith issue process for such purpose and, after a full hearing of the corporation, may dissolve or modify the injunction or make the same ~~perpetual absolute~~, and make such orders and decrees to suspend, restrain or prohibit the further prosecution of its business as may be needful in the premises, according to the course of proceedings ~~in equity; and he in which equitable relief is sought.~~ He may appoint one or more receivers or trustees to take possession of its property and effects, subject to such rules and orders as are from time to time prescribed by the Supreme Judicial Court or the Superior Court or by any justice thereof ~~in vacation.~~'

Sec. 167. R. S., c. 59, § 72, amended. The 2nd sentence of section 72 of chapter 59 of the Revised Statutes is amended to read as follows:

'He shall collect all debts due and claims belonging to it, and upon the order or decree ~~of the Supreme Judicial or of the Superior Court, or any justice thereof in term time or vacation~~ may sell or compound all bad or doubtful debts, and on like order or decree may sell for cash or other consideration or as provided by law all or any part of the real and personal property of the corporation on such terms as the court shall direct; and, in the name of such corporation, may take a mortgage on such real property from a bona fide purchaser to secure the whole or part of the purchase price, upon such terms and for such periods as the court shall direct; and on like order or decree he may borrow money and issue evidence of indebtedness therefor, and to secure the repayment of the same may mortgage, pledge, transfer in trust or hypothecate any or all of the property of such institution, whether real, personal or mixed, superior to any charge thereon for expenses of liquidation.'

Sec. 168. R. S., c. 59, § 74, amended. Section 74 of chapter 59 of the Revised Statutes is amended to read as follows:

'**Sec. 74. Attachments dissolved and actions discontinued; judgment recovered, added to claims.** All attachments of the property of the savings bank shall be dissolved by the decree of sequestration, and all pending ~~suits actions~~ discontinued and the claim ~~in suit~~ presented to the commissioners, unless the ~~court or some justice thereof in vacation~~ **Superior Court**, on application of the plaintiff within 3 months from said decree, passes an order allowing the receiver to be made a party to the ~~suit action~~ and that the same may be prosecuted to final judgment. After a decree of sequestration, no action ~~at law~~ shall be maintained on any claim against the bank unless the **Superior Court** ~~or a justice~~

thereof in vacation, on application therefor within the time above named, authorizes it, and in such case the receiver shall be made a party; ~~any~~. Any judgment recovered ~~as herein provided~~ shall be added to the claims against the bank.'

Sec. 169. R. S., c. 59, § 76, amended. Section 76 of chapter 59 of the Revised Statutes is amended to read as follows:

'**Sec. 76. Court may reduce deposit accounts.** Whenever a savings bank is insolvent by reason of loss on or depreciation in the value of any of its assets without the fault of its trustees, ~~the Supreme Judicial Court or the Superior Court in term time or any justice thereof in vacation~~ shall, on ~~petition~~ **complaint** in writing of a majority of the trustees and the bank commissioner setting forth the facts, appoint a time for the examination of the affairs of such corporation, and cause notice thereof to be given to all parties interested, in such manner as may be prescribed; ~~and if~~. If upon examination of its assets and liabilities and from other evidence, he is satisfied of the facts set forth in said ~~petition~~ **complaint** and that the corporation has not exceeded its powers nor failed to comply with any of the rules, restrictions and conditions provided by law, he may, if he deems it for the interest of the depositors and the public, by proper decree reduce the deposit account of each depositor so as to divide such loss pro rata among the depositors, thereby rendering the corporation solvent so that its further proceedings will not be hazardous to the public or those having or placing funds in its custody. The depositors shall not draw from such corporation a larger sum than is thus fixed by the court, except as ~~hereinafter~~ authorized; ~~provided, however, that its~~. Its treasurer shall keep an accurate account of all sums received for such assets of the corporation held by it at the time of filing such ~~petition~~ **complaint**; ~~and if~~. If a larger sum is realized therefrom than the value estimated ~~as aforesaid~~ by the court, he shall, at such times as the court prescribes, render to the court a true account thereof, and thereupon the court, after due notice to all parties interested, shall declare a pro rata dividend of such excess among the depositors at the time of filing the ~~petition~~ **complaint**. Such dividend may be declared by the court, whenever the court deems it for the interest of the depositors and the public, whether all or only a portion of such assets has been reduced to money; ~~and any~~. Any such dividend may at any time, in the discretion of the court, be declared to be a final one. No deposit shall be paid or received by such corporation after the filing of the ~~petition~~ **complaint** until the decree of the court, reducing the deposits ~~as herein provided~~. If the ~~petition~~ **complaint** is denied, the ~~bank~~ commissioner shall proceed to wind up the affairs of the corporation as provided in section 72.'

Sec. 170. R. S., c. 59, § 77, amended. The first sentence of section 77 of chapter 59 of the Revised Statutes is amended to read as follows:

'Whenever it may become necessary to preserve the assets or protect depositors in a savings bank, ~~the Supreme Judicial Court or the Superior Court in equity~~, on application of the ~~bank~~ commissioner or trustees of such bank may, after due notice, make an order restraining the bank from paying out its funds or any portion thereof or from declaring or paying any dividends or deposits for such time as the court shall deem advisable.'

Sec. 171. R. S., c. 59, § 89, amended. Section 89 of chapter 59 of the Revised Statutes is amended to read as follows:

'Sec. 89. Appeal. Any person aggrieved by anything done or omitted to be done under the provisions of sections 81 to 89 may ~~petition appeal by filing a complaint in any justice of the Superior or Supreme Judicial Court sitting in equity for seeking~~ an order annulling, altering or amending such act, or enjoining the performance thereof, or requiring action to be taken under any provision of said sections, within 10 days after he shall have had notice of such act or failure to act, in person or by publication of a certificate thereof signed by the ~~bank~~ commissioner or by the president or treasurer of the corporation in one issue of a newspaper of general circulation printed and published in the city or town in which the corporation is located, if any, otherwise in the same county. ~~Such petitions shall be prosecuted according to the usual practice in equity proceedings.'~~

Sec. 172. R. S., c. 59, § III, amended. Section III of chapter 59 of the Revised Statutes is amended to read as follows:

'Sec. III. Administrators, etc., may deposit. An administrator, executor, assignee, guardian, conservator, receiver or trustee, any court of law or equity, including courts of probate and insolvency, officers and treasurer of towns, cities, counties and savings banks of the State may deposit any moneys, bonds, stocks, evidences of debt or of ownership in property or any personal property with said corporation, and any of said courts may direct any person deriving authority therefrom to so deposit the same.'

Sec. 173. R. S., c. 59, § 114, amended. The last 2 sentences of section 114 of chapter 59 of the Revised Statutes are amended to read as follows:

'If they are not paid within 30 days or such further time as said ~~bank~~ commissioner shall determine, he shall report the facts to the Attorney General, who shall commence ~~suit a civil action~~ in the name and for the benefit of such company for the collection of the same. The Attorney General may employ special counsel to prosecute said ~~suit civil action~~, and said company shall pay all expenses thereof, to be recovered in ~~an a civil action of debt~~ in the name of the State.'

Sec. 174. R. S., c. 59, § 120, amended. The 4th sentence from the end of section 120 of chapter 59 of the Revised Statutes, as amended by section 2 of chapter 29 of the public laws of 1959, is further amended to read as follows:

'After payment into the State Treasury of such deposits, no action ~~at law or in equity~~ shall be maintained in any court in this State by any depositor or his heirs, successors or assigns against any bank making such payments.'

Sec. 175. R. S., c. 59, § 127, amended. The 7th and 8th sentences of section 127 of chapter 59 of the Revised Statutes are amended to read as follows:

'Any stockholder aggrieved by any action of the ~~bank~~ commissioner or the directors of such company under the foregoing provisions may, within 10 days after receiving notice thereof, apply by ~~bill in equity or other~~ appropriate pro-

ceedings to ~~a Justice of the Supreme Judicial Court or of the Superior Court~~ whose decision, after due hearing, shall be final in the matters complained of. In the event that the directors of any trust company upon notification by the ~~bank commissioner as hereinafter provided~~ shall not vote within 10 days after receipt of said notification to make an assessment upon the stock under the foregoing provisions, the ~~bank commissioner or the directors of such company~~ may file a complaint in the ~~Supreme Judicial Court or the Superior Court in equity~~, setting forth the fact that such capital stock is impaired and asking said court to order an assessment upon the capital stock ~~aforsaid~~ sufficient to meet the impairment and make the corporation solvent.'

Sec. 176. R. S., c. 59, § 130, amended. Section 130 of chapter 59 of the Revised Statutes is amended to read as follows:

'**Sec. 130. Examination and revaluation.** Whenever, in the opinion of a majority of the directors or the executive committee of any trust company, organized under the laws of this State, and the ~~bank commissioner~~, it will be for the benefit of the depositors and the public for the assets of the trust company to be revalued, the bank reorganized and put in sound condition, ~~any Justice of the Supreme Judicial the Superior Court~~ shall, on ~~petition in equity a complaint~~ by the ~~bank commissioner~~ setting forth the facts, appoint a time for the examination of the affairs of such trust company and cause notice thereof to be given to all parties interested in such manner as may be prescribed and, upon examination of its assets and liabilities he may, if he deems it for the benefit of the public and the depositors, issue decrees necessary to carry out ~~the provisions of~~ section 130 to 143. In such examination of assets there shall be included the liability of stockholders to assessment.'

Sec. 177. R. S., c. 59, § 132, amended. Section 132 of chapter 59 of the Revised Statutes is amended to read as follows:

'**Sec. 132. Negotiable certificates.** The trust company described in section 130 shall issue to each depositor a certificate showing the amount of the deficit charged to his account, which said certificate shall be negotiable and shall bear no interest. No dividend or profit shall thereafter be made in liquidation of common stock until said certificate shall have been paid in full with interest compounded at the rate of 3% per year; otherwise, said certificate shall not be deemed to be a liability of the corporation; ~~provided that the~~. The holder of said certificate, the commissioner or the corporation shall be entitled to ~~petition~~ **file a complaint with** the court, after one year from the date thereof, for an order of distribution whenever the condition of the corporation, taking into account the rights of creditors and preferred stockholders, warrants such payment.'

Sec. 178. R. S., c. 59, § 133, amended. The first sentence of section 133 of chapter 59 of the Revised Statutes is amended to read as follows:

'The court may on ~~petition a complaint filed~~ by the ~~bank commissioner~~ appoint one or more conservators for such trust company described in section 130 and require such bond as the court deems proper.'

Sec. 179. R. S., c. 59, § 136, amended. Section 136 of chapter 59 of the Revised Statutes is amended to read as follows:

'**Sec. 136. Dissolution of attachments.** The court may dissolve all attachments on the property of the trust company made within 4 months before the ~~filing of the petition~~ **filing of the complaint**; cancel leases, contracts and all other claims as in receivership proceedings, discontinue all ~~suits~~ **actions** pending against said trust company and fix the rights of said claimants, and adjudicate and fix the time and mode of payment of all claims, accounts and deposits having priority.'

Sec. 180. R. S., c. 59, § 137, amended. The first 4 sentences of section 137 of chapter 59 of the Revised Statutes are amended to read as follows:

'The ~~petition relief sought in the complaint~~ described in section 130 filed by the ~~bank commissioner addressed to any Justice of the Supreme Judicial Court~~ shall not be granted without hearing. It shall not be granted if objected to in writing by the time and demand depositors of said trust company who are credited with the majority in amount of the trust and demand deposits. The ~~justice court~~ shall appoint immediately upon the filing of ~~said petition~~ **such complaint** a conservator with authority to act pending hearing. Any depositor may be permitted to intervene as party plaintiff in any ~~bill in equity filed~~ **complaint filed** hereunder and may be heard thereon.'

Sec. 181. R. S., c. 59, § 158, amended. The first 2 sentences of section 158 of chapter 59 of the Revised Statutes, as amended by section 2 of chapter 39 of the public laws of 1957, are further amended to read as follows:

'Loan and building associations may be organized in the manner provided for the organization of savings banks, except that the provisions relative to capitalization as contained in ~~subsection VI of~~ section 19-B, **subsection VI**, shall not apply to organization of loan and building associations. Upon the filing of any certificate of authorization of a loan and building association with the Secretary of State, as so provided, the persons therein named, their associates, successors and assigns shall, thereupon and thereby, be constituted a body corporate and politic, and such body may adopt and use a common seal, hold, manage and convey real and personal property, sue and be sued, prosecute and defend ~~suits in law or in equity~~ **civil actions**, have perpetual succession each by its corporate name and make and ordain by-laws for its government, not repugnant to the Constitution and laws.'

Sec. 182. R. S., c. 59, § 176, amended. The 3rd sentence of section 176 of chapter 59 of the Revised Statutes is amended to read as follows:

'The balance of the account may, and after 6 months shall, be enforced against the security by any legal method ~~or by proceedings in equity~~, for sale and foreclosure, jurisdiction therefor being specially given to ~~the Supreme Judicial Court and to the Superior Court~~, to be exercised upon ~~bill or petition in a summary manner~~ **filing of a complaint.**'

Sec. 183. R. S., c. 59, § 186, amended. Section 186 of chapter 59 of the Revised Statutes is amended to read as follows:

Sec. 186. Violation of sections 184 and 185. Whoever violates any provision of ~~the 2 preceding~~ sections 184 and 185 shall be punished by a fine of not more than \$1,000; and any provision thereof may ~~on petition~~ be enforced by injunction issued by ~~a Justice of the Supreme Judicial Court or of the Superior Court.~~

Sec. 184. R. S., c. 59, § 190, amended. Section 190 of chapter 59 of the Revised Statutes is amended to read as follows:

Sec. 190. Limitation of actions to recover money paid on forged signatures. No civil action ~~at law or in equity~~ to recover money by any depositor shall be maintained against any bank, savings bank or trust company, if the depositor denies the signature on any order drawn on any savings bank, or savings deposit or certificates of deposit in any bank or trust company, or on any receipt for payment by such bank, savings bank or trust company, unless such action is begun and service made thereon within 3 years from the date of such payment.'

Sec. 185. R. S., c. 59, § 239, amended. Section 239 of chapter 59 of the Revised Statutes is amended to read as follows:

Sec. 239. Appeals. Appeals may be taken by any person aggrieved by any decision of the commissioner under ~~the provisions of~~ sections 228 to 239 to ~~a Justice of the Superior Court, by petition filing a complaint addressed to with~~ that court, stating the decision complained of. No such appeal from a refusal to grant registration shall lie until after formal hearing, which formal hearing ~~however~~ the commissioner in his discretion may waive for the purpose of expediting the appeal. Upon such ~~petition complaint~~, citation shall be issued to the commissioner, who shall ~~file an~~ answer to the ~~petition complaint~~, stating therein his reasons for the decision. The court may, in its discretion, after hearing the commissioner or his representative, suspend the order of the commissioner, pending the determination of the ~~petition complaint~~ upon its merits, and may, after final hearing thereon, make such decree in connection with the matter complained of as justice may require. The court shall make provision for summary hearing and determination of such ~~petitions complaints~~ so far as in its discretion seems desirable.'

Sec. 186. R. S., c. 59, § 240, amended. The last sentence of section 240 of chapter 59 of the Revised Statutes is amended to read as follows:

~~'Authorization Jurisdiction~~ is conferred upon ~~the Supreme Judicial Court and the Superior Court in equity~~ to enjoin, upon ~~application a complaint filed by the bank~~ commissioner or any party in interest, any violation or threatened violation of any of the ~~foregoing~~ provisions of this chapter.'

Sec. 187. R. S., c. 59, § 244, amended. The first 2 sentences of section 244 of chapter 59 of the Revised Statutes are amended to read as follows:

'Unless ordered by decree of ~~the Supreme Judicial Court or of the Superior Court, in equity~~ the bank or trust company operating such common trust funds is not required to render a court accounting with regard to such funds; but it, as accountant, may by petition to ~~the Supreme Judicial Court the Superior Court~~

or the probate court, in the county where the accountant has its principal place of business, secure approval of such accounting on such conditions as the court may establish. Whenever a petition for the allowance of such an account is presented, ~~the judge of~~ the court having jurisdiction thereof shall assign a time and place for hearing and shall cause public notice thereof to be given, meaning thereby notice published 3 weeks successively in a newspaper published in the county whose court has jurisdiction; ~~and in.~~ In addition thereto said ~~judge court~~ shall, except to such extent as the several instruments creating the trusts participating in such common trust fund provide otherwise, order personal notice upon all known beneficiaries of the participating trust estates who have a place of residence known to the accountant.'

Sec. 188. R. S., c. 59, § 251, sub-§ IV, amended. The first 2 sentences of subsection IV of section 251 of chapter 59 of the Revised Statutes are amended to read as follows:

'Within 30 days after receipt of notice of any such suspension or revocation of a license, the person aggrieved may appeal therefrom to ~~any justice of~~ the Superior Court by ~~presenting to him filing a petition complaint~~ therefor ~~in term time or vacation.~~ ~~Such justice~~ The court shall fix a time and place for hearing ~~which may be in vacation~~ and cause notice thereof to be given to the ~~Bank~~ commissioner; ~~and after.~~ After hearing, ~~such justice the court~~ may affirm or reverse the decision of the ~~Bank~~ commissioner.'

Sec. 189. R. S., c. 60, § 6, amended. The 3rd sentence of section 6 of chapter 60 of the Revised Statutes is amended to read as follows:

'Any such insurance company, receiving such notice from the commissioner, may within 30 days thereafter ~~file an appeal in to~~ the Superior Court ~~to be holden~~ in Kennebec County ~~by filing a complaint~~ stating therein its reasons and containing a copy of the commissioner's notification, and after such notice as it shall order, and upon hearing, said court shall determine whether or not the reasons assigned by the commissioner are valid and thereupon sustain or annul said ruling.'

Sec. 190. R. S., c. 60, § 11, amended. The first sentence of section 11 of chapter 60 of the Revised Statutes is amended to read as follows:

'No ~~bill in equity, or other~~ proceedings for the appointment of a receiver of a domestic life insurance company, or to wind up its affairs, shall be maintained by any other person than the commissioner.'

Sec. 191. R. S., c. 60, § 25, amended. The last 2 sentences of section 25 of chapter 60 of the Revised Statutes are amended to read as follows:

'Any company which has made such deposit, or the commissioner or any creditor of such company may at any time commence ~~a suit in equity a civil action in~~ the Supreme Judicial Court ~~or in~~ the Superior Court against the State and other parties properly joined therein to enforce, administer or terminate the trust

created by such deposit. The process in such ~~suit~~ **action** shall be served on the Treasurer of State and Attorney General, who shall appear and answer on behalf of the State and perform such orders and decrees as the court may make therein.'

Sec. 192. R. S., c. 60, § 34, amended. Section 34 of chapter 60 of the Revised Statutes is amended to read as follows:

'Sec. 34. Dissolution of domestic mutual insurance companies. Whenever at any meeting of the policyholders of a domestic mutual insurance company, except life, called for the purpose by notice published once weekly on 3 successive weeks in a newspaper printed in each county of the State in which the company is chartered to operate, the last publication being at least 7 days prior to such meeting, the majority of the policyholders and shareholders present and voting, vote to dissolve such company, a ~~bill in equity~~ **complaint** against the same for dissolution thereof may be filed by any officer, shareholder, member or creditor in ~~the Supreme Judicial Court or the Superior Court~~ in the county in which it has its principal place of business. Upon said ~~bill~~ **complaint**, notice shall be given by the clerk of courts to the Attorney General and the ~~insurance~~ commissioner and such notice shall be given to others as may be ordered by ~~any justice of either of said courts, in term time or in vacation~~ **the court**, and upon proof thereof, such proceedings may be had according to the usual course of ~~suits in equity civil actions~~ that said corporation be dissolved and terminated. Upon proof that there are no existing liabilities against said corporation and no existing assets thereof requiring distribution among the shareholders, said court may dissolve said company without the appointment of trustees or receivers. Assets remaining after payment of the costs of dissolution, claims against the company and repayment of the guaranty capital shall be paid to the Treasurer of State for the use of the State.'

Sec. 193. R. S., c. 60, § 60, amended. Section 60 of chapter 60 of the Revised Statutes is amended to read as follows:

'Sec. 60. Appeal. When the commissioner suspends the operations of a company or, on application, refuses to countermand such suspension, it may appeal to ~~a Justice of the Supreme Judicial Court or of the Superior Court by presenting to him a petition filing a complaint~~ therefor ~~in term tim or vacation~~, and ~~he the court~~ shall fix a time and place of hearing which may be at chambers ~~and in vacation~~, and cause notice thereof to be given to the commissioner; ~~and after. After the hearing, he the court~~ may affirm or reverse the decision of the commissioner; ~~and the. The~~ decision of such ~~justice court~~ is final.'

Sec. 194. R. S., c. 60, § 62, amended. The first sentence of section 62 of chapter 60 of the Revised Statutes is amended to read as follows:

'Any person having a claim against any foreign insurance company may bring a trustee action or any other appropriate ~~suit~~ **action** therefor in the courts of this State.'

Sec. 195. R. S., c. 60, § 70, amended. Section 70 of chapter 60 of the Revised Statutes is amended to read as follows:

Sec. 70. Liability of stockholders, in certain cases. If any stock company becomes insolvent before its whole capital is paid in by the stockholders, any creditor thereof may ~~have his, in a civil action on the case~~ against any one or more of the stockholders, whose proportion of the whole stock allowed by the charter is not paid in, ~~to~~ recover against them in their individual capacity towards his debt, an amount not exceeding the sum due from them on their shares.'

Sec. 196. R. S., c. 60, § 85, amended. The next to the last sentence of section 85 of chapter 60 of the Revised Statutes is amended to read as follows:

'Any such sum or sums so advanced or so borrowed shall not form a part of the legal liabilities of such insurer and shall not be a basis of any ~~setoff counter-~~claim; but until repaid all statements published by such insurer or filed with the commissioner shall show, as a footnote thereto, the amount thereof then remaining unpaid.'

Sec. 197. R. S., c. 60, § 94, amended. The first sentence of section 94 of chapter 60 of the Revised Statutes is amended to read as follows:

'Whenever the directions of a mutual fire insurance company or a mutual marine insurance company make an assessment or call on its members for money, or by vote determine that there exists a necessity for such assessment or call, they, or any person interested in the company as an officer, policyholder or creditor, may ~~apply to file in the Supreme Judicial Court or to the Superior Court in any county, by a petition in the nature of a bill in equity complaint,~~ praying the court to examine said assessment or call or to determine the necessity therefor and all matters connected therewith, and to ratify, amend or annul the assessment or call or to order that the same be made as law and justice may require; ~~provided that such. The application decision on such complaint, when made filed~~ by any party except the corporation, or a receiver or the commissioner, shall rest in the discretion of the court.'

Sec. 198. R. S., c. 60, § 95, amended. Section 95 of chapter 60 of the Revised Statutes is amended to read as follows:

Sec. 95. Order of notice to parties interested and proceedings. The court before which the ~~petition complaint~~ described in the ~~preceding~~ section 94 is filed shall order notice to all parties interested, by publication or otherwise ~~and the petition may be filed in vacation, in which case the order of notice may be made by any justice of the court; and upon.~~ Upon the return thereof, the court shall proceed to examine the assessment or call, the necessity therefor and all matters connected therewith; ~~any.~~ Any parties interested may appear and be heard thereon, and all questions that may arise shall be heard and determined as in other ~~equity cases civil actions in which equitable relief is sought.~~ The court may refer the apportionment or calculation to any competent person, and upon the examination may ratify, amend or annul the assessment or call, or order one to be made. In case the assessment or call is altered or amended, or one is ordered, the directors shall forthwith proceed to vote the same in legal form and the record of such vote shall be set forth in a supplemental ~~bill or~~ answer.'

Sec. 199. R. S., c. 60, § 99, amended. Section 99 of chapter 60 of the Revised Statutes is amended to read as follows:

'Sec. 99. Domestic mutual fire insurance or assessment casualty companies, when insolvent or in hazardous condition. Whenever any domestic mutual fire insurance company or assessment casualty company is found after examination to be insolvent, or is found to be in such condition that its further transaction of business will be hazardous to its policyholders, its creditors or to the public, or when it has willfully violated its charter or any law of the State, or has refused to submit its books, papers, accounts and affairs for examination, the commissioner may, the Attorney General representing him, ~~apply to any Justice of the Supreme Judicial Court or of file in the Superior Court in term time or vacation~~ a complaint seeking for an order directing such corporation to show cause why the commissioner should not take possession of its property and conduct its business, and for such other relief as the nature of the case and the interests of its policyholders, creditors or the public may require.'

Sec. 200. R. S., c. 60, § 101, amended. Section 101 of chapter 60 of the Revised Statutes is amended to read as follows:

'Sec. 101. Decree of sequestration. If on the ~~application~~ complaint provided for in section 99, the court shall direct the commissioner to take possession of the property, conserve the assets of such corporation and conduct the business of the company, the rights of the said commissioner with reference to such corporation and its said assets shall be the same as those exercised by receivers and masters ~~in chancery~~ appointed by the courts for liquidation of insurance companies.'

Sec. 201. R. S., c. 60, § 105, amended. The 6th paragraph from the end of section 105 of chapter 60 of the Revised Statutes, which relates to "Reference", is amended to read as follows:

'Reference. In case the insured and this Company shall fail to agree as to the actual cash value or the amount of loss, or both, then on written demand of either, it is mutually agreed that said value or loss, or both if said failure to agree includes both, shall be referred to three disinterested persons, the Company and the insured each choosing one out of the three persons to be named by the other and the third being selected by the two so chosen; the award in writing by a majority of the referees shall be conclusive and final upon the Company and the insured as to the actual cash value and the amount of loss or damage so referred and such reference unless waived by the Company and the insured shall be a condition precedent to any right of action ~~in law or equity~~ to recover for such loss; but no person shall be chosen or act as a referee against the objection of either the Company or the insured who has acted in a like capacity within 4 months.'

Sec. 202. R. S., c. 60, § 105, amended. The 2nd paragraph from the end of section 105 of chapter 60 of the Revised Statutes, which relates to "Suit", is amended to read as follows:

~~'Suit Civil Action.~~ No ~~suit or civil~~ action on this policy for the recovery of any claim shall be sustained in any court ~~of law or equity~~ unless commenced within two years next after inception of the loss.'

Sec. 203. R. S., c. 60, § 118, sub-§ II, ¶ A, sub-¶ 11, amended. Subparagraph 11 of paragraph A of subsection II of section 118 of chapter 60 of the Revised Statutes is amended to read as follows:

'11. A provision as follows:

LEGAL ACTIONS. No ~~civil action at law or in equity~~ shall be brought to recover on this policy prior to the expiration of 60 days after written proof of loss has been furnished in accordance with the requirements of this policy. No such action shall be brought after the expiration of 3 years after the time written proof of loss is required to be furnished.'

Sec. 204. R. S., c. 60, § 126, amended. The first 3 sentences of section 126 of chapter 60 of the Revised Statutes are amended to read as follows:

'Any order or decision of the commissioner, issued under ~~the provisions of sections 116 to 125,~~ shall be subject to ~~review by a justice of the superior court in term time or vacation,~~ by an appeal taken within 15 days after the date of such order or decision to the Superior Court held in and for the County of Kennebec at the instance of any party in interest and aggrieved by said order or decision. Such appeal shall be prosecuted by ~~petition~~ **complaint** to which such party shall annex the order or decision of the commissioner and the record upon which such order or decision is based and in which the appellant shall set out the substance of and the reasons for the appeal. Upon the ~~filing~~ **presentation** thereof, the court ~~in term time, or a justice thereof in vacation~~ shall order notice thereon.'

Sec. 205. R. S., c. 60, § 151, amended. The last sentence of the 4th paragraph of section 151 of chapter 60 of the Revised Statutes is amended to read as follows:

'In case of a refusal of any person to comply with any subpoena issued ~~hereunder~~ or to testify with respect to any matter concerning which he may be lawfully interrogated, the Superior Court of Kennebec County or the county where such party resides, ~~or a justice thereof, in term time or vacation~~ on application of the commissioner, may issue an order requiring such person to comply with such subpoena and to testify ~~and any.~~ **Any** failure to obey any such order of the court may be punished by the court as a contempt thereof.'

Sec. 206. R. S., c. 60, § 153, amended. The first and 3rd sentences of section 153 of chapter 60 of the Revised Statutes are amended to read as follows:

'Any person required by an order of the commissioner under section 152 to cease and desist from engaging in any unfair method of competition or any unfair or deceptive act or practice defined in section 149 or whose license has been suspended or revoked may obtain a review of such order or act by filing ~~in the Superior Court in Kennebec County, in term time or vacation~~ within 30

days from the date of the service of such order, ~~a written petition complaint~~ praying that the order of the commissioner be set aside.'

'Upon such filing of the ~~petition complaint~~ and transcript, such court ~~or justice thereof, in term time or vacation~~ shall have jurisdiction of the proceeding and of the question determined therein, shall determine whether the filing of such petition shall operate as a stay of such order or act of the commissioner and shall have power to make and enter upon the pleadings, evidence and proceedings set forth in such transcript a decree modifying, affirming or reversing the order or act of the commissioner, in whole or in part.'

Sec. 207. R. S., c. 60, § 154, amended. The 2nd and 3rd paragraphs of section 154 of chapter 60 of the Revised Statutes are amended to read as follows:

'If such report charges a violation of sections 146 to 158, and if such method of competition, act or practice has not been discontinued, the commissioner may, through the Attorney General of this State at anytime after 30 days after the service of such report, cause a ~~petition complaint~~ to be filed in the Superior Court ~~of this State~~ within the county wherein the person resides or has his principal place of business, to enjoin and restrain such person from engaging in such method, act or practice. The court shall have jurisdiction of the proceeding and shall have power to make and enter appropriate orders in connection therewith and to issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public pendente lite.

A transcript of the proceedings before the commissioner including all evidence taken and the report and findings shall be filed with such ~~petition complaint~~. If either party shall apply to the court for leave to adduce additional evidence and shall show, to the satisfaction of the court, that such additional evidence is material and there were reasonable grounds for the failure to adduce such evidence in the proceeding before the commissioner, the court may order such additional evidence to be taken before the commissioner and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The commissioner may modify his findings of fact or make new findings by reason of the additional evidence so taken, and he shall file such modified or new findings with the return of such additional evidence.'

Sec. 208. R. S., c. 60, § 155, amended. Section 155 of chapter 60 of the Revised Statutes is amended to read as follows:

'**Sec. 155. Judicial review by intervenor.** If the report of the commissioner does not charge a violation of sections 146 to 158, then any intervenor in the proceedings may, within 30 days after the service of such report, cause a ~~petition complaint~~ to be filed in the Superior Court in Kennebec County ~~in term time or vacation~~ for a review of such report. Upon such review, the court ~~or a justice thereof, in term time or vacation~~ shall have authority to issue appropriate orders and decrees in connection therewith, including, if the court finds that it is to the interest of the public, orders enjoining and restraining the continuance of any method of competition, act or practice which it finds, notwithstanding such report of the commissioner, constitutes a violation of sections 146 to 158.'

Sec. 209. R. S., c. 60, § 271, amended. Section 271 of chapter 60 of the Revised Statutes is amended to read as follows:

'Sec. 271. Jurisdiction of courts. During any emergency insurance period as described in sections 264 and 265, the commissioner is authorized to issue such directions, rules or orders as in his discretion the circumstances may warrant, and any Justice of the Supreme Judicial or Superior Courts shall have full jurisdiction to enforce ~~the provisions of~~ sections 264 to 272 by appropriate decrees ~~in equity.~~'

Sec. 210. R. S., c. 60, § 301, amended. Section 301 of chapter 60 of the Revised Statutes is amended to read as follows:

'Sec. 301. Action by assignee of policy. The assignee of any policy, the assignment of which has been assented to by the insurance company or its agent, may sue the company on the policy in his own name, and all sums due thereon may be recovered in such ~~suit~~ **action**, subject to any defense existing against the original party; ~~the~~. The assignees so suing shall hold the judgment or its proceeds subject to the claims and equities of any other parties interested therein.'

Sec. 211. R. S., c. 60, § 303, amended. Section 303 of chapter 60 of the Revised Statutes is amended to read as follows:

'Sec. 303. Application of insurance money after final judgment; company entitled to notice of accident or injury; complaint not brought until 20 days after final judgment; exceptions. Whenever any person, administrator, executor, guardian, firm or corporation recovers a final judgment against any other person, firm or corporation for any loss or damage specified in ~~the preceding~~ section 302, the judgment creditor shall be entitled to have the insurance money applied to the satisfaction of the judgment by bringing a ~~bill in equity~~ **civil action**, in his own name, against the insuring company to reach and apply said insurance money; ~~provided that~~ when the right of action accrued, the judgment debtor was insured against said liability and that before the recovery of said judgment the insuring company had had notice of such accident, injury or damage; ~~provided also that the~~. The insuring company shall have the right to invoke the defenses described in this section in said ~~equity~~ proceedings. None of the provisions of this paragraph and ~~the preceding~~ section 302 shall apply:

I. Motor vehicle operated illegally or by one under age. When the automobile, motor vehicle or truck is being operated by any person contrary to law as to age or by any person under the age of 16 years where no statute restricts the age; or

II. Motor vehicle used in race contest. When such automobile, motor vehicle or truck is being used in any race or speed contest; or

III. Motor vehicle used for towing a trailer. When such automobile, motor vehicle or truck is being used for towing or propelling a trailer unless such privilege is indorsed on the policy or such trailer is also insured by the company; or

IV. Liability assumed. In the case of any liability assumed by the insured for others ; or

V. Liability under workmen's compensation. In the case of any liability under any workmen's compensation agreement, plan or law; or

VI. Fraud or collusion. When there is fraud or collusion between the judgment creditor and the insured.

No ~~bill in equity~~ **civil action** shall be brought against an insurance company to reach and apply said insurance money until 20 days shall have elapsed from the time of the rendition of the final judgment against the judgment debtors.'

Sec. 212. R. S., c. 60, § 313, amended. The first sentence of section 313 of chapter 60 of the Revised Statutes is amended to read as follows:

'Penalties for violation of any law of the State relating to insurance may be recovered in ~~an a civil action of debt~~ in the name and to the use of the State or enforced by indictment.'

Sec. 213. R. S., c. 60, § 330, sub-§ III, amended. The first 3 sentences of subsection III of section 330 of chapter 60 of the Revised Statutes are amended to read as follows:

'Any order or decision of the commissioner shall be subject to review by ~~a Justice of the Superior Court in term time or vacation~~ by an appeal taken within 15 days after the date of such order or decision to the Superior Court held in and for the County of Kennebec at the instance of any party in interest and aggrieved by said order or decision. Such appeal shall be prosecuted by ~~petition~~ **complaint** to which such party shall annex the order or decision of the commissioner and the record upon which such order or decision is based and in which the appellant shall set out the substance of and the reasons for the appeal. Upon the filing thereof the court ~~in term time or a justice thereof in vacation~~ shall order notice thereof.'

Sec. 214. R. S., c. 60, § 347, sub-§ III, amended. The first 3 sentences of subsection III of section 347 of chapter 60 of the Revised Statutes are amended to read as follows:

'Any order or decision of the commissioner shall be subject to review by ~~a Justice of the Superior Court in term time or vacation~~ by an appeal taken within 15 days after the date of such order or decision to the Superior Court held in and for the County of Kennebec at the instance of any party in interest and aggrieved by said order or decision. Such appeal shall be prosecuted by ~~petition~~ **complaint** to which such party shall annex the order or decision of the commissioner and the record upon which such order or decision is based and in which the appellant shall set out the substance of and the reasons for the appeal. Upon the filing thereof the court ~~in term time or a justice thereof in vacation~~ shall order notice thereof.'

Sec. 215. R. S., c. 60, § 350, amended. Section 350 of chapter 60 of the Revised Statutes is amended to read as follows:

'Sec. 350. Appeal. Any person aggrieved by an order of the commissioner or by any rule or regulation promulgated by the commissioner may appeal therefrom to ~~a justice of the supreme judicial court or~~ the Superior Court. Such appeal shall be taken within 30 days, unless a shorter or different time is specified in a particular statute, but the commissioner or person conducting the hearing may for cause shown allow a longer time. The appellant shall ~~present to a justice of either of the above courts~~ file with the court a petition, in term time or vacation ~~complaint~~, setting forth the ground for appeal, and ~~such justice the court~~ shall fix time and place for hearing and cause notice thereof to be given the commission and other interested parties ~~as in equity~~. The appeal shall be heard on legal evidence, and after such hearing the ~~justice court~~ may affirm, modify or reverse the decision of the commissioner, and shall remand the cause to the commissioner for further proceedings in accordance with the court decree.'

Sec. 216. R. S., c. 61, § 45, amended. The last sentence of section 45 of chapter 61 of the Revised Statutes is amended to read as follows:

'Upon the revocation, for a 3-year period or more, of the license of any licensee in this section mentioned, the Attorney General shall bring ~~an~~ a civil action ~~of debt~~ in any county in the State, upon the bond given by such licensee, to recover the penal sum thereof as liquidated damages.'

Sec. 217. R. S., c. 61, § 57, amended. The 2nd paragraph of section 57 of chapter 61 of the Revised Statutes, as amended by section 13-A of chapter 218 of the public laws of 1957, is further amended to read as follows:

'If any person is aggrieved by the decision of the commission in revoking or suspending any license issued by the commission or by refusal of the commission to issue any license applied for, he may within ~~to~~ 30 days thereafter appeal to ~~any justice of~~ the Superior Court, by ~~presenting to him a petition~~ filing a ~~complaint~~ therefor ~~in term time or vacation~~. The ~~to day~~ 30-day period for appeal shall commence on the effective date of any suspension or revocation of a license, and, in the case of refusal of the commission to issue license, on the day when the commission sends by registered or certified mail notice to the applicant at the address of his business given in his application for license. Filing appeal in the Superior Court shall stop the running of the limitation period. ~~Such justice~~ The court shall forthwith fix a time and place for immediate hearing ~~which may be in vacation~~ and cause notice thereof to be given to the commission; ~~and after~~. After hearing, ~~such justice the court~~ may affirm, modify or reverse the decision of the commission. Pending judgment of the court, the decision of the commission in revoking or suspending any license shall remain in full force and effect. Appeal by such aggrieved person to the law court from such decision may be taken ~~as in equity cases~~. Upon such appeal ~~the proceedings shall be the same as in appeals in equity procedure~~, and the law court may, after consideration, reverse or modify any decree so made by ~~a justice the court~~ based upon an erroneous ruling or finding of law.'

Sec. 218. R. S., c. 69-A, § 8, sub § II, amended. The 4th and 5th sentences of subsection II of section 8 of chapter 69-A of the Revised Statutes, as enacted

by section 1 of chapter 303 of the public laws of 1959, are amended to read as follows:

'If any person served with a subpoena, to appear and testify, or to produce books, papers, accounts and documents, issued by the board in the course of an inquiry or hearing conducted under this chapter, shall, in disobedience of such subpoena, refuse, neglect or fail to appear or to testify, or to produce such books, papers, accounts or documents, then the board may apply to ~~any justice of the Superior Court in term time or vacation~~. Thereupon the said ~~justice court~~ shall issue a subpoena requiring such person to appear and to testify and to produce such books, papers, accounts and documents before the board.'

Sec. 219. R. S., c. 69-A, § 11, amended. The first sentence of section 11 of chapter 69-A of the Revised Statutes, as enacted by section 1 of chapter 303 of the public laws of 1959, is amended to read as follows:

'~~The supreme judicial court and the Superior Court shall have jurisdiction in equity~~, upon information filed by the county attorney at the request of the board, to restrain or enjoin any person from committing any act declared to be a misdemeanor by this chapter.'

Sec. 220. R. S., c. 79, § 10, amended. The 2nd paragraph of section 10 of chapter 79 of the Revised Statutes, as amended by section 6 of chapter 295 of the public laws of 1959, is further amended to read as follows:

'Such decree shall have the same effect and all proceedings in relationship thereto shall thereafter be the same as though rendered in a ~~suit in equity civil action in which equitable relief is sought~~ duly heard and determined by said court, and appeal may be had therefrom ~~in the same manner as in appeals in equity procedure to the law court~~, and the law court may after consideration reverse or modify any decree so made. When an appeal is taken from any such order, no fine shall be imposed for that period of time during which said appeal is pending.'

Sec. 221. R. S., c. 88, § 11, amended. The 3rd sentence of section 11 of chapter 88 of the Revised Statutes is amended to read as follows:

'Upon failure to pay such tax to the Treasurer of State, such promoter or promoters shall be liable to pay a penalty of 25% of the amount of the tax due, which penalty shall be recovered by ~~an a civil action on the case~~ brought in the name of the said commission, and the said penalty if recovered shall be paid to the Treasurer of State to be credited to the General Fund.'

Sec. 222. R. S., c. 89, § 12, amended. The 2nd sentence of section 12 of chapter 89 of the Revised Statutes is amended to read as follows:

'All assessments under ~~the provisions of~~ this chapter made by the county commissioners which include sums assessed for an illegal object shall not be void, nor shall any error, mistake, omission or inclusion of illegal sums in the assessment by the county commissioners void so much of the assessment as is assessed

for legal purpose; ~~and any.~~ Any person paying such tax may bring ~~an a civil~~ action ~~of debt~~ against the county in the Superior Court for the same county and shall recover so much of the sum paid as was assessed for an illegal object, with 25% interest and costs and any damages which he has sustained by reason of the mistakes, errors or omissions of such commissioners.'

Sec. 223. R. S., c. 89, § 31, amended. Section 31 of chapter 89 of the Revised Statutes is amended to read as follows:

'**Sec. 31. Warrants of distress; actions.** Warrants of distress, on judgments legally rendered by the county commissioners, may be originally issued within 2 years after judgment and made returnable to the clerk's office within 90 days from their date. New warrants may be issued within 2 years from the return day of the last preceding warrant for sums remaining unsatisfied. No warrant shall be originally issued against a town until 20 days after a certificate of rendition of the judgment is transmitted by their clerk to the assessors of such town. Interest on the damages shall be included and collected by such warrants as in executions. A party, for whose benefit a judgment is rendered by them, may recover the amount in ~~an a civil~~ action ~~of debt~~ founded on such judgment.'

Sec. 224. R. S., c. 89, § 52, amended. Section 52 of chapter 89 of the Revised Statutes is amended to read as follows:

'**Sec. 52. Record location of highway when lost or disregarded by agent; proceedings to stop work.** When a highway is laid out through a town and an agent appointed by the county commissioners to open and make it, and the record location thereof cannot be found on the face of the earth or consistently applied thereto or said agent is not making said highway according to the record location, the municipal officers or town agent may file a ~~bill in equity complaint~~ in the ~~Supreme Judicial or Superior Court~~ setting forth the facts ~~aforsaid~~ and praying an injunction to stay the proceedings of said road agent; ~~and any. Justice of either of said courts~~ **The court** shall issue a summary notice to said road agent to appear before him to answer said ~~petition~~ **complaint** and on a hearing of the parties may issue a temporary injunction upon such terms and conditions as he deems reasonable; ~~and subsequent.~~ **Subsequent** proceedings on the ~~bill~~ **complaint** shall be similar to proceedings in ~~equity in other cases other civil~~ actions in which equitable relief is sought.'

Sec. 225. R. S., c. 89, § 54, amended. Section 54 of chapter 89 of the Revised Statutes is amended to read as follows:

'**Sec. 54. Damages.** A person entitled to receive payment of damages or costs may, after 30 days from demand on the treasurer of the county or town or on the party liable therefor, recover them in ~~an a civil~~ action ~~of debt~~.'

Sec. 226. R. S., c. 89, § 66, amended. The last sentence of section 66 of chapter 89 of the Revised Statutes is amended to read as follows:

'In addition to the foregoing method for the collection of highway taxes, the county commissioners of any county may, in writing, at any time subsequent to that when the lands so assessed might be sold for nonpayment of the taxes

assessed thereon, direct the treasurer of such county to commence ~~an~~ a civil action ~~of debt~~ in the name of the inhabitants of said county against the party liable to pay such taxes; ~~but no~~. No such defendant shall be liable for any costs ~~of suit~~ in such action, unless it appears by the declaration and proof that payment of said tax had been duly demanded by said treasurer before the ~~suit~~ action was commenced.'

Sec. 227. R. S., c. 89, § 67, amended. Section 67 of chapter 89 of the Revised Statutes is amended to read as follows:

'**Sec. 67. Prima facie proof of title by purchase at such sale.** In any trial ~~at law or in equity~~ involving the validity of any sale or forfeiture of such lands, as provided in ~~the preceding~~ section 66, it shall be prima facie proof of title for the party claiming under it to produce in evidence the county treasurer's deed, duly executed and recorded, the assessments signed by the county commissioners and certified by them or their clerk to the county treasurer, and to prove that the county treasurer complied with the requirements of law in advertising and selling.'

Sec. 228. R. S., c. 89, § 75, amended. The last sentence of section 75 of chapter 89 of the Revised Statutes is amended to read as follows:

'For neglecting to keep such boat he forfeits \$20, and for neglect of attendance, \$1, to the prosecutor in ~~an~~ a civil action ~~of debt~~; and is liable in ~~an~~ a civil action ~~on the case~~ to the party injured for his damages.'

Sec. 229. R. S., c. 89, § 76, amended. Section 76 of chapter 89 of the Revised Statutes is amended to read as follows:

'**Sec. 76. Action on ferryman's bond.** Anyone injured in person or property by the negligence or default of a ferryman may commence a ~~suit~~ civil action on his bond, in which the proceedings shall be similar to those in actions on the bonds of sheriffs.'

Sec. 230. R. S., c. 89, § 78, amended. Sections 78 of chapter 89 of the Revised Statutes is amended to read as follows:

'**Sec. 78. Keeping ferry or conveying passengers or property contrary to law.** A person who keeps a ferry contrary to ~~the provisions of~~ sections 73 or 74, or without authority transports passengers or property across any licensed or established ferry for hire or furnishes for hire a boat or other craft for such purpose, forfeits \$4 for each day such ferry is kept or for each time of transportation, and is ~~also~~ liable to the party injured and keeping the ferry at or near the place for damages sustained by him in ~~an~~ a civil action ~~on the case~~.'

Sec. 231. R. S., c. 89, § 80, amended. Section 80 of chapter 89 of the Revised Statutes is amended to read as follows:

'**Sec. 80. Ferryman's neglect of duty.** The ferryman or person so contracting forfeits \$10 for each day's neglect to perform such duty and is liable, in ~~an~~ a civil action ~~on the case~~, for damages to any person injured thereby.'

Sec. 232. R. S., c. 89, § 83, amended. Section 83 of chapter 89 of the Revised Statutes is amended to read as follows:

'**Sec. 83. Obstruction to ferries.** Whoever places a weir or other obstacle or without necessity anchors or places a raft, vessel or water craft so as to obstruct the ordinary passageway of any boat at a ferry licensed or established forfeits \$20 to the proprietor of the ferry, to be recovered in ~~an~~ a civil action ~~on the case~~, unless such obstruction was inadvertently made and removed within 30 minutes, if practicable, after notice given of its improper position, or unless it was occasioned by hauling into a wharf, pier, landing or dock, without unreasonable delay or willful misconduct.'

Sec. 233. R. S., c. 89, § 94, amended. Section 94 of chapter 89 of the Revised Statutes is amended to read as follows:

'**Sec. 94. Injuring meridians.** Whoever willfully displaces, alters, defaces, breaks or otherwise injures any of the pillars or points, plates, enclosures, bars, locks, bolts or any part of the structure of any meridian line or standard of length shall forfeit not more than \$100, to be recovered by indictment, half to the prosecutor and half to the county, and shall ~~also~~ be liable in ~~an~~ a civil action ~~of debt~~ for the amount necessarily expended in repairing damages caused by his act.'

Sec. 234. R. S., c. 89, § 99, amended. Section 99 of chapter 89 of the Revised Statutes as amended by section 2 of chapter 190 of the public laws of 1959, is further amended to read as follows:

'**Sec. 99. Fees.** The fees of clerks of the judicial courts shall be as follows:

For every blank writ of attachment with a summons, ~~or of scire facias~~ or an original summons, 10c.

Blank writs of replevin with the seal, signature and blank bond, 20c.

Entry of an action, or entering up and recording the judgment ~~whether on a verdict, demurrer, nonsuit or default~~, \$1.

Copies, minimum of \$1, for first 500 words if the writing contains that number and 20c for each 100 words or fraction thereof in excess of 500 words.

Recording ~~a petition~~ the **complaint in an action** for partition, and any order thereon, at the rate of 25c a page of 224 words.

Recording petition and proceedings for release of attachment and making copy and certificate, \$2.

Making certificate of dissolution of attachment by judgment for defendant, 50c.

Entry of a rule of court upon the parties submitting a cause to referees, 25c.

Proving a deed in court and certifying the same, \$1.

Making certificate of approval by judge, of sale of real estate and price, when husband or wife refuses to release interest and right by descent, \$1.

Authenticating the official signature of a magistrate, 50c.

Original or other writ of execution in personal matters and filing the same when returned, 50c.

Writ of possession in real actions, 50c.

Writ of protection or habeas corpus, 50c.

Subpoena for one witness or more or with a duces tecum, 10c.

Recording certificate of discharge of a soldier or seaman from the army or navy of the United States, 25c and for a copy of such record, 25c.

Recording certificate of registration in veterinary surgery, \$1.

For making up the record in ~~an equity case~~ **a civil action in which equitable relief is sought**, the court may allow a further sum, not exceeding \$1 for the first 500 words if the writing contains that number, and 20c for each 100 words or fraction thereof in excess of 500 words, to be taxed by the clerk.

For each certificate or copy of judgment or decree ~~in equity~~, 50c for the first page and 25c for each additional page which, together with the fees of the register of deeds for recording such certificate or copy, may be taxed in the costs of ~~suit~~ **a civil action**.

Warrant to make a partition, \$1.

Process to enforce a lien on personal property, \$2.

Commission to referee, auditor, surveyor or other officer appointed by the court, \$1.50.

Writ of review, \$1.

~~Writ of seire facias, \$1.~~

Every writ and seal other than before-mentioned, \$1.

For filing each warrant for state sales or use tax, \$1.'

Sec. 235. R. S., c. 89, § 107, amended. Section 107 of chapter 89 of the Revised Statutes, as amended by chapter 225 of the public laws of 1957, is further amended to read as follows:

'**Sec. 107. Record of civil actions.** After the rendition of final judgment or decree in any civil ~~case at law or in equity action~~, the clerk shall as soon as may be make such a record thereof in short form, except in such specific instances as the court by general rule or special order may direct. If either party ~~how-~~ **ever** files a request and tenders the fees therefor, a full, extended record shall be made. The court may establish the form of such short form record and full, extended record.'

Sec. 236. R. S., c. 89, § 110, amended. Section 110 of chapter 89 of the Revised Statutes is amended to read as follows:

'**Sec. 110. Disposal of money collected by action on clerk's bond.** The money recovered in such ~~suit~~ **action** shall be applied under direction of the court, to

complete the deficient records. If more than sufficient, the balance inures to the State. If not sufficient, the balance may be recovered by the Treasurer of State in an action ~~on the case~~ founded on the bond and facts.'

Sec. 237. R. S., c. 89, § 115, amended. The first sentence of section 115 of chapter 89 of the Revised Statutes is amended to read as follows:

'The county attorney in each county shall appear for the county, under the direction of the county commissioners, in all ~~suits~~ **actions** and other civil proceedings in which the county is a party or interested, or in which the official acts and doings of said county commissioners are called in question, in all the courts of the State, and in such ~~suits~~ **actions** and proceedings before any other tribunal when requested by said commissioners.'

Sec. 238. R. S., c. 89, § 118, amended. The last sentence of section 118 of chapter 89 of the Revised Statutes is amended to read as follows:

'If he neglects either of said duties, he forfeits to the State, not more than \$100, to be recovered in ~~an a civil action of debt~~ in the name of the Treasurer of State.'

Sec. 239. R. S., c. 89, § 146, amended. Section 146 of chapter 89 of the Revised Statutes is amended to read as follows:

'**Sec. 146. Forfeiture for neglect to give bond.** Any sheriff for each month's neglect to give the security required in sections 142 or 145, which neglect shall be reported by the State Auditor to the Treasurer of State, forfeits \$150 to the State to be recovered in ~~an a civil action of debt~~ by the Treasurer of State; ~~and the.~~ The Attorney General shall prosecute therefor; ~~and the.~~ The clerk of courts of his county shall certify such sheriff's name to the Governor and Council and the Attorney General; ~~and unless.~~ Unless reasonable cause therefor is shown, or within 20 days after the clerk has so certified, he gives or renews his security to the satisfaction of the Governor and Council, he thereby vacates his office.'

Sec. 240. R. S., c. 89, § 150, sub-§§ I and III, amended. Subsections I and III of section 150 of chapter 89 of the Revised Statutes, as amended by chapter 339 of the public laws of 1957, are further amended to read as follows:

I. Writs; civil process. For service of all writs with summons, precepts, notices, subpoenas, executions, court orders, orders of service, copies, ~~bills in equity~~ **equitable proceedings** with subpoena issued thereon and all other civil process or papers requiring service which are not specifically hereinafter enumerated, they shall receive therefor \$3 for each such service.'

III. Complaint for divorce. For the service of ~~libel~~ **complaint** for divorce ~~inserted in with~~ writ of attachment by serving summons and attested copy of writ and ~~libel~~ **complaint**, or for the service of ~~libel~~ **complaint** for divorce with order of court thereon by attested copy, \$5.'

Sec. 241. R. S., c. 89, § 164, amended. Section 164 of chapter 89 of the Revised Statutes, as amended by section 46 of chapter 317 of the public laws of 1959, is further amended to read as follows:

'Sec. 164. Person injured by misdoings of sheriff may sue his bond; indorsement of writ, summons or complaint; costs; judgment. Any person injured by the neglect or misdoings of a sheriff, who has first ascertained the amount of his damages by judgment in a ~~suit~~ **civil action** against him, his executors or administrators, or by a decree of the probate court allowing his claim, may, at his own expense in the name of the Treasurer of State, institute a ~~suit~~ **civil action** on his official bond in the county where he was authorized to act and prosecute it to final judgment and execution. His name and place of residence or that of his attorney shall be indorsed on the writ, summons or complaint and the indorser alone is liable for costs. If judgment is rendered for the Treasurer of State, it shall be for the damages ascertained as aforesaid, or so much thereof as remains unpaid, with interest; ~~and the.~~ **The party's name for whom the ~~suit~~ action was brought shall be expressed in the execution issued thereon. If the judgment is for the defendant, it shall be against the party for whom the ~~suit~~ action was brought.**

Sec. 242. R. S., c. 89, § 203, amended. Section 203 of chapter 89 of the Revised Statutes is amended to read as follows:

'Sec. 203. Copy of writ delivered to defendant on request; neglect. Every officer, plaintiff or his attorney, having in his possession a writ on which an attachment has been made, shall make and deliver to the debtor or his attorney, if requested and the legal fee tendered, an attested copy thereof, and if he unreasonably refuses or neglects to do so for 24 hours, he forfeits \$5 and \$5 additional for every subsequent 24 hours that he so refuses or neglects; ~~and such.~~ **Such** forfeit shall be recovered by the debtor to his own use, in ~~an~~ **a civil action of debt.'**

Sec. 243. R. S., c. 89, § 205, amended. Section 205 of chapter 89 of the Revised Statutes is amended to read as follows:

'Sec. 205. No officer to be attorney or draw papers; no employee of jailer to act as magistrate or attorney. No ~~such~~ **officer aforesaid** shall appear before any court or justice of the peace as attorney or adviser of any party in ~~a~~ **suit an action** or draw any writ, complaint, declaration, citation, process or plea for any other person; ~~, and all such acts done by either of them are void; and no.~~ **No** person employed by the keeper of a jail in any capacity shall exercise any power or duty of a magistrate or act as attorney for any person confined in the jail; ~~, and all such acts are void.'~~

Sec. 244. R. S., c. 89, § 206, amended. Section 206 of chapter 89 of the Revised Statutes is amended to read as follows:

'Sec. 206. Service of writs in actions against officers for breach of duty, where principal defendant out of State. In actions against sheriffs, deputy sheriffs and constables for breach of official duty where the principal defendant is out of the State, ~~the writ service may be served made on such defendant by leaving~~ **delivering** a copy of the summons and of the ~~same with~~ **complaint** to each of the sureties on his official bond 14 days before the return day thereof, and the ~~court in the county where the writ is returnable, either before or after entry,~~ **Superior Court** may order further notice to the defendant by publication

of an abstract of the ~~writ~~ **complaint** and order thereon in some newspaper published in the county where the writ is returnable, or in the state paper or in such other manner as the court directs; ~~and if.~~ **If** the order is complied with and proved, the defendant shall answer to the ~~suit~~ **action** and judgment in such case has the same effect as if personal service was made upon the principal defendant.'

Sec. 245. R. S., c. 89, § 224, amended. The last sentence of section 224 of chapter 89 of the Revised Statutes is amended to read as follows:

'If payment for such services has been made to his predecessor, he shall be paid for them out of the county treasury, and the former register and his sureties shall refund such payments to the county treasury, to be recovered by ~~suit~~ **a civil action** upon his official bond.'

Sec. 246. R. S., c. 89, § 226, amended. Section 226 of chapter 89 of the Revised Statutes is amended to read as follows:

'**Sec. 226. Recording officer not to draft or aid in drafting any document he is to record.** No city, town, county or state officer whose duty is to record conveyances of any kind, assignments, certificates or other documents or papers whatsoever shall draft or aid in drafting any conveyance, assignment, certificate or other document or paper which he is by law required to record, in full or in part, under a penalty of not more than \$100, to be recovered by any complainant by **a civil action of debt** for his benefit or by indictment for the benefit of the county.'

Sec. 247. R. S., c. 89, § 230, amended. The first sentence of section 230 of chapter 89 of the Revised Statutes is amended to read as follows:

'Registers shall receive and record all certificates in ~~equity~~ **equitable proceedings**, copies of judgments and decrees certified by the clerk of courts in the county where the ~~bill~~ **complaint** is pending or the judgment or decree is rendered, certified copies of the proceedings of any court, corporation, municipal body or other tribunal through or by which the right of eminent domain has been or may hereafter be exercised to affect the title to real estate, copies of portions of wills devising real estate situated in their respective counties or districts and all other instruments which they are by law required to record.'

Sec. 248. R. S., c. 89, § 233, amended. The last sentence of section 233 of chapter 89 of the Revised Statutes is amended to read as follows:

'If such party, after request by any interested party or by the register of deeds, fails to comply with ~~the provisions of~~ this section, he shall be liable to a penalty of not more than \$50, to be recovered in ~~an~~ **a civil action of debt** in the name of the register of deeds for the benefit of the county.'

Sec. 249. R. S., c. 90-A, § 3, sub-§ IV, ¶ C, sub-¶ 5, div. (b), amended. Division (b) of subparagraph 5 of paragraph C of subsection IV of section 3 of chapter 90-A of the Revised Statutes, as enacted by section 1 of chapter 405 of the public laws of 1957 and as amended by section 52 of chapter 317 of the public laws of 1959 is further amended to read as follows:

'(b) The appeal to the Superior Court shall be ~~entered at the term first occurring in the county filed~~ not less than 30 days after the order or decision from which the appeal is taken. Notice of the appeal shall be ordered by the court ~~in term time or by a justice in vacation~~, and the appeal shall be tried and determined by the court without a jury in the manner and with the rights provided by law in other civil ~~cases actions~~ so heard. Costs may be awarded to the prevailing party by the court as justice requires.'

Sec. 250. R. S., c. 90-A, § 10, amended. The first sentence of section 10 of chapter 90-A of the Revised Statutes, as enacted by section 1 of chapter 405 of the public laws of 1957, is amended to read as follows:

'When a controversy respecting a boundary line exists between adjoining municipalities, either may ~~petition file a complaint with~~ the Superior Court stating the facts and requesting that the line be run.'

Sec. 251. R. S., c. 90-A, § 56, sub § III, amended. Subsection III of section 56 of chapter 90-A of the Revised Statutes, as enacted by section 1 of chapter 405 of the public laws of 1957, is amended to read as follows:

'III. **Restrain proceedings.** The ~~Supreme Judicial Court in equity or the Superior Court in equity~~ may restrain proceedings in a municipality in violation of this section on the application of at least 10 taxable residents.'

Sec. 252. R. S., c. 90-A, § 61, sub-§ III, ¶ B, sub-¶ 2, amended. Subparagraph 2 of paragraph B of subsection III of section 61 of chapter 90-A of the Revised Statutes, as enacted by section 1 of chapter 405 of the public laws of 1957 and as amended by section 53 of chapter 317 of the public laws of 1959, is further amended to read as follows:

'2. The appeal to the Superior Court shall be taken within 30 days after the decision. Notice of the appeal shall be ordered by the court ~~in term time or by a justice in vacation~~, and the appeal shall be tried and determined by the court without a jury in the manner and with the rights provided by law in other civil ~~cases actions~~ so heard. ~~The appeal shall be tried at the term to which the notice is returnable unless otherwise ordered by the court~~ Costs may be awarded to the prevailing party by the court as justice requires.'

Sec. 253. R. S., c. 91-A, § 66, amended. Section 66 of chapter 91-A of the Revised Statutes, as enacted by section 1 of chapter 399 of the public laws of 1955, is amended to read as follows:

'**Sec. 66. Collectors to account; penalty.** Every tax collector shall, on the last day of each month, pay to the municipal treasurer all moneys collected by him, and once in 2 months at least shall exhibit to the municipal officers a just and true account of all moneys received on taxes committed to him and excise taxes collected by him, and produce the treasurer's receipt for money by him paid; ~~and for.~~ For each neglect, he forfeits to the municipality \$100 to be recovered by the municipal officers thereof ~~in an a civil action of debt.~~

Sec. 254. R. S., c. 91-A, § 71, amended. The last paragraph of section 71 of chapter 91-A of the Revised Statutes, as enacted by section 1 of chapter 399 of the public laws of 1955, is amended to read as follows:

'If such tax collector refuses to deliver the tax lists and to pay all moneys in his hands collected by him, when duly demanded, he shall be subject to ~~the provisions of~~ section 78, and is liable to pay what remains due on the tax lists, said sum to be recovered by the municipal officers in ~~an a civil action of debt.~~'

Sec. 255. R. S., c. 91-A, § 87, amended. The first sentence of the 3rd paragraph of section 87 of chapter 91-A of the Revised Statutes, as enacted by section 1 of chapter 399 of the public laws of 1955, is amended to read as follows:

'After the expiration of said 10 days ~~an a civil action of debt~~ for the collection of the tax may be brought in the county where the real estate lies, against the person to whom said tax is assessed.'

Sec. 256. R. S., c. 91-A, § 90, amended. The first sentence of section 90 of chapter 91-A of the Revised Statutes, as enacted by section 1 of chapter 399 of the public laws of 1955, is amended to read as follows:

'A tax lien mortgage filed in accordance with ~~the provisions of~~ sections 88 and 89 may be foreclosed by an action ~~in equity for equitable relief~~ in the following manner.'

Sec. 257. R. S., c. 91-A, § 90, sub-§ III, amended. Subsection III of section 90 of chapter 91-A of the Revised Statutes, as enacted by section 1 of chapter 399 of the public laws of 1955, is amended to read as follows:

III. Foreclosure of tax lien mortgage. If said tax lien mortgage together with interest and costs shall not be paid within 6 months after the date of recording the waiver of foreclosure thereof, the tax lien mortgage may be foreclosed in an action ~~in equity for equitable relief.~~

Sec. 258. R. S., c. 91-A, § 91, amended. Section 91 of chapter 91-A of the Revised Statutes, as enacted by section 1 of chapter 399 of the public laws of 1955 and as amended by section 57 of chapter 317 of the public laws of 1959, is further amended to read as follows:

'Sec. 91. Foreclosure in action for equitable relief; alternative procedure; class action. In addition to and as an alternative to the proceedings for foreclosure of a tax lien mortgage under ~~the provisions of~~ section 90 a municipality may, provided a waiver of foreclosure thereof has been recorded in accordance with ~~the provisions of~~ section 90, foreclose any tax lien mortgage held by the municipality for a period of at least 4 years from the date of filing of the tax lien certificate in the registry of deeds by an action in rem ~~in equity for equitable relief~~ in the following manner:

I. Action in rem for equitable relief. Such actions may be commenced on or before the first day of April in each year and each such action shall relate only to tax lien mortgages arising from taxes assessed in a given year. The

action in rem ~~in equity~~ **for equitable relief** shall be entitled substantially as follows: (Name of municipality) against all persons having, or claiming to have, an interest in sundry parcels of real estate in (name of municipality) for the foreclosure of tax lien mortgages arising from taxes assessed in the year the defendants in said action shall be described as aforesaid in lieu of naming them.

II. Complaint. The municipality shall set forth in substance in the ~~bill of~~ complaint the following:

- A. That the municipality holds the tax lien mortgages referred to in the ~~bill~~ **complaint**;
- B. That the tax lien mortgages arose from taxes assessed in a given year;
- C. That the real estate described in the tax lien mortgages is located in (name of municipality), and the tax lien mortgages are recorded in a named registry of deeds.
- D. The municipality shall further set forth in the ~~bill of~~ complaint with respect to each tax lien mortgage in substance the following:

That a tax of \$..... was duly assessed against
 (Name of person)
 on real estate bounded and described as follows:

 for the year.....; that on..... a tax lien certificate thereon was
 (date)
 recorded inCounty registry of deeds in Book.....,
 Page.....; that on..... a waiver of foreclosure thereof
 (date)
 was recorded in said registry of deeds in Book....., Page.....;
 that said tax of \$....., costs to date of \$....., together with in-
 terest at per cent per annum from is and still
 (date)
 remains unpaid.

III. Notice. The court shall order that notice of the pendency of the complaint be given to the defendants:

- A. By publication of a true copy of the complaint and the order of notice thereon, attested by the clerk of courts, in a newspaper published or printed in whole or in part in the county where the municipality is situated, if any, or if none, in the state paper, once a week for 3 successive weeks with the last publication not less than 30 days before the time set for appearance of the defendants;

B. By posting a true copy of the complaint and the order of notice thereof, attested by the clerk of courts, in at least 3 public places within the municipality not less than 30 days before the time set for appearance of the defendants; and

C. By mailing a copy of the published notice to the defendants at their last known addresses.

IV. No personal judgment. In such action, no personal judgment against a defendant shall be entered. Each person answering the ~~bill of~~ complaint shall have the right to the severance of the action as to the parcel of real estate in which he is interested.'

Sec. 259. R. S., c. 91-A, § 92, amended. Section 92 of chapter 91-A of the Revised Statutes, as enacted by section 1 of chapter 399 of the public laws of 1955 and as amended by section 58 of chapter 317 of the public laws of 1959, is further amended to read as follows:

'Sec. 92. Action for equitable relief after period of redemption; procedure. A municipality which has become the purchaser at a sale of real estate for non-payment of taxes or which as to any real estate has pursued the alternative method for the enforcement of liens for taxes provided in sections 88 and 89, whether in possession of such real estate or not, after the period of redemption from such sale or lien has expired, may maintain ~~a suit in equity~~ **an action for equitable relief** against any and all persons who claim or may claim some right, title or interest in the premises adverse to the estate of such municipality.

I. Service. Service shall be made as in other actions on all defendants who can with due diligence be personally served within the State. If any defendants cannot be so served or are described in the complaint as being unascertained, service shall be made by publication as in other actions in which publication is required. A copy of the published notice shall be mailed to all known defendants at their last known addresses if they have not been personally served.

II. Decree; effect. The plaintiff municipality in such ~~suit~~ action shall pray the court to establish and confirm its title to the premises described in the ~~bill~~ **complaint** as against all the defendants named or described therein, and if upon hearing the court shall find the plaintiff's title so to be good it shall make and enter its decree accordingly, which decree when recorded in the registry of deeds for the county or district where the real estate lies shall have the effect of a deed of quitclaim of the premises involved in the ~~suit~~ **action** from all the defendants named or described therein to the plaintiff municipality.

III. Jury At the trial of the cause, issues of fact may be framed upon application of any party to be tried by a jury whose verdict shall have the same effect as the verdict of a jury in **civil** actions ~~at law~~.'

Sec. 260. R. S., c. 91-A, § 93, amended. Section 93 of chapter 91-A of the Revised Statutes, as enacted by section 1 of chapter 399 of the public laws of 1955, is amended to read as follows:

Sec. 93. Presumption of validity. In an action to foreclose a tax lien mortgage under ~~the provisions of~~ sections 90, 91 or 92, the proceedings from and including the assessment of the tax upon which such tax lien mortgage is based to and including the time of filing ~~the bill of the~~ complaint in such action need not be set forth in the ~~bill~~ complaint, pleaded or proved and shall be presumed to be valid. A defendant alleging any invalidity or defect in such proceedings must specify in his answer such invalidity or defect and must establish such defense.'

Sec. 261. R. S., c. 91-A, § 95, amended. The first sentence of section 95 of chapter 91-A of the Revised Statutes, as enacted by section 1 of chapter 399 of the public laws of 1955, is amended to read as follows:

'At the trial of any action for the collection of taxes, or of any **civil action** ~~at law or in equity~~ involving the validity of any sale of real estate for nonpayment of taxes, or involving any tax lien certificate under ~~the provisions of~~ sections 88 and 89 and the title to real estate acquired upon foreclosure of the tax lien mortgage, if it shall appear that the tax in question was lawfully assessed, the court may permit the tax collector or other officer to amend his record, return, deed or certificate in accordance with the fact, when circumstantial errors or defects appear therein; , provided ~~that~~ the rights of 3rd parties are not injuriously affected thereby.'

Sec. 262. R. S., c. 91-A, § 107, amended. Section 107 of chapter 91-A of the Revised Statutes, as enacted by section 1 of chapter 399 of the public laws of 1955, is amended to read as follows:

Sec. 107. Collector may bring an action in own name. Any tax collector or his executor or administrator may ~~sue~~ bring a **civil action** in his own name for any tax, ~~in an action of debt~~ and no trial justice or judge of any municipal court before whom such ~~suit~~ action is brought is incompetent to try the same by reason of his residence in the municipality assessing said tax. No defendant is liable for any costs of ~~suit~~ the action, unless it appears by the declaration and by proof that payment of said tax had been duly demanded before ~~suit~~ the action.'

Sec. 263. R. S., c. 91-A, § 108, amended. Section 108 of chapter 91-A of the Revised Statutes, as enacted by section 1 of chapter 399 of the public laws of 1955, is amended to read as follows:

Sec. 108. Action may be brought in name of municipality. In addition to other provisions for the collection of taxes, the municipal officers of any municipality to which a tax is due may in writing direct ~~an a civil action of debt~~ to be commenced in the name of such municipality against the party liable; but no such defendant is liable for any costs of ~~suit~~ the action, unless it appears by the declaration and by proof that payment of said tax had been duly demanded before ~~suit~~ the action.'

Sec. 264. R. S., c. 91-A, § 118, amended. Section 118 of chapter 91-A of the Revised Statutes, as enacted by section 1 of chapter 399 of the public laws of 1955, is amended to read as follows:

Sec. 118. Delivery of deed to purchaser after 2 years. If the estate is not redeemed within the time specified by payment of the full amount required by ~~the provisions of this chapter~~, the municipal treasurer shall deliver to the purchaser the deeds lodged with him by the tax collector; ~~and if~~. If he willfully refuses to deliver such deed to said purchaser, on demand, after said 2 years and forfeiture of the land ~~as aforesaid~~, he forfeits to said purchaser the full value of the property so to be conveyed, to be recovered in ~~an a civil action of debt~~, with costs and interest as in other cases; ~~the~~. The sureties of said treasurer shall make good the payment ~~here~~ required in default of payment by the principal; ~~and on~~. On the failure of both, the municipality is liable.'

Sec. 265. R. S., c. 91-A, § 119, amended. Section 119 of chapter 91-A of the Revised Statutes, as enacted by section 1 of chapter 399 of the public laws of 1955, is amended to read as follows:

Sec. 119. Nonresident owner's action; time limit. Any nonresident owner of real estate sold under ~~the provisions of~~ section 112, having paid the taxes, costs, charges and interest as ~~aforesaid provided~~, may, at any time within one year after making such payment, commence a ~~suit~~ **civil action** against the municipality to recover the amount paid, and if on trial it appears that the money raised was for an unlawful purpose, he shall have judgment for the amount so paid. If not commenced within the year, the claim shall be forever barred. The ~~suit~~ **civil action** may be in the Superior Court and the plaintiff recovering judgment therein shall have full costs, although the amount of damages is less than \$20.'

Sec. 266. R. S., c. 91-A, § 121, amended. Section 121 of chapter 91-A of the Revised Statutes, as enacted by section 1 of chapter 399 of the public laws of 1955, is amended to read as follows:

Sec. 121. Collector's deed; prima facie evidence of validity of sale. In the trial of any **civil action at law or in equity**, involving the validity of any sale of real estate for nonpayment of taxes, it shall be sufficient for the party claiming under it, in the first instance to produce in evidence the tax collector's deed, duly executed and recorded, which shall be prima facie evidence of his title, and if the other party claims and offers evidence to show that such sale was invalid and ineffectual to convey the title, the party claiming under it shall have judgment in his favor so far as relates to said tax title, if he then produces the assessment, signed by the assessors, and their warrant to the tax collector, and proves that such tax collector complied with the requirements of law in selling such real estate; ~~and in~~. In all **civil actions** involving the validity of such sales the tax collector's return to the municipal clerk shall be prima facie evidence of all facts therein set forth.'

Sec. 267. R. S., c. 93, § 14, amended. Section 14 of chapter 93 of the Revised Statutes is amended to read as follows:

Sec. 14. Remedies of an obligee. An obligee of an authority shall have the right in addition to all other rights which may be conferred on such obligee, subject only to any contractual restrictions binding upon such obligee:

I. Compel performance. By mandamus, ~~suit~~ civil action or proceeding ~~at law or in equity~~ to compel said authority and the commissioners, officers, agents or employees thereof to perform each and every term, provision and covenant contained in any contract of said authority with or for the benefit of such obligee, and to require the carrying out of any or all such covenants and agreements of said authority and the fulfillment of all duties imposed upon said authority by this chapter.

II. Enjoin. By ~~suit~~ civil action or proceeding ~~in equity~~ to enjoin any acts or things which may be unlawful or the violation of any of the rights of such obligee of said authority.'

Sec. 268. R. S., c. 94, § 20, amended. The 2nd sentence of section 20 of chapter 94 of the Revised Statutes is amended to read as follows:

'A town, the State or any kindred of a pauper, having incurred expense for the relief of such pauper, may complain to the Superior Court in the county where any of the kindred reside; ~~and the~~. The court may cause such kindred to be summoned, and upon hearing or default may assess and apportion a reasonable sum upon such as are found to be of sufficient ability for the support of such pauper to the time of such assessment; and shall issue a writ of execution ~~as in actions of tort~~.'

Sec. 269. R. S., c. 94, § 37, amended. The first sentence of section 37 of chapter 94 of the Revised Statutes is amended to read as follows:

'A town which has incurred expense for the support of a pauper or his wife, whether he has a settlement in that town or not, may recover the full amount expended for the support of either or both, from either the pauper or his wife, their executors or administrators, in ~~an a civil action of assumpsit~~.'

Sec. 270. R. S., c. 90, § 42, amended. Section 42 of chapter 94 of the Revised Statutes is amended to read as follows:

'**Sec. 42. Bringing paupers into a town.** Whoever brings into and leaves in a town any poor, indigent or ~~insane mentally ill~~ person, having no visible means of support and having no settlement in such town, or hires or procures such person to be so brought, or aids or abets in so doing, knowing such person to be poor, indigent or ~~insane mentally ill as aforesaid~~, with intent to charge such town in this State with the support of such person, shall be punished by a fine of not more than \$300 or by imprisonment for not more than 11 months; and shall be further liable to any town or to the State for such sums or money as are expended by such town or by the State for the support and maintenance of such person which may be recovered in ~~an a civil action on the case~~.'

Sec. 271. R. S., c. 96, § 12, amended. Section 12 of chapter 96 of the Revised Statutes is amended to read as follows:

'**Sec. 12. Violations of sections 8 and 9.** Whoever violates any provisions of sections 8 and 9 shall be punished by a fine of not more than \$100, to be recovered on complaint, and shall also be liable to ~~an a civil action on the case~~, brought by the park commissioners or by a taxpayer, in the name and for the benefit of the town or city wherein said offense is committed, for all damages sustained.'

Sec. 272. R. S., c. 96, § 70, amended. The last sentence of section 70 of chapter 96 of the Revised Statutes is amended to read as follows:

'All damage, accruing to a person in his business or property through neglect of such road commissioner or the municipal officers of such town to so render passable ways that are blocked or encumbered with snow, within a reasonable time, may be recovered of such town by a ~~special civil action on the case.~~'

Sec. 273. R. S., c. 96, § 79, amended. The first sentence of section 79 of chapter 96 of the Revised Statutes is amended to read as follows:

'Whoever willfully violates any provision of ~~the preceding~~ section 78 shall be punished, for the first offense by a fine of not more than \$50 and costs, and for each subsequent offense by a fine of not more than \$100 and costs, and shall be further liable for double the amount of the actual damage, to be recovered in ~~an~~ a civil action ~~on the case~~ by the city, town or plantation **municipality**, or, in behalf of any unorganized place, by the county where the offense is committed.'

Sec. 274. R. S., c. 96, & 89, amended. Section 89 of chapter 96 of the Revised Statutes is amended to read as follows:

'**Sec. 89. Persons injured by highway defects; damages; notice.** Whoever receives any bodily injury or suffers damages in his property through any defect or want of repair or sufficient railing in any highway, town way, causeway or bridge may recover for the same in a ~~special civil action on the case~~, to be commenced within one year from the date of receiving such injury or suffering damage, of the county or town obliged by law to repair the same, if the commissioners of such county or the municipal officers or road commissioners of such town or any person authorized by any commissioner of such county or any municipal officer or road commissioner of such town to act as a substitute for either of them had 24 hours' actual notice of the defect or want of repair, but not exceeding \$4,000 in case of a town; ~~and if~~. If the sufferer had notice of the condition of such way previous to the time of the injury, he cannot recover of a town unless he has previously notified one of the municipal officers of the defective condition of such way ~~and any~~. Any person who sustains injury or damage ~~as aforesaid~~ or some person in his behalf shall, within 14 days thereafter, notify one of the county commissioners of such county or of the municipal officers of such town by letter or otherwise, in writing, setting forth his claim for damages and specifying the nature of his injuries and the nature and location of the defect which caused such injury. If the life of any person is lost through such deficiency, his executors or administrators may recover of such county or town liable to keep the same in repair, in ~~an~~ a civil action ~~on the case~~, brought for the benefit of the estate of the deceased, such sum as the jury may deem reasonable as damages, if the parties liable had said notice of the deficiency which caused the loss of life ~~at~~. At the trial of any such action the court may, on motion of either party, order a view of the premises where the defect or want of repair is alleged when it would materially aid in a clear understanding of the case.'

Sec. 275. R. S., c. 96, § 93, amended. Section 93 of chapter 96 of the Revised Statutes is amended to read as follows:

'Sec. 93. Railroad company notified of action against town for defective crossing. In ~~an~~ a civil action against a town for damages alleged to have occurred by reason of a defect in a railroad crossing constituting part of a highway which said town is obliged to keep in repair, the railroad company owning or occupying such crossing may be notified of the pendency of the ~~suit~~ action and take upon itself the defense of the same.'

Sec. 276. R. S., c. 96, § 94, amended. Section 94 of chapter 96 of the Revised Statutes is amended to read as follows:

'Sec. 94. Liability of railroad company. In such trial described in section 93, after notice as provided therein, if the plaintiff recovers and the jury finds specially that the damage was occasioned by the fault of such company, it shall be liable to the defendants in said ~~suit~~ action in ~~an~~ a civil action of ~~debt~~ for all damage and costs paid by them.'

Sec. 277. R. S., c. 96, § 105, amended. The first sentence of section 105 of chapter 96 of the Revised Statutes is amended to read as follows:

'If the municipal officers of any town unreasonably neglect to cause a guide-post to be erected in their town as provided by law, they forfeit \$5 for each month's neglect, to be recovered in ~~an~~ a civil action ~~on the case~~ by any person suing therefor.'

Sec. 278. R. S., c. 96, § 106, amended. The last sentence of section 106 of chapter 96 of the Revised Statutes is amended to read as follows:

'If not so made, the person making it is liable to the town, in an action ~~on the case~~ for all damages occasioned by the repair of the way or paid to persons injured by defects therein caused by such excavation.'

Sec. 279. R. S., c. 96, § 122, amended. The last sentence of section 122 of chapter 96 of the Revised Statutes is amended to read as follows:

'If any owner or occupant, on requirement of the surveyor, neglects to furnish his proportion of labor, materials or money, the same may be furnished by the other owners and occupants and recovered of him in ~~an~~ a civil action ~~of the case~~.'

Sec. 280. R. S., c. 96, § 135, amended. Section 135 of chapter 96 of the Revised Statutes is amended to read as follows:

'Sec. 135. Actions for collection. If assessments under ~~the provisions of~~ section 131 are not paid, and said town does not proceed to collect said assessments by a sale of the lots or parcels of land upon which such assessments are made, or does not collect or is in any manner delayed or defeated in collecting such assessments by a sale of the real estate so assessed, then the said town, in the name of said town, may maintain ~~an~~ a civil action against the party so assessed for the amount of said assessment, ~~as for money paid, laid out and expended~~ in any court competent to try the same, and in such ~~suit~~ action may recover the amount of such assessment with 12% interest on the same from the date of said assessments and costs.'

Sec. 281. R. S., c. 96, § 136, amended. Section 136 of chapter 96 of the Revised Statutes is amended to read as follows:

'Sec. 136. Persons paying assessment to have lien on lot and buildings; enforcement. When any such assessment under ~~the provisions of~~ section 131 shall be paid by any person against whom such assessment has been made, who is not the owner of such lot or parcel of land, then the person so paying the same shall have a lien upon such lot or parcel of land with the buildings thereon for the amount of said assessment so paid by said person, and incidental charges, which lien may be enforced in ~~an a~~ **a civil action of assumpsit as for money paid, laid out and expended**, and by attachment in the way and manner provided for the enforcement of liens upon buildings and lots under ~~the provisions of~~ chapter 178, which lien shall continue one year after said assessment is paid.'

Sec. 282. R. S., c. 96, § 141, amended. Section 141 of chapter 96 of the Revised Statutes is amended to read as follows:

'Sec. 141. Connecting private drains with public, without permission. If any person connects a private drain with a public drain or enters it by a side drain without a permit, the municipal officers may forthwith destroy such connection; ~~and such.~~ **Such** person forfeits to the town where the offense is committed not more than \$200, to be recovered by indictment or **civil action of debt.**'

Sec. 283. R. S., c. 96, § 146, amended. Section 146 of chapter 96 of the Revised Statutes is amended to read as follows:

'Sec. 146. Private drain repaired, in case of owner's neglect. If a private drain becomes so obstructed or out of repair as to injure any street or highway, and the persons using it, after notice by the road commissioner, unreasonably neglect to repair such injury, it shall be repaired by the town and the expense thereof may be recovered to the town in ~~an a~~ **a civil action on the case** against any one or more of the persons using such drain.'

Sec. 284. R. S., c. 96, § 147, amended. Section 147 of chapter 96 of the Revised Statutes is amended to read as follows:

'Sec. 147. Willfully or carelessly injuring public drains. Whoever willfully or carelessly injures or obstructs such public drain or its outlet, or any street or highway culvert leading into it, is liable to the town where it is located in ~~an a~~ **a civil action on the case** for double the amount of injury and damages thereby caused, in addition to all other legal penalties therefor.'

Sec. 285. R. S., c. 96, § 153, amended. The last sentence of section 153 of chapter 96 of the Revised Statutes is amended to read as follows:

'If such a delinquent owner or proprietor neglects payment of said value and fees for one month after demand, the complainant may recover of him double the amount thereof with interest at the rate of 1% a month in ~~an a~~ a civil action on the case.'

Sec. 286. R. S., c. 96, § 156, amended. Section 156 of chapter 96 of the Revised Statutes is amended to read as follows:

Sec. 156. Application to Superior Court; notice. The proprietors, or a majority of them in interest, may apply by ~~petition~~ **complaint** to the Superior Court ~~sitting~~ in the county where the lands or any part of them lie, setting forth the proposed improvements and the reasons therefor ~~and the~~. The court shall cause notice of the ~~petition~~ **complaint** to be given in such manner as it may judge proper to any proprietors who have not joined in the ~~petition~~ **complaint**, that they may appear and answer thereto.'

Sec. 287. R. S., c. 96, § 158, amended. Section 158 of chapter 96 of the Revised Statutes is amended to read as follows:

Sec. 158. Commissioners to make improvements. The commissioners shall, according to the tenor of the ~~petition~~ **complaint** and order of court, cause dams or dikes to be erected on the premises at such places and in such manner as they direct, may order the land to be flowed thereby for such periods of each year as they deem most beneficial, and cause ditches to be opened on the premises and obstructions in any rivers or streams leading therefrom to be removed, ~~and they~~. They shall meet from time to time as may be necessary to cause the works to be completed according to their directions.'

Sec. 288. R. S., c. 96, § 170, amended. Section 170 of chapter 96 of the Revised Statutes is amended to read as follows:

Sec. 170. Notice required before entering upon premises of a third party; appeal. The commissioners, before proceeding to open floodgates, or to make other passages for water through or around any dam, or to erect a dam on the land of any person not a party to the proceedings, shall give him reasonable notice in writing of their intention, to enable him to appear before them and object thereto, ~~and if~~. If he appeals from their determination and gives notice in writing of his appeal to the commissioners or any of them, they shall suspend all proceedings upon his land until the appeal is determined, provided ~~that~~ the appeal is ~~entered at the court held next after the expiration of~~ filed in court ~~within~~ 7 days from the time of claiming the same.'

Sec. 289. R. S., c. 96, § 186, amended. Section 186 of chapter 96 of the Revised Statutes is amended to read as follows:

Sec. 186. Double compensation for building fence. When the complainant has completed such fence and, after notice given, it has been adjudged sufficient by 2 or more of the fence-viewers, and the value thereof, with the fence-viewers' fees, certified under their hands, he may demand of the occupant or owner of the land where the fence was deficient double the value and fees thus ascertained, ~~in~~. In case of neglect or refusal for one month after demand, he may recover the same by ~~an~~ a civil action ~~on the case~~, with interest at the rate of 1% a month, and if the delinquent owner or occupant repairs or rebuilds such fence without paying the fees of the fence-viewers, certified by them, double the amount thereof may be recovered by the complainant as ~~herein~~ provided.'

Sec. 290. R. S., c. 96, § 187, amended. The last 2 sentences of section 187 of chapter 96 of the Revised Statutes are amended to read as follows:

'If such fence has been built and maintained by the parties in unequal proportions and the fence-viewers adjudge it to be good and sufficient, they may,

after notice ~~as aforesaid~~ in writing under their hands, award to the party who built and maintained the larger portion the value of such excess, to be recovered in ~~an a civil action on the case~~ against the other party if not paid within 6 months after demand. Parties to assignments ~~under the provisions hereof~~ shall pay the fees of the fence-viewers certified under their hands in equal proportions, and if either party neglects to pay his proportion within one month after demand, the party applying to the fence-viewers may pay the same and recover of said delinquent party in ~~an a civil action on the case~~, double the amount of his said proportion thereof.'

Sec. 291. R. S., c. 96, § 193, amended. Section 193 of chapter 96 of the Revised Statutes is amended to read as follows:

'**Sec. 193. Liability of owner beginning to improve land lying in common.** When any land which has been unenclosed is afterwards enclosed or used for pasturing, its occupant or owner shall pay for $\frac{1}{2}$ of each partition fence on the line between his land and the enclosure of any other occupant or owner and its value shall be ascertained in writing; if the parties do not agree, by 2 or more of the fence-viewers of the town where such fence stands; ~~and after.~~ **After** the value is so ascertained, on notice to such occupant or owner, if he neglects or refuses for 30 days after demand to pay it, the proprietor of the fence may have ~~an a civil action on the case~~ for such value and the cost of ascertaining it.'

Sec. 292. R. S., c. 96, § 198, amended. Section 198 of chapter 96 of the Revised Statutes is amended to read as follows:

'**Sec. 198. Compensation; recovery.** Each fence-viewer shall be paid by the person employing him at the rate of \$3 a day for the time employed. If the party liable neglects to pay the same for 30 days after demand, each fence-viewer may recover double the amount in ~~an a civil action on the case.~~

Sec. 293. R. S., c. 97, § 9, amended. Section 9 of chapter 97 of the Revised Statutes is amended to read as follows:

'**Sec. 9. Compensation for building demolished.** If the pulling down or demolishing of any building, except that in which the fire originated, is the means of stopping the fire, or if the fire is stopped before it comes to the same, then the owner of such building is entitled to recover a reasonable compensation therefor from the town in a ~~special civil action on the case.~~

Sec. 294. R. S., c. 97, § 23, amended. The first sentence of section 23 of chapter 97 of the Revised Statutes, as repealed and replaced by chapter 7 of the public laws of 1957, is amended to read as follows:

'If any person fails to comply with the order of any officer under ~~the provisions of~~ section 22 or with the decision of the Insurance Commissioner on review and within the time fixed, then such officer or the Insurance Commissioner may ~~petition file a complaint in the Supreme Judicial Court or the Superior Court in equity, in term time or vacation~~ in the county where the building or premises is located to enforce the order of said officer or the Insurance Commissioner.'

Sec. 295. R. S., c. 97, § 38, amended. Section 38 of chapter 97 of the Revised Statutes is amended to read as follows:

Sec. 38. When lawful fires kindled. Whoever for a lawful purpose kindles a fire on his own land shall do so at a suitable time and in a careful and prudent manner; and is liable in ~~an~~ a civil action ~~on the case~~ to any person injured by his failure to comply with this provision.'

Sec. 296. R. S., c. 97, § 41, amended. The last sentence of section 41 of chapter 97 of the Revised Statutes is amended to read as follows:

'No action shall be brought at common law for kindling fires in the manner described in section 39; but if such fire spreads and does damage, the person who kindled it and any persons present and concerned in driving the lumber, by whose act or neglect such fire is suffered to do damage, are liable in ~~an~~ a civil action ~~on the case~~ for such damage.'

Sec. 297. R. S., c. 97, § 42, amended. Section 42 of chapter 97 of the Revised Statutes is amended to read as follows:

Sec. 42. Penalties, how recovered and appropriated. Penalties provided in sections 32 to 39 and section 41 may be recovered by complaint, indictment or civil action ~~of debt~~, half to the town where the offense is committed and half to the prosecutor.'

Sec. 298. R. S., c. 97, § 43, amended. The 2nd paragraph of section 43 of chapter 97 of the Revised Statutes is amended to read as follows:

'Such rules and regulations shall become effective when approved in writing by the Governor and Council and when a certified copy thereof has been filed with the Secretary of State. Any person aggrieved by any such rule or regulation or the reasonableness of same, or any act or order of the Insurance Commissioner in enforcing any such rule or regulation, may appeal to ~~a Justice of the Superior Court by presenting to him filing a petition~~ ~~complaint~~ therefor ~~in term time or vacation and he the court shall fix a time and place of hearing which may be in the chambers or in vacation~~ and cause notice thereof to be given to the commissioner and, after the hearing, the ~~justice court~~ may affirm or reverse the rule, regulation, act or order of the commissioner and the decision of ~~such justice the court~~ shall be final.'

Sec. 299. R. S., c. 97, § 49, amended. The last paragraph of section 49 of chapter 97 of the Revised Statutes is amended to read as follows:

'Any person or corporation aggrieved by any order of the commissioner issued under ~~the provisions of this section~~ may appeal to ~~a Justice of the Superior Court by presenting to him filing~~ within 30 days from the effective date of such order, a ~~petition~~ ~~complaint~~ therefor ~~in term time or vacation and he the court shall fix a time and place of hearing which may be in the chambers or in vacation~~ and cause notice thereof to be given to the commissioner and, after the hearing, the ~~justice court~~ may affirm or reverse in full or in part any such order of the commissioner and the decision of ~~such justice the court~~ shall be final. If the commissioner in the interest of public safety, because he deems there is immediate danger, forbids the use of such buildings for any public purpose until satisfactory compliance with his order, such order shall become immediately effective and the filing of ~~a petition for review the complaint~~ shall not operate as a stay thereof.'

Sec. 300. R. S., c. 97, § 56, amended. Section 56 of chapter 97 of the Revised Statutes is amended to read as follows:

'**Sec. 56. Fines.** All fines and forfeitures, imposed by ~~the 4 preceding~~ sections 52 to 55, may be recovered by the town where the building is located by ~~an a civil action on the case~~ or by indictment.'

Sec. 301. R. S., c. 98, § 5, amended. The last paragraph of section 5 of chapter 98 of the Revised Statutes is amended to read as follows:

'If such vessel has no crew on board, or if the master or other person in charge neglects or refuses to move such vessel as directed by the harbor master, then and in that case such harbor master may put a suitable crew on board and move such vessel to a suitable berth at a wharf or anchorage at the cost and risk of the owners thereof, and shall charge \$2, to be paid by the master or owner of such vessel, which charge together with the cost of the crew for removing such vessel the harbor master may collect by ~~suit~~ **civil action.**'

Sec. 302. R. S., c. 98, § 7, amended. The 5th and 6th sentences of section 7 of chapter 98 of the Revised Statutes are amended to read as follows:

'Any person aggrieved by the decision of the municipal officers, in either granting or refusing to grant a license as ~~hereinbefore~~ provided, may appeal to ~~any justice of~~ the Superior Court within 10 days after the mailing of such written notice. ~~On receiving such an appeal, said justice in term time or in vacation~~ **The court** shall set a time and place for hearing and give notice thereof in the same manner as ~~hereinbefore~~ provided for a hearing before the municipal officers.'

Sec. 303. R. S., c. 98, § 11, amended. Section 11 of chapter 98 of the Revised Statutes is amended to read as follows:

'**Sec. 11. Extension of weirs and wharves; application to herring weirs and traps.** No fish weir, trap or wharf shall be extended, erected or maintained except in accordance with ~~the provisions of~~ sections 7 to 11; ~~and no.~~ No fish weir, trap or wharf shall be erected or maintained in tidewaters below lowwater mark in front of the shore or flats of another without the owner's consent, under a penalty of \$50 for each offense, to be recovered in ~~an a civil action of debt~~ by the owner of said shore or flats. This section and ~~the 4 preceding~~ sections 7 to 10 apply to all herring weirs and traps, but do not apply to other weirs or traps, the materials of which are chiefly removed annually, provided ~~that~~ such weirs or traps do not obstruct navigation nor interfere with the rights of others. This section shall not affect any wharves so erected or maintained on the 21st day of April, 1901.'

Sec. 304. R. S., c. 99, § 5, amended. Section 5 of chapter 99 of the Revised Statutes is amended to read as follows:

'**Sec. 5. Ship owner's liability to freighters.** No ship owner is answerable beyond the amount of his interest in the vessel and freight for the embezzlement, loss or destruction, by the master and mariners, of any property put on board

of such vessel, nor for any act of theirs without his privity or knowledge; ~~but if.~~ If several owners of property on the same voyage suffer such damage as aforesaid, and the whole vessel and her freight for the voyage are not sufficient to compensate each of them, they shall be compensated by the owner of the vessel in proportion to their respective losses, and for that purpose, they or the owner of the vessel, or any of them, may ~~prosecute a bill in equity~~ file a complaint for discovery and payment of the sum, for which said owner is liable to the parties entitled thereto.'

Sec. 305. R. S., c. 99, § 12, amended. Section 12 of chapter 99 of the Revised Statutes is amended to read as follows:

'Sec. 12. Jurisdiction; performing duties of port wardens without authority. In the cities and towns for which they are elected, port wardens shall have exclusive jurisdiction in all matters pertaining to their duties, as specified in this chapter; ~~and any.~~ Any other person who performs or attempts to perform any such duties in any city or town wherein there is a port warden forfeits for each offense \$100, to be recovered in ~~an a civil action of debt~~ by any prosecutor.'

Sec. 306. R. S., c. 99, § 14, amended. Section 14 of chapter 99 of the Revised Statutes is amended to read as follows:

'Sec. 14. Using lighters without marks and for falsely marking. The master or owner who uses his craft without such marks prescribed in the preceding section 13 and any person who falsely marks any such boat or lighter forfeits \$50 to be recovered by any prosecutor in ~~an a civil action of debt.~~

Sec. 307. R. S., c. 99, § 16, amended. Section 16 of chapter 99 of the Revised Statutes is amended to read as follows:

'Sec. 16. Throwing ballast into roadstead, port or harbor; or taking stone from shore or island without consent. No master of any vessel shall throw overboard ballast in any road, port or harbor, under penalty of \$60, and no person shall take any stone or other ballast from any island, beach or other land, without consent of the owner, under a penalty of not more than \$7 for each offense, to be recovered in ~~an a civil action of debt~~ by any prosecutor, ½ for himself and ½ for the town where the offense is committed.'

Sec. 308. R. S., c. 100, § 7, amended. The last sentence of section 7 of chapter 100 of the Revised Statutes is amended to read as follows:

'Any person, firm or corporation found guilty of violating the provisions of this section shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 11 months; ~~and jurisdiction in equity.~~ Jurisdiction to enjoin threatened violations of the provisions of this section is conferred upon the ~~Supreme Judicial and Superior Courts~~ Court.'

Sec. 309. R. S., c. 100, § 7-B, amended. The last 2 sentences of section 7-B of chapter 100 of the Revised Statutes, as enacted by chapter 130 of the public laws of 1959, are amended to read as follows:

'Any expenses incurred by a municipality in the abatement of such nuisances may be recovered in ~~an~~ a civil action ~~of debt~~ brought in the name of the municipality against the guilty party. If requested, and if the gravamen of the offense so indicates, the court in its discretion may award double damages in such ~~suits~~ actions.'

Sec. 310. R. S., c. 100, § 17, amended. Section 17 of chapter 100 of the Revised Statutes is amended to read as follows:

'**Sec. 17. Damage by dogs.** When a dog does damage to a person or his property, his owner or keeper, and ~~also~~ the parent, guardian, master or mistress of any minor who owns such dog, forfeits to the person injured the amount of the damage done, provided the said damage was not occasioned through the fault of the person injured, to be recovered by ~~an~~ a civil action ~~of trespass~~.'

Sec. 311. R. S., c. 100, § 18, amended. The next to the last paragraph of section 18 of chapter 100 of the Revised Statutes, as repealed and replaced by section 1 of chapter 186 of the public laws of 1957, is amended to read as follows:

'The State may maintain ~~an~~ a civil action ~~on the case~~ against the owner or keeper of the dogs to recover the amount paid unless, before the final disposition of the case, the said owner or keeper of the said dog produces satisfactory evidence that the dog has been killed.'

Sec. 312. R. S., c. 100, § 25, amended. The last paragraph of section 25 of chapter 100 of the Revised Statutes is amended to read as follows:

'If a dog whose owner or keeper refuses or neglects to comply with said order wounds any person by a sudden assault ~~as aforesaid~~, or wounds or kills any domestic animal, the owner or keeper shall pay the person injured treble damages and costs, to be recovered by ~~an~~ a civil action ~~on the case~~.'

Sec. 313. R. S., c. 100, § 37, amended. Section 37 of chapter 100 of the Revised Statutes is amended to read as follows:

'**Sec. 37. Prosecutions.** The licensing board shall prosecute for any violation of sections 29 to 36 that comes to its knowledge, by complaint, indictment or civil action ~~of debt, and all~~. All penalties recovered shall inure to the town where the offense is committed. Any citizen of the State may prosecute for any violation of the said sections in the same manner as the licensing board may prosecute.'

Sec. 314. R. S., c. 100, § 60, amended. The 2nd paragraph of section 60 of chapter 100 of the Revised Statutes is amended to read as follows:

'Such rules and regulations shall become effective when approved in writing by the Governor and Council and when a certified copy thereof has been filed with the Secretary of State. Any person aggrieved by any such rule or regulation or the reasonableness of same, or any act or order of the Insurance Commissioner in enforcing any such rule or regulation, may appeal to ~~a Justice of~~ the Superior Court by ~~presenting to him filing a petition~~ ~~complaint~~ therefor ~~in term time or vacation~~, and ~~he the court~~ shall fix a time and place of hearing ~~which may be at~~

~~chambers or in vacation, and cause notice thereof to be given to the commissioner; and after. After the hearing, the justice court may affirm or reverse the rule, regulation, act or order of the commissioner, and the decision of such justice the court shall be final.~~

Sec. 315. R. S., c. 100, § 85, amended. The first and last paragraphs of section 85 of chapter 100 of the Revised Statutes are amended to read as follows:

'Every nonresident person, firm or corporation, licensed to conduct public auctions by any other state, desiring to do business in this State as an auctioneer, shall deposit with the Secretary of State the sum of \$100 as a special deposit, and shall name the Secretary of State agent upon whom service may be made in any **civil action at law or in equity** which may be brought against said applicant, to the same effect and in the same manner as upon a resident defendant ~~and after~~ **After such** compliance ~~with the foregoing~~, upon application in proper form and the payment of a further sum of \$50 as a state license fee, the Secretary of State shall issue to such applicant a license to conduct auctions in any ~~city, town, municipality or unincorporated township or plantation~~ in the State, in the same manner and to the same legal effect as a legal voter of a city or town, licensed as an auctioneer of such city or town, might do.'

'If such licensee is a firm or corporation, only one person of any firm or one agent of any corporation may conduct any auction sale, and all acts of any such person acting in behalf of such firm or corporation shall be the acts of the principal, so that in the event of ~~suit a civil action~~ against the principal for any acts of omission or commission, proof of such agency shall not be required as a requisite to the maintenance of such action.'

Sec. 316. R. S., c. 100, § 89, amended. The first 2 sentences of section 89 of chapter 100 of the Revised Statutes are amended to read as follows:

'If ~~suit action~~ is brought against any nonresident licensee by any resident of the State aggrieved by such licensee, service of any legal process may be made upon the Secretary of State as agent for such licensee, and the courts of the State shall have original jurisdiction over any **civil action at law or in equity**, as also the parties, to the same effect as if said licensee were a resident of the State. If ~~suit action~~ is brought in a municipal court or a trial justice court, such licensee shall be considered to be a resident of the county in which the plaintiff resides.'

Sec. 317. R. S., c. 100, § 111, amended. Section 111 of chapter 100 of the Revised Statutes is amended to read as follows:

'**Sec. 111. Lien for license fee.** Every town in which is kept, exposed or offered for sale an itinerant vendor's stock of goods has a lien on such goods for the amount due such town for local license fee on such stock, to be enforced by ~~suit civil action~~ and attachment within 10 days from the time such goods were first publicly offered or exposed for sale in such town. When any person liable therefor neglects or refuses to pay the local license fee provided in section 109, the tax collector of the town to which such license fee is due may maintain ~~an~~ **a civil action of debt** by writ of attachment or trustee process therefor in the

name of such town or in his own name for the benefit of such town. Tax collectors, police officers and constables shall prosecute for violations of the provisions ~~hereof~~ relating to itinerant vendors, in their respective towns, and shall report such violations promptly to the assessors for the purpose of computing and certifying such local license.'

Sec. 318. R. S., c. 100, § 116, amended. The first sentence of section 116 of chapter 100 of the Revised Statutes is amended to read as follows:

'Each deposit made with the Secretary of State shall be subject, so long as it remains in his hands, to attachment and execution in behalf of creditors whose claims arise in connection with business done in the State, and the Secretary of State may be held to answer as trustee, under the trustee process, in any civil action ~~in debt or case~~ brought against any licensee, and the Secretary of State shall pay over, under order of court or upon execution, such sum of money as he may be chargeable with upon his answer or otherwise.'

Sec. 319. R. S., c. 100, § 136-F, amended. Section 136-F of chapter 100 of the Revised Statutes, as enacted by chapter 367 of the public laws of 1959, is amended to read as follows:

'**Sec. 136-F. Penalty.** Any person violating any provision of sections 136-A to 136-F shall be punished by a fine of not more than \$1,000, and ~~the Supreme Judicial Court or~~ the Superior Court shall have jurisdiction ~~in equity~~ on the complaint of any interested person to restrain and enjoin the violation of any of said provisions.'

Sec. 320. R. S., c. 100, § 160, amended. Section 160 of chapter 100 of the Revised Statutes is amended to read as follows:

'**Sec. 160. Fraudulent marks.** If an inspector falsely and fraudulently marks any package of flour, he shall be punished by a fine of \$5 for every such package and forfeits to any person injured thereby 3 times the amount of damage, ~~in a~~ **a civil action of debt.**'

Sec. 321. R. S., c. 100, § 188, amended. Section 188 of chapter 100 of the Revised Statutes, as amended by section 46 of chapter 363 of the public laws of 1959, is further amended to read as follows:

'**Sec. 188. Penalties; jurisdiction.** All pecuniary penalties in sections 174 to 188 may be recovered by ~~civil action of debt~~, indictment or complaint, and all other forfeitures by a libel filed by the treasurer or any inhabitant of the town interested. Where the violation of any of the provisions of sections 174 to 188 is made an offense punishable by a fine, trial justices within their county shall have jurisdiction of such offenses concurrent with municipal courts and the Superior Court.'

Sec. 322. R. S., c. 100, § 192, amended. Section 192 of chapter 100 of the Revised Statutes is amended to read as follows:

Sec. 192. Pure sperm oil defined; adulteration. All oils sold under the names of sperm, summer, fall and winter oils are deemed to be sold for pure sperm oil, the test of which is Southworth's oleometer. Whoever sells under said names any oils which are adulterated by the mixture of an inferior article, without disclosing the full extent of adulteration to the purchaser, forfeits to the prosecutor \$15 for each offense; ~~and the~~. The oil so sold shall be deemed whate oil, and the seller is liable to the purchaser for the difference between pure sperm oil and whale oil, to be recovered in ~~an a civil action on the case.~~

Sec. 323. R. S., c. 102, § 9, amended. The first paragraph of section 9 of chapter 102 of the Revised Statutes is amended to read as follows:

'If the commissioner or commissioners who are in charge of the affairs of any such ~~city, town or plantation~~ **municipality** under ~~the provisions of this chapter~~ are of the opinion that said ~~city, town or plantation~~ **municipality** has incurred, prior to the date on which the administration of the affairs of said ~~city, town or plantation~~ **municipality** were taken over by the board, debts and obligations in excess of the debt limit fixed by the Constitution of the State for such ~~city, town or plantation~~ **municipality**, and that but for ~~the provisions of section 7,~~ said ~~city, town or plantation~~ **municipality** would be subjected to a multiplicity of ~~suits actions,~~ said commissioner or commissioners may bring in the name of the inhabitants of said ~~city, town or plantation~~ **municipality** a ~~bill in equity~~ **complaint** in the Superior ~~or Supreme Judicial~~ Court in the county in which said ~~city, town or plantation~~ **municipality** is located ~~in term time or in vacation~~ against all of the known persons, firms or corporations holding any debts or obligations against the inhabitants of said ~~city, town or plantation~~ **municipality**, to have the validity of all the debts and obligations of said ~~city, town or plantation~~ **herein municipality** determined.'

Sec. 324. R. S., c. 102, § 9, amended. The 2nd sentence of the last paragraph of section 9 of chapter 102 of the Revised Statutes is amended to read as follows:

'Any party aggrieved by the finding of said court may appeal ~~to the next term~~ ~~of within 30 days to~~ the Superior Court ~~to be held~~ in the county where such ~~city, town or plantation~~ **municipality** is located.'

Sec. 325. R. S., c. 103, § 4, amended. The 3rd sentence of section 4 of chapter 103 of the Revised Statutes is amended to read as follows:

'When any justice of said court holds nisi prius terms of the Superior Court in any town other than the town in which he resides, or when any hearing of ~~a cause in law or in equity~~ **a civil action** is had before a Justice of the Supreme Judicial Court ~~or the Superior Court~~ other than one residing in the town where said hearing is had, such justice shall be reimbursed by the State for his expenses actually and reasonably incurred in holding such terms or in attending said hearing, upon presentation to the State Controller of a detailed statement of such expenses.'

Sec. 326. R. S., c. 103, § 6, amended. The last sentence of the first paragraph of section 6 of chapter 103 of the Revised Statutes, as amended by section 1 of chapter 392 of the public laws of 1955, is further amended to read as follows:

'The Governor with the advice and consent of the Council may upon being notified of the retirement of any such justice under ~~the provisions of~~ this section appoint such justice to be an Active Retired Justice of the Supreme Judicial Court for a term of 7 years from such appointment, unless sooner removed, and such justice may be reappointed for a like term, and such justice so appointed and designated shall thereupon constitute a part of the court from which he has retired and shall have the same jurisdiction and be subject to the same restrictions therein as before retirement, except that he shall act only in such cases and matters and hold court only at such terms and times as he may be directed and assigned to by the Chief Justice of the Supreme Judicial Court, and said Chief Justice is empowered and authorized to so assign and designate any such Active Retired Justice of the Supreme Judicial Court as to his services and may direct as to which term of the law court he shall attend, and if the Chief Justice so orders, he may hear all matters and issue all orders, notices, decrees and judgments in vacation that any Justice of the Supreme Judicial Court is authorized to hear or issue ~~either at law or in equity.~~'

Sec. 327. R. S., c. 103, § 9, amended. Section 9 of chapter 103 of the Revised Statutes, as amended by section 67 of chapter 317 of the public laws of 1959, is further amended to read as follows:

'**Sec. 9. Constitution of law court; concurrence required.** When sitting as a law court to determine questions of law arising in ~~suits at law or in equity~~ **civil actions** and in criminal trials and proceedings, the Supreme Judicial Court shall be composed of 5 or more of the justices who shall hear and determine such questions by the concurrence of a majority of the justices sitting and qualified to act.'

Sec. 328. R. S., c. 103, § 15, amended. The 2nd sentence of the first paragraph of section 15 of chapter 103 of the Revised Statutes is amended to read as follows:

'They shall be marked "law" on the docket of the county where they are pending, and there continued until their determination is certified by the clerk of the law court to the clerk of courts of the county and the court shall immediately after the decision of the question submitted to it make such order, direction, judgment or decree as is fit and proper for the disposal of the case, and cause a rescript in all civil ~~suits~~ **actions**, briefly stating the points therein decided, to be filed therein, which rescript shall be certified by the clerk of the law court to the clerk of courts of the county where the action is pending and to the reporter of decisions; ~~and if.~~ **If** no further opinion is written out, the reporter shall publish in the next volume of reports thereafter issued the case, together with such rescript, if the reporter deems the same of sufficient importance for publication.'

Sec. 329. R. S., c. 103, § 15, amended. The 2nd sentence of the last paragraph of section 15 of chapter 103 of the Revised Statutes is amended to read as follows:

'Whenever, in the opinion of the law court, the ends of justice require, it may remand any case to the court below or to any justice thereof ~~in term time or vacation~~ for the correction of any errors in pleading or procedure.'

Sec. 330. R. S., c. 105, § 8, amended. The 5th, 6th and 7th sentences of section 8 of chapter 105 of the Revised Statutes are amended to read as follows:

'The Supreme Judicial Court and the Superior Court shall have concurrent jurisdiction ~~in equity~~, upon petition of 3 or more members of any bar association within the State or of the Attorney General, to restrain violations ~~of the provisions~~ of this section. In all proceedings under ~~the provisions of~~ this section, the fact, as shown by the records of the clerk of courts in the county in which a person resides, that such person is not recorded as a member of the bar in such county shall be prima facie evidence that he is not a member of the bar licensed to practice law in the State. The Supreme Judicial Court or any justice thereof ~~in term time or vacation~~ shall have the power to issue a rule requiring any person alleged to have violated any of the provisions of this section to appear on a day fixed and show cause why he should not be adjudged in contempt, and abide the order of such court or justice in the premises, which order shall be served by a copy in hand at least 5 days before the return day.'

Sec. 331. R. S., c. 105, § 10, amended. Section 10 of chapter 105 of the Revised Statutes is amended to read as follows:

'**Sec. 10. Summary proceedings against attorney failing to pay money collected.** If an attorney at law receives money or any valuable thing on a claim left with him for collection or settlement and fails to account for and pay over the same to the claimant for 10 days after demand, he is guilty of a breach of duty as an attorney; ~~and such.~~ **Such** claimant may file in the office of the clerk of the Superior Court in the county where such attorney resides, a motion in writing under oath setting forth the facts; ~~and thereupon.~~ **Thereupon** any Justice of the Superior Court ~~in term time or in vacation~~ shall issue a **rule an order** requiring the attorney to appear on a day fixed and show cause why he should not so account and pay, and to abide the order of such justice in the premises; which shall be served by copy in hand at least 5 days before the return day.'

Sec. 332. R. S., c. 105, § 12, amended. Section 12 of chapter 105 of the Revised Statutes is amended to read as follows:

'**Sec. 12. Appeal.** Either party may ~~allege exceptions to appeal from~~ any ruling or decree of such justice; ~~and they shall be allowed unless deemed frivolous to the law court as in any civil action.~~

Sec. 333. R. S., c. 107, § 4, sub-§ XI, amended. Subsection XI of section 4 of chapter 107 of the Revised Statutes is amended to read as follows:

'**XI. Redelivery of goods or chattels.** In ~~suits~~ **civil actions** for redelivery of goods or chattels taken or detained from the owner and secreted or withheld so that the same cannot be replevied, and in ~~bills~~ **in equity civil actions**, by

creditors, to reach and apply in payment of a debt any property, right, title or interest, legal or equitable, of a debtor or debtors, which cannot be come at to be attached on writ or taken on execution in a ~~suit at law~~ **civil action**, and any property or interest conveyed in fraud of creditors.'

Sec. 334. R. S., c. 107, § 4, sub-§ XIII, amended. Subsection XIII of section 4 of chapter 107 of the Revised Statutes, as amended by section 37 of chapter 443 of the public laws of 1957, is further amended to read as follows:

'XIII. Pledging credit of public corporation for purpose not authorized by law. When counties, cities, towns, school districts, School Administrative Districts, village or other public corporations, for a purpose not authorized by law, vote to pledge their credit or to raise money by taxation or to exempt property therefrom or to pay money from their treasury, or if any of their officers or agents attempt to pay out such money for such purpose, the court shall have ~~equity~~ jurisdiction on ~~petition or application of~~ **complaint filed by** not less than 10 taxable inhabitants thereof, briefly setting forth the cause of complaint.'

Sec. 335. R. S., c. 107, § 5, amended. Section 5 of chapter 107 of the Revised Statutes is amended to read as follows:

'Sec. 5. Jurisdiction between partners and part owners; extent and effect on other parties. The court has jurisdiction of cases mentioned in ~~subsection VII of the preceding section 4, subsection VII,~~ notwithstanding persons interested not within the jurisdiction of the court are not made parties; but, in such cases, no decree affects the right of any person not a party to the ~~suit~~ **action**, unless he voluntarily becomes a party before final decree, except as ~~hereinafter~~ **otherwise** provided. In all such cases the court has jurisdiction, if the case requires it, over all property of the partnership or cotenancy within the State, and the other partners or cotenants, out of the jurisdiction, may protect their interests by coming in at any time as parties to the ~~bill~~ **action**; but, if there is no such property within the State, the jurisdiction of the court is limited to the adjustment of accounts and compelling contribution between the parties over whom the court has jurisdiction.'

Sec. 336. R. S., c. 107, § 7, amended. Section 7 of chapter 107 of the Revised Statutes is amended to read as follows:

'Sec. 7. Interest of a copartner applied in payment of plaintiff's debt. In such ~~suit~~ **action** the interest of a copartner in the partnership property may be reached and applied to the payment of the plaintiff's debt; ~~provided, however, that unless.~~ **Unless** the plaintiff's debt is in judgment, the business of the partnership shall not be interfered with by injunction or otherwise, farther than to restrain the withdrawal of any portion of the debtor's share or interest therein, until the plaintiff's debt is established; ~~and provided further, that if.~~ **If** either copartner shall give to the plaintiff a sufficient bond with sureties approved by the clerk, conditioned to pay to the plaintiff the amount of his debt and costs, within 30 days after the same is established, the court shall proceed no further therein save to establish the debt; ~~and any.~~ **Any** injunction previously issued

shall be dissolved upon the filing of such bond. But no provision of ~~subsection XI of section 4, subsection XI, or of this section, or of section 6~~ shall be so construed as to reach and apply in payment of a debt, any property exempted by ~~the provisions of sections 6, 7, 8 and 20 of chapter 58, sections 6, 7, 8 and 20, and by chapter 112.~~

Sec. 337. R. S., c. 107, § 12, amended. Section 12 of chapter 107 of the Revised Statutes is amended to read as follows:

'Sec. 12. Verification of complaint. Verification by the oath of a party for whose benefit the ~~bill~~ **complaint** sets forth that it is prosecuted is equivalent to such verification by the plaintiff.'

Sec. 338. R. S., c. 107, § 33, amended. Section 33 of chapter 107 of the Revised Statutes is amended to read as follows:

'Sec. 33. Writs of seizin or execution, etc. Writs of seizin or execution and all other processes appropriate to ~~causes civil actions in equity~~ **which equitable relief is sought** may be issued by the court to enforce its decrees.'

Sec. 339. R. S., c. 107, § 36, amended. The last sentence of section 36 of chapter 107 of the Revised Statutes is amended to read as follows:

'Nothing herein contained shall deprive any party having a claim or cause of action under or upon such undertaking from electing to pursue his ordinary remedy by ~~suit at law or in equity~~ **civil action.**'

Sec. 340. R. S., c. 110, § 30, amended. Section 30 of chapter 110 of the Revised Statutes is amended to read as follows:

'Sec. 30. Injuring or concealing such records. Whoever knowingly destroys, defaces or conceals such record forfeits not less than \$200 nor more than \$1,000, and is liable for damages to any person injured in ~~an a civil action on the case.~~

Sec. 341. R. S., c. 111, § 13, amended. Section 13 of chapter 111 of the Revised Statutes is amended to read as follows:

'Sec. 13. Account of items in writing may be required. Every officer or other person upon receiving any fees provided for by law, if required by the person paying them, shall make a particular account thereof in writing specifying for what they accrued or he forfeits to such person treble the sum paid, to be recovered in ~~an a civil action of debt.~~

Sec. 342. R. S., c. 112, § 7, amended. Section 7 of chapter 112 of the Revised Statutes is amended to read as follows:

'Sec. 7. Liability of indorser. In case of avoidance or inability of the plaintiff or petitioner, the indorser is liable, in ~~an a civil action on the case~~ brought within one year after the original judgment in the court in which it was rendered, to pay all costs recovered against the plaintiff. A return upon the execu-

tion by an officer of the county where the indorser lives, that he has demanded of the indorser payment thereof, and that he has neglected to pay or to show the officer personal property of the plaintiff sufficient to satisfy the execution, or that he cannot find the indorser within his precinct, is conclusive evidence of his liability in the ~~suit~~ **action.**'

Sec. 343. R. S., c. 112, § 8, amended. Section 8 of chapter 112 of the Revised Statutes is amended to read as follows:

'**Sec. 8. Court may require new indorser or additional deposit.** If, pending such ~~suit~~ **action**, petition or process, any such indorser or deposit becomes insufficient or such indorser removes from the State, the court may require a new and sufficient indorser or additional deposit, and by consent of the defendant the name of the original indorser may be struck out; ~~and such.~~ **Such** new indorser shall be liable or such deposit holden for all costs from the beginning of the ~~suit~~ **action**; ~~and, if.~~ **If** such new indorser is not provided or security furnished within the time fixed by the court, the action shall be dismissed and the defendant shall recover his costs.'

Sec. 344. R. S., c. 112, § 11, amended. Section 11 of chapter 112 of the Revised Statutes is amended to read as follows:

'**Sec. 11. Civil actions on judgment.** ~~Actions of debt~~ **Civil actions** founded on judgment rendered by any court of record in the State may be brought in the county where it was rendered or in the county in which either party thereto or his executor or administrator resides at the time of bringing the action.'

Sec. 345. R. S., c. 112, § 31, amended. Section 31 of chapter 112 of the Revised Statutes is amended to read as follows:

'**Sec. 31. Sale on writ of personal property attached.** When personal property is attached, the officer, by consent of the debtor and creditor, may sell it on the writ of attachment before or after ~~entry~~ **filing in court**, observing the directions for selling on execution; ~~and if.~~ **If** it is attached by different officers, it may be so sold by the first attaching officer; or in case of his death, if he was a deputy sheriff, by the sheriff or another deputy by written consent of the debtor and all attaching creditors; ~~and the.~~ **The** proceeds, after deducting necessary expenses, shall be held by the officer making the sale, subject to the successive attachments as if sold on execution.'

Sec. 346. R. S., c. 112, § 33, amended. Section 33 of chapter 112 of the Revised Statutes is amended to read as follows:

'**Sec. 33. Appraisal in certain cases.** At the request of either party interested, the officer shall give notice of the time and place of appraisal, with the names of the parties to the action and of the supposed owner of the property, by posting notices thereof in 2 or more public places in the town where the property was attached, or by giving personal notice thereof to all parties to the ~~suit~~ **action** 4 days at least before the appraisal. He shall prepare a schedule of the property and cause 3 disinterested appraisers acquainted with the nature and

value of such goods to be appointed, one by the creditor, one by the debtor and one by himself; ~~and if~~. If either party neglects to make an appointment, he shall appoint one in behalf of such party.'

Sec. 347. R. S., c. 112, § 35, amended. Section 35 of chapter 112 of the Revised Statutes is amended to read as follows:

'**Sec. 35. Property delivered to debtor on depositing money or giving bond; bond returned with officer's doings.** After the appraisers have proceeded according to ~~the provisions of the preceding~~ section 34, at the request of the debtor the property shall be delivered to him, on his depositing with the officer the appraised value thereof in money or giving bond to him with 2 sufficient sureties, conditioned to pay him said value or satisfy all judgments recovered in the ~~suits~~ actions in which the property is attached, if demanded before the attachments expire or within 30 days after the time when the creditors might demand payment out of the proceeds of the property if sold as ~~hereinafter~~ provided; ~~and he~~. He shall return such bond with the writ of attachment on which the first attachment is made, with a return of his doings in relation thereto.'

Sec. 348. R. S., c. 112, § 36, amended. Section 36 of chapter 112 of the Revised Statutes is amended to read as follows:

'**Sec. 36. Action on bond by any creditor.** If the bond is forfeited, any one or more of the creditors may bring ~~an~~ a civil action ~~of debt~~ thereon in the name of the officer, and shall indorse their names on the writ of attachment. If judgment is for the defendants, execution for costs shall be issued against them jointly, or one against each for his proportion, as the court thinks just. If judgment is for the plaintiffs, the money recovered shall be applied to pay their necessary expenses in prosecuting the ~~suit~~ action, not reimbursed by costs recovered of the defendants; and the residue belongs to the attaching creditors according to their priorities; but no execution shall be awarded for the use of any creditor without reserving what may be due on any prior attachment, whether the creditor therein is a party to the ~~suit~~ action on the bond or not.'

Sec. 349. R. S., c. 112, § 37, amended. Section 37 of chapter 112 of the Revised Statutes is amended to read as follows:

'**Sec. 37. Attaching creditor, not a party to the action on bond.** An attaching creditor not a party to such ~~suit~~ action, on his motion before final judgment therein, may become a party on such terms as the court orders, as if he had been a party originally; and his name shall then be indorsed on the writ of attachment; or he may bring ~~seire facias on the proceedings after~~ judgment and recover the sum due him on the bond. No creditor whose cause of action on the bond accrued more than a year prior to the ~~suit~~ action thereon shall have judgment or execution therein; nor bring such ~~seire facias proceedings after~~ judgment unless within a year after the cause of action accrued.'

Sec. 350. R. S., c. 112, § 41, amended. Section 41 of chapter 112 of the Revised Statutes is amended to read as follows:

'Sec. 41. Replevin of property attached and claimed by one not a party to action; sale. When personal property, attached on mesne process, is claimed by a person not a party to the ~~suit~~ **action**, he may replevy it within 10 days after notice given him therefor by the attaching creditor, and not afterwards; ~~and after.~~ **After** that, the attaching officer, without impairing the rights of such person, at the request and on the responsibility of the plaintiff and with consent of other attaching creditors, if any, may sell it at auction as on execution, unless the debtor claims it as his and forbids the sale.'

Sec. 351. R. S., c. 112, § 42, amended. Section 42 of chapter 112 of the Revised Statutes is amended to read as follows:

'Sec. 42. Property of part owner attached, appraised and delivered to another owner on giving bond; bond returned with writ of attachment. When personal property is attached in a ~~suit~~ **civil action** against one or more part owners thereof, at the request of another part owner, it shall be appraised as ~~hereinbefore~~ provided, one appraiser to be chosen by the creditor, one by the officer and the other by the requesting part owner; ~~and thereupon.~~ **Thereupon** it shall be delivered to such part owner on his giving bond to the officer with 2 sufficient sureties, conditioned to restore it in like good order, pay the appraised value of the defendant's share therein or satisfy all judgments recovered in the attaching ~~suits~~ **actions**, if demanded within the time during which it would be held by the attachments. Such bond shall be returned with the writ **of attachment** with the doings of the officer thereon and, if forfeited, like proceedings may be had as are provided in section 36.'

Sec. 352. R. S., c. 112, § 45, amended. The first sentence of the last paragraph of section 45 of chapter 112 of the Revised Statutes is amended to read as follows:

'Such summons, when property is attached on the writ, shall be returnable to the court to which the writ is returnable ~~or to any justice thereof in vacation~~ not less than 10 days nor more than 60 days after service thereof, and when property is seized on execution such summons shall be made returnable to ~~any justice or judge of~~ the court issuing such execution on any day fixed by ~~such justice or judge~~ **the court** not less than 10 days nor more than 60 days thereafter.'

Sec. 353. R. S., c. 112, § 46, amended. Section 46 of chapter 112 of the Revised Statutes is amended to read as follows:

'Sec. 46. Mortgagee must account within 10 days after notice; false account. The officer may give the claimant written notice of his attachment; ~~and if.~~ **If** he does not within 10 days thereafter deliver to the officer a true account of the amount due on his claim, he thereby waives the right to hold the property thereon; ~~and if.~~ **If** his account is false, he forfeits to the creditor double the amount of the excess, to be recovered in ~~an~~ **a civil action on the case.**'

Sec. 354. R. S., c. 112, § 52, amended. Section 52 of chapter 112 of the Revised Statutes is amended to read as follows:

Sec. 52. If replevied, liable to further attachments. The property described in section 51 replevied from the officer is liable to further attachments as if in his possession; ~~and if.~~ If there is judgment for a return in the replevin ~~suit~~ **action**, the plaintiff and his sureties are liable for the whole property or its value, although some attachments were made after the replevin.'

Sec. 355. R. S., c. 112, § 53, amended. Section 53 of chapter 112 of the Revised Statutes is amended to read as follows:

Sec. 53. If officer dies or is removed, further attachments. If an attaching officer dies or is removed from office while the attachment is in force, whether the property was in his possession or not, it and its proceeds may be further attached by any other officer the same as it might have been by the first officer. Such further attachments shall be made by a return setting forth an attachment in common form and by whom the property was previously attached; and if the goods have not been replevied, by leaving a certified copy of the writ **of attachment**, omitting the declaration and of the return of that attachment, with the former officer if living, or if dead, with his executor or administrator, or if none has been appointed, with the person having possession of the goods; or if the goods have been replevied and the officer who made the original attachment is dead, such copy shall be left with his executors or administrators or with the plaintiff in replevin; ~~and the.~~ **The attachment shall be considered as made when such copy is delivered in either of the modes before described.'**

Sec. 356. R. S., c. 112, § 56, amended. Section 56 of chapter 112 of the Revised Statutes is amended to read as follows:

Sec. 56. Liability if property sold before demand; set off not allowed. If, after such decree and before such demand, the officer has sold the property on execution, he is liable to the executor or administrator in ~~an a~~ **a civil action, not of trespass but for money had and received** for the proceeds, if in his hands; but if paid over to the judgment creditor, such creditor is so liable, and he shall not set off any demand which he has against the executor or the administrator or against the estate of the deceased.'

Sec. 357. R. S., c. 112, § 57, amended. Section 57 of chapter 112 of the Revised Statutes is amended to read as follows:

Sec. 57. Appraisal of property under attachment. After the death of a defendant and before a decree of insolvency on his estate, the executor or administrator may demand of the attaching officer a certified copy of his return on the writ **of attachment**, with a description of the property attached, so that it may be described in the inventory of the estate subject to the attachment, and the appraisers may demand a view thereof so as to appraise it; ~~and if.~~ If the officer fails to comply with either demand, he forfeits to the executor or administrator not less than \$10 nor more than \$30.'

Sec. 358. R. S., c. 112, § 59, amended. Section 59 of chapter 112 of the Revised Statutes is amended to read as follows:

Sec. 59. If officer dies pending action and no administrator appointed, party in interest may carry on action. If an officer authorized to serve precepts dies

pending ~~a suit~~ **an action** for or against him for official neglect or misconduct and no administration is granted on his estate within 3 months thereafter, the party for whose benefit the ~~suit~~ **action** is so prosecuted or defended may carry it on in his own name by entering his appearance and giving security for costs, as the court directs.'

Sec. 359. R. S., c. 112, § 61, amended. Section 61 of chapter 112 of the Revised Statutes, as amended by chapter 22 of the public laws of 1959, is further amended to read as follows:

'Sec. 61. Real estate attached on writs of attachment from certain municipal courts. If a municipal court has a regular seal and has jurisdiction in any action where the amount of damage claimed exceeds \$20, real estate and interests in real estate attachable on writs **of attachment** from the Superior Court may be attached on writs **of attachment** or taken on executions from such court where the amount of the debt or damage, exclusive of costs, exceeds \$20.'

Sec. 360. R. S., c. 112, § 65, amended. Section 65 of chapter 112 of the Revised Statutes is amended to read as follows:

'Sec. 65. When right of redemption or to a deed by contract attached, the creditor may redeem or pay. When a right to redeem real estate under mortgage, levy, sale on execution or for taxes or a right to a conveyance by contract is attached, the plaintiff in the ~~suit~~ **action**, before or after sale on execution, may pay or tender to the person entitled thereto the amount required to discharge such encumbrance or fulfill such contract; ~~and thereby.~~ **Thereby** the title and interest of such person vest in the plaintiff subject to the defendant's right to redeem; ~~but such.~~ **Such** redemption by the defendant or any person claiming under him by a title subsequent to the attachment shall not affect such attachment, but it shall continue in force and the prior encumbrance as against it shall be deemed discharged.'

Sec. 361. R. S., c. 112, § 66, amended. Section 66 of chapter 112 of the Revised Statutes is amended to read as follows:

'Sec. 66. Mortgagee or contractor to state, on demand, sum due; on payment, to release his interest in premises. Such person, on written demand, shall give the plaintiff a true written statement of the amount due him; and on payment or tender thereof shall release all his interest in the premises; and if he refuses, he may be compelled to do so ~~by a bill in equity in a civil action seeking equitable relief.~~ Such release shall recite that under authority of this ~~section and the preceding~~ **section 65**, the plaintiff had attached the premises and paid or tendered the amount due the grantor; ~~the.~~ **The** plaintiff shall thereupon hold such title in trust for the defendant, and subject to his right of redemption, without power of alienation until after one year from the termination of said ~~suit~~ **action**, or from the sale of the equity on any execution recovered therein.'

Sec. 362. R. S., c. 112, § 74, amended. The last 3 sentences of section 74 of chapter 112 of the Revised Statutes are amended to read as follows:

'Before or after the ~~entry filing~~ of said ~~writ~~ **complaint** in said court, or before or after judgment thereon, or if said ~~writ~~ **complaint** is not ~~entered~~ **filed** in court, the plaintiff or his attorney in such ~~suit~~ **action** may discharge the attachment in writing on the margin of the record thereof, or said plaintiff or said attorney may give a certificate, signed, sealed and acknowledged by him that said attachment is in whole or in part discharged, which the register of deeds shall record with a reference thereto on the margin of the records of attachments. The register of deeds shall note the record of said discharge on the margin of the records of attachments within an hour of the delivery to him of either of the aforesaid certificates. Such attachments may be discharged on the record thereof in the registry of deeds by an attorney at law authorized in writing by the plaintiff in said ~~suit~~ **action**, provided ~~however, that~~ said writing is first recorded or filed in said registry of deeds with a reference thereto made by said register of deeds on the margin of the record of the attachment.'

Sec. 363. R. S., c. 112, § 75, amended. Section 75 of chapter 112 of the Revised Statutes is amended to read as follows:

'**Sec. 75. Real estate attachment discharged of record when dissolved.** When an attachment of real estate is made in any action and the ~~writ~~ **complaint** is not ~~entered~~ **filed** in court, or when any attachment of real estate is dissolved by lapse of time or failure to levy upon the judgment debt within the time prescribed by law to preserve said attachment and the said attachment then remains undischarged upon the records of the registry of deeds, the plaintiff upon the demand of the defendant shall either cause the said attachment to be discharged upon the records of the registry of deeds or give a certificate, signed, sealed and acknowledged by him that said attachment is discharged, when said certificate is prepared and presented to the plaintiff by the defendant, which said certificate the register of deeds shall record with reference thereto on the margin of the record of said attachment.'

Sec. 364. R. S., c. 112, § 82, amended. The 2nd sentence of section 82 of chapter 112 of the Revised Statutes is amended to read as follows:

'The ~~justice court~~ shall ~~also~~ require the petitioner to give bond to each trustee named in the petition, with sureties, in a sum sufficient to protect him against any judgment recovered by the plaintiff and paid by him, and his legal costs in the ~~suit~~ **action**, and the costs allowed him by ~~such justice the court~~ at the hearing on the petition, if he appears.'

Sec. 365. R. S., c. 112, § 83, amended. Section 83 of chapter 112 of the Revised Statutes is amended to read as follows:

'**Sec. 83. Costs.** The party finally prevailing in the ~~suit~~ **action** shall recover the costs of these proceedings, taxed as costs of court in other cases and certified by such justice, and execution shall issue therefor.'

Sec. 366. R. S., c. 112, § 84, amended. The first sentence of section 84 of chapter 112 of the Revised Statutes is amended to read as follows:

'When real estate or personal property is attached on mesne process, and in all cases of attachment on trustee process, the attachment shall be vacated upon the defendant or someone in his behalf delivering to the officer who made such attachment, or to the plaintiff or his attorney, a bond to the plaintiff in a penal sum not exceeding the ~~ad damnum amount~~ of the ~~writ attachment~~, such bond to be approved as to penal sum and sureties by the plaintiff or his attorney, or by any Justice or clerk of the Superior Court, conditioned that within 30 days after the rendition of the judgment, or after the adjournment of the court in which it is rendered or after the certificate of decision of the law court shall be received in the county where the cause is pending, he will pay to the plaintiff or his attorney of record the amount of said judgment including costs; ~~the~~. The bond shall be returned by the officer with the process, for the benefit of the plaintiff, and thereupon all liability of the officer to the plaintiff by reason of such attachment shall cease.'

Sec. 367. R. S., c. 112, § 91, amended. Section 91 of chapter 112 of the Revised Statutes is amended to read as follows:

'**Sec. 91. Actions for breach of promise to marry prohibited.** No action ~~suit~~ or proceeding to recover damages for breach of promise to marry shall be maintained.'

Sec. 368. R. S., c. 112, § 102, amended. Section 102 of chapter 112 of the Revised Statutes is amended to read as follows:

'**Sec. 102. Limitation of actions for penalties.** Actions ~~and suits~~ for any penalty or forfeiture on a penal statute, brought by a person to whom the penalty or forfeiture is given in whole or in part, shall be commenced within one year after the commission of the offense; ~~and if~~. If no person so prosecutes, it may be recovered by ~~suit~~ **civil action**, indictment or information in the name and for the use of the State at any time within 2 years after the commission of the offense, and not afterwards.'

Sec. 369. R. S., c. 113, § 10, amended. Section 10 of chapter 113 of the Revised Statutes is amended to read as follows:

'**Sec. 10. On appeals, original papers sent up; exceptions.** In cases carried from a trial justice or municipal court to a higher court, all depositions and original papers, except the process by which the ~~suit~~ **action** was commenced, the return of service thereon and the pleadings shall be certified by the proper officer and carried up without leaving copies unless otherwise ordered by the court having original cognizance.'

Sec. 370. R. S., c. 113, § 13, amended. Section 13 of chapter 113 of the Revised Statutes is amended to read as follows:

'**Sec. 13. Complaint lost after service, new one filed.** When in an action pending, the loss or destruction of a writ ~~or process~~, **complaint or other process** after service is proved by affidavit or otherwise, the court may allow a new one to be filed, corresponding thereto as nearly as may be, with the same effect as the one lost or destroyed.'

Sec. 371. R. S., c. 113, § 29, amended. Section 29 of chapter 113 of the Revised Statutes is amended to read as follows:

'Sec. 29. Treasurers may bring an action in their own names. Treasurers of state, counties, towns and corporations may maintain ~~suits~~ **civil actions** in their own names as treasurers on contracts given to them or their predecessors and prosecute ~~suits~~ **civil actions** pending in the names of their predecessors.'

Sec. 372. R. S., c. 113, § 33, amended. Section 33 of chapter 113 of the Revised Statutes is amended to read as follows:

'Sec. 33. Grantee may defend action. Grantees may appear and defend in ~~suits~~ **civil actions** against their grantors in which the real estate conveyed is attached.'

Sec. 373. R. S., c. 113, § 35, amended. Section 35 of chapter 113 of the Revised Statutes is amended to read as follows:

'Sec. 35. In actions of covenant, if encumbrance right of dower, it may be assigned and be measure of damages. In an action for breach of covenant against encumbrances contained in a deed of real estate, when the encumbrance is a right of dower, if such dower has been assigned and not released, the value thereof shall be the measure of damages; but if it has been demanded and not assigned, the court, on application of the plaintiff, shall cite the claimant of dower to appear and become a party by personal service made 14 days before ~~the term of court to which it is returnable; if the date set for such appearance.~~ **If she does not appear or if she appears and refuses to release such right, the court shall appoint 3 commissioners to assign the same, who shall proceed in the manner provided for commissioners appointed under the provisions of chapter 176 to make partition; and when.** When their report is made and accepted by the court, it is a legal assignment of dower and the value thereof is the measure of damages in said action.'

Sec. 374. R. S., c. 113, § 45, amended. Section 45 of chapter 113 of the Revised Statutes is amended to read as follows:

'Sec. 45. Partial failure of consideration of note. In any ~~proceeding at law or in equity~~ **civil action** in which the amount due on a promissory note given for the price of land conveyed is in question and a total failure of consideration would be a defense, partial failure of consideration may be shown in reduction of damages.'

Sec. 375. R. S., c. 113, § 54, amended. Section 54 of chapter 113 of the Revised Statutes is amended to read as follows:

'Sec. 54. Sureties on official bond may defend. Sureties upon official bonds may appear and defend in ~~suits~~ **actions** against their principal whenever such sureties may ultimately be liable upon such bonds.'

Sec. 376. R. S., c. 113, § 61, amended. Section 61 of chapter 113 of the Revised Statutes is amended to read as follows:

'Sec. 61. In trespass, jury to find if willful. In action ~~of~~ for trespass on property, the court and jury or magistrate shall determine whether the trespass was committed willfully; ~~it~~. If so found, a record thereof shall be made and a memorandum thereof minuted on the margin of the execution.'

Sec. 377. R. S., c. 113, § 65, amended. Section 65 of chapter 113 of the Revised Statutes is amended to read as follows:

'Sec. 65. Petition to defend prior actions by subsequent attaching creditor. When property has been attached, a plaintiff who has caused it to be attached in a subsequent ~~suit action~~ may, by himself or attorney, ~~petition move~~ the court for leave to defend the prior ~~suit action~~ and set forth therein the facts as he believes them to be, under oath; ~~and the~~. The court may grant or refuse such leave.'

Sec. 378. R. S., c. 113, § 66, amended. Section 66 of chapter 113 of the Revised Statutes is amended to read as follows:

'Sec. 66. If leave granted, bond given. If leave is granted, the petitioner shall give bond or enter into recognizance with sufficient surety in such sum as the court orders, to pay the plaintiff in the prior ~~suit action~~ all damages and costs occasioned by such defense; ~~and so~~. An entry of record shall be made that he is admitted to defend such ~~suit action~~.'

Sec. 379. R. S., c. 113, § 71, amended. Section 71 of chapter 113 of the Revised Statutes is amended to read as follows:

'Sec. 71. Actions by bankrupts or insolvents. A person who has been declared a bankrupt or an insolvent may maintain an action respecting his former property in his own name, unless objection is made ~~by plea in abatement~~, if before final judgment the assent of his trustee or assignee is filed in the office of the clerk of the court in which the action is pending.'

Sec. 380. R. S., c. 113, § 73, amended. Section 73 of chapter 113 of the Revised Statutes is amended to read as follows:

'Sec. 73. Other actions against bankrupts or insolvents. All other actions for recovery of a debt provable in bankruptcy or insolvency, when it appears that any defendant therein has filed his petition in bankruptcy or insolvency or has been adjudged a bankrupt or an insolvent, on petition of his creditors before or after the commencement of the ~~suit action~~, shall be continued until the bankrupt or insolvent proceedings are closed unless the plaintiff strikes such defendant's name from the ~~suit action~~, which he may do without costs; but when such defendant does not use diligence in the prosecution of his bankrupt or insolvent proceedings, after ~~a~~ ~~term's~~ **30 days'** notice to him in writing from the plaintiff, the court may refuse further delay.'

Sec. 381. R. S., c. 113, § 93, amended. The first sentence of section 93 of chapter 113 of the Revised Statutes, as last repealed and replaced by section 187 of chapter 317 of the public laws of 1959, is amended to read as follows:

'In all cases in the Supreme Judicial or in the Superior Court in which the court appoints one or more persons, not exceeding 3, as referees, masters or auditors, to hear the same, their fees and necessary expenses, including stenographic services upon a per diem basis, shall be paid by the county on presentation of the proper certificate of the clerks of courts for the county, ~~and the~~ **or by such of the parties, or out of any fund or subject matter of the action, which is in the custody and control of the court, or by apportionment among such sources of payment, as the court shall direct.** The amount thereof shall be fixed by the court upon the coming in of the report.'

Sec. 382. R. S., c. 113, § 101, amended. Section 101 of chapter 113 of the Revised Statutes is amended to read as follows:

'**Sec. 101. Challenge of jurors.** The court, on motion of either party in ~~a suit~~ **an action**, may examine, on oath, any person called as a juror therein, whether he is related to either party, has given or formed an opinion or is sensible of any bias, prejudice or particular interest in the cause; ~~and if.~~ **If it appears from his answers or from any competent evidence that he does not stand indifferent in the cause, another juror shall be called and placed in his stead.'**

Sec. 383. R. S., c. 113, § 114, amended. Section 114 of chapter 113 of the Revised Statutes is amended to read as follows:

'**Sec. 114. Parties, husbands, wives and others interested as witnesses.** No person is excused or excluded from testifying in any civil ~~suit or proceeding at law or in equity~~ **action** by reason of his interest in the event thereof as party or otherwise, except as ~~hereinafter~~ **otherwise** provided, but such interest may be shown to affect his credibility, and the husband or wife of either party may be a witness.'

Sec. 384. R. S., c. 113, § 115, amended. Section 115 of chapter 113 of the Revised Statutes is amended to read as follows:

'**Sec. 115. Exemption when action implies an offense.** No defendant shall be compelled to testify in any ~~suit~~ **action** when the cause of action implies an offense against the criminal law on his part. If he offers himself as a witness, he waives his privilege of not criminating himself, but his testimony shall not be used in evidence against him in any criminal prosecution involving the same subject matter.'

Sec. 385. R. S., c. 113, § 117, amended. Section 117 of chapter 113 of the Revised Statutes is amended to read as follows:

'**Sec. 117. Testimony of party out of State.** When a party to a ~~suit~~ **civil action** resides without the State or is absent therefrom during the pendency of the ~~suit~~ **action** and the opposite party desires his testimony, a commission under the rules of court may issue to take his deposition; ~~and such.~~ **Such** nonresident or absent party, upon such notice to him or his attorney of record in the ~~suit~~ **action** of the time and place appointed for taking his deposition, as the court orders, shall appear and give his deposition. If he refuses or unreasonably de-

lays to do so, ~~he the action~~ may be ~~non-suited~~ dismissed or defaulted by order of court unless his attorney admits the affidavit of the party desiring his testimony as to what the absent party would say, if present, to be used as testimony in the case.'

Sec. 386. R. S., c. 113, § 128, amended. Section 128 of chapter 113 of the Revised Statutes, as amended by section 2 of chapter 412 of the public laws of 1955, is further amended to read as follows:

'**Sec. 128. Fees of witnesses.** Witnesses in the Supreme Judicial Court or the Superior Court or in the probate courts and before a trial justice or a municipal court shall receive \$5, and before referees, auditors or commissioners specially appointed to take testimony or special commissioners on disputed claims appointed by probate court, \$5, or before the county commissioners \$5 for each day's attendance and 8c a mile for each mile's travel going and returning home; ~~but the.~~ The court in its discretion may allow at the trial of any cause, civil or criminal in said Supreme Judicial Court or the Superior Court, a sum not exceeding \$50 per day for the attendance of any expert witness or witnesses at said trial, in taxing the costs of the prevailing party, except that the expense of all expert witnesses for the State in murder cases shall be in such amounts as the presiding justice shall allow and shall be paid by the State and charged against the appropriation for the Department of the Attorney General; ~~but such.~~ Such party or his attorney of record shall first file an affidavit ~~during the term at which such trial is held~~ within 30 days after entry of judgment and before the cause is settled, stating the name, residence, number of days in attendance and the actual amount paid or to be paid each expert witness in attendance at such trial. No more than \$5 per day shall be allowed or taxed by the clerk of courts in the costs of any ~~suit civil action~~ for the per diem attendance of a witness, unless the affidavit ~~herein provided~~ is filed, and the per diem is determined and allowed by the presiding justice.'

Sec. 387. R. S., c. 113, § 130, amended. Section 130 of chapter 113 of the Revised Statutes is amended to read as follows:

'**Sec. 130. Not obliged to attend court unless fees paid or tendered.** No person is obliged to attend any court as a witness in a civil ~~suit action~~ or at any place to have his deposition taken unless his legal fees for travel to and from the place and for one day's attendance are first paid or tendered; ~~and his.~~ His fees for each subsequent day's attendance must be paid at the close of the preceding day if he requests it.'

Sec. 388. R. S., c. 113, § 148, amended. Section 148 of chapter 113 of the Revised Statutes is amended to read as follows:

'**Sec. 148. Adjutant General's certificate as evidence.** The certificate of the Adjutant General relating to the enlistment of any person from this State in the United States' service and of all facts pertaining to the situation of such person, to the time of and including his discharge, as found upon the records of his office, are prima facie evidence of the facts so certified in any ~~suit civil action~~ or proceeding.'

Sec. 389. R. S., c. 113, § 152, amended. Section 152 of chapter 113 of the Revised Statutes is amended to read as follows:

'Sec. 152. Testimony of a deceased subscribing witness or magistrate given in subsequent action. When the testimony of a subscribing witness to a deed or of the magistrate who took the acknowledgment thereof has been taken in the trial of any civil ~~cause~~ **action** in relation to the execution, delivery or registry of such deed, and such witness has since died, proof of such former testimony is admissible in the trial of any other civil ~~cause~~ **action** involving the same question if the parties are the same or if one of the parties is the same and the adverse party acted as agent or attorney for the adverse party in the former ~~suit~~ **action**, but such testimony may be impeached like the testimony of a living witness.'

Sec. 390. R. S., c. 113, § 156, amended. The first sentence of the 2nd paragraph of section 156 of chapter 113 of the Revised Statutes is amended to read as follows:

'Costs for travel shall be taxed for the prevailing party in civil ~~suits~~ **actions** according to the distance of said party or his attorney who resides nearest to the place of trial, unless said prevailing party or his attorney who resides farthest from said place of trial actually travels the greater distance for the special purpose of attending court in such cause, in which case costs shall be taxed for the last-named distance, and when the action is in the name of an indorsee and the plaintiff is the prevailing party, such costs for travel shall be taxed according to the distance of the attorney, payee or indorsee who is nearest to the place of trial, unless the attorney, payee or indorsee residing the greater distance from said place of trial actually travels such greater distance for the special purpose of attending court in said cause.'

Sec. 391. R. S., c. 113, § 156, amended. The next to the last paragraph of section 156 of chapter 113 of the Revised Statutes is amended to read as follows:

'No costs shall accrue, be taxed or allowed for any precept required in legal proceedings ~~whether in law or equity~~ unless the same shall issue from and bear the indorsement of an attorney at law.'

Sec. 392. R. S., c. 113, § 166, amended. Section 166 of chapter 113 of the Revised Statutes is amended to read as follows:

'Sec. 166. State liable for costs in civil action. When a defendant prevail's against the State in a civil ~~suit~~ **action**, judgment for his costs shall be rendered against it and the treasurer of the county shall pay the amount on a certified copy of the judgment; ~~and the~~. The amount shall be allowed to him in his account with the State.'

Sec. 393. R. S., c. 113, § 167, amended. Section 167 of chapter 113 of the Revised Statutes is amended to read as follows:

'Sec. 167. No fees for travel taxable for State. When the State recovers costs in a civil ~~suit~~ **action** no fees shall be taxed for the travel of an attorney.'

Sec. 394. R. S., c. 113, § 175, amended. Section 175 of chapter 113 of the Revised Statutes is amended to read as follows:

'**Sec. 175. If execution could issue, no costs in action on judgment.** A plaintiff shall not be allowed costs in an action on a judgment of any tribunal on which an execution could issue when such ~~suit~~ **action** was commenced, except in trustee process.'

Sec. 395. R. S., c. 113, § 178, amended. Section 178 of chapter 113 of the Revised Statutes is amended to read as follows:

'**Sec. 178. When bankrupt recovers no costs.** When a defendant pleads a discharge in bankruptcy or insolvency obtained after the commencement of the ~~suit~~ **action**, he recovers no costs before the time when the certificate was produced in court.'

Sec. 396. R. S., c. 113, § 187, amended. The last sentence of section 187 of chapter 113 of the Revised Statutes is amended to read as follows:

'If no sufficient cause is shown to the contrary, the justice shall direct an execution to be issued for the amount allowed the creditor by such report with interest from its return to the probate court, and costs allowed by the probate court, if any, \$3 for clerk's fees, and travel and attendance and expense of copies and service of notices, as in ~~suits at law~~ **civil actions**.'

Sec. 397. R. S., c. 113, § 188, amended. The 2nd sentence of section 188 of chapter 113 of the Revised Statutes is amended to read as follows:

'They shall take full notes of all oral testimony and other proceedings in the trial of ~~causes civil actions, either at law or in equity~~ including the charge of the justice in all trials before a jury and all comments and rulings of said justice in the presence of the jury during the progress of the trial, as well as all statements and arguments of counsel addressed to the court, and during the trial furnish for the use of the court or either of the parties a transcript of so much of their notes as the presiding justice may direct.'

Sec. 398. R. S., c. 113, § 188, amended. The 2nd paragraph of section 188 of chapter 113 of the Revised Statutes is amended to read as follows:

'Official Court Reporters appointed by the Chief Justice of the Supreme Judicial Court shall ~~also~~ receive, from the county in which the court or ~~an equity~~ proceeding is held, their expenses when in attendance upon such court or ~~equity~~ proceeding away from their place of residence but not otherwise; ~~a~~. A detailed statement of such expenses actually and reasonably incurred shall be approved by the presiding or sitting justice.'

Sec. 399. R. S., c. 113, § 189, amended. Section 189 of chapter 113 of the Revised Statutes is amended to read as follows:

'**Sec. 189. Appointment for hearings in vacation.** At any hearing in vacation of a ~~cause in law or equity~~ **civil action** pending in the Supreme Judicial Court or in the Superior Court, the presiding justice may, when necessary, appoint a

Court Reporter other than his regularly appointed Official Court Reporter to report the proceedings thereof, who shall receive for his services from the treasury of the county in which the **civil action** is pending a sum not exceeding \$10 a day for attendance in addition to actual traveling expenses; but when at such hearings the presiding justice employs his regularly appointed Official Court Reporter, such Official Court Reporter shall receive from said treasury only the amount of his actual expenses incurred in attending the same.'

Sec. 400. R. S., c. 113, § 191, repealed and replaced. Section 191 of chapter 113 of the Revised Statutes is repealed and the following enacted in place thereof:

'**Sec. 191. Death or disability.** When in any criminal case any material part of a transcript of the evidence taken by the Official Court Reporter cannot be obtained because of his death or disability, the justice who presided at the trial of the case shall on motion, after notice and hearing, if it is evident that the lack of such transcript prevents the respondent from effectively prosecuting his exceptions or appeal, set aside any verdict rendered in the case and grant a new trial at any time within one year after it was returned.'

Sec. 401. R. S., c. 113, § 193, amended. Section 193 of chapter 113 of the Revised Statutes is amended to read as follows:

'**Sec. 193. Stenographic reports taxed in bill of costs.** Any amount legally chargeable by Official Court Reporters for writing out their reports for use in ~~law cases~~ **civil actions** and actually paid by either party whose duty it is to furnish them may be taxed in the bill of costs and allowed against the losing party, as is now allowed for copies, if furnished by the clerk.'

Sec. 402. R. S., c. 114, § 4, amended. The last sentence of section 4 of chapter 114 of the Revised Statutes is amended to read as follows:

'When a partnership is made a trustee ~~in a trustee suit~~ **on trustee process**, service upon one member of the firm shall be a sufficient attachment of the property of the principal defendant in the possession of the firm, provided ~~that~~ such service be made at any place of business of the firm or, if such service is made elsewhere, that legal service be afterward made upon the other members of the firm.'

Sec. 403. R. S., c. 114, § 28, amended. Section 28 of chapter 114 of the Revised Statutes is amended to read as follows:

'**Sec. 28. Trustee not appearing defaulted.** When a person summoned as trustee neglects to appear and answer to the ~~suit~~ **action**, he shall be defaulted and adjudged trustee as alleged.'

Sec. 404. R. S., c. 114, § 32, amended. Section 32 of chapter 114 of the Revised Statutes is amended to read as follows:

'**Sec. 32. If trustee discloses an assignment of the principal's claim.** When it appears by the answers of a trustee that any goods, effects or credits in his hands are claimed by a 3rd person by virtue of an assignment from the principal debtor or in some other way, the court may permit such claimant to appear,

if he sees cause. If he does not appear voluntarily, notice may be issued and served on him as the court directs; ~~if~~. If he appears, he may be admitted as a party to the ~~suit~~ action so far as respects his title to the goods, effects or credits in question, and he may allege and prove any facts not stated or denied in the disclosure of the trustee; ~~but if~~. If he does not appear in person or by attorney, the assignment shall have no effect to defeat plaintiff's attachment.'

Sec. 405. R. S., c. 114, § 33, amended. Section 33 of chapter 114 of the Revised Statutes is amended to read as follows:

'**Sec. 33. Principal defendant may testify.** On the trial between the attaching creditor and such claimant, the principal defendant may be examined as a witness for either party if there is no other objection to his competency except his being a party to the original ~~suit~~ action.'

Sec. 406. R. S., c. 114, § 34, amended. Section 34 of chapter 114 of the Revised Statutes is amended to read as follows:

'**Sec. 34. Form of judgment against principal and trustee.** When the plaintiff recovers judgment against the principal and there is any supposed trustee who has not appeared and been discharged by disclosure or discontinuance of the ~~suit~~ action against him, the court shall award judgment and execution against the goods, effects and credits in his hands, as well as against the principal, in the usual form.'

Sec. 407. R. S., c. 114, § 38, amended. Section 38 of chapter 114 of the Revised Statutes is amended to read as follows:

'**Sec. 38. Death of trustee before judgment, administrator cited.** If he dies before judgment in the original ~~suit~~ action, his executor or administrator may appear voluntarily or may be cited to appear as in case of the death of a defendant in an ordinary action; ~~and further~~. Further proceedings shall then be conducted as if the executor or administrator had been originally summoned as trustee; except that the examination of the deceased, if any had been taken and filed, shall have the same effect as if he were living.'

Sec. 408. R. S., c. 114, § 39, amended. Section 39 of chapter 114 of the Revised Statutes is amended to read as follows:

'**Sec. 39. If administrator does not appear, judgment rendered.** If in such case the executor or administrator does not appear, the plaintiff, instead of suggesting the death of the deceased, may take judgment against him by default or otherwise, as if he were living; ~~and the~~. The executor or administrator shall pay, on the execution, the amount which he would have been liable to pay to the principal defendant; ~~and he~~. He shall be thereby discharged from all demands on the part of the principal defendant in the ~~suit~~ action for the amount so paid, as if he had himself been adjudged trustee.'

Sec. 409. R. S., c. 114, § 41, amended. Section 41 of chapter 114 of the Revised Statutes is amended to read as follows:

Sec. 41. If trustee dies within 30 days after judgment, proceedings to preserve the attachment. If any person against whom execution issues as trustee is not living at the expiration of 30 days after final judgment in the ~~trustee suit~~ **action**, the demand, to be made by force of the execution for continuing the attachment as provided in section 73, may be made on his executor or administrator at any time within 30 days after his appointment with the same effect as if made within 30 days after the judgment.'

Sec. 410. R. S., c. 114, § 43, amended. Section 43 of chapter 114 of the Revised Statutes is amended to read as follows:

Sec. 43. Remedy on his bond if he neglects to pay. If after final judgment against an executor or administrator for any certain sum due from him as trustee he neglects to pay it, the original plaintiff in the foreign attachment has the same remedy for recovering the amount, either upon a suggestion of waste or by ~~a suit~~ **an action** on the administration bond, as the principal defendant in the foreign attachment would have had upon a judgment recovered by himself for the same demand against the executor or administrator.'

Sec. 411. R. S., c. 114, § 53, amended. Section 53 of chapter 114 of the Revised Statutes is amended to read as follows:

Sec. 53. Property sold on execution. The officer, having sold on execution any personal property delivered to him by virtue ~~of the provisions~~ of this chapter, after deducting the fees and charges of sale, shall pay to the plaintiff the sum by him paid or tendered to the trustee or applied in the performance of such contract or condition or discharge of such liability and the interest from the time of such payment, tender or application to the time of sale, ~~and so.~~ So much of the residue as is required therefor, he shall apply in satisfaction of the plaintiff's judgment and pay the balance, if any, to the debtor, first paying the trustee his costs accruing ~~before the service of the seire facias~~ as provided in section 14.'

Sec 412. R. S., c. 114, § 58, amended. Section 58 of chapter 114 of the Revised Statutes is amended to read as follows:

Sec. 58. If defendant in action pending is summoned as trustee of plaintiff. If, during the pendency of an action, the defendant is summoned as trustee of the plaintiff, the first ~~suit~~ **action** may nevertheless proceed so far as to ascertain by a verdict or otherwise, what sum, if any, is due from the defendant; but the court may, on motion of the plaintiff in the trustee ~~suit~~ **action**, continue it for judgment until the termination of the trustee ~~suit~~ **action**, or until the attachment therein is dissolved by the discharge of the trustee or satisfaction of the judgment otherwise.'

Sec. 413. R. S., c. 114, § 59, amended. Section 59 of chapter 114 of the Revised Statutes is amended to read as follows:

Sec. 59. Defendant not adjudged trustee after judgment in first action. If the first ~~suit~~ **action** is not continued and judgment is rendered therein, the defendant shall not afterwards be adjudged a trustee on account of the demand thus recovered against him while he is liable to an execution thereon.'

Sec. 414. R. S., c. 114, § 60, amended. Section 60 of chapter 114 of the Revised Statutes is amended to read as follows:

'Sec. 60. If, before final judgment, defendant adjudged trustee on other action. If, before final judgment is rendered in the first ~~suit~~ **action**, the defendant in that ~~suit~~ **action** is adjudged trustee in the other and pays thereon the money demanded in the first ~~suit~~ **action** or any part of it, the fact shall be stated on the record of the first ~~suit~~ **action** and judgment therein shall be rendered for the costs due to the plaintiff and for such part of the debt or damages, if any, as remains due and unpaid.'

Sec. 415. R. S., c. 114, § 64, amended. Section 64 of chapter 114 of the Revised Statutes is amended to read as follows:

'Sec. 64. Trustee may retain pay due him, but not for unliquidated damages. Every trustee may retain or deduct out of the goods, effects and credits in his hands all his demands against the principal defendant, of which he could have availed himself if he had not been summoned as trustee, by way of ~~setoff~~ **counter-claim** on trial or by a setoff of judgments or executions between himself and the principal defendant, except unliquidated damages for wrongs and injuries; ~~and he.~~ **He** is liable for the balance only, after their mutual demands are adjusted.'

Sec. 416. R. S., c. 114, § 77, amended. Section 77 of chapter 114 of the Revised Statutes is amended to read as follows:

'Sec. 77. False disclosure. Whoever, summoned as trustee, upon his examination willfully and knowingly answers falsely, shall be deemed guilty of perjury, and shall pay to the plaintiff in the ~~suit~~ **action** so much of the judgment recovered against the principal defendant as remains unsatisfied, with interest and costs, to be recovered in ~~an a civil action on the case.~~

Sec. 417. R. S., c. 115, § 1, amended. Section 1 of chapter 115 of the Revised Statutes is amended to read as follows:

'Sec. 1. Bail bond; returned with writ. When bail is taken on mesne process, it shall be by bond to the sheriff, if taken by him or his deputy, otherwise to the officer making the arrest, with condition that the defendant will appear and answer to the ~~suit~~ **action** and abide final judgment thereon and not avoid. The bond shall be returned with the writ and the clerk shall note on the writ that a bail bond is so filed.'

Sec. 418. R. S., c. 115, § 15, amended. Section 15 of chapter 115 of the Revised Statutes is amended to read as follows:

'Sec. 15. Surrender in such case, before and after judgment. If the principal is surrendered before final judgment in the original ~~suit~~ **action**, the bail shall deliver to the officer a copy of the writ with the return thereon, attested by the justice; but if he is surrendered after such judgment, the bail shall deliver a copy of the entry of surrender, attested by the justice; ~~and in.~~ **In** either case, the officer shall deliver the copy to the jailer with the prisoner, which shall be a

officer shall deliver the copy to the jailer with the prisoner, which shall be sufficient warrant to the officer for receiving and conveying him to jail and to the jailer for holding him in custody.'

Sec. 419. R. S., c. 115, § 16, amended. Section 16 of chapter 115 of the Revised Statutes is amended to read as follows:

'**Sec. 16. Remedy of bail against principal.** Bail may have their remedy against their principal, by ~~an~~ a civil action ~~on the case~~, for all damages sustained by them by reason of their suretyship.'

Sec. 420. R. S., c. 117, § 31, amended. The first sentence of section 31 of chapter 117 of the Revised Statutes is amended to read as follows:

'Depositions and disclosures of trustees may be taken by such commissioners stenographically by the consent of the parties to the ~~suit~~ action or proceeding, and their notes shall be transcribed in full by questions and answers and read to the deponent or trustee and signed by him.'

Sec. 421. R. S., c. 118, § 9, amended. Section 9 of chapter 118 of the Revised Statutes is amended to read as follows:

'**Sec. 9. Return of sale; fraud, in sale or in return.** The officer shall, in his return on the execution, particularly describe each article or lot of goods sold and the price at which it was sold; ~~and if~~. If he commits any fraud in the sale or return, he forfeits to the debtor 5 times the sum of which he defrauds him, to be recovered in ~~an~~ a civil action ~~on the case~~.'

Sec. 422. R. S., c. 118, § 13, amended. Section 13 of chapter 118 of the Revised Statutes is amended to read as follows:

'**Sec. 13. Notice of seizure.** If the property was not attached on mesne process in the same ~~suit~~ action, the officer shall leave a copy of the execution with the treasurer, cashier, clerk or other recording officer of the company and the property shall be considered as seized on execution when the copy is so left. If it was so attached and remains attached, the officer shall proceed in seizing and selling it on execution as provided in section 16.'

Sec. 423. R. S., c. 118, § 15, amended. Section 15 of chapter 118 of the Revised Statutes is amended to read as follows:

'**Sec. 15. Shares sold to be transferred; new certificate to purchaser; dividends.** Within 14 days after the sale, the officer shall leave an attested copy of the execution and of the return thereon with the officer of the company whose duty it is to record transfers of shares; ~~and the~~. The purchaser is thereupon entitled to a certificate or certificates of the shares brought by him, on paying the fees therefor and for recording the transfers; ~~and if~~. If such shares or interest were attached in the ~~suit~~ action in which the execution issued, he shall have all dividends which accrue after the attachment.'

Sec. 424. R. S., c. 118, § 28, amended. Section 28 of chapter 118 of the Revised Statutes is amended to read as follows:

'Sec. 28. Cases in which executions not set off. Executions shall not thus be set off against each other, when the sum due on one of them has been lawfully and in good faith assigned to another person before the creditor in the other execution became entitled to the sum due thereon; nor when there are several creditors or debtors in one execution, and the sum due on the other is due to or from a part of them only; nor to so much of the first execution as is due to the attorney in the ~~suit~~ **action** for his fees and disbursements therein.'

Sec. 425. R. S., c. 118, § 32, amended. Section 32 of chapter 118 of the Revised Statutes is amended to read as follows:

'Sec. 32. Remedy of owner of property so sold. The owner of any real or personal estate so sold may recover against the town, in ~~an~~ **a civil action of assumpsit**, the full value thereof with interest at the rate of 12% yearly, with costs of ~~suit~~ **the action**; and may prove and recover the real value thereof, whatever was the price at which it was sold.'

Sec. 426. R. S., c. 119, § 14, amended. Section 14 of chapter 119 of the Revised Statutes is amended to read as follows:

'Sec. 14. Specific performance of a contract to convey real estate after death of contractor. If a person, who has contracted in writing to convey real estate, dies before making the conveyance, the other party may ~~have a bill in equity~~ **file a complaint** in the ~~Supreme Judicial Court or in the~~ Superior Court to enforce specific performance thereof against his heirs, devisees, executors or administrators, if commenced within 3 years from the grant of administration or from the time when he is entitled to such conveyance, but not exceeding 4 years after the grant of administration, provided ~~that~~ written notice of the existence of the contract is given to the executor or administrator within one year after the grant of administration.

Sec. 427. R. S., c. 119, § 16, amended. Section 16 of chapter 119 of the Revised Statutes is amended to read as follows:

'Sec. 16. Enforcement of decree. If the defendant neglects or refuses to convey according to the decree, the court may render judgment for the plaintiff for possession of the land, to hold according to the terms of the intended conveyance, and may issue a writ of seizin as in a real action, under which the plaintiff, having obtained possession, shall hold the premises as effectually as if conveyed in pursuance of the decree; or the court may enforce its decree by any other process ~~according to chancery proceedings.~~

Sec. 428. R. S., c. 119, § 17, amended. Section 17 of chapter 119 of the Revised Statutes is amended to read as follows:

'Sec. 17. Provision, in case of death of obligee, before conveyance. If the person entitled to such conveyance dies before bringing his ~~suit~~ **action**, or before the conveyance is completed or such seizin and possession are obtained, his heir, devisee or other person entitled to the estate under him may bring and prosecute such ~~suit~~ **action**, and shall be entitled to the conveyance or seizin and possession in like manner as the obligee.'

Sec. 429. R. S., c. 119, § 18, amended. Section 18 of chapter 119 of the Revised Statutes is amended to read as follows:

'Sec. 18. Administrator may petition for authority to make conveyance. If the party to whom any such conveyance was to be made or those claiming under him do not commence ~~a suit an action~~ as before provided, and the heirs of the deceased party are under age or otherwise incompetent to convey the lands contracted for, the executor or administrator of the deceased may file a ~~bill in equity in the Supreme Judicial Court or complaint~~ in the Superior Court, setting forth the contract and circumstances of the case; ~~whereupon.~~ **Whereupon** the court by its decree may authorize such executor or administrator to convey the estate as the deceased should have done; ~~and such.~~ **Such** conveyance shall be deemed a performance of the contract on the part of the deceased so as to entitle his heirs, executors or administrators to demand a performance thereof on the part of the other party.'

Sec. 430. R. S., c. 120, § 9, amended. Section 9 of chapter 120 of the Revised Statutes is amended to read as follows:

'Sec. 9. Effect; lien on property disclosed. On such examination, the court, justice or commissioner, except as provided in section 14, may determine that the defendant shall forever thereafter be exempt from arrest on any execution issued on the judgment recovered in the ~~suit action~~, and that such execution shall run against the property only of the defendant, or otherwise, as justice requires, on the facts so disclosed or proved; ~~and all.~~ **All** attachable property so disclosed, from the time of the disclosure, shall be held attached as provided in section 7, subject to ~~the provisions of the 2 following~~ **sections 10 and 11.'**

Sec. 431. R. S., c. 120, § 10, amended. Section 10 of chapter 120 of the Revised Statutes is amended to read as follows:

'Sec. 10. Certificate of real estate disclosed filed in registry of deeds. If the disclosed property is real estate, the court, justice or commissioner shall deliver to the plaintiff a certificate thereof, stating the names of the parties and the amount of the claim in the ~~writ complaint~~, which the plaintiff shall file with the register of deeds for the county or district where the estate lies within 5 days after its date; ~~and the.~~ **The** register shall enter and file it as returns of officers making attachments of real estate and shall be entitled to the same fees from the plaintiff.'

Sec. 432. R. S., c. 120, § 11, amended. Section 11 of chapter 120 of the Revised Statutes is amended to read as follows:

'Sec. 11. Lien on personal estate preserved. If personal estate liable to attachment is disclosed, and the plaintiff states that he is apprehensive that it may be removed or concealed so that it cannot be taken on execution, the court ~~in term time or any justice thereof in vacation~~ or the trial justice before whom the ~~suit action~~ is pending may issue an order signed and sealed, directing any officer authorized to serve processes in the ~~suit action~~ to take such property into his custody and hold it as if originally attached; and he shall execute the order accordingly.'

Sec. 433. R. S., c. 120, § 14, amended. Section 14 of chapter 120 of the Revised Statutes is amended to read as follows:

'Sec. 14. Property which cannot be attached delivered up or assigned by debtor. If, on any disclosure and examination before judgment, it appears that the debtor possesses, has in his power, or with intent to protect the same from his creditors, has assigned, secreted or otherwise disposed of any bank bills, notes, accounts, bonds or other contracts or property not exempt from attachment, but which cannot be reached to be attached from its nature or otherwise, the debtor, if under arrest, shall not be released nor shall he be exempted from arrest on execution of judgment in such ~~suit~~ **action**, unless he assigns and delivers to such person, as the examining magistrate, court or commissioner appoints, all such property, or so much of it as they adjudge sufficient security for the creditor, to be held by him, under the direction of the court or justice before whom the ~~suit~~ **action** is pending, in trust for the parties that it may be applied and appropriated as provided in sections 57 and 58.'

Sec. 434. R. S., c. 120, § 18, amended. Section 18 of chapter 120 of the Revised Statutes is amended to read as follows:

'Sec. 18. Creditor's election to arrest on execution or otherwise. If the creditor elects so to arrest him and the officer having the execution returns that the debtor is not found, his bond shall be forfeited; ~~and on.~~ **On** judgment thereon, execution shall issue for the amount of judgment in the original ~~suit~~ **action**, and interest. If the debtor is not arrested within that time and does not avoid arrest, no execution, issued or founded on such judgment, shall run against his body, but against his property only.'

Sec. 435. R. S., c. 120, § 32, amended. Section 32 of chapter 120 of the Revised Statutes is amended to read as follows:

'Sec. 32. Lien on personal estate disclosed; if debtor or other person conceals. If the debtor or the officer of the debtor corporation discloses personal estate liable to be seized on execution, the petitioner shall have a lien on it, or so much of it as the magistrate in his record judges necessary, for 30 days; ~~and if.~~ **If** the debtor or the officer of the debtor corporation transfers, conceals or otherwise disposes of it within said time, or suffers it to be done, or refuses to surrender it on demand to any proper officer having an execution on the same judgment, the debtor shall have no benefit from the certificate described in section 38; ~~and the.~~ **The** petitioner may recover, in ~~on a civil action on the case~~ **an** against him or any person fraudulently aiding in such transfer, concealment or disposal, double the amount due on said execution; ~~and any.~~ **Any** execution on a judgment in such action shall run against the bodies of the debtor and other persons so aiding, but the payment thereof is a satisfaction of the original debt.'

Sec. 436. R. S., c. 120, § 33, amended. Section 33 of chapter 120 of the Revised Statutes is amended to read as follows:

'Sec. 33. Persons holding property in trust or in fraud of creditors compelled to appear and testify; lien. If said magistrate finds reasonable cause to believe

that any other person holds any property or credits of the debtor in trust for him or in fraud of his creditors, or if the petitioner shall make oath that he believes that such other person so holds property of the debtor, the magistrate shall issue a similar subpoena to such person to appear and testify in relation thereto, the same to be served as subpoenas in ~~civil suits~~ **actions**. The testimony of such witness may be reduced to writing and signed by him, and if it shall satisfactorily appear to the magistrate from all the evidence in the case that such person so holds property or credits of the debtor, he shall so certify upon the execution; ~~and the~~. The petitioner shall have a lien upon said property or credits for 30 days succeeding such disclosure, to be enforced by ~~bill in equity~~ **complaint seeking equitable relief** or trustee process, and if upon such ~~bill in equity~~ **complaint** or trustee process the court finds such property or credits to be so held as aforesaid, it may order the same, or so much of them as may be necessary to satisfy the judgment and all costs, to be conveyed, transferred or assigned to the petitioner; ~~and if~~. If the parties cannot agree upon the value of such property or credits, they shall be assigned to the petitioner, if he shall give such trustee a bond with sufficient surety, accepted by the court, to account for and pay over to said trustee the surplus of the proceeds of such property or credits, after satisfying said judgment and costs.'

Sec. 437. R. S., c. 120, § 39, amended. The next to the last sentence of section 39 of chapter 120 of the Revised Statutes is amended to read as follows:

'The magistrate shall ~~also~~ issue a capias under his hand and seal, and annex the same to said execution in force at the time of said disclosure, and the debtor may be arrested and imprisoned on said capias and execution, ~~the same as upon executions issued in actions of tort~~ where the original debt exclusive of costs exceeds \$10 and not otherwise.'

Sec. 438. R. S., c. 120, § 41, amended. Section 41 of chapter 120 of the Revised Statutes is amended to read as follows:

'**Sec. 41. Release of debtor when arrested.** When a debtor is arrested upon said capias and execution or upon any subsequent execution upon which a copy of either of the certificates required by ~~the a preceding~~ sections 39 and 40 has been indorsed, all subsequent proceedings for his release shall be the same as in case of arrest or imprisonment on executions in **civil actions of tort**; but if said debtor fails to obtain his discharge at any subsequent examination before justices of the peace, he shall not a second time disclose before such justices, but may thereafter apply to a Justice of the Superior Court and disclose as provided in section 72.'

Sec. 439. R. S., c. 120, § 46, amended. Section 46 of chapter 120 of the Revised Statutes is amended to read as follows:

'**Sec. 46. When execution to run against body.** In any ~~civil actions~~ **action of tort and in all other cases**, except where express provision is by law made to the contrary, an execution shall run against the body of the judgment debtor; ~~and he~~. He may be arrested and imprisoned thereon for the purpose of obtaining a discovery of his property wherewith to satisfy it ~~as hereinafter stated~~.'

Sec. 440. R. S., c. 120, § 50, amended. Section 50 of chapter 120 of the Revised Statutes is amended to read as follows:

'Sec. 50. Bond given on such arrest. When a debtor is arrested or imprisoned on execution, he may be released by giving bond to the creditor, in double the sum due thereon, with surety or sureties approved in writing by the creditor or by 2 or 3 justices of the peace in the county where he is arrested or imprisoned, selected and proceedings as provided in section 68, or a Justice of the Supreme Judicial or Superior Court ~~in term or vacation~~; conditioned that he will, within 6 months thereafter, cite the creditor before 2 justices of the peace, submit himself to examination and take the oath prescribed in section 56, pay the debt, interest, costs and fees arising in said execution, or deliver himself into the custody of the keeper of the jail to which he is liable to be committed under said execution.'

Sec. 441. R. S., c. 120, § 51, amended. Section 51 of chapter 120 of the Revised Statutes is amended to read as follows:

'Sec. 51. Bond, when valid. The bond described in ~~the preceding~~ section 50 is a valid statute bond although the penalty varies not exceeding 5% from the sum aforesaid; ~~and judgment.~~ **Judgment** in a ~~suit~~ **civil action** thereon shall be rendered according to ~~the provisions of~~ section 66.'

Sec 442. R. S., c. 120, § 64, amended. Section 64 of chapter 120 of the Revised Statutes is amended to read as follows:

'Sec. 64. Lien on personal estate disclosed; if debtor or other person conceals. If an execution debtor discloses personal estate liable to be seized on execution, the creditor shall have a lien on it for 30 days, or so much of it as the justices, in their record, judge necessary; ~~and if.~~ **If** the debtor transfers, conceals or otherwise disposes of it within said time, or suffers it to be done, or refuses to surrender it on demand to any proper officer having an execution on the same judgment, the debtor shall have no benefit from the certificate described in section 59; ~~and the.~~ **The** creditor may recover, in ~~an~~ **a civil action** ~~on the case~~ against him or any person fraudulently aiding in such transfer, concealment or disposal, double the amount due on said execution; ~~and any.~~ **Any** execution on a judgment in such action shall run against the bodies of the debtor and other persons so aiding; but the payment thereof is a satisfaction of the original debt.'

Sec. 443. R. S., c. 120, § 72, amended. Section 72 of chapter 120 of the Revised Statutes is amended to read as follows:

'Sec. 72. When debtor twice refused discharge. A debtor who has been twice refused a discharge shall not again disclose before such justices; but may by **motion** apply to a ~~Justice of~~ the Superior Court, ~~who in term time or vacation~~ **which**, after notice to the creditor or his attorney and a hearing of the parties, may appoint a commissioner to take his examination and disclosure; and shall then fix his compensation, which shall be paid by the debtor before commencing his disclosure. The commissioner shall give to the creditor or his attorney 7 days' notice of the time and place appointed by him for such hearing; ~~and all.~~

All proceedings relating to such disclosure, oath, discharge and disposal of the property disclosed shall be the same as in disclosures before such justices, and shall have like effect.'

Sec. 444. R. S., c. 120, § 75, amended. Section 75 of chapter 120 of the Revised Statutes is amended to read as follows:

'Sec. 75. Limitation of actions on bonds. No ~~suit action~~ on any bond herein authorized shall be sustained unless commenced within one year after the forfeiture; except that ~~the provisions of sections 99 and 100 of chapter 112, sections 99 and 100,~~ are applicable to such ~~suits actions.~~'

Sec. 445. R. S., c. 120, § 77, amended. Section 77 of chapter 120 of the Revised Statutes is amended to read as follows:

'Sec. 77. False disclosures; liability. When a debtor, herein authorized or required to disclose on oath, willfully discloses falsely or withholds or suppresses the truth, the creditor of record or in interest may bring a ~~special civil action on the case~~ against him, whether he is criminally prosecuted or not, particularly alleging the false oath and fraudulent concealment of his estate or property; ~~and on.~~ On oath before a justice of the peace he may declare his belief of the truth of the allegations in the ~~writ; such~~ **complaint.** ~~Such~~ justice shall certify the oath on the ~~writ; and thereupon~~ **complaint.** ~~Thereupon~~ the debtor shall be held to bail, or in default thereof be committed to jail to abide the judgment in the ~~suit action; and if.~~ **If** the creditor prevails in the ~~suit action,~~ judgment shall be rendered against the debtor for double the amount of the debt and charges on the former judgment; ~~and the.~~ **The** debtor may be arrested and committed to jail on any execution issued on the judgment last recovered, without the privilege of release or discharge except by payment or consent of the creditor.'

Sec. 446. R. S., c. 120, § 78, amended. Section 78 of chapter 120 of the Revised Statutes is amended to read as follows:

'Sec. 78. Fraudulent concealment or transfer; liability. Whoever knowingly aids or assists a debtor or prisoner in a fraudulent transfer or concealment of his property, to secure it from creditors and to prevent its attachment or seizure on execution, is liable to any creditor suing therefor in ~~an a civil action on the case,~~ in double the amount of property so fraudulently transferred or concealed, not exceeding double the amount of such creditor's demand.'

Sec. 447. R. S., c. 120 § 81, amended. Section 81 of chapter 120 of the Revised Statutes is amended to read as follows:

'Sec. 81. Disability of persons committed for willful trespass. When, in the trial of ~~an a civil action of~~ for trespass on property, the court, jury or magistrate determines that such trespass was committed willfully and the fact is recorded and noted on the margin of the execution on such judgment and the debtor is thereon arrested and committed to jail, he shall not be entitled to give any bond for his liberation; ~~and if.~~ **If** he applies to take the oath described in section 56,

no notice shall be issued to the creditor until at least 30 days after his commitment.'

Sec. 448. R. S., c. 124, § 6, amended. Section 6 of chapter 124 of the Revised Statutes is amended to read as follows:

'**Sec. 6. Defendant to pay only single damages in certain cases.** If the jury finds that the defendant in such ~~suit~~ **action** has good reason to believe himself the owner of the land in severalty, or that he and those under whom he claims had been in exclusive possession thereof, claiming it as their own, for 3 years next before the acts complained of were committed, only single damages shall be recovered.'

Sec. 449. R. S., c. 124, § 8, amended. Section 8 of chapter 124 of the Revised Statutes is amended to read as follows:

'**Sec. 8. Treble damages for waste, pending an action.** If, during the pendency of an action for the recovery of land, the tenant commits strip or waste by cutting, felling or destroying wood, timber, trees or poles standing thereon, he shall pay to the aggrieved party treble damages, to be recovered in ~~an~~ **a civil action of trespass.**'

Sec. 450. R. S., c. 124, § 9, amended. The first sentence of section 9 of chapter 124 of the Revised Statutes is amended to read as follows:

'Whoever cuts down, destroys, injures or carries away any ornamental or fruit tree, timber, wood, underwood, stones, gravel, ore, goods or property of any kind from land not his own, without license of the owner, or injures or throws down any fences, bars or gates, or leaves such gates open, or breaks glass in any building is liable in damages to the owner in ~~an~~ **a civil action of trespass.**'

Sec. 451. R. S., c. 124, § 11, amended. Section 11 of chapter 124 of the Revised Statutes is amended to read as follows:

'**Sec. 11. Trespass on improved or ornamental grounds.** Whoever enters on any grass land, dooryard, ornamental grounds, orchard or garden and cuts down, defaces, destroys or takes therefrom, without permission of the owner, any grass, hay, fruit, vegetable or ornamental tree or shrub is liable in ~~an~~ **a civil action of trespass** to the party injured in treble damages.'

Sec. 452. R. S., c. 124, § 12, amended. The first sentence of section 12 of chapter 124 of the Revised Statutes is amended to read as follows:

'Whoever, after notice by the owner, occupant or lessee in any of the ways provided in ~~the following~~ **section 13**, trespasses upon any island within salt waters, for the purpose of shooting or hunting thereon, is liable to such owner, occupant or lessee in exemplary damages to an amount not less than \$20 nor more than \$50, in addition to all actual damage sustained by said owner, occupant or lessee and shall ~~also~~ forfeit to said owner, occupant or lessee \$5 for each bird of any kind shot, caught, taken or killed on such island, all to be recovered in ~~an~~ **a civil action of debt.**'

Sec. 453. R. S., c. 124, § 13, amended. Section 13 of chapter 124 of the Revised Statutes is amended to read as follows:

'Sec. 13. Notices; injuring signboards. Notices referred to in ~~the preceding~~ section 12 shall be given by erecting and maintaining signboards at least one foot square in at least 2 conspicuous places on the premises, one of them near one of the usual landing places on said island, reading as follows: "All persons are forbidden to shoot or hunt on this island," with the name of the owner, occupant or lessee; or such notice may be given verbally or in writing by the owner, occupant or lessee of the island to any person and shall be binding on the person so notified, whether the signboards herein named are erected and maintained or not ~~and whoever~~. **Whoever** tears down or in any way defaces or injures any such signboard forfeits \$100, to be recovered by the owner, occupant or lessee of such island in ~~an~~ a civil action ~~of debt~~.'

Sec. 454. R. S., c. 124, § 16, amended. Section 16 of chapter 124 of the Revised Statutes is amended to read as follows:

'Sec. 16. Waste on lands of an insolvent deceased. If an heir or devisee of a person deceased, after the estate of the decedent is represented insolvent and before sale of the real estate for payment of debts or before all the debts are paid, removes or injures any building or any trees, except such trees as are needed for fuel or repairs, or commits any strip or waste on such estate, he shall forfeit treble the amount of damages, to be recovered by the executor or administrator in ~~an~~ a civil action ~~of trespass~~.'

Sec. 455. R. S., c. 124, § 18, amended. Section 18 of chapter 124 of the Revised Statutes is amended to read as follows:

'Sec. 18. One or more tenants in common may join in actions; notice to others. All or any of the tenants in common or joint tenants of lands may join or sever in personal actions for injuries done thereto, setting forth in the declaration the names of all other cotenants, if known, and the court may order notice to be given in such actions to all other cotenants known, and all or any of them at any time before final judgment may become plaintiffs in the action, and prosecute the ~~suit~~ action for the benefit of all concerned.'

Sec. 456. R. S., c. 125, § 4, amended. Section 4 of chapter 125 of the Revised Statutes is amended to read as follows:

'Sec. 4. Judgment, if beasts are lawfully distrained. If it appears that the beasts were lawfully taken or distrained, the defendant shall have judgment for the sum found due from the plaintiff for the damages for which the beasts were distrained, with legal fees, costs and expenses occasioned by the distress and costs of the replevin ~~suit~~ action; or, instead thereof, the justice or court may enter judgment for a return of the beasts to the defendant, to be held by him for the original purpose, irrepleviable by the plaintiff, and for the defendant's damages and costs in the replevin ~~suit~~ action.'

Sec. 457. R. S., c. 125, § 8, amended. Section 8 of chapter 125 of the Revised Statutes is amended to read as follows:

Sec. 8. Goods, unlawfully detained, replevied. When goods, unlawfully taken or detained from the owner or person entitled to the possession thereof, or attached on mesne process, or taken on execution, are claimed by any person other than the defendant in the ~~suit~~ **action** in which they are so attached or taken, such owner or person may cause them to be replevied.

Sec. 459. R. S., c. 125, § 13, amended. Section 13 of chapter 125 of the Revised Statutes is amended to read as follows:

Sec. 13. Disposal of money recovered by officer for goods attached or taken on execution. All sums recovered by an officer in an action of replevin on account of goods attached or taken in execution by him or recovered in a ~~suit~~ **civil action** upon the replevin bond shall be applied:

I. Fees, charges, expenses. To pay the lawful fees and charges of the officer, and the reasonable expenses of the replevin ~~suit~~ **action**, and of the action on the bond, so far as they are not reimbursed by the costs recovered.

II. Payment to creditor. To pay the creditor, ~~at~~ in whose ~~suit~~ **action** the goods were attached or taken on execution, the sum, if any, recovered by him in that ~~suit~~ **action** or what remains unpaid, with interest at the rate of 12% a year for the time that the money was withheld from the creditor or the service of his execution was delayed by reason of the replevin.

III. Application of balance or if creditor does not recover judgment. If the attaching creditor in such case does not recover judgment in his ~~suit~~ **action**, or if any balance remains of the money so recovered by the officer after paying the creditor his due, such balance or the whole amount, as the case may be, shall be applied as the surplus of the proceeds of sale should have been applied if such goods had been sold on execution.'

Sec. 459. R. S., c. 126, § 38, amended. The first sentence of section 38 of chapter 126 of the Revised Statutes is amended to read as follows:

'When ~~an insane~~ a ~~mentally ill~~ person is arrested or imprisoned on mesne process or execution in a civil ~~suit~~ **action**, a Justice of the Supreme Judicial Court or of the Superior Court or the judge of probate within his county, on application, may inquire into the case; issue a writ of habeas corpus; cause such person to be brought before him for examination; and after notice to the creditor or his attorney, if either is living in the State, and a hearing, if it is proved to the satisfaction of said justice or judge that the person is ~~insane~~ **mentally ill**, he may discharge him from arrest or imprisonment; and the creditor may make a new arrest on the same demand when the debtor becomes of sound mind.'

Sec. 460. R. S., c. 128, § 1, amended. Section 1 of chapter 128 of the Revised Statutes is amended to read as follows:

Sec. 1. Persons entitled to writ, and from what court. If any person is imprisoned, restrained of his liberty or held in duress, unless by a lawful writ, warrant or other process, civil or criminal, he may have the writ for replevying the person, on ~~application made~~ **complaint filed** by himself or anyone in his behalf to any Justice of in the Superior Court, ~~in term time or vacation~~ at the discretion of ~~such justice~~ **the court** and not otherwise.'

Sec. 461. R. S., c. 128, § 9, amended. Section 9 of chapter 128 of the Revised Statutes is amended to read as follows:

'Sec. 9. If plaintiff produced. If the defendant, after the return of eloignment, produces the body of the plaintiff in court, the court shall deliver him from imprisonment, upon his giving the defendant such bond as hereinbefore in this chapter directed to be taken by the officer when the plaintiff is delivered by him; and for want thereof, he shall be committed to abide the judgment on the writ for replevying the plaintiff; and, in either case, the ~~suit~~ **action** shall be tried as aforesaid.'

Sec. 462. R. S., c. 129, § 21, amended. Section 21 of chapter 129 of the Revised Statutes is amended to read as follows:

'Sec. 21. Quo warranto. Petitions, informations and other processes in quo warranto proceedings may be made returnable before ~~the Supreme Judicial Court or the Superior Court, in term time or in vacation~~ as and when the court ~~or any justice thereof~~ may order, and by like order the cause may be heard in vacation if the justice hearing the same shall determine that justice so requires.'

Sec. 463. R. S., c. 130, § 15, amended. Section 15 of chapter 130 of the Revised Statutes is amended to read as follows:

'Sec. 15. Shipmasters, carrying apprentices and minors out of State. If the master of a vessel carries out of the State an apprentice, indented servant or person under 21 years of age, without the consent of his parent, master or guardian, he shall be punished by a fine of not more than \$200; and be liable in ~~an~~ **a civil action on the case** to such parent, master or guardian for all damages thereby sustained.'

Sec. 464. R. S., c. 130, § 35, amended. The 3rd sentence of section 35 of chapter 130 of the Revised Statutes is amended to read as follows:

'Any person, firm or corporation violating any of the provisions of this section shall be liable in ~~an~~ **a civil action of debt** to a penalty of not less than \$25 nor more than \$100, to each and every person, severally and not jointly, whose name appears in any such list.'

Sec. 465. R. S., c. 131, § 17, amended. Section 17 of chapter 131 of the Revised Statutes is amended to read as follows:

'Sec. 17. Malicious injury; tampering with; setting in motion any railroad car. Whoever willfully, mischievously or maliciously breaks the seal upon any freight car, or breaks and enters any railroad car, locomotive or work equipment on any railroad in the State, or destroys, injures, defiles or defaces any railroad car, locomotive or work equipment on any railroad in the State, or mischievously or maliciously releases the brakes upon, moves or sets in motion any railroad car, locomotive or work equipment on the track or sidetrack of any railroad in the State, shall be punished by a fine of not more than \$500 or by imprisonment for not more than 2 years, and shall ~~also~~ **be** liable to the corporation injured in ~~an~~ **a civil action of trespass** for the amount of injury so done.'

Sec. 466. R. S., c. 131, § 20, amended. Section 20 of chapter 131 of the Revised Statutes is amended to read as follows:

'Sec. 20. Interference, removal or destruction of transit points, etc. Whoever willfully or maliciously disturbs, removes or destroys any transit point, reference point, stake, plug, hub, guard-stake, bench mark or other monument of any railroad, highway or other engineering location or survey shall be punished by a fine of not more than \$25 or by imprisonment for not more than 30 days; and in addition thereto shall be liable in ~~an~~ a civil action ~~of debt~~ for the amount of damage done.'

Sec. 467. R. S., c. 131, § 22, amended. Section 22 of chapter 131 of the Revised Statutes is amended to read as follows:

'Sec. 22. Malicious injury to buildings, fixtures, goods or valuable papers, civil action for damages not exceeding treble amount. Whoever willfully and wantonly or maliciously destroys, injures or defaces any building or fixture attached thereto without consent of the owner; or destroys, injures or secretes any goods, chattels or valuable papers of another, shall be punished by a fine of not more than \$500 or by imprisonment for less than one year; and shall ~~also~~ be liable to the party injured, in ~~an~~ a civil action ~~of trespass~~, for the amount of injury so done and for a further sum, not exceeding in all 3 times such amount, as the jury deems reasonable.'

Sec. 469. R. S., c. 131, § 24, amended. The last sentence of section 24 of chapter 131 of the Revised Statutes is amended to read as follows:

'Said forfeitures may be recovered by complaint or civil action ~~of debt~~, $\frac{1}{2}$ to the plaintiff or informer and $\frac{1}{2}$ to the county in which the trial is had.'

Sec. 469. R. S., c. 131, § 28, amended. Section 28 of chapter 131 of the Revised Statutes is amended to read as follows:

'Sec. 28. Driving nails, spikes, etc., in logs intended for manufacture; civil action for double damage. Whoever willfully or maliciously drives or causes to be driven into any log or logs intended to be sawed or manufactured any nail, spike, bolt or other article such as is likely to cause injury to or destruction of any saw or instrument used in the manufacture of such logs or endanger the life or person of anyone engaged in such manufacture, shall be punished by a fine of not less than \$100 nor more than \$500, and by imprisonment for not less than one year nor more than 5 years; and shall ~~also~~ be liable to any person injured in ~~an~~ a civil action ~~on the case~~ for double damages sustained by such person.'

Sec. 470. R. S., c. 131, § 29, amended. Section 29 of chapter 131 of the Revised Statutes is amended to read as follows:

'Sec. 29. Injuring or cutting loose booms, rafts, vessels or boats; civil action for double damages. Whoever willfully or maliciously, without consent of the owner, cuts away, lets loose, injures or destroys any boom, raft or logs or other lumber, or any vessel, gondola, scow or other boat, fastened to any place, of

which he is not the owner or legal possessor, shall be punished by a fine of not more than \$500 and by imprisonment for less than one year; and shall ~~also~~ be liable to the person injured in ~~an~~ a civil action of ~~trespass~~ for double the damages by him sustained.'

Sec. 471. R. S., c. 131, § 31, amended. Section 31 of chapter 131 of the Revised Statutes is amended to read as follows:

'**Sec. 31. Protection of rhododendron maximum linnaeus and kalmia latifolia linnaeus.** Whoever without the consent of the owner of the land whereon the same may be growing injures, destroys, digs up or removes any rhododendron maximum linnaeus or kalmia latifolia linnaeus, or any part or parts of the plants of either of said species growing upon the land of another, shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$100, and in addition thereto shall be liable to the owner of the land upon which the same was growing in ~~an~~ a civil action of ~~trespass~~ in treble damages.'

Sec. 472. R. S., c. 133, § 28, amended. Section 28 of chapter 133 of the Revised Statutes is amended to read as follows:

'**Sec. 28. Circulating advertisements in the similitude of bank bills.** Whoever puts in circulation or distributes any notice, advertisement or shop bill, in the form and similitude of a bank bill, forfeits \$50 for each offense, to be recovered by civil action of ~~debt~~ in the name and to the use of the prosecutor.'

Sec. 473. R. S., c. 135, § 15, amended. Section 15 of chapter 135 of the Revised Statutes is amended to read as follows:

'**Sec. 15. Extorting illegal fees in performance of official duty.** If any person, for performing any service or official duty for which the pay is fixed by law, willfully and corruptly demands and receives, or takes security for any greater sum, or if any witness falsely and corruptly certifies that as such he traveled more miles or attended more days than he actually did, or certifies that he attended as such for more than one party in the same case, he shall be punished by a fine of not less than \$30 for each offense, to be recovered for the State by indictment found within one year after the offense is committed, or by civil action of ~~debt~~ commenced within the same time, to the use of the person first suing therefor in his own name.'

Sec. 474. R. S., c. 135, § 18, amended. The first sentence of section 18 of chapter 135 of the Revised Statutes is amended to read as follows:

'Whoever loans, advances or promises to loan or advance any money, gives or promises to give day of payment on any demand left with him for collection, gives or promises any valuable consideration, becomes liable in any manner for the payment of anything, becomes surety for another for such payment, or requests, advises or procures another person to become responsible or surety as aforesaid, with intent thereby to procure any account, note or other demand for the profit arising from its collection by a ~~suit at law or in equity~~ civil action, or brings, prosecutes or defends, or agrees to bring, prosecute or defend any ~~suit at law or in equity~~ civil action upon shares, shall be punished by a fine of not less than \$20 nor more than \$1,000, or by imprisonment for not more than 11 months.'

Sec. 475. R. S., c. 136, § 7, amended. Section 7 of chapter 136 of the Revised Statutes is amended to read as follows:

'Sec. 7. Riotous assemblies destroying certain properties or causing personal injuries. If any persons, unlawfully and riotously assembled as described in section 9, pull down or begin to pull down or destroy any dwelling house, building, ship or vessel; or perpetrate any premeditated injury, not a felony, on any person, each shall be punished by a fine of not more than \$500 or by imprisonment for not more than 5 years; and shall ~~also~~ be answerable to any person injured, in ~~an~~ a civil action of trespass, to the full amount of damages by him sustained.'

Sec. 476. R. S., c. 136, § 8, amended. Section 8 of chapter 136 of the Revised Statutes is amended to read as follows:

'Sec. 8. Liability of towns for property injury by mobs; town's remedy against rioters. When the injury to any property described in ~~the preceding~~ section 7 amounts to \$50 or more, the town where such property is situated shall indemnify the owner thereof for $\frac{3}{4}$ of the value of such injury, to be recovered in ~~an~~ a civil action ~~on the case~~, if he uses all reasonable diligence to prevent such injury and to procure the conviction of the offenders; ~~and the~~. The town paying such sum may recover it in ~~an~~ a civil action ~~on the case~~ against the persons doing the injury.'

Sec. 477. R. S., c. 136, § 14, amended. Section 14 of chapter 136 of the Revised Statutes is amended to read as follows:

'Sec. 14. Complaint, warrant and proceedings to prevent and to punish such offense. If any person competent to testify in civil ~~suits~~ actions makes complaint on oath before any judge of a municipal court or trial justice that an offense specified in section 12 is about to be committed, setting forth in such complaint the grounds of his belief, such magistrate may issue his warrant directed to any competent officer, therein reciting the name and residence of the complainant and the substance of his complaint, and directing such officer to prevent the violation of said section by arresting any persons whom he finds willfully violating the same and by bringing the respondents before such magistrate for trial.'

Sec. 478. R. S., c. 137, § 27, amended. Section 27 of chapter 137 of the Revised Statutes is amended to read as follows:

'Sec. 27. Appeal. Any person aggrieved by any decision of the Insurance Commissioner under ~~the provisions of~~ sections 22 to 24, within 30 days after such decision may appeal therefrom ~~to a Justice of to the Superior Court in term time or vacation~~ who shall forthwith, after notice and hearing, affirm or reverse such decision, and the finding of ~~such justice the court~~ shall be final.'

Sec. 479. R. S., c. 137, § 45, amended. Section 45 of chapter 137 of the Revised Statutes is amended to read as follows:

'Sec. 45. Damages. Whoever shall be injured in his business or property by any other person or corporation by reason of anything forbidden or declared to

be unlawful by ~~the 2 preceding~~ sections 43 and 44 may sue therefor in ~~an a~~ civil action ~~on the case~~ and shall recover 3 times the damages by him sustained.'

Sec. 480. R. S., c. 139, § 8, amended. Section 8 of chapter 139 of the Revised Statutes is amended to read as follows :

'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 a~~ civil action ~~on the case~~ brought within 3 months thereafter; ~~and if.~~ 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.~~ 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.'

Sec. 481. R. S., c. 140, § 5, amended. Section 5 of chapter 140 of the Revised Statutes is amended to read as follows :

'Sec. 5. Complaint, warrant and proceedings to prevent and to punish. If any person competent to testify in civil ~~suits actions~~ makes complaint on oath before any judge of a municipal court or trial justice that an offense specified in section 4 is about to be committed, setting forth in such complaint the grounds of his belief, such magistrate may issue his warrant directed to any competent officer, therein reciting the name and residence of the complainant and the substance of his complaint, and directing such officer to prevent the violation of said section by arresting any persons whom he finds willfully violating the same, and by bringing the respondents before such magistrate for trial.'

Sec. 482. R. S., c. 141, § 1, amended. The 2nd sentence of section 1 of chapter 141 of the Revised Statutes is amended to read as follows :

'The ~~Supreme Judicial Court and the~~ Superior Court shall have jurisdiction ~~in equity,~~ upon information filed by the county attorney or upon ~~petition of complaint filed by~~ not less than 7 legal voters of his county setting forth any of the facts contained herein, to restrain, enjoin or abate the same, and an injunction for such purpose may be issued by said court ~~or any justice thereof.~~

Sec. 483. R. S., c. 141, § 18, amended. Section 18 of chapter 141 of the Revised Statutes is amended to read as follows :

'Sec. 18. Action for damages caused by nuisance. Any person injured in his comfort, property or the enjoyment of his estate by a common and public or a private nuisance may maintain against the offender ~~an a~~ civil action ~~on the case~~ for his damages, unless otherwise specially provided.'

Sec. 484. R. S., c. 141, § 23, amended. The 2nd paragraph of section 23 of chapter 141 of the Revised Statutes is amended to read as follows:

'When application is made for such license, said officers shall assign a time and place for its consideration, and give at least 14 days' public notice thereof, in such manner as they think proper, at the expense of the applicant. Any person aggrieved by the decision of the selectmen of towns in granting or refusing such license may appeal therefrom **within 30 days** to the ~~next term of the~~ Superior Court held in said county, which court may appoint a committee of 3 disinterested persons, as is provided in relation to appeals from location of highways. Said committee shall be sworn and give 14 days' notice of the time and place of their hearing to the parties interested, view the premises, hear the parties, and affirm, reverse or annul the decision of said selectmen, and their decision shall be final. Pending such appeal from granting such license, ~~the Supreme Judicial Court in equity or the Superior Court in equity~~ may enjoin the erection of such building and engine.'

Sec. 485. R. S., c. 141, § 24, amended. The last paragraph of section 24 of chapter 141 of the Revised Statutes is amended to read as follows:

'Whoever violates any provision of this section forfeits to the prosecutor \$5 for each offense, to be recovered in ~~an a civil action of debt,~~ and is liable for all damages caused by any explosion; ~~and if.~~ If the persons engaged in blasting rocks are unable to pay or, after judgment and execution, avoid payment of the fine, damages and costs by the poor debtor's oath, the owners of the quarry, in whose employment they were, are liable for the same.'

Sec. 486. R. S., c. 141, § 26, amended. Section 26 of chapter 141 of the Revised Statutes is amended to read as follows:

'**Sec. 26. Town officers may order nuisance abated.** If no application is made to ~~a justice of the supreme judicial court or~~ the Superior Court, as is ~~hereafter~~ provided, the municipal officers of such town shall cause said nuisance to be abated, removed or altered in compliance with their order, and all expenses thereof shall be repaid to the town within 30 days after demand, or may be recovered of such person by an action for money paid.'

Sec. 487. R. S., c. 141, § 27, amended. Section 27 of chapter 141 of the Revised Statutes is amended to read as follows:

'**Sec. 27. Owner may apply to Superior Court.** Any owner aggrieved by such order may, within 30 days after said order is so made and filed, apply to ~~a justice of the supreme judicial or~~ Superior Court ~~in term time or vacation,~~ ~~who~~ **which** shall forthwith, after notice and hearing, affirm, annul or alter such order. ~~If the court is not in session, the action shall be entered on the docket of the preceding term.'~~

Sec. 488. R. S., c. 142, § 3, amended. Section 3 of chapter 142 of the Revised Statutes is amended to read as follows:

'**Sec. 3. Presumptive evidence of guilt; double damages.** In prosecutions under ~~the provisions of~~ sections 1 and 2, if such log, mast or spar is found in

possession of the accused partly destroyed, partly sawed or manufactured, or with the marks cut or altered, not being his property, it is presumptive evidence of his guilt, ~~and the~~. The burden of proof is then on him; ~~and whoever~~. **Whoever** is guilty of the offense described in either section is ~~also~~ liable to the owner, in ~~an~~ a civil action of ~~debt~~, for double the value of the log, mast or spar so dealt with.'

Sec. 489. R. S., c. 142, § 4, amended. Section 4 of chapter 142 of the Revised Statutes is amended to read as follows:

'**Sec. 4. Right of owner to search mill, boom or raft for lost logs.** The owner of such logs, masts or spars may at any time, by himself or his agent, enter in a peaceable manner upon any mill, mill-brow, boom or raft of logs or other timber in search of such lost property; ~~and whoever~~. **Whoever** willfully prevents or obstructs such search forfeits for such offense not less than \$20 nor more than \$50, to the person by whom or on whose account such entry was claimed, to be recovered in ~~an~~ a civil action of ~~debt~~.'

Sec. 490. R. S., c. 142, § 5, amended. Section 5 of chapter 142 of the Revised Statutes is amended to read as follows:

'**Sec. 5. Logs or timber in Saco River or tributaries.** If any boom on the Saco River, or any of the waters connected therewith, is so placed or constructed as to prevent the free and usual passage of timber down the river, the owner or occupant thereof, at his own expense, shall release and turn out the timber so detained, when requested to do so by the owner thereof, if it can be done with safety; ~~and if~~. **If**, for 2 days after request, he neglects or refuses to do so, he is liable to the owner of the timber in ~~an~~ a civil action ~~on the case~~ for all damages by him sustained.'

Sec. 491. H. S., c. 142, § 6, amended. Section 6 of chapter 142 of the Revised Statutes is amended to read as follows:

'**Sec. 6. Logs and timber of different owners intermixed; lien for expenses; libel.** Any person whose timber in any waters of the State is so intermixed with the logs, masts or spars of another that it cannot be conveniently separated for the purpose of being floated to the market or place of manufacture may drive all timber with which his own is so intermixed toward such market or place, when no special and different provision is made by law for driving it; and is entitled to a reasonable compensation from the owner, to be recovered after demand therefor on said owner or agent, if known, in ~~an~~ a civil action ~~on the case~~, ~~he~~. **He** has a prior lien thereon until 30 days after it arrives at its place of destination to enable him to attach it; ~~and if~~. **If** the owner cannot be ascertained, the property may be libeled according to law and enough of it disposed of to defray the expenses thereof, the amount to be determined by the court hearing the libel.'

Sec. 492. R. S., c. 142, § 8, amended. Section 8 of chapter 142 of the Revised Statutes is amended to read as follows:

'**Sec. 8. Owner may remove timber on tender of damages; otherwise, damages for landowner.** The owner of said timber may enter on said land and remove

it at any time before forfeiture, having previously tendered to the owner or occupant thereof a reasonable compensation for all damages occasioned by the lodging, remaining or removal of said timber and the expense of advertising it; but if the timber is removed by the owner, or otherwise, without such tender, the owner of the land may recover, in ~~an~~ **a civil action of trespass**, the damages aforesaid.'

Sec. 493. R. S., c. 142, § 9, amended. Section 9 of chapter 142 of the Revised Statutes is amended to read as follows:

'**Sec. 9. Unlawful conversion of railroad sleepers, ship knees or cedar lumber on ponds and streams; double damages.** Whoever willfully and fraudulently takes, carries away or otherwise converts to his own use any railroad sleeper, knee or other ship timber or cedar for shingles or other purposes, the property of another, whether known or not, without his consent, lying in any river, stream, pond, bay or inlet, or on or near the shore thereof; or cuts out, alters or destroys any mark thereon forfeits \$10 for each offense, to be recovered and appropriated as provided in section 1; and is liable to the owner in double the amount thereof in ~~an~~ **a civil action of debt; and such.** **Such** owner has all the rights and is subject to all the liabilities provided for the owner of logs, masts and spars in ~~the 6 preceding sections 3 to 8.~~'

Sec. 494. R. S., c. 144, § 9, amended. Section 9 of chapter 144 of the Revised Statutes is amended to read as follows:

'**Sec. 9. Recognizance returned to court, which may remit penalty.** All recognizances taken under ~~the provisions of~~ 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; ~~and in.~~ **In any suit 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.'

Sec. 495. R. S., c. 147, § 22, amended. Section 22 of chapter 147 of the Revised Statutes is amended to read as follows:

'**Sec. 22. Forfeited recognizances defaulted.** When a person under recognizance in a criminal case, fails to perform its condition, his default shall be recorded and process shall be issued against such of the cognizors as the prosecuting officer directs, but no costs shall be taxed for travel in the ~~suit action; and any.~~ **Any** surety may be discharged by paying to the county treasurer, before or after process, the amount for which he is bound as surety, with costs if any, or depositing it with the clerk of the court where the recognizance is filed.'

Sec. 496. R. S., c. 147, § 24, amended. Section 24 of chapter 147 of the Revised Statutes is amended to read as follows:

'**Sec. 24. Court may remit penalty; or sureties may surrender principal in court.** When the penalty of a recognizance in a criminal case is forfeited on ~~seire facias proceedings~~ against the principal, sureties or witnesses, the court, on application of any defendant, if satisfied that the default of the principal was

without the consent or connivance of the bail, may remit all or any part of the penalty; or the sureties may surrender the principal in court at any time before final judgment on ~~seire facias~~ **the proceedings** and may, on application therefor, be discharged by paying costs of ~~suit~~ **the action**, provided that the court is satisfied as aforesaid.'

Sec. 497. R. S., c. 147, § 26, amended. Section 26 of chapter 147 of the Revised Statutes is amended to read as follows:

'**Sec. 26. Action on any recognizance dismissed.** Whenever in any ~~suit or seire facias~~ **action** on a recognizance taken in any criminal case, it appears that the surety has surrendered the principal into court for sentence, and that the principal has actually been sentenced upon the indictment or complaint on which the recognizance was taken, such ~~suit~~ **action** shall be dismissed upon payment of costs.'

Sec. 498. R. S., c. 150, § 6, amended. The 2nd sentence of section 6 of chapter 150 of the Revised Statutes is amended to read as follows:

'Such bond shall be held by the county treasurer and enforced for the security of any and all parties entitled to such fines and forfeitures, and ~~a suit an action~~ on such bond for the benefit of one party shall not bar ~~a suit an action~~ thereon for the benefit of any other party.'

Sec. 499. R. S., c. 150, § 8, amended. The last paragraph of section 8 of chapter 150 of the Revised Statutes is amended to read as follows:

'If any such officer neglects to pay over such fine, forfeiture or costs for 30 days after the receipt thereof; or if he permits any person, sentenced to pay such fine, forfeiture or bill of costs and committed to his custody, to go at large without payment, unless by order of court, and does not within 30 days after such escape pay the amount thereof to the county treasurer, he forfeits to the county double the amount; ~~and the~~. **The** county treasurer shall give notice of such neglect to the county attorney, who shall sue therefor in ~~an a civil action of debt~~ in the name of such treasurer.'

Sec. 500. R. S., c. 152-A, § 25, amended. The first paragraph of section 25 of chapter 152-A of the Revised Statutes, as enacted by section 1 of chapter 342 of the public laws of 1959, is amended to read as follows:

'Appeals, for the purpose only of raising questions of law, from decisions of the Superior Court rendered in cases before the Superior Court on appeal from decisions of juvenile courts, may be taken to the Supreme Judicial Court sitting as the law court in manner and form as appeals in ~~cases in equity~~ **civil actions**.'

Sec. 501. R. S., c. 153, § 2, amended. Section 2 of chapter 153 of the Revised Statutes is amended to read as follows:

'**Sec. 2. Jurisdiction in equity.** The courts of probate shall have jurisdiction in equity, concurrent with ~~the Supreme Judicial Court and~~ the Superior Court, of all cases and matters relating to the administration of the estates of deceased persons, to wills and to trusts which are created by will or other written instru-

ment. Such jurisdiction may be exercised upon ~~bill or petition~~ **complaint** according to the usual course of proceedings in ~~equity~~ **civil actions in which equitable relief is sought.**'

Sec. 502. R. S., c. 153, § 28, amended. Section 28 of chapter 153 of the Revised Statutes is amended to read as follows:

'Sec. 28. Judges to inspect register's conduct of office. Every judge of probate and the justices of the supreme court of probate shall constantly inspect the conduct of the register with respect to his records and the duties of his office, and give information in writing of any breach of his bond to the treasurer of his county, who shall ~~put it in suit~~ **bring a civil action; and the.** The money thus recovered shall be applied toward the expenses of completing the records of such register under the direction of said judge and the surplus, if any, shall inure to the county; ~~but if.~~ **If it is not sufficient for that purpose, the treasurer may recover the deficiency from the register in ~~an~~ a civil action ~~on the case.~~**'

Sec. 503. R. S., c. 153, § 31, amended. Section 31 of chapter 153 of the Revised Statutes is amended to read as follows:

'Sec. 31. Register not counsel in probate cases; nor draft or aid in drafting any paper which he is required to record. No register shall be an attorney or counselor in or out of court in any ~~suit~~ **action** or matter pending in the court of which he is register, nor in any appeal therefrom; nor be administrator, guardian, commissioner of insolvency, appraiser or divider of any estate, in any case within the jurisdiction of said court, except as provided in section 17, nor be in any manner interested in the fees and emoluments arising therefrom, in such capacity; nor commence or conduct, either personally or by his agent or clerk, any matter, petition, process or proceeding in the court of which he is register, in violation of this section, and for each and every violation of the preceding provisions of this section, such register shall be punished by a fine of not more than \$1,000 or ~~by~~ imprisonment for not more than 11 months. No register shall draft or aid in drafting any document or paper, which he is by law required to record in full or in part, under a penalty of not more than \$100, to be recovered by any complainant in ~~an~~ **a civil action of debt** for his benefit or by indictment for the benefit of the county.'

Sec. 504. R. S., c. 154, § 13, amended. Section 13 of chapter 154 of the Revised Statutes is amended to read as follows:

'Sec. 13. What executors may act; powers of majority. When 2 or more persons are named executors in any will and are not released thereby from giving bonds, none shall act as such, or intermeddle, except those who give bonds ~~as~~ **aforesaid**; but a majority of those legally qualified, unless it is otherwise prescribed therein, may do all the acts in the execution of such trust, which all could do, and all acts so done are as valid in law as if all had agreed thereto; ~~and~~ **a suit.** An action may be maintained against the executors, so acting, on their bond, for the benefit of any person aggrieved by their acts, without joining the other parties to such bond.'

Sec. 505. R. S., c. 154, § 53, amended. Section 53 of chapter 154 of the Revised Statutes is amended to read as follows :

'Sec. 53. Notice; audit. In all cases where letters of administration are granted to a public administrator, the register shall immediately send to the Treasurer of State a copy of the petition and the decree thereon, and in all cases where the public administrator is ordered to pay the balance of the estate to the Treasurer of State, the judge shall give notice to the Treasurer of State of such amount and from what estate it is receivable; ~~and if.~~ **If** said administrator neglects for 3 months after the order of the judge therefor to deposit the same, the Treasurer of State shall ~~cause~~ **bring a civil action upon** his probate bond ~~to be put in suit~~ for the recovery thereof. The records and accounts of said public administrator shall be audited annually by the State Department of Audit.'

Sec. 506. R. S., c. 154, § 56, amended. Section 56 of chapter 154 of the Revised Statutes, as amended by chapter 276 of the public laws of 1955, is further amended to read as follows :

'Sec. 56. Powers and duties. The special administrator shall collect all the goods, chattels and debts of the deceased, control and cause to be improved all his real estate, collect the rents and profits thereof and preserve them for the executor or administrator thereafter appointed; and for that purpose may maintain ~~suits~~ **actions** and sell such perishable and other goods as the judge orders; and shall have such powers to vote stock owned by the deceased as the deceased would have if living, at all corporation meetings, and the authority to sell and transfer any specific rights which may have accrued to the estate of said deceased as such stockholder and the judge may authorize and direct that the business of the deceased, in whole or in part shall, for a limited time to be determined by him, be carried on by such special administrator as a going business; pay the expenses of the funeral and last sickness and of his administration; debts preferred under the laws of the United States; public rates and taxes, and money due the State from the deceased; and pay to the widow or widower, if any, and if not, to the guardian of the children under 14 years of age, for their temporary support, such sums as the judge orders, having regard to the state and the amount of the property; and sums so paid to the widow, widower or guardian shall be deducted, if the estate is solvent, from the share of the widow, widower or children, but if insolvent, shall be considered by the judge in his allowance to them.'

Sec. 507. R. S., c. 154, § 57, amended. Section 57 of chapter 154 of the Revised Statutes is amended to read as follows :

'Sec. 57. Compensation; when powers cease. The special administrator shall be allowed such compensation for his services as the judge thinks reasonable, not exceeding that allowed to other administrators; ~~and so.~~ **On** the granting of letters testamentary or of administration his powers cease and he shall forthwith deliver all the goods, chattels, money and effects of said deceased in his hands, and the executor or administrator may prosecute any ~~suit~~ **action** commenced by the special administrator as if it had been commenced by himself.'

Sec. 508. R. S., c. 154, § 58, amended. Section 58 of chapter 154 of the Revised Statutes is amended to read as follows:

'Sec. 58. Not sued by creditor without decree of judge. No special administrator is liable to an action by any creditor of the deceased, without an application by such creditor to the judge and his decree authorizing it; ~~and the.~~ The limitation of all ~~suits~~ actions against the estate begins to run from the time of granting letters testamentary or of administration in the usual form as if such special administration had not been granted.'

Sec. 509. R. S., c. 154, § 70, amended. The 2nd sentence of section 70 of chapter 154 of the Revised Statutes is amended to read as follows:

'Any personal estate or rights of action thus sold may be assigned to the purchaser and collected in the name of the executor or administrator, the purchaser giving him reasonable indemnity against costs, but reserving to debtors their rights of ~~setoff~~ counterclaim; or the purchaser may sue therefor in his own name, subject to the same defense as if sued in the name of the executor or administrator.'

Sec. 510. R. S., c. 154, § 72, amended. The first paragraph of section 72 of chapter 154 of the Revised Statutes is amended to read as follows:

'The judge after a hearing, public or personal notice of which shall have been given in accordance with order of court, may authorize executors or administrators to adjust, by arbitration or compromise, any claims for money or other property in favor of or against the estates by them represented and likewise any other actions ~~either at law or in equity~~ of whatsoever nature wherein such executors or administrators are parties.'

Sec. 511. R. S., c. 154, § 87, amended. Section 87 of chapter 154 of the Revised Statutes is amended to read as follows:

'Sec. 87. Remedies between coexecutors and coadministrators. ~~Either the Supreme Judicial Court or the~~ The Superior Court may hear and determine ~~in equity~~ all disputes and controversies between coexecutors and coadministrators, and between their respective legal representatives ~~in all cases where there is not a plain, adequate and complete remedy at law; and in.~~ In such case, the court has the same power and may proceed in like manner as in cases between co-partners.'

Sec. 512. R. S., c. 154, § 92, amended. Section 92 of chapter 154 of the Revised Statutes is amended to read as follows:

'Sec. 92. Refusal to appear and answer when cited. If a person duly cited ~~as aforesaid~~ refuses to appear and submit himself to such examination, or to answer all lawful interrogatories, or to produce such books, papers or documents, the judge shall commit him to jail, there to remain until he submits to the order of the court or is discharged by the complainant or the Superior Court; ~~and he.~~ He is ~~also~~ liable to any injured party in ~~an~~ a civil action ~~on the case~~ for all the damages, expenses and charges arising from such refusal.'

Sec. 513. R. S., c. 155, § 21, amended. The first sentence of section 21 of chapter 155 of the Revised Statutes is amended to read as follows:

'~~An~~ **A civil action of debt** may be maintained in the name of the State against an administrator, executor, trustee, grantee or donee for the recovery of all taxes imposed by ~~the provisions of~~ sections 1 to 44 with interest thereon.'

Sec. 514. R. S., c. 155, § 26, amended. The last 2 sentences of the first paragraph of section 26 of chapter 155 of the Revised Statutes are amended to read as follows:

'Willful failure to comply ~~herewith~~ shall render such bank, savings bank, trust company or loan and building association liable to a penalty not to exceed \$10 to be collected in ~~an~~ **a civil action of debt** brought by the Attorney General. It shall be a complete defense to such action ~~of debt~~ that such officer or employee of the banking institution in charge of such account or accounts did not know of the depositor's death or no inheritance or estate tax was payable.'

Sec. 515. R. S., c. 155, § 33, amended. The first sentence of section 33 of chapter 155 of the Revised Statutes is amended to read as follows:

'An executor, administrator, trustee, grantee, donee, survivor or beneficiary aggrieved by the determination of the State Tax Assessor may within 90 days after the certification of any tax apply ~~by a petition in equity~~ to the probate court in the county where the estate is being administered for the abatement of the tax determined or any part thereof and if the court adjudges that the tax or any part thereof was wrongly determined, it shall order an abatement of such part thereof as was determined without authority of law.'

Sec. 516. R. S., c. 155, § 37, amended. The 2nd paragraph of section 37 of chapter 155 of the Revised Statutes is amended to read as follows:

'The State Tax Assessor is given authority to enforce the collection of any taxes secured by bond in ~~an~~ **a civil action of debt** brought thereon regardless of the fact that some other official may be named as obligee therein.'

Sec. 517. R. S., c. 156, § 7, amended. Section 7 of chapter 156 of the Revised Statutes is amended to read as follows:

'**Sec. 7. When such interest under attachment.** If the share of any such widow or widower, heir or devisee, or anyone claiming under such widow or widower, heir or devisee, is under attachment, the judge, on like application from the plaintiff in the ~~suit~~ **action** or from the attaching officer, shall require the money, not exceeding the amount of the attachment, to be paid to the officer, who shall be answerable therefor in his official capacity, subject to the rights of the parties, as if originally attached.'

Sec. 518. R. S., c. 156, § 11, amended. Section 11 of chapter 156 of the Revised Statutes is amended to read as follows:

'**Sec. 11. Guardians appointed for minors, agents for owners out of State.** If it appears to the court that any minor or ~~insane~~ **mentally ill** person, who has

no guardian in the State, is interested in the premises, the court shall assign him a guardian for the ~~suit~~ **action**, to appear for him and defend his interest; ~~and if.~~ **If** any owner resides without the State, having no agent therein, the judge shall appoint an agent to act for him.'

Sec. 519. R. S., c. 156, § 23, amended. Section 23 of chapter 156 of the Revised Statutes is amended to read as follows:

'**Sec. 23. Assignment of debts; conditions of action.** If any evidence of debt or account due to the deceased is thus assigned, the assignee may use the name of the executor or administrator to collect the same, by ~~suit~~ **civil action** or otherwise, on giving such indemnity against costs as the judge orders, saving to all supposed debtors the right to set off any claim against the estate of the deceased.'

Sec. 520. R. S., c. 156, § 27, amended. Section 27 of chapter 156 of the Revised Statutes is amended to read as follows:

'**Sec. 27. Legatee may sue for legacy.** Any legatee of a residuary or specific legacy under a will may sue for and recover the same of the executor in ~~an~~ **a civil action of debt at common law** or other appropriate action.'

Sec. 521. R. S., c. 157, § 13, amended. Section 13 of chapter 157 of the Revised Statutes is amended to read as follows:

'**Sec. 13. Petition for leave to bring action, after failing to prosecute appeal.** A person, whose claim has been disallowed in whole or in part and who by accident or mistake has omitted to give notice at the probate court in season, or after giving such notice has by accident or mistake omitted further to prosecute his appeal may, within 2 years after the report is made, petition the Superior Court and, after notice to the administrator and hearing, leave may be given to commence **within 30 days a suit at the next term of the court civil action** in the county where administration was granted for the recovery of his claim, but not after 4 years from granting administration. No decree of distribution can be disturbed by a judgment so recovered.'

Sec. 522. R. S., c. 157, § 14, amended. Section 14 of chapter 157 of the Revised Statutes is amended to read as follows:

'**Sec. 14. Proceedings on appeal.** When an appeal is so taken or leave is so granted, the claim shall be determined in ~~an~~ **a civil action for money had and received** commenced within 3 months after the report was made or ~~at the next term~~ **within 30 days** after leave was granted. Such claim shall be deemed contingent and provision shall be made for it as in sections 10 and 11.'

Sec. 523. R. S., c. 157, § 15, amended. Section 15 of chapter 157 of the Revised Statutes is amended to read as follows:

'**Sec. 15. If claim allowed and appeal taken by administrator, heir or creditor, claimant may apply to Superior Court.** A person whose claim against an insolvent estate has been allowed by commissioners and their decision has been appealed from by the administrator, heir at law or any other creditor, and who

by accident or mistake has omitted to commence ~~an a civil action for money had and received~~ within the time prescribed by section 14, may petition the Superior Court, and after notice to the administrator and a hearing, the court may grant leave to commence an action for the recovery of his claim ~~at the next term of the court,~~ **within 30 days after leave is granted,** in the county where administration was granted, within 4 years from granting administration, but no decree of distribution can be disturbed by a judgment so recovered.'

Sec. 524. R. S., c. 157, § 20, amended. Section 20 of chapter 157 of the Revised Statutes is amended to read as follows:

'**Sec. 20. Claims not presented or not allowed, barred, except in case of further assets.** Claims not presented and claims disallowed without appeal are forever barred from recovery by ~~suit~~ **civil action**. Claims disallowed cannot be filed and proved in ~~setoff~~ **a counterclaim**, except to the amount of counter claims on behalf of the estate; but when, after distribution, further assets come into the hands of the administrator, claims not presented to the commissioners, on petition to the judge, and after due notice if proved or not disputed, may be allowed and paid like contingent claims.'

Sec. 525. R. S., c. 157, § 22, amended. The last sentence of section 22 of chapter 157 of the Revised Statutes is amended to read as follows:

'He may, in ~~an a civil action of trespass,~~ recover damages of a person committing the same, to be accounted for as assets, although such person is heir or devisee of the estate.'

Sec. 526. R. S., c. 158, § 31, amended. Section 31 of chapter 158 of the Revised Statutes is amended to read as follows:

'**Sec. 31. Guardian ad litem; next friend.** Nothing in this chapter affects the power of any court to appoint a guardian to defend the interests of any minor or other incapacitated person in any ~~suit~~ **action** pending in such court, nor their power to allow or appoint anyone as next friend of such person to commence, prosecute or defend any ~~suit~~ **action** in his behalf.'

Sec. 527. R. S., c. 158, § 32, amended. Section 32 of chapter 158 of the Revised Statutes is amended to read as follows:

'**Sec. 32. Settlement of action not valid unless approved by court.** No settlement of any ~~suit~~ **action** brought in behalf of an infant by next friend or defended on his behalf by guardian or guardian ad litem shall be valid unless approved by the court in which the action is pending, or to which the writ is returnable, or affirmed by an entry or judgment. The court may make all necessary orders for protecting the interests of the infant and may require the guardian ad litem or next friend to give bond to truly account for all money received in behalf of the infant. When the court in which such ~~suit~~ **action** is pending or to which it is returnable is in vacation, the judge of that court, or, if the ~~suit~~ **action** is pending in or returnable to the Superior Court, any Justice of the Superior Court, shall have the power to approve a settlement of said ~~suit~~ **action** and to make all necessary orders for protecting the interests of the infant and may require the giving of a bond as ~~above~~ provided.'

Sec. 528. R. S., c. 158, § 33, amended. Section 33 of chapter 158 of the Revised Statutes is amended to read as follows:

'Sec. 33. Special guardians for married women. Pending any proceedings in the probate court in which any married woman is interested, when, after personal notice and a hearing, the judge is satisfied that by reason of age or mental infirmity she is incompetent to manage her affairs or protect her rights, he may appoint her husband or other suitable person her guardian for the special purpose, with power to institute or defend proceedings ~~in law or equity~~ necessary for the interests of his ward, and no proceeding thus instituted shall be delayed or disposed of without the consent of such guardian.'

Sec. 529. R. S., c. 159, § 2, amended. Section 2 of chapter 159 of the Revised Statutes is amended to read as follows:

'Sec. 2. Administrator as party in interest. The administrator shall be a party in interest in any proceeding for the appointment or removal of a guardian or for the removal of the disability of minority or mental incapacity of a ward, and in any ~~suit~~ ~~action~~ or other proceeding affecting in any manner the administration by the guardian of the estate of any present or former ward whose estate includes assets derived in whole or in part from benefits heretofore or hereafter paid by the Veterans Administration. Not less than 15 days prior to hearing in such matter notice in writing of the time and place thereof shall be given by mail, unless waived in writing, to the office of the Veterans Administration having jurisdiction over the area in which any such ~~suit~~ ~~action~~ or any such proceeding is pending.'

Sec. 530. R. S., c. 160, § 9, amended. The first sentence of section 9 of chapter 160 of the Revised Statutes is amended to read as follows:

'The judge after a hearing, public or personal notice of which shall have been given in accordance with order of court, may authorize any trustee to refer or compromise any claim or action ~~either at law or in equity~~ of whatsoever nature by or against the trust estate.'

Sec. 531. R. S., c. 160, § 10, amended. Section 10 of chapter 160 of the Revised Statutes is amended to read as follows:

'Sec. 10. Courts may direct trust estates sold and moneys invested. Any judge of probate having jurisdiction of the trust and the Superior Court ~~in any county, or the Supreme Judicial Court in equity,~~ on application of the trustee or of any person interested in the trust estate, after such notice as the judge or court shall order, may authorize or require him to sell any real or personal estate held by him in trust and to invest the proceeds thereof, with any other trust moneys in his hands, in real estate, in policies of life or endowment insurance or annuity contracts issued by life insurance companies authorized to transact business in the State, on the life of any beneficiary of the trust or on the life of any person in whose life such beneficiary has an insurable interest, or in any other manner most for the interest of all concerned therein; and may give such further directions as the case requires for managing, investing and disposing of the trust fund, as will best effect the objects of the trust.'

Sec. 532. R. S., c. 160, § 11, amended. Section 11 of chapter 160 of the Revised Statutes is amended to read as follows:

'Sec. 11. Power as to trusts. Either of said courts may hear and determine ~~in equity~~ all other matters relating to the trusts herein mentioned.'

Sec. 533. R. S., c. 160, § 12, amended. Section 12 of chapter 160 of the Revised Statutes is amended to read as follows:

'Sec. 12. Actions on bonds of trustees. ~~Any~~ **A civil action upon any bond** given by a trustee may be ~~put in suit~~ **brought** by order of the judge of probate for the benefit of any person interested in the trust estate; ~~and the.~~ **The** proceedings in such ~~suit~~ **action** shall be conducted in the manner prescribed with respect to bonds of administrators.'

Sec. 534. R. S., c. 160, § 22, amended. The last paragraph of section 22 of chapter 160 of the Revised Statutes is amended to read as follows:

'No rule of law against perpetuities or suspension of the power of alienation of the title to property shall operate to invalidate any trust created or attempted to be created, prior to August 20, 1951, by an employer as a part of a stock bonus, pension, disability, death benefit or profit sharing plan for the benefit of some or all of his employees to which contributions are made by the employer or employees, or both, for the purpose of distributing to the employees earnings or principal, or both earnings and principal, of the fund held in trust, unless the trust is terminated by a court of competent jurisdiction in a ~~suit~~ **civil action** instituted within 3 years after August 20, 1951.'

Sec. 535. R. S., c. 160, § 23, amended. Section 23 of chapter 160 of the Revised Statutes is amended to read as follows:

'Sec. 23. Vacancies under deed of trust or mortgage; property to vest in new trustee; record of decree. Whenever vacancies shall occur by the death or resignation of any or all of the trustees named in any deed of trust or mortgage, and from any cause such vacancy cannot be filled by appointment by the surviving trustee or trustees named therein or such trustees neglect or refuse to make such appointment, the probate court or the Superior Court, ~~or any judge thereof, in term time or vacation on the petition of a complaint filed by any party interested in said trust, and upon such notice to all persons interested by publication or otherwise as the court shall order, and after hearing thereon, may appoint a trustee or trustees to fill such vacancy or vacancies; and upon.~~ **Upon** and by virtue of said appointment the property described in said deed of trust or mortgage, held by said trustees at the time of such decease or resignation, shall vest in said trustees so appointed without further conveyance thereof, and they shall have the rights and powers and be subject to the duties relating to such trust to the same extent and for the same purpose as the same were held by the original trustees in said trust; ~~the.~~ **The** decree making such appointment shall confirm the transfer of title ~~as hereinbefore provided~~ and shall be recorded as the original trust deed was recorded. The heirs at law and personal representatives of any deceased trustee shall not be necessary as parties to said ~~petition~~ **complaint** nor any proceedings thereunder, but may appear and be heard in rela-

tion to the matters therein contained, and such notice of said ~~petition~~ **complaint** and hearing shall be given them by publication or otherwise as the court may order.'

Sec. 536. R. S., c. 163, § 12, amended. Section 12 of chapter 163 of the Revised Statutes is amended to read as follows:

'**Sec. 12. Guardian may invest proceeds of her interest; trust enforced.** The guardian, with consent of the judge to whom the accounts, may agree in writing with such wife how to invest or otherwise dispose of a part of the proceeds of the sale of the whole estate for her sole use, equivalent to her interest therein; ~~and the. The Supreme Judicial Court or the Superior Court may enforce such agreement in equity,~~ as a trust.'

Sec. 537. R. S., c. 163, § 28, amended. Section 28 of chapter 163 of the Revised Statutes is amended to read as follows:

'**Sec. 28. Neglect or misconduct of person licensed.** If a person, interested in any estate sold as aforesaid, suffers damage by neglect or misconduct of the executor, administrator or guardian in such proceedings, he may recover compensation therefor in a ~~suit~~ **civil action** on the probate bond or otherwise as the case may require.'

Sec. 538. R. S., c. 164, § 6, amended. Section 6 of chapter 164 of the Revised Statutes is amended to read as follows:

'**Sec. 6. Actions on bonds in name of judge.** ~~Suits~~ **Actions** on probate bonds of any kind payable to the judge shall be originally commenced in the Superior Court for the county where said judge belongs and in his name or that of his successor at the time; ~~and they.~~ **They** shall not abate by the death of the plaintiff, his resignation or the expiration of his term of office, but the process may be amended and prosecuted, without notice, in the name of his successor; ~~but no.~~ **No** costs shall be awarded against the judge therein.'

Sec. 539. R. S., c. 164, § 8, amended. Section 8 of chapter 164 of the Revised Statutes is amended to read as follows:

'**Sec. 8. Proceedings and judgment.** Such surety may thereupon take out a writ, in the form prescribed by the court, to arrest the principal, if liable to arrest, or to attach his estate and summon him to appear and answer as a defendant in the action; ~~and if.~~ **If**, after 14 days, previous service of such process, he fails thus to appear at the time appointed and judgment is rendered for the plaintiff, it shall be against him and the other defendants as if he had been originally a party, and any attachment made or bail taken on such process is liable to respond to the judgment as if made or taken in the original ~~suit~~ **action.**'

Sec. 540. R. S., c. 164, § 9, amended. Section 9 of chapter 164 of the Revised Statutes is amended to read as follows:

'**Sec. 9. Action on administrator's or executor's bond.** Every action against sureties on an administrator's or an executor's bond must be commenced within 6 years after such administrator or executor has been cited to appear to settle

his account in the probate court where administration is granted on the estate, or, if not so cited, within 6 years from the time of the breach of his bond, unless such breach is fraudulently concealed by the administrator or executor from the heirs, legatees or persons pecuniarily interested, who are parties to the ~~suit~~ **action**, and in such case within 3 years from the time such breach is discovered.'

Sec. 541. R. S., c. 164, § 10, amended. Section 10 of chapter 164 of the Revised Statutes is amended to read as follows:

'**Sec. 10. Judgment for plaintiff.** When judgment is for the plaintiff by verdict, default or otherwise in any ~~suit~~ **action** on a probate bond, it shall be entered for the penalty in common form, and the subsequent proceedings shall be had by the court as ~~hereinafter~~ provided.'

Sec. 542. R. S., c. 164, § 12, amended. Section 12 of chapter 164 of the Revised Statutes is amended to read as follows:

'**Sec. 12. Judgment, if action fails.** If such ~~suit~~ **action** is not sustained, judgment shall be rendered and execution issued for costs against the person originating it ~~as aforesaid~~.'

Sec. 543. R. S., c. 164, § 17, amended. Section 17 of chapter 164 of the Revised Statutes is amended to read as follows:

'**Sec. 17. Judge may authorize actions; execution, in case of failure to account.** The judge of probate may expressly authorize or instruct an administrator or administrators de bonis non, on the ~~petition~~ **complaint** of himself or any party interested, to commence ~~a suit~~ **an action** on a probate bond for the benefit of the estate, and such authority shall be alleged in the process; ~~and when.~~ **When** it appears, in any such ~~suit~~ **action** against an administrator, that he has been cited by the judge to account upon oath, for such personal property of the deceased as he has received, and has not done so, execution shall be awarded against him for the full value thereof, without any allowance for charges of administration or debts paid.'

Sec. 544. R. S., c. 165, § 2, amended. Section 2 of chapter 165 of the Revised Statutes is amended to read as follows:

'**Sec. 2. Execution for costs against own goods and estate.** Executions for costs run against the goods and estate and for want thereof against the bodies of executors and administrators, in actions commenced by or against them and in actions commenced by or against the deceased, in which they have appeared, for costs that accrued after they assumed the prosecution or defense, to be allowed to them in their administration account, unless the judge of probate decides that the ~~suit~~ **action** was prosecuted or defended without reasonable cause.'

Sec. 545. R. S., c. 165, § 4, amended. The first sentence of section 4 of chapter 165 of the Revised Statutes is amended to read as follows:

'When an executor or administrator ceases to be such, an action pending in his favor or against him may be prosecuted by or against an administrator de bonis non; ~~and if.~~ **If** he does not appear after due notice, judgment may be rendered,

as if the ~~suit action~~ had been commenced by or against him for debt and for costs ~~as herein provided.~~

Sec. 546. R. S., c. 165, § 6, amended. Section 6 of chapter 165 of the Revised Statutes is amended to read as follows:

'Sec. 6. Appeal. ~~A writ of error~~ An appeal may be maintained by or against an administrator de bonis non, when it could be by or against an executor or first administrator.'

Sec. 547. R. S., c. 165, § 7, amended. Section 7 of chapter 165 of the Revised Statutes is amended to read as follows:

'Sec. 7. When only party to action dies. When the only plaintiff or defendant dies while an action that survives is pending, or after its commencement and before its entry, his executor or administrator may prosecute or defend, as follows:

The action or an appeal, if made, may be entered, the death of the party suggested on the record and the executor or administrator may appear voluntarily; ~~if~~. ~~If~~ he does not appear ~~at the 2nd term~~ within 90 days after such death or after his appointment, he may be cited to appear, and after due notice thereof, judgment may be entered against him by ~~non-suit~~ dismissal or default.'

Sec. 548. R. S., c. 165, § 14, amended. Section 14 of chapter 165 of the Revised Statutes is amended to read as follows:

'Sec. 14. Heirs, devisees or legatees may petition to defend action; bond. When ~~suit~~ a civil action has been brought against an executor or administrator, any of the heirs, devisees or legatees of the deceased may personally or by attorney petition the court for leave to defend the ~~suit action~~, setting forth the facts as he believes them to be and his reasons for so desiring to defend, and the court may grant or refuse such leave. If leave is granted, the petitioner shall give to the administrator or executor bond in such sum as the court orders, to hold the executor or administrator harmless for any damages or costs occasioned by the ~~suit action~~ or by said defense; and an entry of record shall be made that he is admitted to defend such ~~suit action~~.'

Sec. 549. R. S., c. 165, § 15, amended. The first sentence of section 15 of chapter 165 of the Revised Statutes, as amended by section 1 of chapter 126 of the public laws of 1957, is further amended to read as follows:

'All claims against estates of deceased persons, including claims for amounts paid under ~~the provisions of sections 276 to 297~~ of chapter 25, **sections 276 to 297**, and except for funeral expenses, expenses of administration, legacies, distributive shares and for labor and materials for which ~~suit a civil action~~ may be commenced under ~~the provisions of section 39~~ of chapter 178, **section 39**, shall be presented to the executor or administrator in writing or filed in the registry of probate, supported by an affidavit of the claimant or of some other person cognizant thereof, either before or within 6 months after his qualification as such executor or administrator.'

Sec. 550. R. S., c. 165, § 21, amended. Section 21 of chapter 165 of the Revised Statutes is amended to read as follows:

'Sec. 21. Limitations claimed for or against old administrator continued. When an executor or administrator after qualification dies, resigns or is removed without having fully administered the estate, and a new administrator is appointed, such new administration shall be deemed to be a continuation of the preceding administration, and all limitations which could be claimed for or against the predecessor may be claimed for or against such successor; ~~provided, however, that the.~~ **The** time when there is no representative of the estate shall not be reckoned as part of the periods for the filing or proof of claims or limitations for bringing ~~suits civil actions; and such.~~ **Such** periods, and generally the periods referred to where no provision to the contrary is made, shall be reckoned exclusive of such time.'

Sec. 551. R. S., c. 165, § 22, amended. Section 22 of chapter 165 of the Revised Statutes is amended to read as follows:

'Sec. 22. Relief when claim not presented within time limited. If ~~the Supreme Judicial Court or the Superior Court,~~ upon a ~~bill in equity~~ **complaint** filed by a creditor whose claim has not been prosecuted within the time limited by ~~the preceding sections 1 to 21,~~ is of the opinion that justice and equity require it, and that such creditor is not chargeable with culpable neglect in not prosecuting his claim within the time so limited, it may give him judgment for the amount of his claim against the estate of the deceased person; but such judgment shall not affect any payment or distribution made before the filing of such ~~bill~~ **complaint.**'

Sec. 552. R. S., c. 165, § 24, amended. Section 24 of chapter 165 of the Revised Statutes is amended to read as follows:

'Sec. 24. Executions after creditor's death. When a judgment creditor dies before the first execution issues or before an execution issued in his lifetime is fully satisfied, such execution may be issued or renewed by order of ~~any justice of the court rendering such judgment, in term time or vacation~~ or by like order of a municipal court or trial justice rendering such judgment, upon application in writing of the executor or general or special administrator of the deceased creditor; ~~and any.~~ **Any** execution so issued or renewed may be subsequently renewed; but no execution shall issue or be renewed after the ~~term time~~ within which it might have been done if the party had not died.'

Sec. 553. R. S., c. 166, § 19, amended. The first sentence of section 19 of chapter 166 of the Revised Statutes is amended to read as follows:

'If the father and mother of a minor child are living apart from each other, the judge of probate or the Superior Court Justice in the county where either resides, on ~~petition~~ **complaint** of either ~~in term time or vacation~~ and after such notice to the other as he may order, may decree which parent shall have the exclusive care and custody of the person of such minor or he may apportion the care and custody of the person of such minor or he may apportion the care and custody of said minor between the parents, as the good of the child may require; ~~and he.~~

He may order the father of the minor child or children to contribute to the support of such minor child or children such sums payable weekly, monthly or quarterly as are deemed reasonable and just and may enforce obedience by appropriate decrees, execution issuing for said sums when payable and for costs, which decrees shall be in force until further order of the judge or justice.'

Sec. 554. R. S., c. 166, § 21, amended. The first sentence of section 21 of chapter 166 of the Revised Statutes, as amended by chapter 199 of the public laws of 1955, is further amended to read as follows:

'Whenever, under any decree or order of the Supreme Judicial Court or Superior Court of this State or of any justice of either of said courts, ~~in term time or in vacation~~ or of any judge of any probate court in this State, any receiver, master, executor, administrator, trustee, guardian or other person acting under authority of either of said courts, or any justice or judge thereof shall have in his hands any funds not exceeding \$500 to be distributed or paid to any person under the age of 21 years, not having a guardian legally appointed in this State, payment may be made directly to such minor, if such minor be 10 years of age, and such minor's receipt therefor shall be a sufficient voucher for such payment in the settlement in court of any account by the party who makes such payment, and shall discharge and release him from any and all further liability on account of the same.'

Sec. 555. R. S., c. 166, § 29, amended. The last sentence of the first paragraph of section 29 of chapter 166 of the Revised Statutes, as amended by section 295 of chapter 317 of the public laws of 1959, is further amended to read as follows:

'If the respondent does not comply with that part of the order relative to payment of expenses and costs of the action, execution may issue therefor as in civil actions ~~of tort.~~'

Sec. 556. R. S., c. 166, § 31, amended. Section 31 of chapter 166 of the Revised Statutes is amended to read as follows:

'**Sec. 31. Town, failing in action, pays costs.** A town prosecuting in behalf of the complainant is liable to the respondent if he prevails, for his costs of court, to be recovered in ~~an~~ a civil action ~~on the case~~; or the court may, on his motion, enter judgment against the town for such costs and issue execution thereon.'

Sec. 557. R. S., c. 166, § 32, amended. The last sentence of section 32 of chapter 166 of the Revised Statutes is amended to read as follows:

'The mother and said town may, after such liberation, recover of him by a civil action ~~of debt~~ any sum of money which ought to have been paid pursuant to the order of the court.'

Sec. 558. R. S., c. 166, § 34, amended. The first sentence of section 34 of chapter 166 of the Revised Statutes is amended to read as follows:

'After return day, the court, ~~in term time or vacation~~ on motion of the respondent, shall order the complainant, her child and the respondent to submit to one or more blood grouping tests to determine whether or not paternity of the res-

pondent can be excluded, the specimens for the purpose to be collected and the tests to be made by duly qualified physicians and under such restrictions as the court shall direct, the expenses therefor to be audited by the court and borne by the respondent.'

Sec. 559. R. S., c. 166, § 38, amended. The last sentence of section 38 of chapter 166 of the Revised Statutes is amended to read as follows:

'A ~~suit~~ **action** may be maintained against her therefor, and her property may be attached and taken on execution for such debts and for damages for such torts as if she were sole, but she cannot be arrested.'

Sec. 560. R. S., c. 166, § 39, amended. Section 39 of chapter 166 of the Revised Statutes is amended to read as follows:

'**Sec. 39. Capacity to prosecute or defend civil actions, with or without joinder of husband; neither liable to arrest.** She may prosecute and defend ~~suits at law or in equity~~ **civil actions**, either of tort or contract, in her own name without the joinder of her husband, for the preservation and protection of her property and personal rights or for the redress of her injuries, as if unmarried, or may prosecute such ~~suits~~ **actions** jointly with her husband, ~~and the~~. The husband shall not settle or discharge any such action or cause of action without the written consent of the wife. Neither of them can be arrested on such writ or execution nor can he alone maintain an action respecting his wife's property.'

Sec. 561. R. S., c. 166, § 40, amended. Section 40 of chapter 166 of the Revised Statutes is amended to read as follows:

'**Sec. 40. Proceedings between husband and wife.** A wife may bring a ~~bill in equity~~ **civil action** against her husband for the recovery, conveyance, transfer, payment or delivery to her of any property, real or personal or both, exceeding \$100 in value, standing in his name, or to which he has the legal title, or which is in his possession or under his control, which in equity and good conscience belongs to her and which he neglects or refuses to convey, transfer, pay over or deliver to her, and upon proper proof, may maintain such ~~bill~~ **action**. And a husband shall have the same right to bring and maintain a ~~bill in equity~~ **civil action** against his wife for the purposes aforesaid, subject to the limitations aforesaid. Marriage shall be no bar to the maintenance of a ~~bill in equity~~ **civil action** by a wife against her husband or by a husband against his wife, brought for the purposes aforesaid. No costs shall be awarded against either party in any such proceedings. If it satisfactorily appears to the court on hearing that the party bringing the ~~bill~~ **action** has conveyed or transferred any of her or of his property, real or personal, to the other party to the ~~bill~~ **action** for the purpose of cheating, defrauding, hindering or delaying her or his creditors, the ~~bill~~ **action** shall be dismissed. An appeal from any final ~~decree~~ **judgment** may be taken ~~as in other equity causes to the law court as in other civil actions~~. There shall be no survival of the right to institute proceedings under ~~the provisions of~~ this section, and if a wife or husband dies after the commencement of proceedings hereunder and before the final determination and disposition of the same, such proceedings shall abate.'

Sec. 562. R. S., c. 166, § 41, amended. Section 41 of chapter 166 of the Revised Statutes is amended to read as follows:

'Sec. 41. Action by married woman for alienation of affections of husband. Whoever, being a female person more than 18 years of age, debauches and carnally knows, carries on criminal conversation with, alienates the affections of the husband of any married woman or by any arts, enticements and inducements deprives any married woman of the aid, comfort and society of her husband, or whoever, being a male person, alienates the affections of the husband of any married woman or by any arts, enticements and inducements deprives any married woman of the aid, comfort and society of her husband, shall be liable in damages to said married woman in ~~an~~ a civil action ~~on the case~~ brought by her within 3 years after the discovery of such offense.'

Sec. 563. R. S., c. 166, § 43, amended. Section 43 of chapter 166 of the Revised Statutes, as amended, is further amended to read as follows:

'Sec. 43. Husband and father compelled to contribute to support of wife or minor children. Whenever a man, having a wife, a minor child or children, residing in this State and being of sufficient ability or being able to labor and provide for them, willfully and without reasonable cause, refuses or neglects to provide suitable maintenance for them, the Superior Court, the probate court and any municipal court ~~in term time, or any judge or justice of said courts in vacation~~ in the county where the wife or such minor child or children reside, or in the county where the husband or father may be found on petition of the wife for herself and for such child or children, or of such child or children by their guardian or by the municipality that is providing suitable maintenance, after such notice to the husband or father as it may order, and hearing, may order him to contribute to the support of his wife and such minor child or children or either of them such sums payable weekly, monthly or quarterly as are deemed reasonable and just, and may enforce obedience by appropriate decrees. Pending petition hereunder, the court may order the husband to pay to the court for the wife sufficient money for the prosecution thereof, upon default of which order execution may issue as in civil actions of tort. Execution may ~~also~~ issue for said sums when payable, and for costs, and when the husband is committed to jail on execution the county having jurisdiction of the process shall bear the expense of his support. Any party aggrieved by any order or decree authorized by ~~the provisions of~~ this section and made by a probate court or municipal court may appeal from said order or decree in the same manner as provided for appeals from such court in other causes, and appeal may be taken from the Superior Court to the law court. Pending the determination of such appeal, the order or decree appealed from shall remain in force and obedience thereto may be enforced as if no appeal had been taken. ~~Said appeal shall be in order for hearing at the 1st term of the court appealed to, held after said appeal is taken, and no~~ No continuance thereof of such appeal shall be had without the consent of the appellant or without legal cause shown therefor to the justice of said court to which appeal is had.'

Sec. 564. R. S., c. 166, § 59, amended. Section 59 of chapter 166 of the Revised Statutes is amended to read as follows:

Sec. 59. Pending divorce action, wife's expenses paid by husband. Pending a ~~libel divorce action~~, the court ~~or any justice thereof in vacation~~ may order the husband to pay to the wife, or to her attorney for the wife, sufficient money for her defense or prosecution thereof, and to make reasonable provision for her separate support, on ~~petition~~ **a motion** for which costs and counsel fees may be ordered; enter such decree for the care, custody and support of the minor children as the court deems proper; and in all cases enforce obedience by appropriate processes on which costs and counsel fees shall be taxed as in other actions.'

Sec. 565. R. S., c. 166, § 60, amended. Section 60 of chapter 166 of the Revised Statutes is amended to read as follows:

Sec. 60. Court may free wife from restraint pending divorce action. Pending a ~~libel divorce action~~, the court, ~~or any justice thereof in vacation~~ on ~~petition~~ **motion** of the wife, may prohibit the husband from imposing any restraint on her personal liberty; and enforce obedience by appropriate processes.'

Sec. 566. R. S., c. 166, § 63, amended. The last paragraph of section 63 of chapter 166 of the Revised Statutes is amended to read as follows:

'The court may ~~also~~ decree to her reasonable alimony out of his estate, having regard to his ability, and sufficient money for her defense or prosecution of hearings affecting alimony; and, to effect the purposes aforesaid, may order so much of his real estate, or the rents and profits thereof, as is necessary, to be assigned and set out to her for life; or, instead of alimony, may decree a specific sum to be paid by him to her or payable in such manner and at such times as the court may direct; and the court ~~or any justice in vacation~~ may at any time alter, amend or suspend a decree for alimony or specific sum when it appears that justice requires; and use all necessary legal processes to carry its decrees into effect.'

Sec. 567. R. S., c. 166, § 65-A, amended. Section 65-A of chapter 166 of the Revised Statutes, as enacted by chapter 428 of the public laws of 1955 and as amended by chapter 12 of the public laws of 1959, is further amended to read as follows:

Sec. 65-A. Descent of real estate in divorce. No rights acquired under ~~the provisions of~~ sections 63 and 65 by a ~~libelant~~ **plaintiff** in the real estate of the ~~libelee~~ **defendant** are effectual against any person except the ~~libelee~~ **defendant**, his heirs and devisees and persons having actual notice of such divorce unless an abstract of the decree of divorce, setting forth the names and residence of the parties, the date of the decree and the court where granted, is filed in the registry of deeds for the county or registry district where the real estate is situated.

The clerk of the court granting the divorce, at the written request of the ~~libelant~~ **plaintiff** or his attorney, shall within 5 days of the receipt of said request make and send such an abstract, for recording, by registered mail, or deliver said abstract, to such registry or registries as so requested.

When a divorce has been granted out of the State, the ~~libelant~~ **plaintiff**, or his attorney, shall cause a duly authenticated copy of such ~~decree order~~ to be filed with the clerk of courts in each of the counties where the real estate or any part thereof is situated, and upon written request of said ~~libelant~~ **plaintiff** or his attorney, said clerk, within 5 days thereof, shall make and send such abstract, for recording, by registered mail, or deliver said abstract, to such registry or registries as so requested.

Such abstract shall be deemed recorded as of the time of its receipt in the registry where filed; ~~provided, however, that such.~~ **Such** abstract if received within 10 days of the date of the ~~decree order~~ of divorce shall have effect as if actually received on the date of the ~~decree order~~ of divorce.

The clerk of courts shall be paid \$2.50 for each such abstract, \$1 of which he shall pay to the register and \$1.50 of which he shall retain as his fee and costs of registered mail, and an additional \$2 as filing fee of the authenticated copy of foreign divorce decree.

No such rights acquired under ~~the provisions of~~ said sections 63 and 65, after September 1, 1955, shall be effectual against the ~~libelee~~ **defendant** or any other person, unless said abstract of the ~~decree order~~ of divorce shall have been recorded, in the manner ~~hereinabove~~ provided, within one year from the date of said ~~decree order~~ of divorce.'

Sec. 568. R. S., c. 166, § 66, repealed. Section 66 of chapter 166 of the Revised Statutes is repealed as follows:

'Sec. 66. ~~New trial within 3 years granted. Within 3 years after judgment on a libel for divorce, a new trial may be granted as to the divorce when the parties have not cohabited nor either contracted a new marriage since the former trial.~~

Sec. 569. R. S., c. 166, § 70, amended. Section 70 of chapter 166 of the Revised Statutes, as amended by chapter 143 of the public laws of 1955, is further amended to read as follows:

'**Sec. 70. Disposal of minor children; change name of wife; employ compulsory process deemed proper; expense of maintenance and education.** The court making ~~a decree an order~~ of nullity or of divorce ~~or any justice thereof in vacation~~ may also ~~decree~~ **make an order** concerning the care, custody and support of the minor children of the parties and with which parents any of them shall live, or grant the care and custody of said children to a 3rd person or to some suitable society or institution for the care and protection of children or to the Department of Health and Welfare, and may ~~also~~ alter its ~~decree order~~ from time to time as circumstances require; change the name of the wife, at her request; and in execution of the powers given it under ~~the provisions of~~ this chapter may employ any compulsory process which it deems proper, by execution, attachment or other effectual form, on which costs shall be taxed as in other actions. In all proceedings under ~~the provisions of~~ this chapter where the husband is committed to jail on any execution issued upon ~~decree order~~ for alimony, or for payment of money instead thereof, or for the support of the minor children of the parties, the county having jurisdiction of the proceedings shall bear the expense of his support in jail.

The expense of maintenance and education of children committed to care and custody of the Department of Health and Welfare under ~~the provisions of this section~~ shall be borne in accordance with ~~the provisions of section 251 of chapter 25, section 251.~~ The Department of Health and Welfare shall have all the powers as to the person, property, earnings and education of every child committed to its custody under ~~the provisions of this section~~ during the term of commitment which a guardian has to a ward.

An original ~~decree order~~ made pursuant to this section granting the care and custody of a minor child to the Department of Health and Welfare shall not extend beyond the time when the child shall reach the age of 18 years. But upon application by the department, the court, for sufficient cause, may extend such ~~decree order~~ to the time when the child shall reach the age of 21 years.'

Sec. 570. R. S., c. 166, § 70-A, amended. Section 70-A of chapter 166 of the Revised Statutes, as enacted by section 6 of chapter 75 of the public laws of 1959, is amended to read as follows :

'Sec. 70-A. Attested copy of order mailed to defendant when duty of support. In all cases where the ~~decree judgment~~ of divorce imposes a duty of support on the ~~libelee defendant~~ the clerk of courts upon issuance of such ~~decree order~~ shall mail an attested copy thereof to said ~~libelee defendant~~ by registered mail, postage prepaid, to be delivered to addressee only with return receipt demanded and the record of the registry of the mail and any receipt returned shall be filed with the case. It shall be the duty of the ~~libelant plaintiff~~ and any counsel of record for this purpose to supply the clerk with the last known address of said ~~libelee defendant~~.'

Sec. 571. R. S., c. 168, § 35, amended. Section 35 of chapter 168 of the Revised Statutes is amended to read as follows :

'Sec. 35. Deed lost before recording. If a deed, duly executed and delivered, is lost or destroyed before being recorded, the grantee or person claiming under him may file a copy of it in the registry of deeds in the county where the land lies; ~~and it.~~ It shall have the same effect as a record for 90 days; ~~and he.~~ He may thereupon proceed to have the depositions of the subscribing witnesses and others knowing the facts taken, as depositions are taken in perpetuum; but if any person supposed to have an adverse interest lives out of the State in an unknown place, ~~a Justice of the Superior Court in term time or vacation~~ may order notice of the taking of such depositions by publication as he deems proper; ~~and the.~~ The filing and recording of such depositions and copy within said 90 days shall have the same effect as if the deed itself had been recorded when said copy was first filed; ~~and certified.~~ Certified copies thereof are evidence when the original would be.'

Sec. 572. R. S., c. 168, § 37, amended. Section 37 of chapter 168 of the Revised Statutes is amended to read as follows :

'Sec. 37. Person holding unrecorded deed compelled to record. A person having an interest in real estate of which any prior grantee has an unrecorded deed or other evidence of title may give the latter personal notice in writing to have the same recorded; ~~and it.~~ If he neglects to have it so recorded for 30 days,

a Justice of the Superior Court, ~~in term time or vacation~~ on complaint, may cause said grantee or his heirs to be brought before ~~him~~ it for examination and, unless sufficient cause is shown for such neglect, may order such deed or other evidence of title to be recorded, and the cost paid by the respondent, together with the legal fees of the register for recording such deed or other evidence of title.'

Sec. 573. R. S., c. 169, § 14, amended. Section 14 of chapter 169 of the Revised Statutes is amended to read as follows:

'**Sec. 14. Cases of contribution, determination.** All cases of contribution, arising under the provisions of this chapter, may be determined in ~~an~~ a civil action ~~at law if the case will allow it,~~ or in the probate court subject to appeal ~~or by a bill in equity.'~~

Sec. 574. R. S., c. 170, § 7, amended. Section 7 of chapter 170 of the Revised Statutes is amended to read as follows:

'**Sec. 7. When heir indebted to estate, lien on his share created.** When an estate is solvent and a person to whom a share of it descends is indebted to the intestate at the time of his death, such debt creates a lien on his share, having priority to any attachment of it; ~~and such.~~ Such lien may be enforced by ~~suit~~ a civil action and attachment of the share within 2 years after administration is granted, and by levy within 30 days after judgment. In such action, or in one brought by the heir, all claims between the intestate and heir may be set off and adjusted, and the balance due may be established.'

Sec. 575. R. S., c. 170, § 13, amended. The last 2 sentences of section 13 of chapter 170 of the Revised Statutes are amended to read as follows:

'Whenever the widow or widower is advised that the legal construction of the provisions of the will for her or him is doubtful or uncertain, the time for making such election shall be extended to 30 days after certificate is returned to the probate court in the county where the probate proceedings are had, of the final decision ~~upon a bill in equity in a civil action,~~ commenced by said legatee or devisee within 30 days after the probate of the will, to obtain the decision of the court as to his or her rights under it, but in no case shall the time for election be less than 6 months after probate. The clerk of courts for the county in which ~~the proceedings in equity are civil action~~ is commenced, within 3 days after receipt of the decision therein, shall send notice of the same to the widow or widower, or her or his solicitor of record, and transmit a certified copy of the decree to the proper probate court, where it shall be recorded, with the time of its reception.'

Sec. 576. R. S., c. 171, § 15, amended. Section 15 of chapter 171 of the Revised Statutes is amended to read as follows:

'**Sec. 15. When debt assigned, estate held in trust for assignee.** When the debt has been previously assigned for a valuable consideration, the creditor named in the execution holds an estate levied on to satisfy it in trust for his

assignee, who is entitled to a conveyance thereof, which may be enforced by a ~~bill in equity civil action.~~'

Sec. 577. R. S., c. 171, § 21, amended. Section 21 of chapter 171 of the Revised Statutes is amended to read as follows:

'Sec. 21. Assignee may bring action in own name. In all cases where a judgment has been assigned as provided for in ~~the preceding~~ section 20 and is not discharged, the assignee may bring ~~on a civil action of debt~~ thereon in his own name; ~~and upon.~~ Upon averment and proof of the facts aforesaid, the court may render judgment and execution thereon in his favor; ~~subject however to~~ any legal defense which the debtor might have if the action were instituted by the original creditor.'

Sec. 578. R. S., c. 171, § 23, amended. Section 23 of chapter 171 of the Revised Statutes is amended to read as follows:

'Sec. 23. Levy made for too much valid, if not over 1%; remedy against officer or creditor. When, by an error of the officer, the amount for which the levy was made exceeds the amount of debt or damage, costs, interest and costs of levy, by a sum not greater than 1% thereof, it is valid if otherwise legally made; ~~and the.~~ The debtor or owner of the estate may maintain ~~on a civil action~~ against such officer or his principal to recover all damages occasioned thereby, or a ~~bill in equity civil action~~ against the creditor to have such error corrected, and the court may correct it, in any just and equitable manner, or it may decree a pecuniary compensation for the injury.'

Sec. 579. R. S., c. 171, § 30, amended. Section 30 of chapter 171 of the Revised Statutes is amended to read as follows:

'Sec. 30. Redemption; debtor paying on mortgage after levy, and not redeeming, may recover of creditor. Levies made as provided in ~~the preceding~~ section 29 may be redeemed within one year, as in other cases. When the debtor pays on the mortgage after the levy, and does not redeem, he may recover of the creditor the amount so paid, in ~~on a civil action for money had and received.~~

Sec. 580. R. S., c. 172, § 9, amended. Section 9 of chapter 172 of the Revised Statutes is amended to read as follows:

'Sec. 9. Joinder of plaintiffs. Persons claiming as tenants in common or joint tenants may all, or any 2 or more, join in ~~a suit an action~~ for recovery of lands, or one may sue alone.'

Sec. 581. R. S., c. 172, § 47, amended. The last sentence of section 47 of chapter 172 of the Revised Statutes is amended to read as follows:

'If the court is of the opinion that the whole or any part or portion of such fees and expenses should be paid by the parties to the ~~suit or~~ action, or by either of such parties, then the court may fix and determine the amount to be paid by such parties, or by either of such parties, and the parties shall be liable to the surveyor in ~~on a civil action of money had and received~~ for the amount

to be paid by them jointly, and each of the parties shall likewise be liable to the surveyor in the same kind of an action for the amount to be severally paid.'

Sec. 582. R. S., c. 172, § 52, amended. The last 2 sentences of section 52 of chapter 172 of the Revised Statutes are amended to read as follows:

'It shall not be necessary for the maintenance of such ~~suit~~ **action** that the defendants shall have a claim or the possibility of a claim resting upon an instrument, the cancellation or surrender of which would afford the relief desired; but it shall be sufficient that they claim or may claim by purchase, descent or otherwise, some right, title, interest or estate in the land which is the subject of the ~~suit~~ **action** and that their claim depends upon the construction of a written instrument or cannot be met by the plaintiffs without the production of evidence. Two or more persons who claim to own separate and distinct parcels of land in the same county by titles derived from a common source, or 2 or more persons who have separate and distinct interests in the same parcel, may join as plaintiffs in any ~~suit~~ **action** brought under ~~the provisions of~~ this section.'

Sec. 583. R. S., c. 172, § 54, amended. The 2nd sentence of section 54 of chapter 172 of the Revised Statutes is amended to read as follows:

'Such ~~suit~~ **action** shall be a proceeding in rem against the land, and a decree establishing or declaring the validity, nature or extent of the plaintiff's title may be entered, and shall operate directly on the land and shall have the force of a release made by or on behalf of all defendants of all claims inconsistent with the title established or declared thereby.'

Sec. 584. R. S., c. 173, § 3, amended. Section 3 of chapter 173 of the Revised Statutes is amended to read as follows:

'~~Sec. 3. State may maintain action; service.~~ ~~The court shall issue a seise facies~~ **State may maintain an action** against the person stated as holding the lands under such grant, returnable to said court, which shall be served 30 days before the return day.'

Sec. 585. R. S., c. 173, § 14, amended. Section 14 of chapter 173 of the Revised Statutes is amended to read as follows:

'**Sec. 14. Defendant may hold by title subsequently acquired.** If it is found that the defendant was not the legal owner of such estate nor had any right as tenant or agent when the process was commenced against him, but afterward acquired a good title, or became tenant or agent, the Attorney General shall cease further to prosecute the ~~suit~~ **action**; but when the defendant proves no such title to the estate as owner or interest therein as tenant or agent, judgment shall be rendered that the State be seized thereof, and recover rents and profits as in ~~case of a writ of entry~~ **a civil action** between private persons.'

Sec. 586. R. S., c. 173, § 17, amended. Section 17 of chapter 173 of the Revised Statutes is amended to read as follows:

'**Sec. 17. Betterments obtained.** For the purpose of ascertaining the amount of such improvements, the Attorney General or the tenant or grantee of the

estate may file a ~~bill in equity complaint in the Supreme Judicial Court or in the Superior Court for recovering the same; and proceedings.~~ **Proceedings** shall be had thereon as in other ~~cases in equity civil actions~~ to ascertain and adjust the amount.'

Sec. 587. R. S., c. 174, § 2, amended. Section 2 of chapter 174 of the Revised Statutes is amended to read as follows:

'Sec. 2. When right shall begin to run. If such right or title first accrued to an ancestor, predecessor or other person under whom the ~~demandant~~ **plaintiff** claims, said 20 years shall be computed from the time when the right or title first accrued to such ancestor, predecessor or other person.'

Sec. 588. R. S., c. 174, § 11, amended. Section 11 of chapter 174 of the Revised Statutes is amended to read as follows:

'Sec. 11. Limitation not to take effect in certain cases, when first action fails. If ~~a writ~~ **the summons and complaint** in a real or mixed action fails of sufficient service or return by unavoidable cause, or if by the default or negligence of any officer to whom it was delivered or directed for service, the ~~writ action is abated~~ **dismissed**; or if the action is defeated for any matter of form or by the death or other disability of either party, or if the ~~demandant's~~ **plaintiff's** judgment is reversed on ~~writ of error~~ **appeal**, the ~~demandant~~ **plaintiff** may commence a new action at any time within 6 months after the abatement or determination of the first ~~suit~~ **action** or the reversal of the judgment.'

Sec. 589. R. S., c. 175, § 1, amended. Section 1 of chapter 175 of the Revised Statutes is amended to read as follows:

'Sec. 1. Widow may sue for dower. When a woman is entitled to dower and it is not lawfully set out to her by the heir or tenant of the freehold, she may recover it by a ~~writ of dower as herein provided~~ **civil action for dower.**'

Sec. 590. R. S., c. 175, § 2, amended. Section 2 of chapter 175 of the Revised Statutes is amended to read as follows:

'Sec. 2. Demand and time of bringing action. She must demand her dower of the person who is at the time, seized of the freehold if in the State, otherwise of the tenant in possession, and shall not commence her action ~~of dower~~ before one month nor after one year from the time of demand; but she may make a new demand and commence an action thereon if an action is not brought within one year after the first demand.'

Sec. 591. R. S., c. 175, § 3, amended. Section 3 of chapter 175 of the Revised Statutes is amended to read as follows:

'Sec. 3. Demand on corporation. When a corporation is the tenant of the freehold, she must demand her dower in writing of any officer ~~thereof on whom a writ in a civil action against it may be served,~~ **director or general agent**; and the time between the demand and the ~~suit~~ **action** shall be 60 days; but a second demand may be made as aforesaid.'

Sec. 592. R. S., c. 175, § 5, amended. Section 5 of chapter 175 of the Revised Statutes is amended to read as follows:

'Sec. 5. Damages for detaining dower. If the ~~demandant~~ plaintiff recovers judgment for her dower, she may, at the same time, recover damages for its detention to the time when the action was commenced, and subsequent damages in a separate action.'

Sec. 593. R. S., c. 175, § 6, amended. Section 6 of chapter 175 of the Revised Statutes is amended to read as follows:

'Sec. 6. Action against tenant of freehold, but prior tenant liable for damages. The action shall be brought against the person who is at the time tenant of the freehold; but if he is not the person of whom demand was made, he shall be liable for damages only for the time that he held the possession, ~~and if.~~ If the ~~demandant~~ plaintiff recovers her dower and damages, she may afterwards maintain ~~an a~~ civil action ~~on the case~~ against the prior tenant of whom her demand was made, for the rents and profits while he held the premises after the demand.'

Sec. 594. R. S., c. 175, § 7, amended. Section 7 of chapter 175 of the Revised Statutes is amended to read as follows:

'Sec. 7. Plaintiff dying, pending action, executor or administrator may prosecute. If the ~~demandant~~ plaintiff dies during the pendency of an action ~~of for~~ dower, her executor or administrator may prosecute the action to final judgment and recover therein the damages to which she would be entitled up to the time of her decease. He may commence an action, or prosecute one commenced by her under ~~the provisions of the preceding~~ section 6, and recover the damages to which she would be entitled, if any.'

Sec. 595. R. S., c. 175, § 9, amended. Section 9 of chapter 175 of the Revised Statutes is amended to read as follows:

'Sec. 9. Assignments of rents and profits. When the estate, out of which the dower is to be assigned, consists of a mill or other tenement which cannot be divided without damage to the whole, the dower may be assigned of the rents and profits thereof, to be received by the ~~demandant~~ plaintiff as tenant in common with the other owners of the estate.'

Sec. 596. R. S., c. 175, § 10, amended. Section 10 of Chapter 175 of the Revised Statutes is amended to read as follows:

'Sec. 10. Costs apportioned. In actions ~~of for~~ dower, when it appears to the court that there has been no refusal to set out dower, the costs accruing on the assignment of dower shall be apportioned according to the interests of the parties.'

Sec. 597. R. S., c. 175, § 11, amended. Section 11 of chapter 175 of the Revised Statutes is amended to read as follows:

'Sec. 11. Waste. If any woman endowed of lands commits or suffers any waste thereon, she forfeits the place wasted and the amount of the damages

done to the premises, to be recovered in an action ~~of~~ for waste by the person having the next immediate estate of inheritance therein; but the taking of fuel necessary for her own use and materials for the repair of buildings and for fences thereon from any woodlands of which she is endowed is not waste.'

Sec. 598. R. S., c. 176, § 24, amended. Section 24 of chapter 176 of the Revised Statutes is amended to read as follows:

'**Sec. 24. Person not party claiming share assigned or left.** When a person, not a party to the proceedings, claims a share assigned to or left for a part owner, he is concluded so far as it respects the assignment of the share, but he is not prevented from maintaining an action within the time in which it might have been brought if no judgment for partition had been rendered, for the share claimed, against the tenant in possession, the same as if the ~~demandant~~ plaintiff had claimed the piece demanded, instead of an undivided part of the whole.'

Sec. 599. R. S., c. 177, § 10, amended. Section 10 of chapter 177 of the Revised Statutes is amended to read as follows:

'**Sec. 10. Form of conditional judgment.** The conditional judgment shall be that if the mortgagor, his heirs, executor or administrator pays the sum that the court adjudges to be due and payable, with interest, within 2 months from the time of judgment, and ~~also~~ pays such other sums as the court adjudges to be due thereafter payable, within 2 months from the time that they fall due, no writ of possession shall issue and the mortgage shall be void; ~~otherwise.~~ **Otherwise** it shall issue in due form of law, upon the first failure to pay according to said judgment; ~~and if.~~ **If**, after 3 years from the rendition of the judgment, the writ of possession has not been served or the judgment wholly satisfied, another conditional judgment may, on ~~scire facias~~ ~~sued out~~ **motion** filed in the name of the mortgagee or assignee, be rendered, and a writ of possession issued as before provided. When the condition is for doing some other act than the payment of money, the court may vary the conditional judgment as the circumstances require; ~~and the.~~ **The** writ of possession shall issue if the terms of the conditional judgment are not complied with within the 2 months.'

Sec. 600. R. S., c. 177, § 15, amended. Section 15 of chapter 177 of the Revised Statutes is amended to read as follows:

'**Sec. 15. To redeem mortgage.** Any mortgagor or other person having a right to redeem lands mortgaged may demand of the mortgagee or person claiming under him a true account of the sum due on the mortgage, and of the rents and profits, and money expended in repairs and improvements, if any; ~~and if.~~ **If** he unreasonably refuses or neglects to render such account in writing, or in any other way by his default prevents the plaintiff from performing or tendering performance of the condition of the mortgage, he may bring ~~his bill in equity~~ **a civil action** for the redemption of the mortgaged premises within the time limited in section 7, and therein offer to pay the sum found to be equitably due, or to perform any other condition, as the case may require; ~~and such.~~ **Such** offer has the same force as a tender of payment or performance before the commencement of the ~~suit;~~ ~~and the~~ **bill action.** **The action** shall be sustained

without such tender, and thereupon he shall be entitled to judgment for redemption and costs.'

Sec. 601. R. S., c. 177, § 16, amended. Section 16 of chapter 177 of the Revised Statutes is amended to read as follows:

'Sec. 16. Amount due on mortgage paid or tendered; when not. When the amount due on a mortgage has been paid or tendered to the mortgagee, or person claiming under him, by the mortgagor or the person claiming under him, within the time so limited, he may ~~have a bill in equity~~ **bring a civil action** for the redemption of the mortgaged premises, and compel the mortgagee, or person claiming under him, by a decree ~~of the Supreme Judicial Court or of the Superior Court~~, to release to him all his right and title therein; although such mortgagee or his assignee has never had actual possession of the premises for breach of the condition; or, without having made a tender before the commencement of the ~~suit~~ **action**, he may ~~have his bill~~ **bring a civil action** in the manner prescribed in ~~the preceding~~ section 15, and the cause shall be tried in the same manner.'

Sec. 602. R. S., c. 177, § 17, amended. Section 17 of chapter 177 of the Revised Statutes is amended to read as follows:

'Sec. 17. Civil action brought before entry, notice to mortgagee if out of State; fraudulent mortgage. When a ~~bill to redeem~~ **civil action for redemption** is brought before an actual entry for breach of the condition, and before payment or tender, if the mortgagee or person claiming under him is out of the State and has not had actual notice, the court shall order proper notice to be given him and continue the cause as long as necessary. When a mortgage is alleged and proved to be fraudulent, in whole or in part, an innocent assignee of the mortgagor, for a valuable consideration, may ~~file his bill~~ **bring his action** within the time allowed to redeem and be allowed to redeem without a tender.'

Sec. 603. R. S., c. 177, § 18, amended. Section 18 of chapter 177 of the Revised Statutes is amended to read as follows:

'Sec. 18. Redemption, when mortgagee is out of State. When a mortgagee or person claiming under him residing out of the State, or whose residence is unknown to the party entitled to redeem, has commenced proceedings under ~~the provisions of~~ section 5, or when such mortgagee or claimant having no tenant agent or attorney in possession on whom service can be made has commenced proceedings under ~~the provisions of~~ section 3, in either case the party entitled to redeem may ~~file his bill~~ **bring the civil action**, as prescribed in section 15, and pay at the same time to the clerk of the court the sum due, which payment shall have the same effect as a tender before the ~~suit; and the action~~. **The court shall order such notice to be given of the pendency of the ~~suit~~ action**, as it judges proper.'

Sec. 604. R. S., c. 177, § 19, amended. Section 19 of chapter 177 of the Revised Statutes is amended to read as follows:

'Sec. 19. Redemption after payment or tender, and before foreclosure, when mortgagee is out of State; notice published; discharge. When an amount due on a mortgage has been paid or tendered to the mortgagee or person claiming under him before foreclosure of the mortgage, and the mortgagee or his assignee is out of the State and the mortgage is undischarged on the record, the mortgagor or person claiming under him may ~~have his bill in equity maintain a civil action~~ for the redemption of the mortgaged premises, as provided in section 16, or for the discharge of the mortgage; ~~and on.~~ On notice of the pendency of the ~~bill action~~, given by publication in some newspaper in the county where said premises are situated for 3 weeks successively, the last publication being 30 days before the time of hearing, or in such other way as ~~the Supreme Judicial Court or the Superior Court or a justice of either of said courts in vacation orders~~, said court may decree a discharge of such mortgage; ~~and the.~~ The record of such decree in the registry of deeds where said mortgage is recorded is evidence of such discharge.'

Sec. 605. R. S., c. 177, § 20, amended. Section 20 of chapter 177 of the Revised Statutes is amended to read as follows:

'Sec. 20. Limitation of civil action. No ~~bill in equity civil action~~ shall be brought for redemption of mortgaged premises, founded on a tender of payment or performance of the condition made before commencement of the ~~suit action~~, unless within one year after such tender.'

Sec. 606. R. S., c. 177, § 21, amended. Section 21 of chapter 177 of the Revised Statutes is amended to read as follows:

'Sec. 21. Court may order other persons joined as defendants and notified. In any ~~suit action~~ brought for the redemption of mortgaged premises, when it is necessary to the attainment of justice that any other person besides the defendant, claiming an interest in the premises, should be made a party with the original defendant, the court on motion may order him to be served with an attested copy of the ~~bill complaint~~ amended in such manner as it directs, and on his appearance, the cause shall proceed as though he had been originally joined.'

Sec. 607. R. S., c. 177, § 23, amended. Section 23 of chapter 177 of the Revised Statutes is amended to read as follows:

'Sec. 23. Deduction of rents and profits from sum brought into court for redemption; statement of amount due. When money is brought into court in ~~a suit an action~~ for redemption of mortgaged premises, the court may deduct therefrom such sum as the defendant is chargeable with on account of rents and profits by him received or costs awarded against him; ~~and the.~~ The person to whom money is tendered to redeem such lands, if he receives a larger sum than he is entitled to retain, shall refund the excess. Any mortgagee or person holding under him when requested by an assignee in insolvency or trustee in bankruptcy to render a statement of the amount due on a mortgage given by the insolvent where there is an equity of redemption shall render a true statement to the assignee or trustee of the amount due on such mortgage; ~~and for.~~ For any loss resulting to the insolvent estate from any misrepresentation

of the amount due, the assignee or trustee shall have a right of action ~~on the case~~ against such person to recover such loss.'

Sec. 608. R. S., c. 177, § 24, amended. The first sentence of section 24 of chapter 177 of the Revised Statutes is amended to read as follows:

'When proceedings for the foreclosure of any prior mortgage of real estate have been instituted by any method provided by law, the owner of any subsequent mortgage of the same real estate or of any part of the same real estate may, at any time before the right of redemption from such prior mortgage has expired, in writing, request the owner of such prior mortgage to assign the same and the debt thereby secured to him, upon his paying to the owner of such prior mortgage, the full amount, including all interest, costs of foreclosure and such other sums as the mortgagor or person redeeming would be required to pay in order to redeem; ~~if~~. If the owner of such prior mortgage neglects or refuses to make such assignment within a reasonable time after such written request, the owner of such subsequent mortgage may bring a ~~bill in equity civil action in the Supreme Judicial Court or~~ in the Superior Court for the purpose of compelling the owner of such prior mortgage to assign the same and the debt thereby secured, to him, the owner of such subsequent mortgage, upon making payment ~~as aforesaid~~.'

Sec. 609. R. S., c. 177, § 26, amended. Section 26 of chapter 177 of the Revised Statutes is amended to read as follows:

'**Sec. 26. Civil action for redemption filed against State.** If the Treasurer of State and the person applying to redeem any lands mortgaged to the State disagree as to the sum due thereon, such person may bring a ~~bill in equity civil action~~ against the State for the redemption thereof ~~in the Supreme Judicial Court or~~ in the Superior Court.'

Sec. 610. R. S., c. 177, § 28, amended. Section 28 of chapter 177 of the Revised Statutes is amended to read as follows:

'**Sec. 28. On death of person entitled to redeem, administrator or heir may redeem; tender in behalf of nonresident.** If a person entitled to redeem a mortgaged estate, or an equity of redemption which has been sold on execution, or the right to redeem such right, or the right to redeem lands set off on execution, dies without having made a tender for that purpose, a tender may be made and ~~a bill an action~~ for redemption commenced and prosecuted by his executor or administrator, heirs or devisees; ~~and if~~. If the plaintiff in such ~~bill in equity action~~ dies pending the ~~suit action~~, it may be prosecuted to final judgment by his heirs, devisees or his executor or administrator. When a mortgagor resides out of the State, any person may, in his behalf, tender to the holder of the mortgage the amount due thereon; ~~and the~~. The tender shall be as effectual as if made by the mortgagor.'

Sec. 611. R. S., c. 177, § 30, amended. Section 30 of chapter 177 of the Revised Statutes is amended to read as follows:

Sec. 30. Claimant of mortgagor's interest may file complaint to have facts determined and damages assessed. In all cases where a debtor has mortgaged real and personal estate to secure the performance of a collateral agreement or undertaking, other than the payment of money, and proceedings have been commenced to foreclose said mortgage for alleged breach of the conditions thereof, but the time of redemption has not expired, any person having any claim against the mortgagor and having attached said mortgagor's interest in said estate on said claim may file a ~~bill in equity complaint in the Supreme Judicial Court or~~ in the Superior Court in the county where such agreement has to be performed, where the owner of such mortgage resides or where the property mortgaged is situated, alleging such facts and praying for relief; ~~and said.~~ **Said** court may examine into the facts and ascertain whether there has been a breach of the conditions of said mortgage, and if such is found to be the fact, may assess the damages arising therefrom, and may make such orders and decrees in the premises as will secure the rights of said mortgagee or his assignee, so far as the same can be reasonably accomplished, and enable the creditor, by fulfilling such requirements as the court may impose, to hold said property, or such right or interest as may remain therein by virtue of such attachment, for the satisfaction of his claim. Such claim may include possession of the property by the mortgagee for such time as the court deems just and equitable. Pending such proceedings, the right of redemption shall not expire by any attempted foreclosure of such mortgage.'

Sec. 612. R. S., c. 177, § 31, amended. The last sentence of section 31 of chapter 177 of the Revised Statutes is amended to read as follows:

'If a mortgagee or his executor, administrator or assignee, after full performance of the condition of his mortgage whether before or after breach of such condition, refuses or neglects for 7 days after being thereto requested to make such discharge or to execute and acknowledge a deed of release of the mortgage, he shall be punished by a fine of not less than \$10 nor more than \$50, to be recovered in ~~an~~ a civil action ~~on the case.~~'

Sec. 613. R. S., c. 178, § 3, amended. Section 3 of chapter 178 of the Revised Statutes is amended to read as follows:

Sec. 3. Redemption after breach of condition. When the condition of a mortgage of personal property is broken, the mortgagor or person lawfully claiming under him may redeem it at any time before it is sold by virtue of a contract between the parties or on execution against the mortgagor, or before the right of redemption is foreclosed, ~~as hereinafter provided~~ by paying or tendering to the mortgagee or the person holding the mortgage by assignment thereof, recorded where the mortgage is recorded, the sum due thereon, or by performing or offering to perform the conditions thereof, when not for the payment of money, with all reasonable charges incurred; ~~and the.~~ **The** property, if not immediately restored, may be replevied, or damages for withholding it recovered in ~~an~~ a civil action ~~on the case.~~'

Sec. 614. R. S., c. 178, § 11, amended. The last sentence of section 11 of chapter 178 of the Revised Statutes is amended to read as follows:

'If such person or his executor, administrator or assignee, after full payment of the money or performance of the obligation aforesaid, whether before or after breach, refuses or neglects for 7 days after thereto requested to make such discharge, he shall be punished by a fine of not less than \$10 nor more than \$50, to be recovered in ~~an~~ a civil action ~~on the case.~~'

Sec. 615. R. S., c. 178, § 25, amended. Section 25 of chapter 178 of the Revised Statutes is amended to read as follows:

'Sec. 25. Court may order vessel sold and proceeds paid into court. When judgment is recovered in any ~~suit~~ action on which a vessel was attached, the court may issue an order to the attaching officer to sell it at auction, and to pay the proceeds thereof into court after deducting the expenses of sale and for taking care of the vessel while under attachment. Such officer shall sell it as other personal property is sold on execution ~~and the~~. The purchaser shall hold it free from any prior claim.'

Sec. 616. R. S., c. 178, § 26, amended. Section 26 of chapter 178 of the Revised Statutes is amended to read as follows:

'Sec. 26. Distribution of proceeds and of any surplus. If such proceeds are more than all the judgments recovered against such vessel and the amounts claimed in the undecided ~~suits~~ actions, the court may order the judgments, as fast as they are recovered against said vessel, to be paid from said fund until all such ~~suits~~ actions are terminated and all judgments satisfied. The court may, on ~~petition~~ complaint, order the balance, if any, to be paid to the persons legally entitled thereto.'

Sec. 617. R. S., 178, § 27, amended. Section 27 of chapter 178 of the Revised Statutes is amended to read as follows:

'Sec. 27. When proceeds not enough distributed pro rata, and double liens prevented. If such proceeds are not enough to pay in full the judgments recovered and the claims still undecided, the court may order the money to remain until all the ~~suits~~ actions are terminated, and then divide pro rata; or it may direct a sufficient amount to be retained to pay on the undecided claims their proportion and divide the residue ratably among the judgments recovered, and if, after all the ~~suits~~ actions are terminated, and the judgments recovered subsequent to the first division have received the same proportion as prior judgments, there is any sum remaining, it shall be divided among the judgments pro rata, and in such division the court shall make such orders as will prevent the enforcement of a double lien and will secure the just rights of all.'

Sec. 618. R. S., c. 178, § 29, amended. Section 29 of chapter 178 of the Revised Statutes is amended to read as follows:

'Sec. 29. If attached for lien, how attached for non-lien claims. A vessel attached for a lien claim may be attached by the same officer in the ordinary manner in ~~a suit~~ an action against the owners thereof, and such attachment shall be valid, subject to the legal priorities of the lien attachments.'

Sec. 619. R. S., c. 178, § 42, amended. Section 42 of chapter 178 of the Revised Statutes is amended to read as follows:

'Sec. 42. Court may decree that property be sold; redemption; lienors to share pro rata. If it is determined that the parties or any of them, claiming a lien, have a lien upon said building and land or upon said wharf, pier, building and land, the court may decree that said property, or such interest in it as is subject to the liens or any of them, shall be sold, and shall prescribe the place, time, terms, manner and conditions of such sale; ~~any justice, in term time or vacation~~ **The court** may order an adjournment of such sale from time to time, or the manner and conditions of any adjournment of such sale may be prescribed in the decree; ~~and a.~~ **A** deed of the officer of the court, appointed to make such sale, recorded in the registry of deeds where the land lies, within 3 months after the sale, shall convey all the title of the debtor and the owner in the property ordered to be sold. If justice requires, the court may provide in the order of sale that the owner shall have a right to redeem the property from such sale within a time fixed in the order of sale. If the court shall determine that the whole of the land on which the lien exists is not necessary therefore, it shall describe in the order of sale a suitable lot therefor; and only so much shall be sold. The lienors shall share pro rata, ~~provided their bills or petitions complaints or motions~~ therefore are filed with the clerk of courts prior to the order of sale and within the time mentioned in sections 38, 39 and 40. The court may make such decree in regard to costs as is equitable.'

Sec. 620. R. S., c. 178, § 48, amended. The first sentence of section 48 of chapter 178 of the Revised Statutes is amended to read as follows:

'When a judgment is rendered in any ~~suit~~ **action** authorized by this chapter against any house, building or appurtenances, wharf, pier or building thereon, and the land on which it stands, or any interest that the owner of such house, building or appurtenances, wharf or pier has in such land, said property shall be taken and sold on execution in the same manner that rights of redeeming mortgaged real estate may be taken and sold.'

Sec. 621. R. S., c. 178, § 53, amended. The last sentence of section 53 of chapter 178 of the Revised Statutes is amended to read as follows:

'Such notice of the ~~suit~~ **action** as the court orders shall be given to the owner of the logs or lumber, and he may be admitted to defend it.'

Sec. 622. R. S., c. 178, § 74, amended. Section 74 of chapter 178 of the Revised Statutes is amended to read as follows:

'Sec. 74. Appearance of owner. In all lien actions, when the labor or materials were not furnished by a contract with the owner of the property affected, such owner may voluntarily appear and become a party to the ~~suit~~ **action**. If he does not so appear, such notice of the ~~suit~~ **action** as the court orders shall be given him and he shall then become a party to the ~~suit~~ **action**.'

Sec. 623. R. S., c. 178, § 83, amended. Section 83 of chapter 178 of the Revised Statutes is amended to read as follows:

'**Sec. 83. Disposal of proceeds.** Money paid into court may be paid over to the person legally entitled to it, on ~~petition motion~~ and order of the court. If it is not called for at the first term after it is paid into court, it shall be paid into the county treasury; ~~and if.~~ If afterwards the person entitled to it ~~petitions~~ ~~and upon motion~~ establishes his claim to it, the court may order the county treasurer to pay it to him.'

Sec. 624. R. S., c. 179, § 4, amended. Section 4 of chapter 179 of the Revised Statutes is amended to read as follows:

'**Sec. 4. Inventory and appraisal, if no claimant.** If no person claims the property after such seizure, the party seizing shall cause an inventory and appraisal thereof to be made by 3 disinterested persons, under oath, appointed by a justice of the peace in the county; which shall be the rule for deciding in what court the ~~libel~~ **complaint** shall be filed.'

Sec. 625. R. S., c. 179, § 5, amended. Section 5 of chapter 179 of the Revised Statutes is amended to read as follows:

'**Sec. 5. If value exceeds \$20, complaint filed in Superior Court; notice.** If the value of the property seized exceeds \$20, the party seizing, within 20 days, shall file a ~~libel~~ **complaint** in the clerk's office of the Superior Court in the county where the offense was committed, stating the cause of seizure and praying for ~~a decree an order~~ of forfeiture. The clerk shall thereupon make out a notice to all persons to appear at such court at the time appointed to show cause why such ~~decree order~~ should not be passed, which notice shall be published in some newspaper printed in the county, if any, if not, in the state paper, at least 14 days before the time of trial.'

Sec. 626. R. S., c. 179, § 7, amended. Section 7 of chapter 179 of the Revised Statutes is amended to read as follows:

'**Sec. 7. If complaint not supported, property restored with damages.** If the ~~libel~~ **complaint** is not supported or is discontinued, the court shall decree a restoration of the property, with costs. If the jury or court finds the seizure without probable cause, reasonable damages shall be decreed for the claimant.'

Sec. 627. R. S., c. 179, § 8, amended. Section 8 of chapter 179 of the Revised Statutes is amended to read as follows:

'**Sec. 8. If value less than \$20, complaint filed before trial justice.** When the value of the property seized does not exceed \$20, the ~~libel~~ **complaint** shall be filed before a trial justice or municipal court of the county where the offense was committed; ~~and after.~~ After notice as aforesaid has been posted at 2 or more public places in the county, 7 days at least before the day of trial, such justice or the judge of such court shall try and decide the cause and make such decree therein as law requires.'

Sec. 628. R. S., c. 179, § 19, amended. Section 19 of chapter 179 of the Revised Statutes is amended to read as follows:

'Sec. 19. Damages recovered by sufferers; beasts taken up; lien. Any person injured in his land by sheep, swine, horses, asses, mules, goats or neat cattle, in a common or general field, or in a close by itself, may recover his damages by taking up any of the beasts doing it, and giving the notice provided in section 11, or in ~~an~~ a civil action of trespass against the person owning or having possession of the beasts at the time of the damage, and there shall be a lien on said beasts, and they may be attached in such action and held to respond to the judgment as in other cases, whether owned by the defendant or only in his possession. If the beasts were lawfully on the adjoining lands, and escaped therefrom in consequence of the neglect of the person suffering the damage to maintain his part of the partition fence, their owner shall not be liable therefor.'

Sec. 629. R. S., c. 180, § 6, amended. Section 6 of chapter 180 of the Revised Statutes is amended to read as follows:

'Sec. 6. Complaint. The complaint shall contain such a description of the land flowed or injured, and such a statement of the damage, that the record of the case shall show the matter heard and determined in the ~~suit~~ action.'

Sec. 630. R. S., c. 180, § 17, amended. Section 17 of chapter 180 of the Revised Statutes is amended to read as follows:

'Sec. 17. Security required for yearly damages. When any person whose lands are so flowed or from whose lands the water is so diverted files his complaint for ascertaining or increasing his damages, or brings ~~his~~ a civil action of debt as provided in the following section 18, and moves the court to direct the owner or occupant of such mill or canal to give security for the payment of the annual damages, and the court so orders, the owner or occupant refusing or neglecting to give such security shall have no benefit of ~~the provisions of~~ this chapter; but is liable to be sued for the damages occasioned by such flowing in ~~an~~ a civil action ~~at common law~~.'

Sec. 631. R. S., c. 180, § 18, amended. Section 18 of chapter 180 of the Revised Statutes is amended to read as follows:

'Sec. 18. Plaintiff may sue for damages, if unpaid; lien upon mill and land. The party entitled to such annual compensation may maintain ~~an~~ a civil action of debt ~~assumpsit~~ therefor against any person who owns or occupies said mill, or canal and mills supplied thereby, when the action is brought; and shall therein recover the whole sum due and unpaid, with costs; and shall have a lien for such compensation, from time of the institution of the original complaint, on the mill and milldam, or on the canal and the mill supplied thereby, with the appurtenances and the land under and adjoining them and used therewith, for any sum due not more than 3 years before the commencement of the complaint.'

Sec. 632. R. S., c. 180, § 27, amended. Section 27 of chapter 180 of the Revised Statutes is amended to read as follows:

'Sec. 27. Double damages, if restrictions violated. If, after judgment, the restrictions imposed by the report of the commissioners or finding of the jury

respecting the flowing or diverting of the waters are violated, the party injured thereby may recover of the wrongdoers double damages for his injury in ~~an~~ a civil action ~~at common law.~~

Sec. 633. R. S., c. 180, § 42, amended. Section 42 of chapter 180 of the Revised Statutes is amended to read as follows:

'Sec. 42. If decision in favor of plaintiffs. If the decision is in favor of the ~~petitioners~~ plaintiffs, said commissioners shall direct the town, in writing, to make the alterations prescribed and fix the time within which the same shall be done, and if not done within the time fixed, the same may be done by the ~~petitioners~~ and ~~whether~~ plaintiffs. ~~Whether~~ by the town or by the ~~petitioners~~ plaintiffs, it shall be done in a faithful manner and to the acceptance of the commissioners; ~~and whichever.~~ **Whichever** party makes said alterations has a claim upon the other for the proportion fixed by the commissioners for said other party to pay, and if it is not paid within 30 days after its approval by said commissioners and a demand therefor, it may be recovered in ~~an~~ a civil action ~~on the case.~~

Sec. 634. R. S., c. 180, § 48, amended. Section 48 of chapter 180 of the Revised Statutes is amended to read as follows:

'Sec. 48. Compensation of engineer. Said engineer shall receive, as full compensation for his services, \$5 a day while actually employed in such service, together with his actual traveling expenses to be audited, allowed and paid from the State Treasury, in cases where such dam or reservoir is by him adjudged safe and sufficient; and by the owners, occupants or lessees of said dam or reservoir, in cases where said dam or reservoir is by him adjudged unsafe and insufficient, to be recovered by said engineer in ~~an~~ a civil action ~~on the case.~~

Sec. 635. R. S., c. 180, § 52, amended. Section 52 of chapter 180 of the Revised Statutes is amended to read as follows:

'Sec. 52. If part owner minor, or otherwise disqualified. Where any part of such mill or dam at the time of meeting and notice is owned by minors, tenants by ~~courtesy~~ curtesy, in tail, for life or years, or by mortgagor or mortgagee, the guardians of such minors, such tenant, mortgagor or mortgagee shall be deemed, for the purposes of sections 49 to 54, the proprietors thereof, and shall be notified, vote and contribute accordingly; ~~and all.~~ All advances so made by them, if not paid, may be recovered in a ~~special~~ civil action ~~on the case,~~ with interest.'

Sec. 636. R. S., c. 181, § 24, amended. Section 24 of chapter 181 of the Revised Statutes is amended to read as follows:

'Sec. 24. Prosecution of actions relating to partnership business. ~~Suits~~ **Actions** respecting the business of such partnership shall be commenced and prosecuted by and against the general partners only, except in those cases in which provision is hereinbefore made, that special partners shall be deemed general partners, and special partnerships, general partnerships; in which cases all the partners deemed general partners may join or be joined in such ~~suits~~ actions.'

Sec. 637. R. S., c. 181, § 26, amended. Section 26 of chapter 181 of the Revised Statutes is amended to read as follows:

'Sec. 26. Limited partners same as general. In all cases not otherwise provided for herein, the members of limited partnerships are subject to the liabilities and entitled to the immunities incident to general partnerships, and the ~~Supreme Judicial Court and the~~ Superior Court may hear and determine ~~in equity in civil actions~~ all questions between copartners in any partnership formed by virtue of this chapter, and between said copartners and any creditors of the firm.'

Sec. 638. R. S., c. 182, § 3, amended. Section 3 of chapter 182 of the Revised Statutes is amended to read as follows:

'Sec. 3. Damages. Whoever violates ~~the provisions of the preceding~~ section 2 is liable to any party aggrieved thereby for all damages actually incurred, to be recovered in ~~an a civil action on the case.~~

Sec. 639. R. S., c. 183, § 2, amended. Section 2 of chapter 183 of the Revised Statutes is amended to read as follows:

'Sec. 2. Unfair competition defined. Willfully and knowingly advertising, offering for sale, selling or disposing of any commodity at less than the price stipulated in any contract entered into pursuant to ~~the provisions of~~ section 1, whether the person so advertising, offering for sale, selling or disposing of is or is not a party to such contract, is unfair competition and is actionable ~~at the suit of~~ by any person injured thereby.'

Sec. 640. R. S., c. 184, § 4, sub-§ I, amended. Subsection I of section 4 of chapter 184 of the Revised Statutes is amended to read as follows:

'I. Injunctive relief; damages and costs. Any person damaged or who is threatened with loss or injury by reason of a violation or threatened violation of ~~the provisions of~~ this chapter may bring a ~~bill in equity civil action~~ in the ~~supreme judicial court or the~~ Superior Court ~~in term time or vacation~~, in the county where he resides, to prevent, restrain or enjoin such violation or threatened violation. If in such action a violation or threatened violation of ~~the provisions of~~ this chapter shall be established, the court may enjoin and restrain or otherwise prohibit such violation or threatened violation. In such action it shall not be necessary that actual damages to the plaintiff be alleged or proved. In addition to such injunctive relief, the plaintiff in said action shall be entitled to recover from the defendant 3 times the amount of actual damages by him sustained and the costs of ~~suit the action~~ including reasonable attorney's fees.'