

# MAINE STATE LEGISLATURE

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REPORT

OF THE

COMMISSIONERS

APPOINTED TO

REVISE THE PUBLIC LAWS

OF THE

STATE OF MAINE.

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TITLE VIII.  
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AUGUSTA:

STEVENS & BLAINE, PRINTERS TO THE STATE.

1855.



# TITLE EIGHTH.

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## JUDICIAL COURTS, AND COURTS OF COUNTY COMMISSIONERS; THEIR GENERAL JURISDICTION, AND THE OFFICERS THEREWITH CONNECTED.

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### Chapter 77.

#### SUPREME JUDICIAL COURT AND ITS JURISDICTION, AND THE REPORTER OF ITS DECISIONS.

*Supreme judicial court and its jurisdiction.*

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*Supreme judicial court and its jurisdiction.*

SECTION 1. The supreme judicial court shall consist of a  
 2 chief justice and seven associate justices; each of whom shall  
 3 be an inhabitant of this state, of sobriety of manners, and  
 4 learned in the law, appointed and commissioned as prescribed in  
 5 the constitution.

R. S., c. 96, § 1. 1847, c. 15, § 1.  
 1852, c. 246, § 5. 1855, c. 174, § 3.

SECT. 2. They shall have cognizance of pleas, real, personal  
 2 and mixed, and of all civil actions between party and party, and  
 3 between the state and any of the citizens thereof, or other persons  
 4 resident therein, which may be legally brought before them by

5 original writ, writ of error or otherwise; and may render judg-  
6 ment and award execution thereon, according to law.

R. S., c. 96, § 2.

SECT. 3. They shall have cognizance of all offenses and mis-  
2 demeanors legally prosecuted before them. R. S., c. 96, § 3.

SECT. 4. They shall have the general superintendence of all  
2 courts of inferior jurisdiction for the prevention and correction  
3 of errors and abuses, where the laws do not expressly provide  
4 any remedy. R. S., c. 96, § 4.

SECT. 5. They shall have power to issue writs of error, cer-  
2 tiorari, mandamus, prohibition, quo warranto, and all other  
3 processes and writs, to courts of inferior jurisdiction, to corpo-  
4 rations and individuals, necessary for the furtherance of justice  
5 and the due execution of the laws. R. S., c. 96, § 5.

SECT. 6. They shall be conservators of the peace throughout  
2 the state, and may punish by fine and imprisonment, or either,  
3 at their reasonable discretion, all contempts committed against  
4 their authority, and administer all necessary oaths in civil and  
5 criminal cases. R. S., c. 96, § 6.

SECT. 7. Said court may exercise jurisdiction, power and  
2 authority, agreeably to the common law of this state, not incon-  
3 sistent with the constitution or any statute.

R. S., c. 96, § 7.

SECT. 8. All records and documents of the supreme judicial  
2 court of Massachusetts, previous to the separation of Maine, in  
3 each county where any such records remain, shall be under the  
4 control of said court, the same as the records and documents of  
5 their own doings; and the clerks of the court shall have the like  
6 power in relation to the one as the other.

Act of amendment, 1841, § 11.

SECT. 9. Said court shall have the entire jurisdiction, civil,  
2 criminal and appellate, and all powers incident thereto, of the  
3 late district court, and shall exercise the same in the same man-  
4 ner as heretofore the district court was authorized by law to do,  
5 or as the supreme judicial court are authorized to exercise the  
6 same in similar cases. 1852, c. 246, § 1.

SECT. 10. The records of the late district court and the cus-  
2 tody of the same in each county, where any such records exist,

3 are transferred to the clerk of the supreme judicial court for  
4 such county, to whose attestation of the same, or of their con-  
5 tents, full faith shall be given. 1852, c. 246, § 2.

SECT. 11. All writs and processes of the court shall be in the  
2 name of the state of Maine; bear test of any justice who is not  
3 a party, or interested in the suit; be under the seal of the  
4 court, and signed by the clerk.

R. S., c. 96, § 8. 1842, c. 31, § 7.

SECT. 12. The court shall, from time to time, establish and  
2 record all necessary rules and regulations respecting the modes  
3 of trial and the conduct of business not repugnant to law, in  
4 relation to suits at law or in equity. R. S., c. 96, § 9.

SECT. 13. The state is divided into three judicial districts,  
2 which shall be denominated the western, middle and eastern  
3 districts; and not less than two, nor more than three of the  
4 justices shall reside in any district. 1852, c. 246, § 4, 25.

The western district is composed of the counties of York,  
6 Cumberland, Oxford, Franklin and Androscoggin.

1854, c. 60, § 4.

The middle district is composed of the counties of Lincoln,  
8 Kennebec, Somerset and Sagadahoc.

1853, c. 16, § 1, 2. 1854, c. 70, § 6.

The eastern district is composed of the counties of Waldo,  
10 Piscataquis, Penobscot, Hancock, Washington and Aroostook.

SECT. 14. The supreme judicial court for the purpose of  
2 hearing and determining all questions of law and equity, and  
3 for the trial of capital offenses, shall consist of four justices, of  
4 whom the chief justice shall be one, to be designated from the  
5 members of the court by the governor with the advice and con-  
6 sent of the council, or appointed and commissioned according to  
7 the constitution. 1855, c. 174, § 1.

SECT. 15. Said justices shall hear and determine all ques-  
2 tions of law and equity, which may arise in any mode provided  
3 by law, and try all indictments found for crimes, the punish-  
4 ment of which is death. 1855, c. 174, § 1. 1854, c. 56.

1852, c. 246, § 20.

SECT. 16. The law terms of said court shall be held at  
2 Augusta, in the county of Kennebec, for the middle district, on

3 the first Tuesday of January, and the second Tuesday of June;  
 4 at Portland, in the county of Cumberland, for the western dis-  
 5 trict, on the second Tuesday of May; and at Bangor, in the  
 6 county of Penobscot, for the eastern district, on the second  
 7 Tuesday of July. At the January term of said court, held at  
 8 Augusta, any cause pending in any county in the state, and in  
 9 readiness for hearing upon questions of law or equity, by the  
 10 consent of the parties or their counsel, may be entered and  
 11 heard; but without such consent no party is required to attend  
 12 at said term. 1855, c. 174, § 1.

SECT. 17. Three of said four justices may hear all questions  
 2 which come before said court as aforesaid, and determine the  
 3 same by a majority thereof; and the chief justice, from time to  
 4 time as the public necessities require, shall detail one or more  
 5 from said four justices to preside at the terms which by law are  
 6 held by one judge for jury trials in the several counties.

1855, c. 174, § 1.

SECT. 18. The clerks of the supreme judicial court for the  
 2 counties of Cumberland, Kennebec and Penobscot, shall be the  
 3 clerks of the western, middle and eastern districts, and shall  
 4 keep a docket for each district, in which shall be entered all  
 5 cases at law or in equity pending in any county in the district,  
 6 and removed to and entered at the law term, in the order of  
 7 counties, as follows: 1852, c. 246, § 7.

Franklin, Oxford, Androscoggin, York and Cumberland, in the  
 9 western district. 1854, c. 60, § 4.

Somerset, Lincoln, Sagadahoc and Kennebec, in the middle  
 11 district. 1854, c. 70, § 6.

Aroostook, Washington, Piscataquis, Hancock, Waldo and  
 13 Penobscot, in the eastern district. 1853, c. 16, § 1, 2.

SECT. 19. All motions for new trials upon evidence reported  
 2 by the presiding justice, all questions of law arising on reports  
 3 of evidence, exceptions, agreed statements of facts, cases in  
 4 equity, and all cases, civil or criminal, in which a question of  
 5 law is raised for the decision of the law courts, shall be marked  
 6 "law" on the docket of the county where they are pending, and  
 7 continued until their determination is certified by the clerk of

8 the district to the clerk of the county where the cases are  
9 pending, except as is provided in section twenty-one.

1852, c. 246, § 8.

SECT. 20. In all such cases the parties, if they so agree and  
2 enter their agreement on the docket, may transmit to the court  
3 in vacation their arguments in writing, and the court may  
4 pronounce their decision at any term, in any county; and judg-  
5 ment may be entered in such action as of the preceding term  
6 in the county where it is pending, by special order of the court,  
7 communicated through the clerk of the district.

1852, c. 246, § 21.

SECT. 21. In case said suits, civil, criminal or in equity,  
2 thus marked "law" and continued on the docket of the county,  
3 are not entered at the next law term within the district, upon  
4 motion and proof thereof, the justice presiding in said county,  
5 at the next or second term after such law term, shall enter up  
6 such decree, or render such judgment by nonsuit, default or on  
7 the verdict or otherwise, as law and justice require.

1852, c. 246, § 10.

SECT. 22. When a party, whose duty it is to enter any civil  
2 action in the law court of any district, fails to enter the same  
3 within the first two days of the next term thereof, the opposite  
4 party may, at such term, enter a complaint, briefly setting forth  
5 the facts, and the court, on being satisfied of the truth of said  
6 complaint, shall order judgment to be rendered in favor of such  
7 complainant, as of the preceding term, in the county where such  
8 action is pending. And if the case is on demurrer to the decla-  
9 ration, or on exceptions, the complainant shall recover treble  
10 costs from the time such demurrer or exceptions were filed.

1855, c. 174, § 4.

SECT. 23. The judgments, orders or decrees of the court at  
2 the law term, if made in term time, shall be entered by the  
3 district clerk on his docket; and if pronounced at a trial term in  
4 any county, they shall be certified by the clerk of such county,  
5 to the clerk of the district in which the cases are pending, who  
6 shall enter such judgment, order or decree on his docket, and  
7 certify the same to the clerk of the county where the cases are  
8 pending, and such further proceedings shall then be had, and such

9 judgment entered, as the order or decree of the court requires;  
 10 and all liens created by attachment on mesne process, and then  
 11 in force, shall continue for thirty days after the then next term  
 12 of the court in the same county.

R. S., c. 96, § 27. 1852, c. 246, § 9.

SECT. 24. The equity jurisdiction of said court shall extend  
 2 to all cases of the kind hereinafter mentioned, when the parties  
 3 have not a plain and adequate remedy at law:

*First.*—All suits for the redemption or foreclosure of mort-  
 5 gaged estates.

*Second.*—All cases of forfeitures of recognizances in criminal  
 7 cases, and of forfeitures in all civil obligations or contracts.

*Third.*—All cases of forfeiture of penalties to the state.

*Fourth.*—All suits to compel the specific performance of con-  
 10 tracts in writing.

*Fifth.*—All cases of fraud, trust, accident or mistake.

*Sixth.*—All cases of nuisance and waste.

*Seventh.*—All cases of partnership.

*Eighth.*—All suits or bills for discovery relating to any of the  
 15 above mentioned cases, when a discovery may lawfully be  
 16 required, according to the course of chancery proceedings; and  
 17 in all other cases in which equity powers are specially given to  
 18 said court.

The bill or complaint in equity may be inserted in a writ of  
 20 attachment or original summons, returnable to said court, and  
 21 served on the adverse party like other writs or summonses in  
 22 civil actions; or the plaintiff may file his complaint with the  
 23 court, and notice may be issued and served therein, as provided  
 24 by the rules of said court. R. S., c. 96, § 10.

SECT. 25. The said court may issue writs of injunction in all  
 2 cases of equity jurisdiction, to prevent injustice; and any justice  
 3 of said court may issue such writs in such cases, to continue in  
 4 force until the end of the then next term of said court, unless  
 5 sooner dissolved; but no such writ shall issue without notice to  
 6 the adverse party to appear and answer, unless the applicant  
 7 files a bond with sufficient sureties, to respond all damages and  
 8 costs. R. S., c. 96, § 11.

SECT. 26. The court for the trial of jury causes, and for  
 2 such other matters as are by law cognizable by one justice,  
 3 shall be annually held at the times and places as follows :

1852, c. 246, § 15.

In and for the county of York, at Alfred, on the first Tuesdays  
 5 of January and April, and third Tuesday of September.

1852, c. 258, § 1.

In and for the county of Cumberland, at Portland, on the  
 7 third Tuesdays of January and April, and second Tuesday of  
 8 October, for the transaction of the civil business of said court;  
 9 and on the first Tuesday of March and the last Tuesdays of  
 10 July and November, for the transaction of the criminal business  
 11 of said court.

1852, c. 246, § 15.

In and for the county of Oxford, at Paris, on the second Tues-  
 13 days of March, August and November.

1852, c. 246, § 15.

In and for the county of Franklin, at Farmington, on the third  
 15 Tuesdays of April and October.

1855, c. 111, § 1.

In and for the county of Somerset, at Norridgewock, on the  
 17 third Tuesdays of March, September and December.

1853, c. 1, § 1.

In and for the county of Kennebec, at Augusta, on the first  
 19 Tuesday of March, third Tuesday of August, and fourth Tues-  
 20 day of November.

1853, c. 38, § 1.

In and for the county of Lincoln, at Wiscasset, on the first  
 22 Tuesday of May, for the transaction of civil business; and on  
 23 the fourth Tuesday of January and first Tuesday of October,  
 24 for the transaction of the civil and criminal business of said  
 25 court.

1852, c. 246, § 15. 1853, c. 8, § 1, 2.

1853, c. 51, § 1.

In and for the county of Androscoggin, at Auburn, on the  
 27 fourth Tuesdays of January, April and August.

1854, c. 60, § 2. 1854, c. 87, § 3.

In and for the county of Sagadahoc, at Bath, on the third  
 29 Tuesday of December, for the transaction of civil business; and  
 30 on the first Tuesday of April and third Tuesday of August, for  
 31 the transaction of the civil and criminal business of said court.

1854, c. 70, § 2.

In and for the county of Waldo, at Belfast, on the first Tuesday in January, for the transaction of civil business; and on the first Tuesdays of May and October, for the transaction of the civil and criminal business of said court.

1852, c. 246, § 15. 1855, c. 165, § 1.

In and for the county of Penobscot, at Bangor, on the first Tuesdays of January, April and October, for the transaction of civil business; and on the first Tuesdays of August and February, for the transaction of the criminal business of said court.

1852, c. 246, § 15. 1855, c. 158, § 1.

In and for the county of Washington, at Machias, on the first Tuesdays of January and October, and fourth Tuesday of April.

1852, c. 246, § 15. 1854, c. 59, § 1.

In and for the county of Hancock, at Ellsworth, on the fourth Tuesdays of April and October.

1852, c. 246, § 15. 1854, c. 76, § 1.

In and for the county of Aroostook, at Houlton, on the second Tuesday of March and third Tuesday of September.

1852, c. 246, § 15.

In and for the county of Piscataquis, at Dover, on the last Tuesday of February and the second Tuesday of September.

1852, c. 246, § 15.

SECT. 27. The grand jurors who are returned to serve at the supreme judicial court, shall serve at every term thereof throughout the year, established by law for the transaction of criminal business, and also for the transaction of civil and criminal business.

1852, c. 246, § 17.

SECT. 28. Venires for grand jurors shall be issued forty days at least before the second Monday of September, annually.

1852, c. 246, § 18.

SECT. 29. The clerks of the courts shall, in due season, before every term for the trial of jury causes in their counties, or at such other times as the court orders, issue writs of venire facias for jurors, and therein require their attendance on the first day of the term, or on such day as the court orders.

1852, c. 246, § 19.

SECT. 30. The justice presiding at terms for jury trials, shall hear and determine any cause without the intervention of a jury,

3 when both parties so agree and enter their agreement on the  
4 docket, and direct what judgment shall be entered therein.

1852, c. 246, § 12.

SECT. 31. All appeals from the decrees of the judge of pro-  
2 bate, except such as by law are tried by a jury, and all petitions  
3 for review may be heard and determined by the presiding jus-  
4 tice at any term held for jury trials, subject to exceptions to any  
5 matter of law by him decided. 1852, c. 246, § 13.

SECT. 32. In all civil cases when the defendant appears and  
2 desires a trial, he shall, at least fourteen days before the com-  
3 mencement of the term next after the entry of the action or  
4 service on him, file with the clerk of the court a specification in  
5 brief of the nature and grounds of his defense, with a declara-  
6 tion signed by himself or his attorney, that he believes there is  
7 a good defense to all or a part of the plaintiff's claim, and that  
8 he intends in good faith to make such defense. And no action  
9 shall be placed on the trial docket, unless such specification and  
10 declaration is filed as aforesaid. The court may, in its discre-  
11 tion, in cases of accident or mistake clearly shown, allow such  
12 specification and declaration to be filed and the action entered  
13 on the trial docket after said time. A separate trial docket  
14 shall be made by the clerk at each term, containing only such  
15 cases as are above specified, in their proper order.

1855, c. 174, § 4.

SECT. 33. The court before proceeding to the trial of causes,  
2 or at some early and convenient time in each term, shall dispose  
3 of all the cases not on the trial docket, by non-suit, default,  
4 continuance or otherwise, as the proper and prompt administra-  
5 tion of justice requires. No costs shall be allowed to either  
6 party after the second term after entry, in any action not on the  
7 trial docket as aforesaid, unless the judge presiding when final  
8 judgment is given, certifies or causes to be entered upon record,  
9 that the continuance after the second term was proper and  
10 necessary for the due administration of law and justice in that  
11 case. And in any case on the trial docket, if no issue is joined  
12 and no actual trial had in any mode, and judgment is rendered for  
13 the plaintiff, the defendant shall be liable for treble costs, unless  
14 the judge presiding certifies or causes to be entered upon record,

15 that the defendant had reasonable grounds for filing his specifica-  
16 tions and declaration, and that they were not filed merely for  
17 delay. 1855, c. 174, § 4.

SECT. 34. When from sickness, accident, or any unforeseen  
2 cause, no justice of the court attends on the day for holding  
3 the court, the sheriff of the county, or in his absence, the clerk  
4 of the court shall by oral proclamation in the court house, and  
5 by public notice posted on the door thereof, adjourn the court  
6 from day to day till a justice attends; and in case of neces-  
7 sity, may adjourn the court without day; and when such court  
8 is so adjourned, all actions brought for such term shall be entered  
9 by the clerk, and with all continued actions on the docket, con-  
10 tinued to the next term. R. S., c. 96, § 15.

SECT. 35. When the court is held by one justice, any party  
2 aggrieved by any opinion, direction or judgment of said justice  
3 in any action or process, civil or criminal, may at the same term  
4 allege exceptions to the same, reduce them to writing in a sum-  
5 mary manner, and sign them by himself or counsel, and present  
6 them to the court before adjournment without day, and if found  
7 true in fact they shall be allowed and signed by the justice who  
8 tried the cause. R. S., c. 96, § 17.

SECT. 36. Notwithstanding such exceptions or any dilatory  
2 plea, overruled by the presiding justice during the trial, the  
3 proceedings before the jury shall not be stayed, but after the  
4 trial is closed and a verdict returned, the action shall be con-  
5 tinued for decision on the exceptions allowed; and the justice  
6 allowing exceptions as aforesaid, may, if he deems them frivolous  
7 or intended for delay, impose such terms and conditions on the  
8 party making them as he thinks reasonable; and if not accepted,  
9 may enter judgment on the verdict, subject to exception, revision  
10 and correction as aforesaid by the law court.

R. S., c. 96, § 18, 21.

SECT. 37. The court shall allow interest on the damages  
2 given in the action from the time the verdict was returned to  
3 the rendition of judgment thereon. R. S., c. 96, § 20.

SECT. 38. In all writs, processes and judicial proceedings,  
2 civil and criminal, the day on which any term is to commence

3 may be designated as the first, second or other Tuesday, as the  
4 case may be, of the month in which the same occurs.

R. S., c. 96, § 31.

SECT. 39. The chief justice shall direct what justices shall  
2 hold the courts for the trial of jury causes from time to time in  
3 the several counties. 1852, c. 246, § 25.

*Reporter of decisions.*

SECT. 40. The governor, with advice of council, shall from  
2 time to time appoint some suitable person learned in the law, to  
3 be reporter of the law decisions of the supreme judicial court.

1850, c. 173, § 1, 2.

SECT. 41. He shall, by his personal attendance when practi-  
2 cable, and by the best other means in his power, prepare true  
3 and authentic reports of the decisions of the court in all legal  
4 questions that are argued by counsel, and publish the same  
5 annually, exercising his discretion in reporting the several cases  
6 more or less at large, according to their relative importance, so  
7 as not unnecessarily to increase the size or number of the  
8 volumes of the reports. 1850, c. 173, § 3.

SECT. 42. He shall publish at least one volume of the reports  
2 in each year, and be entitled to the profits of the work, being  
3 bound to furnish the usual number to be taken by the state at  
4 two dollars and fifty cents each, which the secretary of state is  
5 authorized to procure and distribute as heretofore, and also to  
6 furnish to citizens to be used only within the state, at the same  
7 price. The volumes shall be of the average size of Metcalf's  
8 Reports, and equal to them in paper, printing, binding, general  
9 finish, and quantity of printed matter; but the reporter shall  
10 not be bound to furnish said volumes after two years from the  
11 time of their publication at two dollars and fifty cents each, if  
12 he relinquishes to the state his title to the profits thereof.

1850, c. 173, § 4.

SECT. 43. He shall make up and complete the cases, argued  
2 during his continuance in office and up to the time of his retire-  
3 ment. 1850, c. 173, § 5.

**Chapter 78.**

## COUNTY COMMISSIONERS.

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SECT. 1. The county commissioners in each county shall continue in office during the term for which they were elected or appointed by the governor, with advice of council. The board in each county shall consist of a chairman, who shall be designated by the board at their first meeting, on or after the first Monday of January, annually, to act as chairman for the year, and two other members citizens and residents in their county.

R. S., c. 99, § 1. 1842, c. 3, § 4.

SECT. 2. When one or more vacancies occur, by the expiration of the term of office, they shall be filled by election on the second Monday of September next preceding such expiration; if there is one vacancy, it shall be filled with a person chosen for the term of three years; if two vacancies, the person having the highest number of votes shall hold for the term of three years, and the one having the next highest number of votes, for the term of two years; and if three such vacancies, the one having the smallest number of votes of the three persons elected, shall

10 hold for the term of one year; and if two or more persons have  
 11 an equal number of votes, the governor, with advice of council,  
 12 shall designate who shall hold for the longer and who for the  
 13 shorter term. 1842, c. 3, § 1, 3. 1852, c. 267.

1844, c. 87, § 2.

SECT. 3. When no choice is effected, or a vacancy happens  
 2 by death, resignation or otherwise than by the expiration of the  
 3 term of office, the governor, with advice of council, shall appoint  
 4 some suitable person to fill the vacancy, who shall hold his office  
 5 until the first day of January, after another is chosen in his  
 6 place, at an election to be held on the second Monday of Sep-  
 7 tember next, after such appointment. 1844, c. 87, § 1, 3.

SECT. 4. The county commissioners shall be elected on the  
 2 second Monday of September, by the written votes of electors  
 3 qualified by the constitution to vote for representatives, and the  
 4 votes shall be received, sorted, counted and declared the same as  
 5 votes for representatives; the names of the persons voted for,  
 6 and the number of votes for each, shall be recorded by the  
 7 clerk in the town books; and true copies thereof, attested like  
 8 the returns of votes for senators, shall be transmitted to the  
 9 office of the secretary of state, within thirty days. The governor  
 10 and council, on or before the first Monday of December in each  
 11 year, shall open and compare the votes so returned, and the  
 12 persons, not exceeding the number to be chosen, having the  
 13 highest number of votes, shall be declared elected; and being  
 14 notified thereof by the secretary of state, and duly sworn, shall  
 15 enter upon the duties of their offices on the first Monday of  
 16 January thereafter. If at any election a number of candidates  
 17 exceeding the number to be chosen receive an equal number of  
 18 votes, they shall be deemed not elected.

1842, c. 3, § 1, 2. 1847, c. 23, § 1.

SECT. 5. The county commissioners shall have power to pro-  
 2 vide for the erection and repair of court houses, jails and other  
 3 necessary public buildings, within and for the use of the county;  
 4 to make estimates to be laid before the legislature of the sums  
 5 which from time to time are necessary to be assessed for defray-  
 6 ing county charges, and to take the necessary and legal measures  
 7 for apportioning and assessing the same; to examine, allow and

8 settle all accounts of the receipts and expenditures of the moneys  
 9 of the county; to represent their county, and to have the care  
 10 of the county property, and the management of its business and  
 11 concerns; and by their order of record appoint an agent to sell  
 12 and dispose of its real estate in behalf of its inhabitants;  
 13 to lay out, alter or discontinue highways or other ways, to  
 14 award damages occasioned thereby, and do anything else which  
 15 by the laws of this state they are authorized to do.

R. S., c. 99, § 3.

SECT. 6. In each county they shall provide suitable fire proof  
 2 buildings of brick or stone, for the safe keeping of records, files,  
 3 papers and documents pertaining to the offices of the register of  
 4 deeds, register of probate, and clerk of the judicial courts; with  
 5 separate fire proof rooms for said offices, with suitable alcoves,  
 6 cases or boxes.

R. S., c. 99, § 4.

SECT. 7. They shall assess such sums as the legislature  
 2 from time to time requires, on the polls and estates in their  
 3 county, to erect and keep in repair a good and sufficient jail in  
 4 each town where the supreme judicial court is held by law, if  
 5 no other provision is made by law; and they shall, at their dis-  
 6 cretion, order and direct respecting the building and repairing  
 7 the same.

R. S., c. 99, § 5.

SECT. 8. They shall provide at the expense of their county,  
 2 sufficient and convenient apartments in said jails, for receiving  
 3 and lodging prisoners for debt, separate from criminals.

R. S., c. 99, § 6.

SECT. 9. They shall at the beginning of each of their stated  
 2 sessions, inquire into the state of the prisons in their county,  
 3 and take necessary precautions for their security from escape,  
 4 infection or other sickness, and into the condition and accommo-  
 5 dation of all the prisoners.

R. S., c. 99, § 7.

SECT. 10. They shall statedly meet in and for their county,  
 2 for the discharge of the duties of their office, at the time and  
 3 places following, to wit:

R. S., c. 99, § 8.

In the county of York, at Alfred, on the Tuesday next preced-  
 5 ing the last Monday of May, and on the second Tuesday of  
 6 October.

In the county of Cumberland, at Portland, on the first Tuesday 8 of June, and third Tuesday of December.

In the county of Lincoln, at Wiscasset, on the second Tuesdays 10 of January and May, and first Monday of September.

1847, c. 30, § 1.

In the county of Kennebec, at Augusta, on the last Tuesdays 12 of April and December, and second Tuesday of August.

1846, c. 179, § 1.

In the county of Somerset, at Norridgewock, on the first 14 Tuesdays of March and August, and second Tuesday of 15 December.

1845, c. 132, § 1. 1852, c. 255.

1853, c. 15, § 1.

In the county of Hancock, at Ellsworth, on the fourth Tues- 17 days of January, April and October.

1852, c. 251, § 1.

In the county of Washington, at Machias, on the first Wednes- 19 days next after the first Tuesdays of January and October, and 20 the first Wednesday next after the fourth Tuesday of April.

1853, c. 11, § 1. 1854, c. 58, § 1.

In the county of Oxford, at Paris, on the second Tuesday of 22 May, and the first Tuesday of September.

1842, c. 6.

In the county of Androscoggin, at Auburn, on the first Tues- 24 days of April and October.

1854, c. 60, § 2.

In the county of Sagadahoc, at Bath, on the first Tuesdays of 26 March, July and November.

1854, c. 70, § 3.

In the county of Penobscot, at Bangor, on the first Tuesdays 28 of April and August, and on the second Tuesday of December.

R. S., c. 99, § 8.

In the county of Waldo, at Belfast, on the third Tuesdays of 30 April and August.

R. S., c. 99, § 8.

In the county of Franklin, at Farmington, on the last Tues- 32 days of April and December.

R. S., c. 99, § 8.

In the county of Piscataquis, at Dover, on the first Tuesdays 34 of April and December.

R. S. c. 99, § 8.

In the county of Aroostook, at Houlton, on the third Tuesday 36 of January and on the first Tuesdays of June and July.

R. S., c. 99, § 8. 1842, c. 38, § 1.

SECT. 11. The clerk of the judicial courts in each county 2 shall be the clerk of the commissioners; but when the supreme

3 judicial court is in session at the same time with the county  
4 commissioners, the clerk may appoint some suitable person to  
5 act as clerk pro tempore to the commissioners, who shall be  
6 sworn to the faithful discharge of his duties, and for whose  
7 doings the clerk shall be accountable. R. S., c. 99, § 9.

SECT. 12. Such clerk pro tempore shall make a daily record  
2 of the doings of said commissioners, which they shall examine  
3 and certify, if correct, and when thus certified, the same shall  
4 be, by the stated clerk, copied into the records of said commis-  
5 sioners. R. S., c. 99, § 10.

SECT. 13. At any meeting of the commissioners of any  
2 county, any two of the board shall be a quorum for the transac-  
3 tion of business; but if only one member is present, he may  
4 adjourn the meeting to any convenient time or place. If no  
5 commissioner attends at any time and place of meeting duly  
6 appointed, the clerk may adjourn the court, as is provided in  
7 like cases in relation to the supreme judicial court.

R. S., c. 99, § 11.

SECT. 14. When the county commissioners decide against the  
2 prayer of any petition, they shall order the petitioners to pay  
3 into the county treasury, all expenses incurred by the county  
4 by reason of said petition and the proceedings thereon, and fix a  
5 reasonable time for such payment; and, if the same are not  
6 then paid, they shall issue a warrant of distress against the  
7 petitioners. R. S., c. 99, § 12.

SECT. 15. The compensation of each county commissioner  
2 shall be two dollars a day, and in that proportion for any part  
3 of a day, actually employed in the service of the county, includ-  
4 ing time necessarily spent in making drafts or other labor, and  
5 exclusive of time spent in traveling, for which they shall be  
6 allowed ten cents a mile for the distance actually traveled; and  
7 the account shall specify the kind of service performed, each  
8 day or part of day; and no additional charges shall be allowed  
9 for trouble or expense of any kind; neither shall they be allowed  
10 for services or travel on more than one petition, or one case at  
11 the same time. 1850, c. 204, § 1.

SECT. 16. Each commissioner shall keep an accurate account  
2 of his time spent and actual travel, as aforesaid, specifying the

3 places from and to which he traveled each day, and shall not  
4 be allowed for any services not so specified. Such account shall  
5 be audited and examined by the county attorney and clerk, who  
6 shall certify the amount allowed, one of them having first sworn  
7 such commissioner to the truth of his account; and no further  
8 sum shall be paid on such account by the county, than is thus  
9 certified. And if any commissioner charges in his account for  
10 any miles not actually traveled or for any time not spent, he  
11 shall forfeit and pay the sum of ten dollars for each and every  
12 such charge, to be recovered in an action of debt in the name of  
13 the county, one half to the use of the complainant and one half  
14 to the county. 1850, c. 204, § 2.

SECT. 17. The clerk shall cause a copy of such account to be  
2 published in some newspaper printed in the county, if any; and  
3 return a copy thereof to the secretary of state on or before the  
4 first day of January in each year. R. S., c. 99, § 15.

SECT. 18. No county commissioner shall be appointed on  
2 any agency to lay out and expend for any purpose any  
3 sums of money, assessed or raised by warrant of distress or  
4 otherwise, under the authority of the board of which he is a  
5 member. R. S., c. 99, § 16.

SECT. 19. The commissioners shall not remove any county  
2 building in the shire town of their county, nor erect a new  
3 building as a substitute for any such building, at a distance  
4 exceeding one-half of a mile from the former location, without  
5 giving notice of their intention, and the place where such  
6 building is proposed to be removed or erected, to the municipal  
7 officers of each town in such county, and obtaining the consent  
8 of the inhabitants of the county, as provided in the next section.  
R. S., c. 99, § 17.

SECT. 20. The officers aforesaid shall lay such notice before  
2 their towns, at a meeting to be held on the day of their next  
3 annual meeting for the choice of state or town officers, and at  
4 such meeting shall receive, sort and count the votes given by  
5 the inhabitants qualified to vote in town affairs, in favor of or  
6 against such proposed removal or erection. Returns of such  
7 votes, certified by said officers and clerks of such towns, shall be

8 made by such clerks within thirty days, to the office of the  
9 clerk of the county commissioners; and they shall examine the  
10 returns aforesaid, and carry such removal or erection into effect,  
11 or not, according to the decision of the majority of such votes.

R. S., c. 99, § 18.

SECT. 21. All sheriffs, deputy sheriffs, coroners and constables  
2 shall serve and execute all legal warrants and processes, to them  
3 directed by said commissioners. R. S., c. 99, § 19.

SECT. 22. All warrants of distress, under the authority of any  
2 court of county commissioners, shall be originally issued within  
3 two years after the rendition of judgment, and made returnable  
4 to the clerk's office in ninety days from the date thereof. If  
5 returned unsatisfied, in whole or in part, new warrants may be  
6 issued from time to time for the sums remaining due, but not  
7 after the expiration of two years from the return day of  
8 the warrant, last preceding; and no warrant of distress shall be  
9 originally granted on any judgment of such commissioners  
10 against any town, until twenty days after a certificate of the  
11 rendition of such judgment is transmitted by the clerk of the  
12 commissioners to the assessors of such town. The interest on  
13 damages, recovered in such judgment, shall be included in such  
14 warrants, as in case of executions. R. S., c. 99, § 20.

SECT. 23. The party for whose benefit any judgment is ren-  
2 dered by the commissioners of any county, shall have like  
3 remedy for the same and interest, by an action of debt upon such  
4 judgment, before any court of competent jurisdiction, as is pro-  
5 vided for judgments recovered before the judicial courts.

Act of amendment, 1841, § 13.

SECT. 24. On all judgments rendered, or warrants of distress  
2 issued by county commissioners against the inhabitants of any  
3 town in their county, any such inhabitant who voluntarily  
4 pays his due proportion of the same, or who is compelled to  
5 satisfy the same, in whole or in part, shall be entitled to the  
6 like remedies and processes, as are provided in relation to judg-  
7 ments or executions from the judicial courts.

R. S., c. 99, § 22.

## Chapter 79.

### CLERKS OF THE JUDICIAL COURTS, ATTORNEY GENERAL, COUNTY ATTORNEYS, AND ATTORNEYS AT LAW.

#### ARTICLE I.—*Clerks of Courts.*

- Sect.* 1. Mode of election of clerks, and tenure of office.
2. Vacancies by expiration of term of office to be filled by election, those happening otherwise to be filled by appointment.
  3. To be sworn and give bond before entering upon his duties.
  4. The same clerk for all the judicial courts in his county.
  5. To account with the county treasurer for moneys received.
  6. When to pay over balances. Consequences of neglect.
  7. Clerks pro tem.
  8. To be sworn and give bond as the court directs.
  9. Clerks to certify to assessors fines due from their towns.
  10. To record marriages certified to him.
  11. To receive fines and bills of cost adjudged by any judicial court for the use of the state.
  12. To furnish copies of bills of exceptions, &c., in criminal cases, to attorney general.
  13. To transmit a certificate of fines, &c., to the secretary of state.
  14. Judges to examine records; if deficient, clerk's bond to be put in suit.
  15. Money recovered to be appropriated to making up the records.
  16. Penalty for exacting illegal fees.

#### ARTICLE II.—*Attorney General.*

17. His duty to attend the law terms of the S. J. court, and at capital trials.
18. Instructions to county attorneys in his absence.
19. To receive no fee for official services, nor to act as counsel in cases incompatible.
20. To cause witnesses to recognize for their subsequent appearance.
21. May procure the attendance of a witness from without the state in criminal cases.
22. To report annually in December to the governor and council.

#### ARTICLE III.—*County Attorneys.*

23. County attorneys, how elected, and vacancies, how filled.
24. Not to act as counsel or attorney in certain cases.
25. Duty as to enforcing payment of fines, forfeitures and costs.
26. To move county commissioners to examine sufficiency of sheriff's bond.
27. Duty to attend court and act for the state in his county, and to act for the state in the absence of the attorney general.
28. To act for attorney general at law term in his absence.
29. The court may appoint a substitute when the office is vacant, or county attorney absent.
30. Court may allow substitute suitable compensation, to be deducted from salary of county attorney.
31. To report annually in November to attorney general.

#### ARTICLE IV.—*Attorneys at Law.*

32. Qualification for admission as attorneys.
33. Duty to be paid to the county, and oath.

Sect. 34. Right of parties to employ counsel or appear personally.

35. Persons not admitted, cannot recover fees.

### ARTICLE I.—*Clerks of the Judicial Courts.*

SECT. 1. The clerks of courts shall be elected on the second  
 2 Monday of September, by the written votes of electors qualified  
 3 by the constitution to vote for representatives; and the votes  
 4 shall be received, sorted, counted and declared, the same as votes  
 5 for representatives; the names of the persons voted for, and the  
 6 number of votes for each, shall be recorded by the clerk in the  
 7 town books; and true copies thereof, attested like the returns of  
 8 votes for senators, shall be transmitted to the office of the secre-  
 9 tary of state within thirty days. The governor and council on  
 10 or before the first Monday of December in each year, shall open  
 11 and compare the votes so returned, and the person having the  
 12 highest number of votes shall be declared elected; and being  
 13 notified thereof by the secretary of state, and duly sworn, and  
 14 giving the bond required by law, shall enter upon the duties of  
 15 his office on the first Monday of January thereafter, to hold  
 16 the same for three years. 1842, c. 3, § 1, 2.

1847, c. 23, § 1. 1855, c. 139, § 1. 1844, c. 87, § 2.

SECT. 2. When a vacancy occurs by the expiration of the  
 2 term of office, it shall be filled by election on the second Monday  
 3 of September next preceding such expiration. But when no  
 4 choice is effected, or a vacancy happens by death, resigna-  
 5 tion or otherwise than by the expiration of the term of office,  
 6 the governor with advice of council, shall appoint some suit-  
 7 able person to fill the vacancy, who shall hold his office until the  
 8 first Monday of January after another is chosen in his place, at  
 9 an election to be held on the second Monday of September next  
 10 after such appointment. 1842, c. 3, § 3. 1844, c. 87, § 1, 3.

SECT. 3. Before entering upon the duties of his office, he  
 2 shall be duly sworn, and give bond to the state, to the acceptance  
 3 of the governor and council, in the sum of eight thousand  
 4 dollars, with two or more sureties, conditioned that he will  
 5 faithfully perform all the duties of his office, and pay over all  
 6 moneys he is required to, and for the safe keeping and immediate

7 delivery of all records, files, papers and muniments in said office;  
8 and such bond shall be lodged in the office of the state treasurer.

R. S., c. 100, § 5. 1846, c. 209, § 1.

SECT. 4. He shall be clerk of all the judicial courts in his  
2 county, and perform all the duties which as clerk he is by law  
3 bound to perform. R. S., c. 100, § 4.

SECT. 5. He shall keep a true and exact account of all the  
2 moneys he receives or is entitled to receive for services, by  
3 virtue of his office; and annually on the first Wednesday of  
4 January, render to the treasurer of his county, under oath,  
5 a true account of the whole sum thus received, specifying the  
6 items from which the same accrued, and after deducting his  
7 salary, pay the residue, if any, to said treasurer, for the use of  
8 the county. R. S., c. 100, § 6. 1852, c. 265.

SECT. 6. All sums which he is thus bound to pay over to the  
2 county treasurer, not provided for in the preceding section,  
3 shall be paid within thirty days after he receives them. If he  
4 neglects or refuses to pay over any sum for which he is account-  
5 able, under the provisions of this chapter, he shall pay interest  
6 thereon at the rate of twenty-five per cent. by the year, until  
7 paid; and the county treasurer shall notify the treasurer of state  
8 of any such delinquency known to him, and the bond of the  
9 delinquent shall thereupon be put in suit. R. S., c. 100, § 7.

SECT. 7. When a vacancy happens in the office of clerk in  
2 any county, or if the clerk be absent, and an existing or imme-  
3 diate session of any court, of which he is clerk, renders an  
4 appointment of a clerk necessary, such court may make an  
5 appointment of a clerk to supply the vacancy, until an appoint-  
6 ment of one shall be made by the governor and council, or  
7 during such absence. R. S., c. 100, § 8.

SECT. 8. Such temporary clerk shall be duly sworn, and  
2 give bonds in such sum as the court orders.

R. S., c. 100, § 9.

SECT. 9. When a fine is imposed on a town by the court, for  
2 the repair of any highway or town way, the clerk of such court  
3 shall forthwith certify the same to the assessors thereof.

R. S., c. 100, § 10.

SECT. 10. He shall record all marriages certified to him by  
2 the clerk of any town. R. S., c. 100, § 11.

SECT. 11. He shall receive all fines, forfeitures and bills of  
2 costs, arising or imposed to the use of the state by any judicial  
3 court, paid or tendered to him before the issuing of a warrant of  
4 distress or other process to enforce the order or sentence of the  
5 court; and when he gives discharges therefor, he shall enter  
6 them on record, and pay the money to the county treasurer  
7 within twenty days. R. S., c. 100, § 12.

SECT. 12. The clerk of the supreme judicial court in each  
2 county, thirty days at least before any session of said court for  
3 the hearing and determining questions of law in the judicial  
4 district to which such county belongs, shall furnish to the  
5 attorney general full copies of all bills of exceptions, motions to  
6 quash proceedings, in arrest of judgment, or for new trials,  
7 reports of evidence, demurrers to indictments, and all other  
8 pleadings or papers upon which questions of law arise or are  
9 reserved, in all criminal or other cases in which the state is a  
10 party, pending in said court, and to be heard and determined at  
11 such session; but if such papers are not completed, allowed  
12 or filed more than thirty days before such session, they shall  
13 be so furnished immediately after being so filed.

1854, c. 66.

SECT. 13. He shall, within twenty days after the adjournment  
2 of a court, at which any fine, forfeiture or bill of costs accrued  
3 to the state, transmit to the secretary of state, to be laid  
4 before the governor and council, a certificate of all fines, forfeit-  
5 ures and bills of costs, naming the court and term thereof when  
6 the same accrued, the names of those against whom they are  
7 awarded, and the names of the officers accountable for them to  
8 the state. R. S., c. 100, § 13.

SECT. 14. The justices of the judicial courts shall inspect the  
2 records of the clerks of the courts, and if they are found deficient,  
3 shall, in writing, certify the fact to the treasurer of state, that  
4 the official bond of such clerk may be put in suit by him.

R. S., c. 100, § 14.

SECT. 15. The money, recovered in such suit, shall be applied  
2 to complete the deficient records, under the direction of the

3 court where such deficiency exists; and if the amount so recov-  
 4 ered is more than sufficient for the purpose aforesaid, the balance  
 5 shall enure to the use of the state; but, if insufficient to make  
 6 up such records, the balance may be recovered by the treasurer  
 7 of state, in a special action on the case. R. S., c. 100, § 15.

SECT. 16. Any clerk of the courts, exacting or receiving  
 2 more fees than are allowed by law, shall forfeit fifty dollars for  
 3 each offense; to be recovered in an action of debt, by any person  
 4 suing therefor, to his own use, or by indictment, one-half to the  
 5 use of the state, and the other half to the complainant.

R. S., c. 100, § 16.

ARTICLE II.—*Attorney General and his duties.*

SECT. 17. The attorney general shall attend when practicable  
 2 at all the sessions of the supreme judicial court, for hearing and  
 3 determining questions of law, and at all capital trials in any  
 4 county, upon being notified by the clerk, when said trial is to be  
 5 had. 1852, c. 289, § 1.

SECT. 18. When he is necessarily absent from any session of  
 2 said court, he shall give all needful instructions to the state's  
 3 attorney for the county in which the court is sitting, as well as  
 4 at other times. R. S., c. 101, § 3.

SECT. 19. He shall not receive any fee or reward from or on  
 2 behalf of any prosecutor, for any official services; or during the  
 3 pendency of such prosecution, be engaged as counsel or attorney  
 4 for either party in any civil action, depending essentially on the  
 5 same facts. R. S., c. 101, § 4.

SECT. 20. When criminal prosecutions in which he appears  
 2 in behalf of the state are continued, he shall cause the witnesses  
 3 on the part of the state to recognize to appear at the time and  
 4 place to which such prosecutions are continued, unless otherwise  
 5 directed by the court. R. S., c. 101, § 5.

SECT. 21. When he deems the testimony of a witness, resid-  
 2 ing without the limits of the state, material in procuring the  
 3 indictment or the conviction of a supposed criminal, he may  
 4 procure the attendance of such witness; and the court shall  
 5 allow to the witness a just and reasonable sum, beyond his legal  
 6 fees. 1845, c. 146.

SECT. 22. He shall in the month of December annually, 2 make to the governor and council a report of the amount and 3 kind of official business by him done in the year preceding; the 4 number of persons prosecuted, either by himself or the several 5 county attorneys, the offenses with which they were charged, 6 the results thereof, and the punishment awarded in each case, 7 with such other particular statements or suggestions as he deems 8 interesting. R. S., c. 101, § 6. 1845, c. 173.

1852, c. 273, § 2.

### ARTICLE III.—*County Attorneys.*

SECT. 23. County attorneys shall be elected in the same 2 manner, and hold their office for the same term of time as clerks 3 of courts, as provided in this chapter; and vacancies occurring 4 in said office, shall be filled in the manner provided in this 5 chapter for filling vacancies in the office of clerks of courts.

1842, c. 3, § 1, 2, 3. 1844, c. 87. 1847, c. 23.

1855, c. 139, § 1.

SECT. 24. Each county attorney shall be under the same 2 restrictions as are imposed upon the attorney general in the nine- 3 teenth section of this chapter, *and shall cause all witnesses for 4 the state, in continued cases in which he appears, to recog- 5 nize for their subsequent appearance, in like manner as the 6 attorney general is required to do.* R. S., c. 102, § 3. (New.)

SECT. 25. He shall enforce the collection and payment to the 2 county treasurer of all fines, forfeitures and bills of cost that 3 accrue to the state; and enforce on sheriffs, coroners and con- 4 stables a faithful performance of their duties in this respect; and 5 give information to the court of all failures to pay into the trea- 6 sury such fines and forfeitures as have accrued to the county.

R. S., c. 102, § 4.

SECT. 26. He shall annually move the county commissioners, 2 at their meeting next following the third Tuesday of June, to 3 examine and consider the sufficiency of the sheriff's bond; and 4 if he neglects to perform such duty, or the duty required in the 5 preceding section, he shall forfeit a sum not exceeding one hun- 6 dred dollars, to be recovered in an action of debt, in the name of 7 the state treasurer to the use of the state. R. S., c. 102, § 5.

SECT. 27. The county attorney for each county shall attend  
 2 at the several terms of the supreme judicial court in his county,  
 3 and act for the state and for such county in all cases where the  
 4 state or county may be a party; and in the absence of the  
 5 attorney general, shall act for the state in all matters belonging  
 6 to the attorney general in the county for which he is attorney,  
 7 under the directions given him by the attorney general.

R. S., c. 102, § 2. 1852, c. 289, § 2.

SECT. 28. When the attorney general does not attend at any  
 2 law term, the attorney for each county shall act in all matters  
 3 arising in his county, in which the state or his county is a party  
 4 or interested. 1852, c. 289, § 3. (New.)

SECT. 29. When the county attorney does not attend at any  
 2 session of the supreme judicial court in his county, or the office  
 3 is vacant, the court may appoint some suitable person of said  
 4 county to perform the duties of the office during the session.

R. S., c. 102, § 6.

SECT. 30. The court shall allow to such attorney a reasonable  
 2 compensation for his services, and order the same to be paid out  
 3 of the treasury of such county; and the sum thus paid shall be  
 4 charged against the state in the same manner as criminal bills  
 5 of cost; and the court shall immediately notify the treasurer of  
 6 state of the same, who shall deduct the amount from the salary  
 7 of such county attorney. 1850, c. 194, § 1, 2.

SECT. 31. Each county attorney shall annually in the month  
 2 of November, make a report to the attorney general of the  
 3 amount and kind of official business done by him in the preced-  
 4 ing year, the number of persons prosecuted, the offenses with  
 5 which they were charged, the results thereof, and the punish-  
 6 ment awarded in each case, with such particular statements and  
 7 suggestions as he deems interesting. R. S., c. 102, § 7.

1845, c. 173, § 3. 1852, c. 273.

#### ARTICLE VI.—Attorneys at law.

SECT. 32. Any citizen of this state of good moral character,  
 2 on application to the supreme judicial court, shall be admitted  
 3 to practice as an attorney in the judicial courts in this state.

1843, c. 12, § 1.

SECT. 33. No person shall be thus admitted to practice, 2 until he pays the duty by law required, and in open court 3 takes and subscribes the oath to support the constitution of 4 the United States, and also takes the following oath, viz. :

“You solemnly swear, that you will do no falsehood, nor 6 consent to the doing of any in court, and if you know of an 7 intention to commit any, you will give knowledge thereof to the 8 justices of the court or some of them, that it may be prevented; 9 you will not, wittingly or willingly, promote or sue any false, 10 groundless or unlawful suit, nor give aid or consent to the same; 11 you will delay no man for lucre or malice, but you will conduct 12 yourself, in the office of an attorney within the courts, accord- 13 ing to the best of your knowledge and discretion, and with all 14 good fidelity, as well to the courts, as your clients. So help 15 you God.”

R. S., c. 103, § 5.

SECT. 34. Parties may plead and manage their own causes 2 personally, or by the assistance of such counsel as they see fit to 3 engage, or by any citizen of good moral character, who may 4 produce in court a letter of attorney for that purpose. But the 5 plaintiffs in any suit shall not manage their cause by more than 6 two attorneys, nor shall any defendant employ a greater number.

R. S., c. 103, § 6, 8. 1843, c. 12, § 2.

SECT. 35. No person commencing practice as an attorney or 2 counselor at law in any other state or place, or in any court in 3 this state, without the qualifications, oaths, and payment of the 4 excise duty aforesaid, shall be entitled to demand or recover 5 any remuneration for his professional services, rendered in this 6 state.

R. S., c. 103, § 7.

**Chapter 80.**

## SHERIFFS, CORONERS, AND CONSTABLES.

- Sect.* 1. Sheriff's and coroners to be elected or appointed, and hold office as provided in the constitution. Oath and bond of sheriff.
2. Sheriff's bond to be approved by county commissioners, and filed with state treasurer.
3. Sufficiency of sheriff's and coroner's bonds to be annually examined by county commissioners.
4. If adjudged insufficient, new bond to be given.
5. Forfeiture if sheriff neglects to give such bond. If sheriff and coroner neglect, offices to be vacant.
6. In what cases the governor and council may require a new bond.
7. Coroners on appointment to take oaths of office, and give bonds.
8. Jailer to remain in office during vacancy in office of sheriff, or a new jailer may be appointed.
9. Sheriff to appoint and discharge his deputies and jailer by a writing to be recorded. Oath. Sheriff answerable for them.
10. Sheriff on entering upon his office to notify coroners.
11. New bonds required of sheriff or coroner on application of his sureties.
12. Suits instituted on bonds of sheriff or coroner.
13. Any other person having right of action may file an additional declaration, and have new summons served on defendant.
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33. After he ceases to be sheriff, executions to issue in common form.
34. Power of sheriffs to require aid. Forfeiture for refusing to aid.
35. If a person dies in prison, duty of jailer.

- Sect.* 36. Constable's power to serve processes in personal actions.
37. Constables of Bristol may serve precepts on the Museongus and Harbor islands.
38. Bonds previously required of constables.
39. Police officers to have same power as constables in serving warrants.
40. Remedy on constable's bond.
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43. Sheriffs to keep a calendar of prisoners.
44. On vacating his office, to retain the custody of the jail till his successor is qualified.
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48. County commissioners may direct county treasurer to pay the sheriff the sum he has paid to creditor.
49. If county commissioners do not so direct, sheriff's right of action against the county.
50. Right of commissioners to defend. When action to be continued.
51. How execution may be levied. Remedy of party on whom levied.
52. List of prisoners to be returned by jailer to supreme judicial court.
53. Certain prisoners to be kept separate from the others.
54. Penalty for neglect. Spirituous liquors prohibited to persons accused or convicted of crimes.
55. Liability for negligent escapes. Proviso, in case of debtors.
56. Prisoners committed by the United States courts to be received and kept, except fugitive slaves.
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58. Appropriation of penalties.
- 59, 60. When officers may execute warrants out of their county.
61. What fees are receivable by sheriffs of their deputies.
62. Deputies to make annual returns of their emoluments of office to the sheriff.
63. Of the sheriff's annual return and settlement with county treasurer.
64. What sums may be retained by sheriffs in their counties.
- 65, 66. Of coroners' powers to serve precepts.
67. Jailer to reside in the house provided for him as such, if good and sufficient.
68. Officer, plaintiff or his attorney to furnish copy of writ to debtor, on his making demand and tendering the fee.

SECT. 1. Sheriffs and coroners shall be elected or appointed  
2 and hold their offices, according to the provisions of the consti-  
3 tution. And every person elected or appointed sheriff shall be  
4 duly sworn; and if for either of the counties of York, Cumber-  
5 land, Lincoln, Kennebec or Penobscot, shall, within sixty days  
6 after receiving his commission, or being notified of his election,  
7 give bond to the treasurer of state, with at least three sufficient  
8 sureties, in the sum of forty thousand dollars; and if for either

9 of the other counties, in the sum of twenty-five thousand dollars;  
 10 conditioned for the faithful performance of the duties of their  
 11 office, and to answer for all neglects and misdoings of their  
 12 deputies.

R. S., c. 104, § 1.

Amendment to constitution, 1855.

SECT. 2. Every sheriff having executed such bond within  
 2 such term, shall file it in the office of the clerk of the county  
 3 commissioners of his county, to be presented to them at their  
 4 next meeting for approval, and after being so approved, the clerk  
 5 shall record it and certify the fact on said bond, and retaining a  
 6 copy thereof, deliver the original to the sheriff, who shall deliver  
 7 it to the treasurer of state within twenty days after its approval,  
 8 to be filed in his office.

R. S., c. 104, § 2.

SECT. 3. The county commissioners in each county, at their  
 2 first meeting after the third Tuesday of June, on motion of the  
 3 county attorney, shall annually examine into the sufficiency of  
 4 the bonds of sheriffs and coroners in their county, and cause a  
 5 record of their determination to be made by their clerks, who  
 6 shall certify the same to the treasurer of state within thirty  
 7 days.

R. S., c. 104, § 3.

SECT. 4. If the bond of any sheriff or coroner is adjudged  
 2 insufficient, the clerk within ten days shall certify that fact to  
 3 such sheriff or coroner, who within twenty days thereafter shall  
 4 give a new bond, with sufficient sureties, to be filed in the office  
 5 of the clerk of the county commissioners, and approved as afore-  
 6 said, and then filed in the office of the treasurer of state.

R. S., c. 104, § 4.

SECT. 5. Any sheriff, neglecting to give the security required  
 2 in the first or fourth section, shall forfeit the sum of one hun-  
 3 dred and fifty dollars for each month's neglect, to the use of the  
 4 state, to be recovered in an action of debt by the treasurer of  
 5 state, and the attorney general shall prosecute for the same; and  
 6 the clerk of his county shall certify the name of such sheriff to  
 7 the governor and council and to the attorney general; and unless  
 8 reasonable cause for such neglect is shown, or within twenty  
 9 days after the clerk has so certified, he shall give or renew his  
 10 security to the satisfaction of the governor and council, he shall  
 11 be deemed as vacating his office: and every coroner, neglecting

12 to give the bond required by the preceding section, shall be  
13 deemed as vacating his office. R. S., c. 104, § 5, 6.

SECT. 6. When the treasurer of state certifies to the  
2 governor and council that moneys due to the state on warrants,  
3 or any other sums or balances are in the hands of any sheriff,  
4 and furnishes the names of the sureties of such sheriff, and  
5 it appears to the governor and council that such sureties have  
6 become insufficient, or have removed from the state, they may  
7 require such sheriff to give a new bond with sufficient sureties,  
8 within sixty days after he is notified, to be filed as aforesaid,  
9 and on his neglecting so to do, his office shall become vacant.

R. S., c. 104, § 7.

SECT. 7. Every coroner, before entering upon the duties of  
2 his office, shall be duly sworn, and give bond to the treasurer of  
3 state, with sufficient sureties, to the satisfaction of the county  
4 commissioners of his county, for the faithful performance of his  
5 duties, and such bond shall be transmitted to the treasurer of  
6 state in the same manner as a sheriff's bond, but when his bond  
7 is approved as sufficient by the certificate of two of the county  
8 commissioners, and filed with the clerk of his county, it shall be  
9 deemed good, to authorize such coroner to discharge his duties  
10 until the first day of their next stated meeting, and not after-  
11 wards, unless approved by them. R. S., c. 104, § 8.

SECT. 8. During any vacancy in the office of sheriff, any  
2 jailor, duly appointed under such sheriff, shall continue in office  
3 and retain the custody and charge of the jail, and of all prison-  
4 ers therein, and all committed to his custody, till a new sheriff  
5 shall be elected or appointed and duly qualified, or till the gov-  
6 ernor and council removes such jailor and appoints another;  
7 and the governor, with advice of council, may make such removal  
8 and appointment during the vacancy in the office of sheriff; and  
9 the jailor so appointed shall give bond in the manner required  
10 of a sheriff, for the faithful discharge of the duties of his office.

R. S., c. 104, § 9.

SECT. 9. Every sheriff may appoint deputies and a jailor, for  
2 whose misconduct and neglects while in office, he shall be answer-  
3 able, and they shall be duly sworn. Their appointment and  
4 discharge shall be in writing, signed by the sheriff and recorded

5 in the office of the clerk of the courts in the same county, and  
6 shall not be valid until so lodged and recorded, except by oper-  
7 ation of law or by vacancy in the office of sheriff. For record-  
8 ing such appointment or discharge, the sheriff shall pay the  
9 clerk twenty-five cents. R. S., c. 104, § 10.

SECT. 10. Every person appointed or elected sheriff, shall  
2 give notice thereof immediately to the several coroners of the  
3 same county. R. S., c. 104, § 11.

SECT. 11. When any surety upon the official bond of any  
2 sheriff or coroner, or the heirs, executors or administrators of  
3 such surety, petitions the county commissioners, in the county  
4 of such sheriff or coroner, to be discharged from such bond, the  
5 court shall cause such sheriff or coroner to be served with an  
6 attested copy of the petition, and may require him to give a new  
7 bond to their satisfaction; and, upon such new security being  
8 given, such surety, or his legal representatives, shall be free  
9 from responsibility on such bond for any neglects or misdoings  
10 occurring after such new bond is filed and accepted.

R. S., c. 104, § 12. Act of amendment, 1841, § 14.

SECT. 12. When the condition of the official bond of any  
2 sheriff or coroner is broken, to the injury of any person, he  
3 may, at his own expense, institute an action in the name of the  
4 treasurer, in the county where such sheriff or coroner is commis-  
5 sioned to act, and prosecute the same to final judgment and  
6 execution, and in such case the writ shall be indorsed by the  
7 name and place of residence of such person, or with the  
9 name of his attorney; and such indorser shall be alone answer-  
10 able for all costs. R. S., c. 104, § 13.

SECT. 13. Any other person having a right of action on such  
2 bond, may file an additional declaration in the same action in  
3 the office of the clerk of the courts; and the clerk shall issue a  
4 summons, directed to the defendant in said action, specifying  
5 the cause of action and the amount demanded, returnable to the  
6 court in which such action is pending, and indorsed by the name  
7 and place of residence of such other person, or of his attorney;  
8 and such indorser shall be liable for costs the same as indorsers  
9 of writs. 1842, c. 19, § 1.

SECT. 14. The goods, chattels, and estate of the defendant  
2 may be attached on such summons as on mesne process, and  
3 such summons shall be served on the defendant as an original  
4 summons; and thereupon the person so filing his declaration  
5 shall have all the rights of a plaintiff in the suit; and the  
6 defendant shall answer to said declaration, and judgment may  
7 be rendered thereon as if it was filed in an action originally  
8 instituted for the same cause. 1842, c. 19, § 2.

SECT. 15. When judgment is rendered against the defendant  
2 in any action on such bond, damages shall be assessed on each  
3 declaration for the amount which the party filing it would  
4 recover in a suit on the bond, with costs; and several executions  
5 shall issue therefor, in the name of each party so recovering, in  
6 the order in which the declarations were filed, but not beyond  
7 the amount of the bond. And if judgment is for the defendant  
8 on any such declaration, execution shall issue against the party  
9 filing such declaration for costs. And no such action shall be  
10 dismissed, discontinued or nonsuited, except by order of court,  
11 without the consent of all the parties interested as plaintiffs.

1842, c. 19, § 3.

SECT. 16. But no such action on such official bond shall be  
2 instituted, until the party commencing it has recovered judg-  
3 ment against such sheriff or coroner, his executors or adminis-  
4 trators, for the injury sustained by him, or obtained a decree of  
5 the judge of probate allowing a claim for the cause aforesaid;  
6 and such judgment or decree, or so much of the same as remains  
7 unpaid, with the interest, shall be the amount of damages for  
8 which execution shall issue. R. S., c. 104, § 14.

SECT. 17. If, in an action on the official bond of a sheriff or  
2 coroner, judgment is rendered in favor of the defendant, it shall  
3 be against the party for whose benefit the action was brought.

R. S., c. 104, § 15.

SECT. 18. When judgment is rendered in such action on the  
2 bond, in favor of the treasurer, the name of the person for whose  
3 use the action was commenced, shall be expressed and set forth in  
4 the execution issuing on such judgment. R. S., c. 104, § 16.

SECT. 19. The treasurer shall deliver an attested copy of the  
2 bond of any sheriff or coroner to any one applying and paying

3 for it; and such copy shall be received as competent evidence in  
 4 any case relating to the same, unless the execution of the bond  
 5 is disputed, in which case the court may order the treasurer to  
 6 produce the same in court for the purposes of such trial.

R. S., c. 104, § 17.

SECT. 20. Any actions for the neglect or misdoings of a  
 2 sheriff, or any of his deputies, may be sued against the execu-  
 3 tors or administrators of such sheriff, in like manner as if the  
 4 action survived at common law.

R. S., c. 104, § 18.

SECT. 21. Every sheriff, and each of his deputies, shall serve  
 2 and execute within his county all writs and precepts to him  
 3 directed and committed, and issued by lawful authority; but his  
 4 legal fees for service shall first be paid or secured to him; and  
 5 if they are not paid or secured when the writ or process is  
 6 delivered to him, he shall, without delay, return it to the plain-  
 7 tiff or attorney so offering it; or, if sent to him by mail or  
 8 otherwise, shall put the same into some post office, directed to  
 9 the person sending the same, within twenty-four hours; other-  
 10 wise, he shall be deemed to have waived his right to receive his  
 11 fees before service.

R. S., c. 104, § 19.

\* SECT. 22. Such sheriff or deputy may serve writs or precepts  
 2 in cases where a town, plantation, parish, religious society or  
 3 school district is a party or interested, though he is at the time  
 4 a member thereof.

R. S., c. 104, § 20.

SECT. 23. All sheriffs and their deputies may execute all  
 2 precepts in their hands, at the time of vacating their office.

R. S., c. 104, § 21.

SECT. 24. In every vacancy in the office of sheriff in any  
 2 county, every deputy under him, having any writ or precept in  
 3 his hands at the time such vacancy happens, shall have the same  
 4 authority, and be under the same obligation to serve the same  
 5 and return it, as if he had continued in office.

R. S., c. 104, § 22.

SECT. 25. The sheriff of each county shall have the custody  
 2 and charge of the jail or jails therein, and keep the same per-  
 3 sonally, or by his deputy.

R. S., c. 104, § 23.

SECT. 26. While any jailer continues to hold his office, in  
 2 virtue of the eighth section of this chapter, his defaults and

3 misdoings shall be adjudged a breach of the official bond of such  
4 sheriff. R. S., c. 104, § 24.

SECT. 27. If the office of jailer becomes vacant, while the  
2 office of sheriff is vacant, the county commissioners in the same  
3 county may appoint a jailer, who shall give bond as a sheriff is  
4 required to do, and continue in office, if his appointment is con-  
5 firmed at their next meeting, during the vacancy in the office of  
6 sheriff, or until he is removed, and a new jailer appointed.

R. S., c. 104, § 25.

SECT. 28. The defaults or misfeasances in office of any deputy  
2 sheriff, after the death, resignation or removal from office of the  
3 sheriff who appointed him, shall be adjudged a breach of the  
4 condition of the sheriff's bond. R. S., c. 104, § 26.

SECT. 29. Any sheriff or his deputy, coroner or constable,  
2 who unreasonably refuses or neglects to pay moneys received by  
3 him on execution to the person entitled to it on demand, shall  
4 pay five times the lawful interest of such money so long as he  
5 unreasonably detains it. Act of amendment, 1841, § 14.

SECT. 30. No sheriff shall be arrested on mesne process or  
2 execution, in a civil action. R. S., c. 104, § 28.

SECT. 31. When judgment is rendered against any sheriff,  
2 either in his official or private capacity, the execution on such  
3 judgment shall be issued against his goods, chattels and lands,  
4 but not against his body. R. S., c. 104, § 29.

SECT. 32. When such execution is returned not satisfied, the  
2 creditor may file before the governor and council an attested  
3 copy of such execution and the return thereon, and serve such  
4 sheriff with a copy of such copy filed, attested by the secretary,  
5 with notice, under the hand of the secretary, of the day on which  
6 such copy was filed, and if such sheriff does not, within forty days  
7 next after being served with such copy and notice, pay the  
8 creditor his full debt, with reasonable costs for copies and ser-  
9 vice of them, he shall be deemed as vacating his office.

R. S., c. 104, § 30.

SECT. 33. When a sheriff against whom such executions are  
2 issued, ceases to be sheriff, the clerk may as soon as another  
3 sheriff is elected or appointed and duly qualified, issue alias

4 executions in common form against the body, as well as the  
5 goods, chattels and lands of such former sheriff.

R. S., c. 104, § 31.

SECT. 34. Any sheriff, deputy sheriff, coroner or constable,  
2 in the execution of the duties of his office in any criminal  
3 cases, for the preservation of the peace, for apprehending or  
4 securing any person for the breach of the same, or in case of the  
5 escape or rescue of persons arrested on civil process, may require  
6 suitable aid therein; and any person, so required to aid either of  
7 said officers, neglecting or refusing so to do, on conviction thereof  
8 shall pay to the use of the county not less than three nor more  
9 than fifty dollars; and if the offender is unable or does not  
10 forthwith pay such fine, the court may punish him by imprisonment  
11 not exceeding thirty days. R. S., c. 104, § 32.

SECT. 35. When any person dies in prison in any county, the  
2 jailer or sheriff shall deliver the body of the deceased to his  
3 friends, if requested; and if not requested, bury the same in  
4 the common burying ground, and the expenses thereof shall be  
5 paid by the town in which the deceased had a legal settlement,  
6 if he had any in the state, and if not the expenses shall be paid  
7 out of the state treasury. R. S., c. 104, § 33.

SECT. 36. Any constable is authorized to serve upon any  
2 person in the town to which he belongs, and in any adjoining  
3 plantation, any writ or precept in any personal action, where the  
4 damage sued for does not exceed one hundred dollars, including  
5 all precepts in which the town where he resides is a party or  
6 interested; and he shall make due return thereof as therein  
7 directed. R. S., c. 104, § 34. 1852, c. 285.

SECT. 37. The constables of the town of Bristol, shall have  
2 like powers to serve all precepts on the islands called Muscon-  
3 gus and Harbor islands, in the county of Lincoln, as in their  
4 own town, until said islands can legally elect constables.

1843, c. 23.

SECT. 38. Every constable before he serves any precept,  
2 shall give bond to the inhabitants of his town in the sum of  
3 five hundred dollars, with two sureties, approved by the mu-  
4 nicipal officers thereof, who shall indorse their approval on said  
5 bond in their own hands, for the faithful performance of the

6 duties of his office, as to all processes by him served or executed ;  
 7 and for every process he serves before giving such bond, he shall  
 8 forfeit and pay not less than twenty nor more than fifty dollars,  
 9 to the use of any person suing therefor. R. S., c. 104, § 35.

SECT. 39. All police officers, duly appointed in any city in  
 2 this state, shall have all the powers which constables legally  
 3 have in serving warrants in criminal matters, in arrest of per-  
 4 sons charged with, or suspected of offenses against the laws of  
 5 the state, or the by-laws of such city, and in all other similar  
 6 matters within the powers of constables. 1850, c. 156, § 1.

SECT. 40. All persons suffering by the faults or misdoings of  
 2 any constable, shall have remedy on his bond as is provided in  
 3 case of sheriffs' bonds, and similar proceedings shall be had in  
 4 both cases, such change being made as to render the process  
 5 effectual. R. S., c. 104, § 36.

SECT. 41. Every constable in the execution of any lawful  
 2 precept, may convey any prisoner, and things taken into his  
 3 custody, to the justice who issued the precept, or to the common  
 4 jail or house of correction of the county where he resides.  
 R. S., c. 104, § 37.

SECT. 42. No sheriff, deputy sheriff or constable shall appear  
 2 before any court or justice of the peace as attorney to or advising  
 3 any party in a suit, or draw any writ, plaint, declaration, cita-  
 4 tion, process or plea, for any other person; and all such acts  
 5 done by either of them shall be void.  
 R. S., c. 104, § 38. 1855, c. 114.

SECT. 43. Every sheriff shall keep in a bound book provided  
 2 for that purpose, a true and exact calendar or register of all  
 3 prisoners committed to the prison under his care, containing,  
 4 distinctly and fairly registered, the names of all prisoners who  
 5 are committed to such prison, their places of abode, additions,  
 6 time of their commitment, for what cause, and by what authority;  
 7 and a particular description of the persons of those committed  
 8 for criminal offenses; and when any prisoner is discharged, he  
 9 shall register in said book his name and description, the time  
 10 when, and the authority by which he was discharged; and the  
 11 time and manner of any prisoner's escape. R. S., c. 104, § 39.

SECT. 44. Every sheriff shall be answerable for the delivery  
2 over to his successor of all prisoners in his custody at the time  
3 of his removal; and for that purpose shall retain the keeping of  
4 the jail in his county, and the prisoners therein, until his suc-  
5 cessor enters on the duties of his office. R. S., c. 104, § 40.

SECT. 45. All warrants, mittimus, processes, and other  
2 official papers, or attested copies of them, by which any prisoner  
3 is committed or liberated, shall be regularly filed in order of  
4 time; and with the calendar before mentioned safely kept in a  
5 suitable box; and on expiration of his commission, or on his  
6 death, resignation or removal, shall be by the sheriff or his per-  
7 sonal representative, delivered over to his successor, on penalty  
8 of forfeiting for his neglect, two hundred dollars, to the use of  
9 the county. R. S., c. 104, § 41.

SECT. 46. Every sheriff shall see that the jail in his county  
2 is kept as clean and healthy as may be; and cause the walls to  
3 be whitewashed in April or May annually, and as often as the  
4 county commissioners order, at the expense of the county; and  
5 pay strict attention to the personal cleanliness of the prisoners.  
R. S., c. 104, § 42.

SECT. 47. When any prisoner escapes through the insuffi-  
2 ciency of the jail, or the negligence of the sheriff or jailer, the  
3 sheriff shall be chargeable to the creditor, or other person, at  
4 whose suit he was committed, or to whose use any forfeiture was  
5 adjudged against such prisoner. R. S., c. 104, § 43.

SECT. 48. When such escape happens through the insuffi-  
2 ciency of the jail, the county commissioners may order the  
3 county treasurer to pay over to the sheriff of the county the  
4 amount paid by him to such party. R. S., c. 104, § 44.

SECT. 49. If the county commissioners do not make such  
2 order within six months after the demand is laid before them,  
3 the sheriff may bring his action on the case against the inhab-  
4 itants of such county, to be tried in the same county, or one of  
5 the adjoining counties; an attested copy of the writ left with  
6 the county treasurer, thirty days before the sitting of the court  
7 to which it is returnable, shall be a sufficient service.

R. S., c. 104, § 45.

SECT. 50. The county commissioners may appoint an agent, 2 to appear and defend the action; and when there is no meeting 3 of said commissioners between the time of the service and the 4 return day of the writ, the action shall be continued to the next 5 term of the court, saving all advantages to the defendants.

R. S., c. 104, § 46.

SECT. 51. If in such action judgment is rendered against the 2 county, the debt may be levied by execution upon the estate of 3 any inhabitant, who shall have his remedy against the county to 4 recover the amount so levied.

R. S., c. 104, § 47.

SECT. 52. Every jailer at the opening of the supreme judicial 2 court for his county, shall return a list of prisoners in his cus- 3 tody, certifying the cause for which and the person by whom 4 committed, and of all committed during the session, and the 5 cause of commitment; and shall have the calendar of prisoners 6 in court for its inspection; and for neglecting so to do the court 7 may impose a reasonable fine.

R. S., c. 104, § 48.

SECT. 53. Every jailer or prison keeper shall keep prisoners 2 committed for debt, separate from felons, convicts, and prisoners 3 charged with felony or infamous crimes; and all minors so com- 4 mitted, and all prisoners upon a first charge, with or without 5 conviction of any crime, separate from notorious offenders, and 6 those convicted more than once of any felony or infamous crime, 7 as the construction or state of the prison will admit.

R. S., c. 104, § 49.

SECT. 54. If any prison keeper violates any of the provisions 2 of the preceding section, or voluntarily or negligently suffers 3 any prisoner in his custody, charged with or convicted of any 4 crime, to have any spirituous liquors, or in part spirituous, unless 5 the physician authorized to attend the sick in such prison, in 6 writing certifies that such prisoner's health requires it, and pre- 7 scribes the quantity, shall in each case, for the first offense, for- 8 feit twenty-five dollars, and for the second offense fifty dollars, 9 to be recovered by indictment for the use of the county, or by 10 any person suing therefor, to his own use; and shall be removed 11 from office, and incapable of holding the office of sheriff, deputy 12 sheriff or jailer for the term of five years; and if the keeper of 13 any jail, or other person, gives, sells or delivers to any person

14 committed to jail on mesne process or execution, or to any other  
 15 person for his use, any spirituous liquors, without the consent in  
 16 writing of the overseers of the poor of the town where the jail is  
 17 situated, he shall forfeit not less than five nor more than ten  
 18 dollars, to be recovered on complaint before a justice of the peace,  
 19 one half to the use of said town, and the other to the prose-  
 20 cutor. R. S., c. 104, § 50.

SECT. 55. If any jailer or prison keeper, through negligence,  
 2 suffers any prisoner charged with any crime to escape, he shall  
 3 pay such fine as the court before which he is convicted inflicts,  
 4 according to the nature of the offense charged against the  
 5 escaped prisoner; if any person committed for debt escapes from  
 6 prison, and the sheriff or jail keeper, within three months next  
 7 after the escape, recovers him and returns him to the prison, the  
 8 sheriff shall be liable for no more than the costs of any action  
 9 commenced against him for the escape. R. S., c. 104, § 51.

SECT. 56. The keepers of the several jails in this state shall  
 2 take the custody of, and safely keep all prisoners committed  
 3 under the authority of the United States, except persons claimed  
 4 as fugitive slaves, until discharged by law, under the penalties  
 5 provided by law for the safe keeping of prisoners under the laws  
 6 of this state. R. S., c. 104, § 52. 1855, c. 182.

SECT. 57. No sheriff, deputy sheriff, coroner, constable,  
 2 jailer, justice of the peace, or other officer of this state, shall  
 3 arrest or detain, or aid in so doing, in any prison or building  
 4 belonging to this state, or to any county or town, any person,  
 5 on account of a claim on him as a fugitive slave. Any of said  
 6 officers violating any of the aforesaid provisions, or aiding or  
 7 abetting any person claiming, arresting or detaining any person  
 8 as a fugitive slave, shall forfeit a sum not exceeding one thou-  
 9 sand dollars for each offense, to the use of the county where it  
 10 is committed, or be imprisoned not exceeding one year in the  
 11 county jail. 1855, c. 182, § 2, 3.

SECT. 58. All fines arising from breaches of any of the pro-  
 2 visions of this chapter, not otherwise appropriated, shall be  
 3 applied to building and repairing the jails in the county where  
 4 the offense is committed. R. S., c. 104, § 53.

SECT. 59. A warrant duly issued by a municipal or police court, or a justice of the peace for an offense committed in his county, or under the law for the maintenance of bastard children, may be executed by any constable of any town in the same county, to whom it is directed; and if the person charged has removed or gone into another county before or after the warrant was issued, the sheriff or his deputy, coroner or constable to whom the warrant is committed, may execute the same, and pursue and arrest such person in any county, and carry him to the county in which the act complained of was committed, that proceedings may there be had according to law.

1848, c. 45. R. S., c. 104, § 54.

SECT. 60. When any sheriff, deputy sheriff, coroner or constable arrests any person, by virtue of a lawful precept, for the purpose of committing him to the prison of his county, he may convey him by the most convenient and suitable route, though the same passes through other counties.

R. S., c. 104, § 55.

SECT. 61. No sheriff shall receive from any of his deputies any portion of the fees for levying and collecting executions issued by a justice of the peace, wherein the debt or damage does not exceed twenty dollars; nor more than at the rate of twelve per cent. on the amount of fees for travel and service of precepts; nor take from him a percentage on any items, except travel and service, notwithstanding his bond otherwise provides.

R. S., c. 104, § 56. 1852, c. 253.

SECT. 62. Each deputy sheriff shall keep a true account, with the items thereof, of all fees for travel and service, and other emoluments accruing to him by virtue of his office, and within twenty days after the first day of December annually, return under oath to the sheriff a true copy of such account up to the time of said return.

R. S., c. 104, § 57.

SECT. 63. Each sheriff, within ten days after the twentieth day of December annually, from the accounts returned to him by his deputies, as required in the preceding section, shall state a true account of the amount of fees for travel, services and other emoluments of office, specifying the different classes of items accruing from his deputies, and of the amount of such

7 fees and other emoluments accruing to him in his office within  
8 the preceding year, and within said ten days, make a true  
9 return under oath of said account to the treasurer of his county,  
10 after deducting from the sum total the sum limited for him in  
11 the following section, and pay over the residue to such treasurer  
12 for the use of the county. R. S., c. 104, § 58.

SECT. 64. The sheriffs for the counties of York, Cumberland,  
2 Lincoln, Penobscot and Kennebec, shall be limited to seven  
3 hundred dollars each; the sheriffs of Oxford and Somerset, to  
4 five hundred dollars each; the sheriffs of Hancock, Sagadahoc,  
5 Androscoggin, Washington and Waldo, to four hundred dollars  
6 each; the sheriff of Piscataquis, three hundred and fifty dollars;  
7 the sheriff of Franklin, three hundred dollars; and the sheriff  
8 of Aroostook, to one hundred and twenty-five dollars.

R. S., c. 104, § 59. 1854, c. 70, § 14. 1854, c. 60.

SECT. 65. Every coroner, within his county, shall serve and  
2 return all writs and precepts in which the sheriff of the same  
3 county, or any of his deputies, is a party, unless served by a  
4 constable, including those precepts in which a town, plantation,  
5 parish, religious society or school district is a party, or inter-  
6 ested, though he is at the time a member thereof.

R. S., c. 104, § 60.

SECT. 66. When the office of sheriff in any county is vacant,  
2 any coroner of such county may execute and return all writs  
3 and precepts which by law could be served and returned by the  
4 sheriff or his deputies, until another sheriff is elected or ap-  
5 pointed and legally qualified. And any coroner may lawfully  
6 serve, execute and return any precept in his hands when his  
7 term of office expires, or when he is notified of the appointment  
8 and qualification of the sheriff of his county, after a vacancy in  
9 such office. R. S., c. 104, § 61. 1854, c. 110, § 1.

SECT. 67. Every keeper of a county jail shall reside con-  
2 stantly, with his family, if he has any, within the house provided  
3 for him, if such buildings are good and sufficient in the opinion  
4 of the county commissioners of his county; and in case of his  
5 neglect so to do, he shall forfeit and pay a sum not exceeding  
6 three hundred dollars, to be recovered by indictment to the use  
7 of the county. R. S., c. 104, § 62.

SECT. 68. Every officer, plaintiff or his attorney, having in his  
2 possession a writ on which an attachment has been made, shall  
3 make and deliver to the debtor or his attorney, if requested and  
4 the legal fee tendered, an attested copy thereof. And if he  
5 unreasonably refuses or neglects so to do for twenty-four hours,  
6 he shall forfeit five dollars, and five dollars additional for every  
7 subsequent twenty-four hours he so refuses or neglects, to be  
8 recovered by the debtor to his own use, in an action of debt, in  
9 any competent court. 1852, c. 264, § 1, 2.

