

MAINE STATE LEGISLATURE

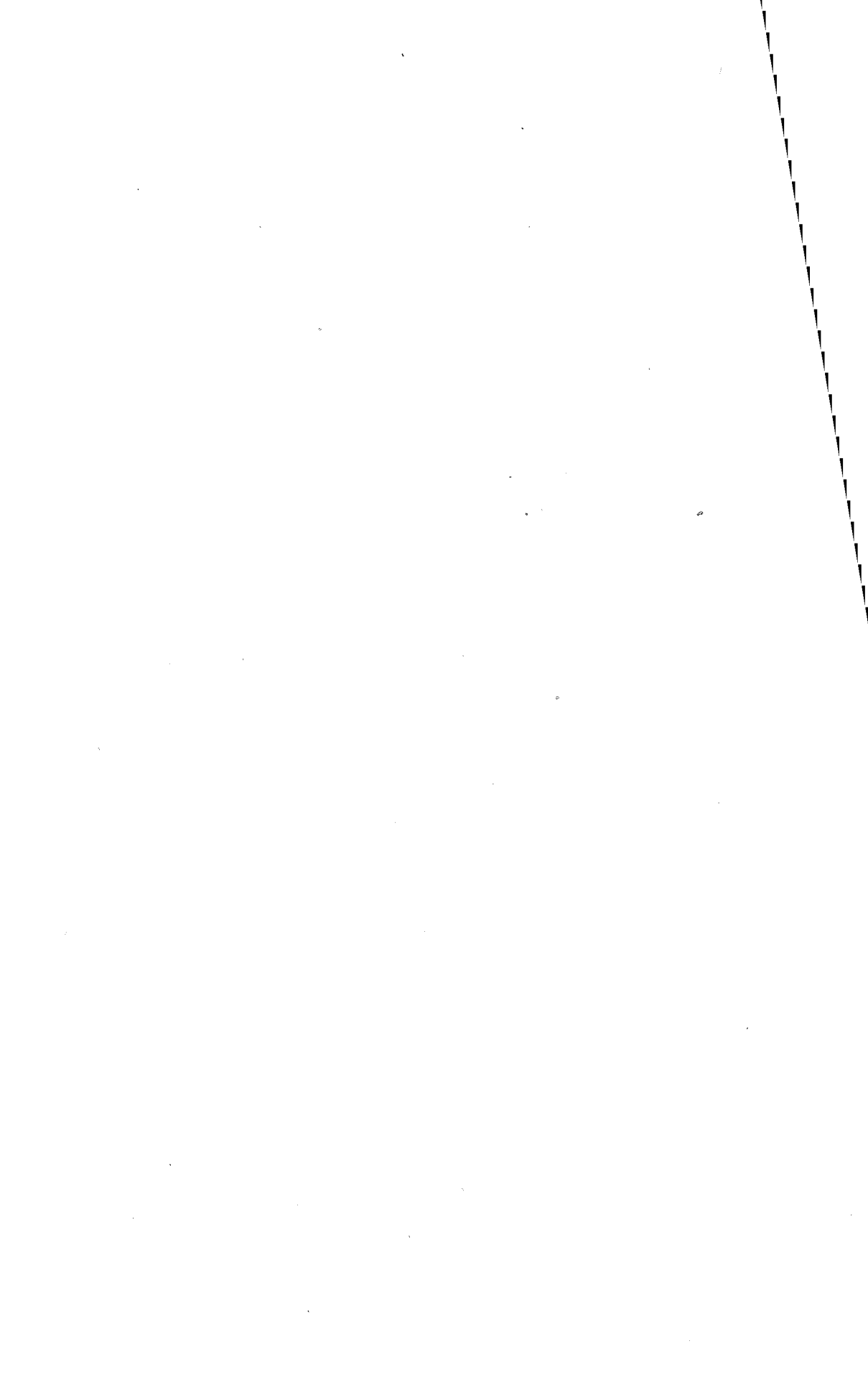
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REPORT
OF
THE COMMISSIONER
ON THE
REVISION AND CONSOLIDATION
OF THE
PUBLIC LAWS
OF THE
STATE OF MAINE
UNDER
Resolve of April 4, 1913

LEWISTON
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To the Honorable Legislature:

In compliance with the Resolve of the Seventy-sixth legislature, approved April 4, 1913, the commissioner therein appointed respectfully submits this report and the accompanying draft of the sixth revision of the public laws of the State.

During the five regular sessions of the legislature held since the last revision, ten hundred and fifty-two public laws have been enacted. Eliminating all which have been expressly repealed or for other reasons are no longer in force, and omitting a few of a special or limited character which have been excepted in the repealing act, the remainder with chapter one of the public laws enacted by the special session of 1912, have been incorporated in the draft herewith submitted. Exception should be made, however, of chapter one hundred twenty-nine of the public laws of 1913, known as the Public Utilities Law; the entire draft of the revision had been prepared and the greater part was in the hands of the printer at the time of the popular referendum upon this law, last September; on account of the uncertainty as to the result of the expression of the popular will upon the measure, the commissioner deemed it unwise to include the law in the draft.

As indicating the increase of legislation it is interesting to note that the number of public acts enacted at nine sessions of the legislature preceding the commissioner's report on the fifth revision, submitted to the legislature of 1903, was thirteen hundred and eighty, as against ten hundred fifty-two enacted at the last five regular sessions.

The Private and Special Laws, and Resolves have been examined, and such as appear to be of a public nature have been incorporated in the draft.

The commissioner has confined his work strictly within the lines laid down by the resolve by which the work was authorized, yet he has always endeavored to express the new legislation in concise language, and in a style in harmony with the language of the last revision. To this end he has eliminated redundant expressions and substituted wherever possible simpler forms. Mandatory provisions conferring authority upon public officers have been expressed by the word "shall", and discretionary provisions have been expressed by the word "may". The unnecessary repetition of the provision that officers shall be sworn, has been omitted. Provisions making valid past acts of officers have also been omitted, as such provisions have served their purpose and are not affected by the repealing act. The recurring expression in clauses imposing penalties, of "or by both fine and imprisonment", and similar phrases, is unnecessary under chapter one hundred thirty-seven, section one; regard has been paid to the statutory rule of construction of the word "town" and the elimination wherever possible of the useless repetition of the phrase "city, town or plantation".

A growing tendency is plainly discernible to use long sections. This is contrary to the practice recommended by legislative draftsmen. Under the rule that an amendatory statute shall recite in full the section as amended, the chance of error is greatly increased by the use of long sections. An instance of this kind may be found in P. L. 1913, ch. 22; another instance of the same kind occurred in P. L. 1901, ch. 211, § 1, which escaped the notice of the commissioner and the legislative com-

mittee who prepared the last revision, and has been corrected in the present draft. As examples of this tendency to use long sections, the commissioner calls attention to section one hundred twenty of chapter fifty-one, section thirteen of chapter seventy-eight, and sections ten, eleven and twelve of chapter one hundred thirty-seven. These sections may be readily divided, and the commissioner has indicated in the schedule following this report how such division may be made.

In availing themselves of admirable legislation enacted or proposed in other States, or proposed by civic or economic organizations of national character, proponents of legislation have not always taken care to adapt the language used or the construction of the sections to the model of the statutes of this State. An example may be found in sections thirty-three and thirty-four of chapter one hundred and twenty, and a new draft of these sections, in harmony with the style of other parts of the statutes, will be found in the schedule following this report.

The commissioner was directed to suggest "with proper distinguishing marks, such contradictions, omissions, repetitions and imperfections as appear * * * * and the mode in which the same may be best reconciled, supplied, amended and corrected." This has been done in the text by the use of italics to indicate portions to be omitted, and by the use of brackets to indicate clauses to be inserted. For the same purpose notes have been inserted in which the suggested legislation has been put in form for legislative action; and other suggestions, the result of study and investigation not completed when the copy went to the printer, or suggested by members of the bar,—whose assistance in this respect has been greatly appreciated,—have been collected in the schedule following this report.

The commissioner was directed to preserve unchanged the order and arrangement of the present revised code.

In any revision worthy of the attention of the legislature, it would be impossible to follow literally this provision; yet this expression of the legislative will recognizes that the legal profession and the people of the State generally have become accustomed to the present arrangement, but the growth of legislation on some topics has been so marked as to require some change in the arrangement; the most notable changes made or proposed are as follows:

The chapters relating to Agriculture have been included under one title, and chapter sixty of the revision of 1903, relating to Agricultural Institutions, has been made the first chapter of that title.

The State of Maine Cattle Commission has been abolished, and the prevention of contagious diseases among animals has been placed under a commissioner who is to work in cooperation with the Commissioner of Agriculture. For this reason the chapter dealing with that subject has been included in the title relating to Agriculture.

Advantage has been taken of the change last referred to, to place the chapter relating to Apothecaries and the Sale of Poisons immediately after the chapter relating to the Public Health, where it properly belongs.

The law relating to State Highways, which was comprised in seven sections of chapter twenty-three of the revision of 1903, has been expanded to an entire chapter of thirty-two sections.

The Law of the Road, chapter twenty-four, which had sixteen sections, has been enlarged by the automobile law to a chapter of thirty-five sections.

The law taxing inheritances was embraced in seventeen sections of the last revision; it has since been expanded to twenty-eight sections, and its administration has been committed to the probate courts. The commissioner has not changed the location of the law in the draft herewith submitted, but recommends that it be placed in a new chapter and

transferred to the title relating to the probate courts, following chapter sixty-eight.

To avoid an excessive increase in the number of chapters, the commissioner has consolidated chapters upon closely related subjects; thus the chapter on Limited Partnerships has been placed in the same chapter with Factors and Agents; the chapter relating to Interest with the chapter relating to Banks, and Bills and Notes; and the chapter on Itinerant Vendors with the chapter on Auctioneers.

Perhaps the most notable change in arrangement which the commissioner has made is in transferring the law relating to the Sale of Intoxicating Liquors to the title on Crimes. The reason for this change will be found on page four hundred and fifty-nine of the report.

In chapter one hundred and twenty relating to offenses against the lives and persons of individuals, the commissioner has grouped under a sub-title all crimes against children, and under another sub-title the penal provisions for desertion and non-support of families.

Other recommendations for changes will be found in the report, and attention is especially called to the recommendations relating to the re-arrangement of chapters fifty-nine and sixty and the repeal of chapter sixty-five.

The Public Utilities Law may properly be inserted in the draft as chapter fifty-two, and the present chapter fifty-two consolidated with chapter twenty-six relating to Ferries. The following changes in the draft are effected by the adoption of the Public Utilities Law.

Ch. 7, § 95 is repealed by P. L. 1913, c. 129, § 71, and the authority conferred by §§ 96-101 is vested in the public utilities commission.

The commissioner recommends that §§ 96-101 be transferred to the chapter relating to Public Utilities; they may appropriately follow section eight.

Ch. 53, § 48 is repealed by P. L. 1913, c. 129, § 71.

§ 49 is superseded by § 16.

Ch. 54, § 69 is expressly repealed by § 33; and the commissioner thinks that the subject matter of §§ 70-73, except § 72, is embraced in said § 33; § 72 of c. 54 may be appropriately added to the Public Utilities Law.

Ch. 55, § 24; omit reference to §§ 70 to 73, both inclusive, of chapter 54.

Ch. 57, § 3 is amended by P. L. 1913, c. 129, § 27; §§ 28 and 29 of the latter law should be included in c. 57, to follow § 3 as amended.

By § 71 of the Public Utilities Law all powers vested in the Board of Railroad Commissioners, together with all the duties and privileges imposed or conferred upon said Board, are imposed and conferred upon the Public Utilities Commission; accordingly all sections referring to the powers and duties of the Board of Railroad Commissioners should be amended.

Among the sections so to be amended is § 53 of chapter 53. For some reason, probably oversight, this section has not been made applicable to street railroads, as it manifestly should be. The commissioner is informed that a former attorney general of the State gave an opinion that under section fifty-three members of the Board of Railroad Commissioners were entitled to free transportation while engaged in the discharge of their official duties. If such was the intention of the legislature, the construction should be made clear. The commissioner therefore suggests the following draft of the section.

"Sec. 53. Every public utility within the State shall furnish all reasonable facilities to the commission for the prompt and faithful discharge of its duties, including free transportation on any railroad or street railroad within the state, when the commission or any member thereof is engaged in the discharge of public duties, or going to or returning therefrom."

The section, if so amended, should follow section five of the Public Utilities Law.

In this connection attention should be called to the fact that the Public Utilities Commission has jurisdiction over certain classes of warehousemen; see Sec. 9. The provisions of chapter 38 of the present statutes relating to warehousemen are inadequate to meet the demands of commercial usage of to-day; the use of negotiable warehouse receipts is recognized to a limited extent only, and the indorsement of receipts in blank is unrecognized.

The commissioner recommends that the "Warehouse Receipts Act" be enacted in place of the provisions of chapter 38 relating to warehousemen. That Act was drafted by Prof. Samuel Williston of the Harvard Law School and Mr. Barry Mohun of the Washington Bar, was recommended by the Commissioners on Uniform State Laws at their annual conference held August 28, 1906, and has been enacted in twenty-nine territories, Federal districts and possessions.

The commissioner has also given attention to the omission of sections which have become obsolete or which the development of the State has rendered no longer desirable. His suggestions will be found in the draft submitted, indicated by the use of italics or expressed in notes.

The side notes have been revised, and in many cases re-written. In this connection the commissioner calls the attention of the legislature to the form in which the revised statutes are printed. The Resolve of April 2, 1913, did not contemplate any change; for that reason the draft is submitted in the form which has been in use since 1821. Other states have adopted varying forms of arrangement, and the legislature may find this an opportune time for the consideration of a change in one or all of the following particulars.

In the federal statutes and in the statutes of many states the sections are numbered consecutively from beginning to end, thus reducing materially the chances of error in citations and indexing. This mode of numbering the sections does not change the division into titles and chapters.

In place of running side notes, catch words or concise phrases indicating the subject matter of the section are printed in heavy face type at the beginning of each section. A longer line is thus obtained and larger type may be used, or the sections may be separated by wider spaces.

If the use of running side notes is discontinued, the annotations should be carried to the foot of the page, or wherever possible, printed between the sections. Another arrangement sometimes adopted retains the side notes and leaves space between the sections, in which references which cannot be carried in the margin are grouped.

Whatever method of indicating the subject matter of each section is adopted, the page will be found much less taxing to the eye if the sections are more generously spaced.

While upon this subject the commissioner suggests for the consideration of the legislature that the Constitutions of the United States and of the State be printed with the annotations following each section or paragraph to which they refer. The number of citations has now so much increased that the present arrangement is unsatisfactory, and the commissioner recommends some change in the arrangement of at least the Constitutions.

The draft herewith submitted contains 275 pages more than the report upon the fifth revision, submitted to the legislature of 1903, and 236 pages more than the completed revision of 1903. This increase is due in part to the printing of the Military Law (chapter fourteen) and in part to new legislation. The revision of 1903 undoubtedly reached the limit of size which can be conveniently put into one volume; in the reduction of size of type and in closely filling each page, the limit was also reached. It will probably be found advisable to publish the statutes in two volumes. Possibly the text may be put in one volume and the index in a separate volume, thus hastening the publication. In either way the commissioner recommends that the page be changed by more generous spacing and thus made less tiresome to the eye.

The commissioner thinks that analytical chapter headings showing the sub-divisions of the longer chapters will facilitate the use of the statutes and will not unreasonably increase the size of the volume. The form of such heading for chapter fifteen may be as follows:

- Sections 1- 15, Location of Schools.
- Sections 16- 36, Duties of Towns.
- Sections 37- 54, Powers and Duties of Superintending School Committees.
- Sections 55- 60, Superintendence by Union of Towns.
- Sections 61- 69, Compulsory Education.
- Sections 70-102, Free High Schools and Academies.
- Sections 103-107, Duties of Instructors.
- Sections 108-110, Teachers' Associations
- Sections 111-117, Schools in Plantations and Unorganized Townships.
- Sections 118-130, State Superintendent.
- Sections 131-137, Industrial Education.
- Sections 138-144, Normal Schools.
- Section 145, Instruction for the Blind.
- Sections 146-150, Penal Provisions.
- Sections 151-156, State School Funds.
- Sections 167-175, Teachers' Pensions.

Citations found in the Maine Reports ending with Volume 110, and in the Reports of the Supreme Court of the United States ending with Volume 230, have been added as directed by the Resolve. These citations have been prepared by Reuel W. Smith, Esq., of the Androscoggin Bar, who had experience in similar work on the last revision. The commissioner has also added citations collected in his professional practice.

The commissioner gratefully acknowledges the uniform courtesy of the State officials in answering his inquiries, and the kindness of members of the bar in offering suggestions from the wealth of their experience in the practice of law.

The critical examination of each section while the work was in press has disclosed some errors and suggested desirable changes. These, with suggestions from members of the bar have been arranged in the following schedule.

AUBURN, Maine, December 15, 1914.

Respectfully submitted,

JOHN A. MORRILL.

SCHEDULE OF NOTES AND ADDITIONAL SUGGESTIONS

Submitted for the consideration of the Legislature in further compliance with the terms of the resolve of April 4, 1913, that the commissioner suggest such "contradictions, omissions, repetitions and imperfections as appear in the present revised statutes and in subsequent laws, and the mode in which the same may be best reconciled, supplied, amended and corrected."

Const. of Maine, Art. I, § 6. The side references, 58 Me., 580; 59 Me., 140, should be carried to the foot of the page under (d).

Amendment XXXIV; attention is called to the faulty punctuation of this amendment.

Chap. 1, §§ 2, 3. The thirty-second amendment was the last amendment proclaimed in accordance with section three. The thirty-third, thirty-fourth and thirty-fifth amendments were declared to have been adopted, by a resolve of the legislature, and the thirty-sixth and thirty-seventh amendments presumably await such declaration.

The resolves proposing the last five amendments directed the governor and council to make return of the votes cast thereon to the legislature. The resolve proposing the thirty-first amendment contained a similar direction to the governor and council, but the adoption of that amendment was proclaimed by Governor Cobb, October 30, 1908.

Sec. 6, Par. XXIX; additional marginal reference, c. 50, § 68.

Chap. 2, §§ 11, 12; arrange a note, "As to National Home for Disabled Volunteer Soldiers, see P. L., 1867, c. 66."

Sec. 49; reference to United States pension agents should be omitted.

Sec. 58; attention is called to the provision, § 56, requiring sureties on the official bond of the Treasurer of State to be residents of the state. If section 58 is retained in its present form, section 56 should be so amended that surety companies will be eligible as sureties on the bond of the treasurer. The Constitution seems to require more than one surety on such bond, whether an individual or corporation.

Chap. 3. If the recommendation at end of chapter is adopted, the heading, "State Printing and Binding" should precede section 32.

Chap. 4, § 12, note (c); add "Overseers of poor to make annual return to state board of charities and corrections, c. 146, § 8."

Sec. 31; the commissioner suggests that to avoid any apparent conflict with c. 8, § 7, returns to the board of state assessors should be excepted from this section.

The effect of this section is perhaps more sweeping than was intended. See c. 15, §§ 31, 84, 85, 133.

Sec. 53; marginal reference; See c. 14, §§ 90-94.

Sec. 56; the commissioner recommends that this section be amended by inserting after the word "bridges" in the third line, the following, "acquiring by purchase or otherwise suitable sites, or suitable sites and buildings, or erecting buildings, for free public libraries."

Notwithstanding many towns in the state have raised money by taxation for purchasing land and erecting buildings for free public libraries, there seems to be no statute expressly authorizing such action. The attention of the commissioner has been called to the point by Hon. N. Fessenden, of Fort Fairfield.

Sec. 76; this section would be made clearer by transposing the word "may" in the sixth line to the fourth line after the word "known."

Sec. 87; add to foot note (c), c. 18, § 113.

Sec. 96; word "therein" in fifth line is ambiguous; "within their respective precincts" is suggested.

Sec. 99; words "and fifty percent additional" in ninth line should be transposed to follow "purposes" in next line.

Sec. 124. Why may not the words "since March twenty-two, eighteen hundred and twenty eight", be omitted?

Sec. 127; this section should follow section 31; at least such arrangement would be more logical.

Sec. 133. In towns, road commissioners are appointed by the selectmen, § 16; if the effect of section 136 is to vest in assessors of plantations the duty of appointing road commissioners, that construction should be made plain.

Note on page 102, following paragraph beginning with word "Assessors", add, "Overseers of the poor to make annual return to state board of charities and corrections, c. 146, § 8".

Chap. 5, § 28. Should not the word "satisfactorily" in the third line read "satisfactory"?

Chap. 6, § 14; the suggestion that section 165 be included in the text of this section is perhaps unnecessary, as that section is included in the text of section 26.

Sec. 22. The original reference in the eighth line of this section is to sections two, three and seven of chapter six of the revised statutes. The commissioner thinks that the reference to section seven is an error; that the reference should be to section eight; he has corrected the text accordingly.

Sec. 26; attention is called to the fact that sections sixty-one and sixty-three were in effect modified by P. L. 1913, c. 72, § 2 (c. 6, § 9). The commissioner suggests that the law would be made clearer by omitting sections sixty-one and sixty-three from chapter six, and by adding a new section to the primary election law which shall embody so much of sections sixty-one and sixty-three as may be applicable to such elections.

Sec. 35; insert before words "original nominee" in thirteenth line the words, "original candidate proposed, or", if suggestions as to sections six and twenty-two are adopted.

Sec. 40; the last clause, "provided that this shall not be construed as preventing citizens' caucuses" should not be printed in italics; it should be retained.

Sec. 70; divide this section; the new section should begin with the sentence in the eighth line.

Sec. 98. Why should not this section read, "All town meetings required for election of county officers, of representatives to congress, etc."?

Sec. 140; the words "electors of president and vice-president" seem to be an unnecessary repetition of the same phrase in the preceding section.

Sec. 157. Should not "and" at the end of the second line read, "or"?

Sec. 179; change "said", first word in eighteenth line, to "the".

Chap. 7. Re-arrangement of first fifty sections, if suggestions are adopted; Sec. 1-6; Sec. 40, 41, 42, 44; Sec. 50; Sec. 35, 38, 39; Sec. 9, 10; Sec. 11-26;

Sec. 23 should be amended in the fourth line by striking out the word "therein" and by substituting therefor the words "in the county or registry district where the land is situated."

Sec. 58, seventh line; "forest land, woodland or cultivated lands", is preferable to present reading.

Sec. 80; Piscataquis county, third line; should not "2, R. 6, B. K. P., E. K. P." read "2, R. 6, B. K. P., E. K. R."?

Twenty-seventh line; should not "9, 13, W. E. L. S." read "9, R. 13, W. E. L. S."?

Seventh line from end; should not "6, K. 17, W. E. L. S." read "6, R. 17, W. E. L. S."? These abbreviations are printed as given in the session laws.

Sec. 89; insert word "forest" after word "chief" in first line.

Chap. 8, § 15; "And shall be furnished by the secretary of state with necessary books, blanks, stationery, notices and summonses" should be stricken out. The board has its own appropriation for these purposes.

Sec. 28; for "the governor shall draw his warrant" read "the governor and council shall draw a warrant".

Sec. 29; marginal reference should be, See c. 53, § 49.

Sec. 31; omit words "palace or other" in first and second lines, or in place of "palace" use "parlor."

Sec. 72. Why should not section sixty-one be included in the first and second sentences of this section?

Sec. 76; the word "registered" may well be omitted from seventeenth line.

Sec. 87; if suggestion for new chapter is adopted, this section should be transposed to beginning of chapter, and a re-arrangement of other sections made, especially those relating to duties of executors and administrators.

Sec. 96; omit word "and" in fifth line; the satisfactory evidence should be submitted to the probate court.

Chap. 9, § 6, Par. I; make reference in margin to c. 14, § 94, exempting from taxation armories, drill-rooms, offices, headquarters' offices, and target ranges used by militia.

Sec. 6, Par. IX; the words "and the polls of all soldiers and sailors who receive state pension", should be retained as in R. S. c. 9, § 6, Par. VIII, and inserted after the semicolon following the word "charges" in the third line.

Sec. 14, Par. II. Should not the word "storehouse" be inserted in the ninth line, as in the preceding paragraph? The last word in the sixth line from the end of this section should be "fourth", not "third".

The commissioner also suggests that this paragraph be divided and the part beginning with the words, "and a lien is created on said property" in the eleventh line and ending with the sentence in the seventeenth line, be made a separate section. This was the arrangement in the revision of 1871, c. 6, §§ 22, 23. The consolidation was made in the revision of 1883 and at that time apparently an error was made in the reference to the sections under which the lien is to be enforced.

In R. S. 1871, c. 6, § 22 the reference is to §§ 106, 111 and 112; in the revision of 1883 this reference became §§ 126, 132 and 133; it should have been §§ 134, 132 and 133. The error has been perpetuated and instead of a reference to §§ 12, 18 and 19 of chapter ten, the line should read "sections twenty, eighteen and nineteen of chapter ten."

Sec. 26; omit the word "and" after "buildings" in sixth line and insert comma.

Referring to this section, the commissioner in his report of 1903, said: "Reference to the original act, 1843, c. 36, suggests a doubt whether upon a close construction of this section, shares in *all* manufacturing, mining and smelting corporations are exempt from taxation. The orig-

inal act seems to refer only to those corporations whose lands, buildings and other property are made personal by the acts of incorporation. No mention is made of corporations organized under general law and no provision had then been made for such method of organization. See P. L. 1862, c. 152."

Upon investigation the commissioner thinks that in practice the shares of the capital stock of all corporations of the classes named in this section are not taxed, regardless of the phrase "made personal by their charters". He suggests for consideration, that the phrase referred to be omitted.

Sec. 31; in view of the amendment to section twenty-six by P. L. 1907, c. 16, the commissioner suggests that this section may properly be amended by inserting in the second line after the words "manufacturing corporations", the words "and agricultural and stock raising corporations".

Sec. 46; omit the word "all" before "certificates" in fourteenth line.

Sec. 63; in explanation of the italics it should be stated that the section referred to was repealed by P. L. 1909, c. 150, § 2; the whole of the last sentence except the words "and shall be enforced as is provided in section sixty-one", may be repealed.

Sec. 75; the commissioner doubts the wisdom of the amendment to this section by P. L. 1913, c. 55. If notice by mail to a resident owner is desirable, the provision should apply to non-resident owners as well. Section eighty should also be amended to correspond.

Sec. 79; the rate of interest fixed in the last line of this section is double that fixed in section seventy-seven as amended; the commissioner thinks that the two provisions should be alike.

Sec. 80; it would seem that the form given in this section should be amended by inserting after the words "in hand", the words "or forwarded to him by registered mail and receipt demanded", to make this section accord with section seventy-five.

Sec. 92; the compensation here provided for, should be at least the amount mentioned in section ninety.

Sec. 97; for "as hereinafter prescribed", substitute "as prescribed in chapter ten".

Chap. 11, § 21; the following language is preferable, "the cost of making said copy and of filing it in the registry of deeds".

Note; add, "Record of proceedings for location of drains and ditches, c. 21, § 32."

Chap. 12, § 5; Chief Justice Savage suggests that this section be amended by striking out the words, "nor any justice of the supreme judicial or superior court".

Sec. 10; P. L. 1907, c. 40 omitted the last sentence of this section as printed in the revision of 1903. The sentence is still applicable to cases of admission to the bar without certificate from the board of examiners. The commissioner recommends that it be restored by adding to the section the following sentence: "The treasurer of each county shall also pay to the treasurer of the law library association of his county all money received from persons admitted as attorneys in the supreme judicial court upon motion, without a certificate from the board of examiners of applicants for admission to the bar." A marginal reference to c. 116, § 2 should then be made.

Chap. 14, § 51; thirty-fifth line; a better reading will be, "Every officer duly elected shall within ten days accept the commission."

Sec. 61; this section is confused as it stands; the commissioner suggests the following reading:

"Any officer who shall be found lacking in moral fitness under the

provisions of section fifty-eight, or who shall be discharged under the provisions of section sixty-three, or who, being under arrest or returned to a military court for any deficiency or delinquency, tenders his resignation, and the same is accepted, or who after being notified, fails or refuses to liquidate his indebtedness to the state, or to render correct accounts of public funds or property entrusted to his care, shall be discharged for the good of the service, and any officer so discharged shall not again be eligible to receive a commission."

Sec. 63; the second sentence in this section is long and confused; the commissioner suggests the following reading:

"Such retirement or discharge shall be by order of the commander-in-chief, who, before making such order, shall convene a board of not less than five commissioned officers, one of whom shall be an officer of the medical corps, who shall determine the facts as to the nature and causes of incapacity of any officer who appears disabled, unfit or incompetent, from any cause, to perform military duty and whose case shall be referred to it; before entering upon the discharge of their duties they shall be sworn to an honest and impartial performance thereof."

Sec. 66; insert "thereof" after word "miles" in the eighth line.

Sec. 71; for the last sentence read, "A man who has been dropped from the rolls, shall not be taken up until he has passed" etc.

Sec. 85; this section may be divided and the last paragraph given a section number; the subject matter of this paragraph is a distinct topic.

Sec. 90; when this section was amended by P. L. 1913, c. 3, § 3, the amendment by P. L. 1911, c. 81, § 14 was disregarded.

The commissioner has no way of knowing whether the omission was intentional.

Sec. 93; marginal reference, See c. 4, § 53.

Sec. 96; the last sentence is unnecessarily verbose; the commissioner suggests the following reading:

"If any municipal officer uses such buildings without authority, or abuses the authority or privilege so granted, he shall be deemed guilty" etc.

Sec. 101; the commissioner suggests that the word "will" in the second line, should read "shall", and that the word "process" in the sixth and tenth lines should be in the plural.

Sec. 103; insert after "when" in the fifth line from the end, "the accused was".

Sec. 132, Art. 59; the words "of a capital crime, or" should be omitted, if the clause, "which is punishable by the laws of this state", applies thereto.

Art. 80; "that" at end of sixteenth line should be omitted.

Chap. 15, § 13; a better reading for the second line would be, "plans and specifications for school buildings of not exceeding four rooms each".

Sec. 56; "comprising" in second, fourth and sixth lines should be "composing" or "constituting".

Sec. 58, II; the same phrase occurs in this paragraph.

Sec. 101; R. S., c. 15, § 81 was amended by P. L. 1907, c. 78; the latter enactment was repealed by P. L. 1909, c. 102, § 2, which was in turn repealed by P. L. 1911, c. 188, § 5. Neither of these repealing acts provide for reviving the original section. The commissioner thinks, however, that such must have been the intention and he has accordingly retained it.

Sec. 114; should not "reserve" in sixth line read "reserved"? The phrase is retained as printed in the original act, P. L. 1899, c. 89, § 2.

Sec. 145; "South Boston" in fifth line should be "Watertown".

Chapter 17, § 3; fifth line from end of section should read: "superintendent of either insane hospital and the hospital trustees that he or she is a".

Sec. 32; "recognizance" would seem to be a better word than "bond" in last line.

Chap. 18, § 28; insert "both inclusive" in third line.

Sec. 30; insert "both inclusive" in seventh line.

Sec. 123-125 may perhaps be more appropriately placed in chapter nineteen.

Chap. 22, § 1; add marginal reference, "c. 14, § 125".

Chap. 23, §§ 8, 53, 61; some other provision for the compensation of the committee should be made. County commissioners are now paid salaries.

Sec. 76; the words "as hereinbefore provided" in the fifth line may be misleading; it would be better to repeat the phrase used in the first line, "a person having legal supervision of a public way".

Sec. 101; after word "county" in tenth line insert "or registry district".

Sec. 102; insert after "thereto" in seventh line, "if erected on state or state aid highways, such guide-posts and guide-boards shall be of such reasonable form, height and design as the state highway commission may direct." See c. 24, § 6.

Chap. 24, § 7; either the word "it" in the fourteenth line should be omitted, or the words "in length" should be inserted after the word "miles".

Sec. 29; "the" should be inserted at end of seventh line.

Chap. 25, § 20; "or other animal" should be inserted after "horse" in ninth line.

Sec. 27; there seems to be an inconsistency between this section and the later law, P. L. 1913, c. 188, embodied in sections eleven to thirteen, in that by section thirteen authority to grant permits is not confined to municipal officers. If the words "from the municipal officers of such town" be omitted in the fourth line, and "said" in the fifth line changed to "the", and "of such town" inserted after "officers" in the fifth line, the construction will be clear.

Sec. 29; the enumeration of fees may be dispensed with, and the words "therein prescribed" substituted; the fees are the same as in section twenty-two.

Chap. 29, § 7; the words "with their badges of office" may be omitted.

Sec. 20; additional marginal reference to c. 14, § 79.

Chap. 32, § 14; lines six to eight should be re-drafted to read as follows: "and the commissioners shall, as soon thereafter as may be, after such investigation as they deem advisable, register such person as a guide in such class as they deem proper."

Sec. 49; the reading of the seventh and eighth lines will be improved by substituting the following, "and signs a certificate, under oath which the treasurer may administer, stating that he killed such animal."

Chap. 36, § 7; for "limits" in third line read "jurisdiction".

Chap. 49, § 27; the last sentence of this section seems to serve no useful purpose and the commissioner recommends its omission; the lists are on file in the office of the secretary of state and can be produced at any time.

Sec. 83; marginal reference, See c. 50, § 60.

Sec. 89; amend by inserting after the word "corporation" in the eleventh line the words, "except debts secured by mortgage, payment of which has been assumed by the owners of the mortgaged property". Stockholders are not liable for any mortgage debt of the corporation, and the owner of the debt has a substantial remedy against the person or corporation assuming payment. It is thought that the proposed amendment will permit the dissolution of many corporations, which have no assets and are kept alive solely because they cannot be dissolved under the law as it now exists.

Chap. 50, § 60, end of section; marginal reference, See c. 49, § 83; c. 67, § 11; c. 71, § 1; c. 73, § 30.

Chap. 51, § 83; marginal reference, See c. 85, § 147.

Sec. 120; this section may be advantageously divided into four sections, making each paragraph a section.

Sec. 157; upon further consideration, the commissioner thinks that this section may be more appropriately placed after section one hundred seventy-seven.

Chap. 59, § 4, last sentence; "No fee shall be payable to the attorney general or secretary of state for services under this section, but" etc.

Chap. 66, § 8; Note (a), add, "to home for feeble minded, § 52", at end of next to last line.

Chap. 68, § 20; the commissioner recommends that this section be amended by inserting after the word "administration" in the third line, the words "nor for the payment of pecuniary legacies of fixed amount".

This amendment will avoid the necessity of waiting for an order of distribution before paying such legacies, as required by a strict construction of the present law.

Chap. 74, § 16; amend in harmony with section three, by inserting after the word "conveyance" in the third line the words, "except executors exempted therefrom by the provisions of section ten of chapter sixty-seven."

Chap. 78, § 13; this section may be advantageously divided into three sections. Let the first section end with the sentence in the sixth line on page 860, and the second, with the sentence in the twentieth line.

Sec. 17; George F. Gould, Esq. of Portland, suggests that this section be amended in the third line by inserting after the word "descent", the words, "or if the owner is a non-resident and the husband or wife is incapacitated and has no guardian in this state".

The commissioner approves the suggestion; the amendment will meet a class of cases, where it is doubtful if the Probate Court would be sustained in appointing a guardian.

Chap. 83, § 30; second clause is obsolete.

Chap. 84, § 69; it would seem that if an execution creditor seizes the real estate, not an equity of redemption, of the execution debtor, and elects to sell on the execution instead of levying by appraisement, the attachment on the original writ will expire in thirty days after judgment, and the creditor must rely on a seizure on execution. See c. 79, § 38.

Chap. 85, § 91; for "those" in fifth line substitute "any juror"; the reading will be improved.

Chap. 86, § 10; in place of the last sentence, the following reading is preferable: "But in case of such personal service, service on a

trustee, or attachment such court shall have jurisdiction to the amount of the established jurisdiction thereof."

Chap. 90, § 14; the commissioner recommends that the second paragraph of this section be numbered as a separate section.

Attention is also called to the law as to the payment of legacies. Under the decision in *Hamilton vs. McQuillan*, 82 Me., 204, a legacy is payable in one year after the death of the testator and an action may be maintained therefor. Claims, however, may be presented within eighteen months after return of notice of appointment; thus an executor paying legacies to avoid interest and costs may be jeopardized by the filing of claims, of which he has no knowledge. The commissioner suggests the enactment of a section substantially as follows:

"Legacies shall be payable in one year after the death of the testator; but such payments shall not be affected, nor shall the executor be responsible for the payment thereof, on account of claims presented to him or filed in the probate office after the expiration of said one year and after such payment."

Walter L. Dane, Esq. of Kennebunk, suggests the following draft: "All legacies and trusts given under a will shall bear interest after one year from the death of the testator, but the same shall not be payable until two years after the death of the testator, *or until* (unless) order of distribution issues (before the expiration of said two years.)"

Chap. 94, § 1; George F. Gould, Esq. of Portland, suggests that this section be amended by inserting after the word "given" in the fifth line, a new sentence as follows: "If the property is not situated in the city, town or plantation in which the mortgagor resides at the time of giving the mortgage, the mortgage shall also be recorded in the city, town or plantation in which the property is situated."

The amendment is designed to remedy the class of cases frequently met with, where personal property situated in a given place is mortgaged by a person who to all intents and purposes is a resident of that place, but who keeps a so-called legal residence in some other town where, under the present law, the mortgage is recorded.

Sec. 44; the commissioner would insert the word "with" after the word "contract" in the fourth line.

Chap. 102, §§ 2, 3; if chapter sixty-five is repealed, the word "master" should be omitted.

Sec. 35; reference in text should be c. 136, § 27, not c. 135, § 27.

Chap. 109, § 14; insert "or organized plantation" after "town" in first line.

Chap. 112. This chapter may appropriately be consolidated with chapter seventy-six.

Chap. 113. This chapter may appropriately be consolidated with chapter seventy-six, to follow section twenty.

Chap. 117, § 5; by act of congress of June 29, 1906, as amended by act of June 25, 1910, clerks of courts are authorized to retain one-half of the fees collected by them in naturalization proceedings, up to \$3000 in any year; they account for the other half to the bureau of naturalization.

Section five should be so amended as to conform to this provision of the federal law.

Chap. 120, § 20; if chapter sixty-five is repealed as recommended, the word "master" should be omitted.

Chap. 120, § 33; the first four lines of this section should read:

"It shall be considered injurious to the physical, mental or moral welfare of any child *or children within the age defined by the statutes of this state concerning infants in distress*, (under the age of sixteen years,) to smoke or use tobacco in any form", etc.

The commissioner prefers the following draft of sections thirty-three and thirty-four as being more concise.

"Sec. 33. Whoever sells or gives to any child under the age of sixteen years, or furnishes any such child with cigarettes, cigarette papers, tobacco, liquor or narcotic drugs in any form, or encourages such child to use the same, unless prescribed by a physician or otherwise used in case of sickness, shall be deemed guilty of encouraging, causing or contributing to the delinquency or distress of such child, and upon conviction shall be punished by a fine not exceeding one hundred dollars or by imprisonment not exceeding thirty days.

"Sec. 34. Whoever gives, furnishes or sells to any such child any dangerous weapon or firearm, except in cases where the parents, guardians, teachers or instructors of children may furnish them with such weapons for hunting or target shooting outside the limits of any *incorporated* town or city, or where such weapons may be used in any *licensed* shooting gallery, shall be deemed guilty of encouraging, causing or contributing to the delinquency or distress of such child and upon conviction shall be punished as provided in the preceding section.

Chap. 124, § 1, note (a); reference in second line to c. 62, § 5 should be to c. 63, § 5.

Chap. 126, § 21; if chapter sixty-five is repealed, "master" should be omitted.

Chap. 127, § 21; omit "except as herein before provided" in the third line. The repeal of the law relating to the state liquor agency by P. L. 1911, c. 10, § 1, effected the discontinuance of all authorized sale of intoxicating liquor in the state.

Chap. 137, § 10; this section should be divided and re-arranged; the first part in a section as to appointment and qualification; the second, relating to authority and duties.

Sec. 11; this section should be divided, making each paragraph a section.

Sec. 12; this section should also be divided in the same manner as section eleven.

These sections and section sixteen have been retained in their present form to illustrate the unsatisfactory results of drafting long sections.

Sec. 16; the commissioner does not perceive the application of the second sentence of this section; it appears to be superfluous.

The section should be divided, the portion relating to convicts in the state prison being made a separate section.